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Housing and Economic Recovery Act (HERA)

NEIGHBORHOOD STABILIZATION PROGRAM (NSP) SUMMARY

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Section 1. What the Neighborhood Stabilization Program is

PURPOSE AND HISTORY

Responding to the nationwide epidemic of foreclosures and fearing residual damage from abandonment and vacant properties, Congress enacted and the President signed the Housing and Economic Recovery Act of 2008 (“HERA”). HERA provides \$3.92 billion of emergency funds to states and local communities to respond to the high number of foreclosures. HUD will target these emergency resources through its new Neighborhood Stabilization Program (“NSP”), according to need as determined by the highest number / percent of foreclosures, subprime mortgages and mortgage defaults and delinquencies.

Section 2. Who Can Obtain NSP Funding

NSP FUNDS TO MICHIGAN COMMUNITIES

Michigan and its communities received the third highest amount of NSP emergency funding. These funds are to be treated as a special CDBG allocation, unless HERA specifically states otherwise. As CDBG funds, HUD treats each state and local community's use of its NSP grant as a 'substantial amendment' to its action plan. The allocation of funds for Michigan and its communities are as follows:

<u>State Allocation</u>		<u>City and Township Allocations</u>	
Michigan State Program	\$98,653,915	Canton Twp	\$2,182,988
		Clinton Twp	\$2,147,608
<u>County Allocations</u>		Dearborn	\$2,436,246
Genesee County	\$7,506,343	Detroit	\$47,137,690
Kent County	\$3,912,796	Flint	\$4,224,621
Macomb County	\$9,765,375	Grand Rapids	\$6,187,686
Oakland County	\$17,383,776	Lansing	\$5,992,160
Washtenaw County	\$3,024,719	Lincoln Park	\$2,417,688
Wayne County	\$25,909,153	Pontiac	\$3,542,002
		Redford	\$3,041,364
		Southfield	\$3,241,457
		Sterling Heights	\$2,454,961
		Taylor	\$2,495,056
		Warren	\$5,829,447
		Waterford Township	\$2,014,489
		Westland	\$2,061,722

OPPORTUNITIES FOR COOPERATION

Jurisdictions may cooperate to carry out their grant program through a joint request to HUD. HUD is providing regulatory waivers and alternative requirements to allow joint requests among entitlement communities and to allow joint requests between an entitlement community and a state. Any two or more contiguous entitlement communities (metropolitan cities or urban counties) that are in the same metropolitan area and are eligible to receive an NSP grant may instead make a joint request to HUD to implement a joint NSP program. A jurisdiction need not have a joint agreement with an urban county under the regular CDBG entitlement program to request a joint program for NSP funding.

Similarly, any entitlement community eligible to receive an NSP grant may instead make a request for a joint NSP program with its state. HUD encourages each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline versus the capacity of the state administrator. HUD expects that after such consideration, some jurisdictions may choose to apply for less than the full amount, which will allow the balance of their grants to pass to the NSP administrator at the state level.

An NSP joint request under a cooperation agreement results in a single combined grant and a single action plan substantial amendment. Potential requestors should contact HUD as soon as possible (as far as possible in advance of publishing a proposed NSP substantial amendment) for technical guidance. The requestors will specify which jurisdiction will receive the funds and administer the combined grant on behalf of the requestors; in the case of a joint request between a local government jurisdiction and a state, the state will administer the combined grant. (Grantees choosing this option should consider the Consolidated Plan

and citizen participation implications of this approach. The lead entity's substantial amendment will cover any participating members. The citizen participation process must include citizens of all jurisdictions participating in the joint NSP program, not just those of the lead entity.)

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

EXISTING COOPERATION AGREEMENTS

Given the rule of construction in HERA that NSP funds generally are construed as CDBG program funds, subject to CDBG program requirements, HUD generally is treating NSP funds as a special allocation of Fiscal Year (FY) 2008 CDBG funding. This has important consequences for local governments presently participating in an existing urban county program, and for metropolitan cities that have joint agreements with urban counties. HUD will consider any existing cooperation agreements between a local government and an urban county governing FY2008 CDBG funding to automatically cover NSP funding as well. These cooperation agreements will continue to apply to the use of NSP funds for the duration of the NSP grant, just as cooperation agreements covering regular CDBG Entitlement program funds continue to apply to any use of the funds appropriated during the 3-year period covered by the agreements.

Section 3. How NSP Funding Can Be Used

ELIGIBLE ACTIVITIES

The following are NSP eligible activities:

- **Establish financing mechanisms.** Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties
 - This includes soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers
- **Purchase and rehabilitate homes.** homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties
- **Establish land banks.** Establish land banks for homes that have been foreclosed upon;
- **Demolish blighted structures.**
- **Redevelop demolished or vacant properties.**
 - New construction of housing is eligible as part of redeveloping demolished or vacant properties
 - Redevelop acquired property for nonresidential uses, such as a public park, commercial use, or mixed residential and commercial use
- **Fund costs.** Fund costs, such as reasonable developer's fees, related to NSP-assisted housing rehabilitation or construction activities
- **General administration and planning activities.** General administration and planning activities, up to 10% of an NSP grant and up to 10% of program income earned
 - Because those allocated to receive NSP funds will need to act quickly to prepare the action plan substantial amendment and to undertake other administrative tasks, HUD is granting permission to states and those communities receiving a direct allocation of NSP funds to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds.

NON-ELIGIBLE ACTIVITIES

The following are **not** NSP eligible activities and HUD will **not** consider requests for:

- Foreclosure prevention activities
- Demolition of structures that are not blighted
- Purchase of residential properties and homes that have not been abandoned or foreclosed upon

Section 4. How to Apply for NSP Funding

APPLICATION TIMELINE

Presently: CDBG grantees receiving NSP allocations may immediately begin to prepare and submit action plan substantial amendments for NSP funds

November 14, 2008: Pre-grant

- Publish proposed action plan substantial amendment via the usual methods and on the Internet for no less than 15 calendar days of public comment

***December 1, 2008:* Grant Application Deadline**

- Submit final action plan substantial amendment to HUD (grant application includes SF-424 and certifications) [See: “NSP Application” below]
- Post final action plan substantial amendment on the Internet
- **If a community fails to submit a “substantially complete” application for its grant by the December 1, 2008 deadline, or submits an application for less than the total allocation amount, HUD will reallocate the remaining funds to the state of Michigan.**
- **If the state of Michigan fails to submit a “substantially complete” application for its grant by the December 1, 2008 deadline, or submits an application for less than the total allocation amount, HUD will reallocate the remaining funds to the 10 highest-need states.**

NSP APPLICATION CHECKLIST

A complete application will include all of the items from the following checklist.

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- SF-424 standard federal form, signed
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- General information about needs, distribution, use of funds, and definitions:
 - Summary of needs data identifying the geographic areas of greatest need in the grantee’s jurisdiction.
Note: The state must include the needs of the entire state and not just the areas not receiving an NSP allocation. To include the needs of an entitlement community, the state may either incorporate an entitlement jurisdiction’s consolidated plan and NSP needs by reference and hyperlink on the Internet, or state the needs for that jurisdiction in the state’s own plan.
 - A narrative describing how the distribution and uses of the NSP funds will meet HERA’s requirements that funds be distributed to the areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan, and likely to face a significant rise in the rate of home foreclosures. This narrative must address the three above need categories, but may also consider other need categories. For the purposes of the NSP, the narratives will include:
 - A definition of “blighted structure” in the context of state or local law
 - A definition of “affordable rents”
 - A description of how the grantee will ensure continued affordability for NSP-assisted housing
 - A description of housing rehabilitation standards that will apply to NSP-assisted activities
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- Information by activity describing how the grantee will use the funds, identifying:
 - The eligible use of funds under NSP
 - The eligible CDBG activity or activities
 - The areas of greatest need addressed by the activity or activities
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- The expected benefit to income-qualified persons or households or areas
 - Appropriate performance measures for the activity (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels represented in DRGR, which are currently 50 percent of area median income and below, 51 to 80 percent, and 81 to 120 percent)
 - Amount of funds budgeted for the activity
 - The name and location of the entity that will carry out the activity
 - The expected start and end dates of the activity
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- A description of the general terms under which assistance will be provided, including:
 - If the activity includes acquisition of real property, the discount required for acquisition of foreclosed-upon properties
 - Range of interest rates (if any)
 - Duration or term of assistance
 - Tenure of beneficiaries (e.g., rental or homeownership)
 - If the activity produces housing, how the design of the activity will ensure continued affordability
 - If the funds used for the activity are to count toward the requirement at section 2301(f)(3)(A)(ii) to provide benefit to low-income persons (earning 50 percent or less of area median income)
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- Information on how to contact grantee program administrators, so that citizens and other interested parties know who to contact for additional information.
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While drafting the action plan substantial amendment, keep in mind that HUD encourages each grantee to carry out its NSP activities in the context of a comprehensive plan for the community’s vision of how it can make its neighborhoods not only more stable, but also more sustainable, competitive, and integrated into the overall metropolitan fabric, including access to transit, affordable housing, employers, and services.

Application Questions?

HUD encourages grantees, during development of their action plan amendments, to contact HUD field offices for guidance in complying with these requirements, or if they have any questions regarding meeting grant requirements. You can reach HUD’s Detroit office at (313) 226-7900.

You may also contact Community Legal Resources at (313) 962-3171.

NSP APPLICATION SUBMISSION

A grantee that wishes to initially submit its action plan amendment to HUD electronically in the DRGR system may do so by contacting its local field office for the DRGR submission directions.

Paper submissions to HUD also will be allowed, although each grantee must set up its action plan in DRGR prior to the deadline for the first required performance report after receiving a grant.

In the interest of making the NSP funds available as soon as possible, HUD is utilizing the Disaster Recovery Grant Reporting system (“DRGR”). DRGR must be used by all communities and states in reporting NSP information to HUD. HUD has provided a chart, included below, in order to adapt DRGR from its conventional use in disaster recovery to the immediate need of administering NSP grants nationwide. The chart provides the corresponding “NSP-eligible uses” with “CDBG-eligible activities.”

If a grantee creates a program design that includes a CDBG-eligible activity that is not shown in the table to support an NSP-eligible use, HUD may allow a grantee an additional eligible-activity category if HUD finds the activity to be in compliance with the NSP statute.

NSP – Eligible Uses	Correlated Eligible Activities From the CDBG Entitlement Regulations
(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers	<u>24 CFR 570.206</u> As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties	<u>24 CFR 570.201</u> (a) Acquisition, (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance (as modified below); <u>24 CFR 570.202</u> eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).
(C) Establish land banks for homes that have been foreclosed upon	<u>24 CFR 570.201</u> (a) Acquisition and (b) Disposition.
(D) Demolish blighted structures	<u>24 CFR 570.201</u> (d) Clearance for blighted structures only.
(E) Redevelop demolished or vacant properties	<u>24 CFR 570.201</u> (a) Acquisition, (b) Disposition, (c) Public facilities and improvements, (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties, (i) Relocation, and (n) Direct homeownership assistance (as modified below). <u>24 CFR 570.204</u> Community based development organizations.

HUD REVIEW AND GRANT APPROVAL PROCESS

Step 1: HUD expedites review;

- HUD will review each submission for completeness and consistency with the requirements and will disapprove incomplete and inconsistent action plan amendments.
- In the event that an amendment is not approved, HUD will allow revision and resubmission of a disapproved action plan within 45 days following the disapproval, and in no case later than the close of business on February 13, 2009.

Step 2: HUD accepts the plan and prepares a cover letter, grant agreement, and grant conditions;

Step 3: Grant agreement signed by HUD* and immediately transmitted to the grantee

*Note: Grantee will be deemed by HUD to have received its NSP grant at the time HUD signs its NSP grant agreement. This begins the 18 month countdown during which time all NSP funds must be “used,” that is obligated for a specific purpose.

Step 4: Grantee signs and returns the grant agreements;

Step 5: HUD establishes the line of credit and the grantee requests and receives voice response system (VRS) access;

Step 6: After completing the environmental review(s) and, as applicable, receiving from HUD or the state an approved Request for Release of Funds and certification, the grantee may draw-down funds from the line of credit

Step 7: Within 18 months of receipt of funds / (grant agreement signed by HUD):

- All NSP funds must be *used*, or obligated by a state or local government for a specific NSP activity;
 - Funds are obligated for an activity when orders are placed, contracts are awarded,

services are rendered, and similar transaction have occurred that require payment.
Mere subawards, or grants to subrecipients do not obligate funds.

- Failure to use its grant within 18 months will result in HUD restricting the amount of unused funds in the grantee's line of credit. HUD will allow the grantee 30 days to submit information to HUD regarding any additional "use" of funds not already recorded in the Disaster Recovery Grant Reporting system (DRGR). HUD will then proceed to capture the unused funds and will reallocate them.

Appendix A. Definitions

DEFINITIONS

Certain terms are used in HERA that are not used in the regular CDBG program, or the terms are used differently in HERA and the HCD Act. In the interest of speed and clarity of administration, HUD is defining these terms for all grantees, including states. For the same reason, HUD is also defining eligible fund uses for all grantees, including states.

Abandoned. A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

Blighted structure. A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety and public welfare.

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

Current market appraised value. The current market appraised value means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property by a grantee, subrecipient, developer, or individual homebuyer.

Foreclosed. A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

Land bank. A land bank is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property. For the purposes of the NSP program, a land bank will operate in a specific, defined geographic area. It will purchase properties that have been abandoned or foreclosed upon and maintain, assemble, facilitate redevelopment of, market, and dispose of the land-banked properties. If the land bank is a governmental entity, it may also maintain 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.

“Revenue,” for the purposes of section 2301(d)(4). Revenue has the same meaning as program income, as defined at 24 CFR 570.500(a) with the modifications in this notice.

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

“Use,” for the purposes of section 2301(c)(1). Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity; for example, for acquisition of a specific property. Funds are obligated for an activity when orders are placed, contracts are awarded, services are received, and similar transactions have occurred that require payment by the state, unit of general local government, or subrecipient during the same or a future period. Note that funds are not obligated for an activity when subawards (e.g., grants to subrecipients or to units of local government) are made.

Appendix B. Miscellaneous Regulations

REGULATIONS, MISCELLANEOUS

Acquisition and relocation

Acquisition of Foreclosed-Upon Properties. HERA requires that any acquisition of a foreclosed-upon home or residential property under NSP be at a discount from the current market-appraised value of the home or property and that such discount shall ensure that purchasers are paying below-market value for the home or property. HERA supercedes the requirements of the URA that an offer of just compensation be at least the appraised value of the property.

NSP Appraisal Requirements. In contrast to the URA, which allows, but does not require appraisals, HERA requires an appraisal for purposes of determining the statutory purchase discount. Note: this appraisal requirement applies to any NSP-assisted acquisition of foreclosed-upon home or residential property, even including voluntary acquisitions.

One-for-One Replacement. An NSP grantee will not be required to provide one-for-one replacement of low- and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP funds. Alternatively, each grantee must include in its NSP action plan substantial amendment the following information relating to its demolition and conversion activities: The number of:

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

Affirmatively furthering fair housing

Each grantee is required to carry out its certification to affirmatively further fair housing. HUD encourages each grantee to review its analysis of impediments to fair housing choice to determine whether an update is necessary because of current market conditions or other factors.

Alternative Requirements

In order to expedite the distribution of NSP funds, HUD has specified alternative requirements for certain CDBG procedures. HUD is waiving:

- consolidated plan regulations on the certification of consistency with the consolidated plan to mean the NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the grantee's substantial amendment.
- consolidated plan regulations, to the extent necessary to adjust reporting to fit the requirements of HERA and the use of DRGR.

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

Note: standard requirements related to fair housing, nondiscrimination, labor standards, and the environment (lead-based paint) still apply.

Citizen Participation

To expedite the disbursement of the NSP emergency funds, HUD is waiving the requirement that the grantee follow its citizen participation plan for this substantial amendment. HUD is also shortening the minimum

time for citizen comments (from 30 to 15 calendar days) and requiring the substantial amendment materials be posted on the grantee's official website as the materials are developed, published, and submitted to HUD, along with a summary of citizen comments received within the 15-day comment period.

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

Continued Affordability

Grantees shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income. Grantees must also ensure that units originally assisted with funds set aside for incomes that do not exceed 50 percent of area median income remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

HUD will consider any grantee adopting the HOME program standards to be in minimal compliance with this standard and expects any other standards proposed and applied by a grantee to be enforceable and longer in duration. Note: HERA's continued affordability standard is longer than that required of subrecipients and participating units of general local government under 24 CFR 570.503 and 570.501(b).

The grantee must require each NSP-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. The grantee must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages. (see, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>). Grantees must design NSP programs to comply with this requirement and must document compliance in the records, for each homebuyer. Grantees are cautioned against providing or permitting homebuyers to obtain subprime mortgages for whom such mortgages are inappropriate, including homebuyers who qualify for traditional mortgage loans.

If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR part 92, the grantee must revive the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

Eminent Domain

The use of NSP funds for eminent domain should absolutely be avoided. As a practical matter of statutory interpretation, it is unclear whether different provisions of HERA allow for or prohibit the use of eminent domain. As a matter of constitutional law, the Fifth Amendment's mandate of just compensation for eminent domain directly conflicts with HERA's statutory requirement that any purchase of a foreclosed-upon home or residential property be at a discount from the current market appraised value. Ultimately, of course, any grantee contemplating using NSP funds for eminent domain should consult appropriate legal counsel before taking action.

Income eligibility requirement changes

HERA requires that one hundred percent of NSP funds be used to benefit individuals and households whose income does not exceed 120 percent of area median income. NSP shall refer to such households as "low-, moderate-, and middle-income."

Definitions, for purposes of NSP only.

- "Low- and moderate-income person" as it appears throughout the CDBG regulations shall be defined as a member of a low-, moderate-, and middle-income household.

- “Low- and moderate-income household” as it appears throughout the CDBG regulations shall be defined as a household having an income equal to or less than 120 percent of area median income, measured as 2.4 times the current Section 8 income limit for households below 50 percent of median income, adjusted for family size.

Land Banks

Unlike the regular CDBG program, HERA allows assistance to land banks as an eligible use of NSP funds. If a land bank is not merely acquiring properties, but is also carrying out other activities intended to prevent neighborhood decline (such as maintenance, demolition, and facilitating redevelopment of the properties), HUD will accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally to meet a national objective prior to final disposition of the banked property. A land bank may not hold a property for more than 10 years without obligating the property for a specific, eligible redevelopment of the property according to the NSP requirements.

Purchase discount

Statutory mandates. HERA requires that any purchase of a foreclosed-upon home or residential property shall be at a discount from the current market appraisal value of the home or property, taking into account its current condition. Such discount shall ensure that purchasers are paying below-market value for the home or property.

- Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least 5 percent from the current market-appraised value of the home or property.
- Purchase transactions in the aggregate. As a general rule, there must be an average purchase discount of at least 15 percent for all properties purchased with NSP funds during the 18-month use period.
 - The average purchase discount shall be at least 10 percent if the state, local government or subrecipient determines the maximum reasonable discount for each purchase transaction through use of a methodology that results in a discount equivalent to the total carrying costs that would be incurred by the seller if the property were not purchased with NSP funds (provided the discount is at least 5 percent). Such methodology shall provide for an analysis of the estimated holding period for the property and the nature and the amount of the carrying costs of holding the property for this period. Such carrying costs shall include, but not be limited to: taxes, insurance, maintenance, marketing, overhead, and interest.

An NSP recipient may not provide NSP funds to another party to finance an acquisition of tax foreclosed (or any other) properties from itself, other than to pay necessary and reasonable costs related to the appraisal and transfer of title.

Rehabilitation Standards

Any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety, quality, and habitability, in order to sell, rent, or redevelop such homes and properties. This requirement does not exist in the regular CDBG program. Each grantee must describe or reference in its NSP action plan substantial amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation. HUD will then monitor to ensure that the standards are implemented.

Rehabilitation, defined. HERA defines rehabilitation to include improvements to increase the energy efficiency or conservation of homes or properties or to provide a renewable energy source or sources for homes and properties. HUD strongly encourages grantees to use NSP funds not only to stabilize neighborhoods in the short-term, but to strategically incorporate modern, green building and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.

Sale of Homes, Cost of

If an abandoned or foreclosed-upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, it must be for an amount equal to or less than the cost to acquire and

redevelop or rehabilitate the home or property up to a decent, safe, and habitable condition. (Sales and closing costs are eligible NSP redevelopment or rehabilitation costs.) Therefore, the maximum sales price for a property is determined by aggregating all costs of acquisition, rehabilitation, and redevelopment (including related activity delivery costs, which generally may include, among other items, costs related to the sale of the property).

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

State's direct action

Unlike the regular CDBG program, which requires states to distribute the funds to local governments, HERA allows states to use the funds directly. In fact, in light of the 18-month "use" requirement, HUD notes that a state's direct use to be more expeditious than distributing to a local government, which must then "use" the funds.

For those activities that a state chooses to carry out directly, HUD strongly advises the state to adopt the recordkeeping required for an entitlement community. In such cases, as an alternative requirement, the state may retain and re-use program income as if it were an entitlement community.

Note on environmental release of funds. Usually, a state distributes CDBG funds to local governments and takes on HUD's role in receiving environmental certifications from the grant recipients and approving releases of funds. When a state carries out activities directly, however, the state must submit the certification and request for release of funds to HUD for approval.

State distribution to entitlement communities and Indian tribes

HERA includes a regulatory waiver that *allows* states receiving NSP funds to distribute them to or within any jurisdiction within the state that is among those with the greatest need, even if the jurisdiction is among those receiving a direct formula allocation of funds from HUD under the regular CDBG program or this notice.

Alternatively, the state is *required* to distribute funds without regard to a local government status under any other CDBG program and must use funds in entitlement jurisdictions *if* they are identified as areas of greatest needs, regardless of whether the entitlement receives its own NSP allocation.