



Guide to Property Acquisitions in NSP Programs

About this Tool

Description:

This guide is intended to provide advice and information to NSP grantees, subrecipients, and developers that are acquiring properties with funds from NSP1, NSP2, and NSP3. It addresses NSP eligibility criteria, discusses other selection criteria to consider, market research, identification of properties, evaluation of properties, purchase agreements, and closings. The guide also explains and points to other resources for compliance with NSP requirements for appraisals, purchase discounts, tenant protections, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) compliance, and environmental reviews. Appendices include process charts, a sample file checklist, and forms related to compliance with URA and recently enacted tenant protection laws.

Source of Document:

US Department of Housing and Urban Development, "Accessing REO Properties" (PowerPoint); Enterprise Community Partners, "NSP Property Acquisition Checklist;" The NSP Toolkit's "Sample NSP Single-Family Development and Sales Program Manual"; HUD guidance documents and guide forms; and FAQs from the NSP Resource Exchange.

Disclaimer:

This document is not an official HUD document and has not been reviewed by HUD counsel. It is provided for informational purposes only. Any binding agreement should be reviewed by attorneys for the parties to the agreement and must conform to state and local laws.

This resource is part of the NSP Toolkits. Additional toolkit resources may be found at www.hud.gov/nspta

Guide to Property Acquisitions in NSP Programs

1. Introduction

The purpose of this guide is to provide NSP grantees, subgrantees, sub-recipients, and developers with practical tips and strategies for using NSP funds to acquire properties for rehabilitation and redevelopment, and to provide a better understanding of how to satisfy relevant NSP compliance requirements. This guide covers NSP1, NSP2, and NSP3. In the event there is a difference, this will be noted in the appropriate section below. While much of the advice in this guide applies to land bank acquisitions, there are other NSP Toolkit documents covering special considerations for land banking and readers are encouraged to search for those on the NSP resource exchange, www.hudnsphelp.info.

Most of this guide follows the typical sequence of tasks in acquiring properties. Sections 2 and 3 address the preliminary steps of determining property selection criteria. Sections 4 through 7 follow the typical sequence of acquisition tasks: market research, identifying properties, evaluating properties, options and purchase agreements, and closing the purchase. At the appropriate points in this sequence of events, the guide points out typical industry practices, NSP-specific requirements and other federal requirements. Section 8 provides more background and details on key federal requirements.

Federal requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (known as URA) and the National Environmental Policy Act (NEPA) are complex and cannot be covered comprehensively in a Guide of this size. Therefore, use of this guide alone will not assure compliance with these and other applicable federal regulations. Each section presents an overview of key issues and provides links to websites or other documents where more information can be found.

See Appendix A for *Typical Process Steps for NSP Acquisitions*. Appendix A is intended to be used as a concise reference tool that lists the essential steps involved in the acquisition process in the order in which they should typically be completed to follow standard industry practices and to comply with NSP requirements. This guide provides more detailed advice on those process steps. Also included (as Appendix B) is a *Sample Property Acquisition File Checklist*. This checklist is designed to be used in paper files of documentation for individual properties.

This guide focuses primarily on acquisition of residential properties for residential use, which are the primary focus of NSP programs. Although acquisitions of property for commercial uses and public facilities are allowed under NSP1, they have special considerations for selection, marketability and feasibility that are not addressed in this guide.

In this guide, the term “you” or “buyer” refers to an NSP grantee, sub-recipient, developer or other entity that is acquiring properties with the intent to redevelop them using NSP funds or to transfer the properties to another entity that will be using NSP funds to redevelop them.

2. Property Eligibility: Statutory and Regulatory Issues

NSP was initially authorized in 2008 to help stabilize neighborhoods by providing funds for the redevelopment of abandoned and foreclosed homes and residential properties. As HUD and NSP grantees gained experience in implementing the program, HUD amended the definitions of “abandoned” and “foreclosed” in order to broaden the inventory of eligible properties, increase grantee capacity, and to help expedite program implementation. NSP grantees may apply the new definitions as of the date of submission of their Substantial Amendment and Action Plan to HUD, regardless of the current status of acquisition, redevelopment or disposition activities already undertaken. Be aware that these changes in definition do not affect other NSP program requirements which still must be satisfied. The actual wording changes in the definitions can be found in the Notes to Table 1, and more information can be found at http://hudnsphelp.info/media/resources/FedRegister_NSPODefinitionChange.pdf.

It is crucial to pay close attention to NSP property eligibility criteria, as they are treated differently under the five eligible uses established in the NSP Notices of Funding Availability (NOFA). The eligible uses are as follows:

- 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.
- 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.
- C. Establish land banks for homes that have been foreclosed upon
- D. Demolish blighted structures
- E. Redevelop demolished or vacant properties

Table 1, below, describes what types of properties qualify for acquisition under each eligible use.

Table 1: NSP Eligible Uses by Property Status

	Eligible Uses	Foreclosed Homes and Residential Properties	Abandoned Homes and Residential Properties	Blighted Structures	Demolished Properties	Other Vacant Properties
A	Financing Mechanisms	Yes	No	Only if Foreclosed	N/A	Only if Foreclosed
B	Purchase and Rehab	Yes	Yes	If Foreclosed or Abandoned	N/A	No
C	Land banks	Yes (Homes only)	No (Foreclosed only)	Foreclosed home or residential property	No	No
D	Demolition	Only if Blighted	Only if Blighted	Yes	N/A	Only if Blighted
E	Redevelopment	Only if Vacant	Only if Vacant	Only if Vacant	Yes	Yes
Comments				<i>Locally defined. Not limited to residential structures.</i>	<i>Not limited to residential structures.</i>	<i>Land or structures. Not limited to residential property.</i>

Notes to Table 1:

NSP Notice Definition: Abandoned. A home or residential property is abandoned if either:

- (a) A mortgage, tribal leasehold, or tax payments are at least 90 days delinquent, or
- (b) A code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies, or
- (c) The property is subject to a court-ordered receivership or nuisance abatement related to abandonment pursuant to state, local or tribal law or otherwise meets a state definition of an abandoned home or residential property.

NSP Notice Definition: Foreclosed. A home or residential property has been foreclosed upon if any of the following conditions apply:

- (a) The property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or
- (b) The property owner is 90 days or more delinquent on tax payments, or
- (c) Under state, local, or tribal law, foreclosure proceedings have been initiated or completed, or

d) Foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not an NSP grantee, contractor, subrecipient, developer, or end user.

Use E, Redevelopment. The eligible uses of NSP1 funding for redevelopment are rehab and new construction of housing, commercial space or public facilities that meet NSP requirements and CDBG national objectives. However, NSP2 and NSP3 funds can only be used for housing that meets NSP requirements under Eligible Use E.

Homes and Residential Properties: HUD interprets “homes” as any type of permanent residential dwelling unit, such as detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes where treated under state law as real estate (not personal property). “Residential properties” includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

Regardless of the property status or the Eligible Use, NSP-assisted properties must be in designated target areas that grantees identified as part of their initial applications to HUD. Some grantees have adjusted their target areas via HUD-approved changes to their Substantial Amendments, for example adding eligible census tracts that proved to have strategic properties in them. However, this can be a lengthy process and NSP1 grantees, especially, should weigh the advantages of pursuing these changes against the impending deadline for obligating funds.

3. Other Selection Criteria to Consider for Property Acquisitions

Properties identified for purchase must be located in the target areas designated by NSP grantees. Naturally, they should also be marketable to homebuyers or renters, and their redevelopment should help contribute to overall neighborhood stabilization. Targeted use of NSP funds can help communities achieve broader goals of redevelopment and sustainability. Some strategies and criteria to use when evaluating properties for purchase include:

A. Owner Occupancy Rates

For home sales programs, look for blocks or clusters of blocks that already have stable homeownership but where target properties need to be addressed to stabilize the neighborhood. Areas with high numbers of investor-owned and vacant homes are typically not attractive to homebuyers unless a high concentration of vacant and investor-owned properties are being redeveloped as owner-occupied homes at one time.

B. Suitable Locations for Rental Housing

When the goal is to produce rental housing—either single-family or multifamily—a high ownership rate is less important. Choose housing or sites that are accessible, near public transportation, stores, employment, services, good schools (if family housing) etc. Access to public transportation may be particularly important for tenants with incomes under 50% of median income.

C. Crime Rates

High crime rates can discourage both potential buyers and renters. Check crime statistics block by block if possible and choose locations where rates are lower or where your efforts can have a significant effect on lowering the rate of crime (e.g. vandalism).

D. Schools

Buyers and renters with children will be concerned about the quality of the schools. Choosing sites or housing with good quality nearby schools will help market properties to families.

E. Proximity of Public Transportation

Some grantees (for example, Denver) purposely selected focal areas within NSP target areas—or “micro-target areas”—that are near new light rail or other new public transit lines to help encourage non-auto commuting.

F. Smart Site Location

Choosing “smart” sites for housing is a key principle of green housing design. Smart sites are adjacent to existing development, jobs, public transit and services. They maximize use of existing infrastructure, encourage walkable neighborhoods, and minimize sprawl. Careful site selection can help clean up and redevelop brownfields and to fill in gaps in the built environment. By avoiding damage to or loss of fragile eco-systems they protect natural resources. Finally, locating housing adjacent to development and services reduces residents’ travel distances and costs, reducing strain on their budgets and increasing their opportunities for being involved in their communities. Examples of “smart site” criteria can be found at Criteria at <http://www.greencommunitiesonline.org/tools/criteria/> (the Green Communities Criteria) or the LEED website at www.usgbc.org.

G. Concentration of Acquisitions

Encourage neighborhood stabilization and redevelopment by concentrating acquisitions in blocks or neighborhoods instead of doing scattered acquisitions that may have less impact.

4. Researching the Market and Identifying Properties

Understanding the market is vital to identifying and successfully acquiring properties for NSP redevelopment activities. Critical elements include:

- Understanding the source of properties in your community (this may be Fannie Mae, Freddie Mac, FHA, private lenders, or some combination of these)
- The ability to purchase units in volume
- Price points and trends (is the market continuing to drift downwards, has it stabilized, or is it edging back up?)
- The quality of the housing stock (how much renovation will it require; will the cost of renovation far exceed the after rehab market value?)

- Other buyers in the market who will be competing for the same units you want.

A. Finding Properties when Using a Local Broker

Identifying eligible NSP properties in a timely way and negotiating acquisitions can be challenging, especially when competing with private investors who are able to make purchases quickly and pay cash for them. Some NSP program implementers have sufficient trained staff to be able to identify properties, but if not they hire real estate professionals to do property research and identify properties. It is important to hire “REO specialists” since they typically have relationships with REO holders and may be able to get access to properties when first listed or even earlier. This can be done on a typical realtor fee basis but if the value of the properties is low the broker may have to be paid a higher than usual commission (as high as 8 or 9 percent) to provide sufficient incentive. Another option is to hire the same broker to do the property identification and to serve as the seller’s agent once the properties are acquired and ready for resale to homebuyers. If using this approach, be sure to verify that the broker is skilled at both roles. Some grantees have hired brokers and others to do general market research and identify “micro target areas” for a flat fee or hourly rate, not connected to acquiring specific properties.

B. Finding Properties when Managing the Purchase Process Internally

If you are managing the purchase process internally, go to the websites below to identify NSP properties in your NSP target area. Their databases allow searches by state, county, city, and zip code. Note that the private lenders are just examples of the biggest owners of REO; try searching on any bank and adding “REO” or “properties for sale” after the name to learn about foreclosed inventory they are trying to sell. Major sources of REO properties are as follows:

1. HUD/FHA- http://portal.hud.gov/portal/page/portal/HUD/topics/hud_homes

FHA has a number of programs that offer discounted REO properties to local governments and approved nonprofits (see the list below). For updates on the FHA REO program opportunities check HUD’s NSP TA website at www.hudnsphelp.info.

a) Initial Listing

- Properties can be obtained at up to a 30% discount
- Available for only the first 5 days a property is listed

b) Bulk purchase program

- Must be an NSP grantee or sub-grantee
- Purchase 2 or more properties
- Properties have been on the market for 60+ days
- Sliding discount scale based on appraised value

c) \$1 Homes

- Property must have been on the market for 180+ days

d) First Look

- This program for HUD-owned homes became effective on July 15, 2010 and will remain in effect until May 31, 2013. It allows NSP grantees and subrecipients to register to receive notices of new property listings before they are made available to the broader public. See the following link to view the Federal Register notice: <http://edocket.access.gpo.gov/2010/pdf/2010-17335.pdf>

e) Asset Control Areas

Local government units or approved non-profits may enter into a two-year contract with HUD. The contract requires HUD to sell properties in a defined geographic area, within a HUD-defined revitalization area, to the ACA participant. The discount price is based upon the property's appraised value, as determined by HUD. The ACA participant must rehabilitate and re-sell the property to income eligible borrowers at 115% of the net development costs.

HUD's four Home Ownership Centers (HOCs) monitor the M&M Contractor's administration of the REO Disposition program. Find the HOC for your state at <http://www.hud.gov/offices/hsg/sfh/hoc/hsgfhocs.cfm>.

2. Fannie Mae - www.homepath.com
3. Freddie Mac- www.homesteps.com
4. Wells Fargo- <http://www.pasreo.com/pasreo/public/content.do?pageID=2000576>
5. Bank of America- <http://bankofamerica.reo.com/search/PropertySearch.aspx>
6. CitiGroup- <https://www.citimortgage.com/Mortgage/Oreo/SearchListing.do>
7. JP MorganChase- www.chase.com/reo

C. Finding Properties when Using an Intermediary

Many NSP grantees are working with intermediaries who have the knowledge and capacity required to do bulk purchases of properties from sellers and servicers. Because they buy in bulk they can negotiate improved access to properties and obtain better prices. There are several of these "aggregators"; two examples are listed below.

1. The National Community Stabilization Trust ("the Trust") www.stabilizationtrust.com

The Trust facilitates the transfer of foreclosed and abandoned properties nationwide from financial institutions to local housing organizations to promote productive property reuse and neighborhood stability. In collaboration with state and local governments, the Stabilization Trust builds local capacity to effectively acquire, manage, rehab and sell foreclosed property to ensure that homeownership and rental housing are available to low- and moderate-income families. The Trust was created through a collaborative effort by Enterprise Community Partners, NeighborWorks® America, the Housing Partnership Network, LISC, National Council of La Raza, and the National Urban League. It is currently working with

Freddie Mac; Fannie Mae; Federal Housing Administration (FHA); Deutsche Bank; Nationstar Mortgage; Ocwen Financial Corporation; U.S. Bank; Saxon Mortgage Services; Wells Fargo; Citigroup, Bank of America; JP Morgan Chase; GMAC, and is active in more than 160 communities in 38 states.

The Stabilization Trust REO transfer model uses:

- a) Pre-negotiated purchase agreements that;
 - Cover NSP regulatory requirements.
 - Allow limited local customization.
- b) Streamlined processes:
 - Quick responses to property offering required;
 - 30-day closing timeline.
- c) Single point of contact:
 - Local programs work directly with the Stabilization Trust;
 - Agreed upon pricing system; and
 - Applies the net realizable value approach to REO properties.

2. REO Clearinghouse- www.reo-ch.com/

The REO Clearinghouse connects servicers who have aged and distressed foreclosed properties (REO) to cities, counties and nonprofit organizations who want to obtain these properties as part of their targeted revitalization or stabilization programs. The Clearinghouse:

- a) Aggregates the inventory of multiple servicers and provides a list of REO properties each month to local partners.
- b) Assists in negotiating the purchase or donation of selected properties.
- c) Can assist communities in identifying the servicer for strategic properties.
- d) Currently operates in over a dozen markets and works with multiple national servicers.

5. Evaluating Properties

The entity acquiring the property is responsible for property investigations. Grantees and sub-recipients can charge time to the NSP grant for this work. Typically, developers recoup the costs of investigations through a developer fee, if such fee is indicated in the NSP Agreement. Following are typical steps in evaluating a property before deciding to make an offer. More details on specific NSP compliance issues can be found in Section 6, below.

A. Inspection

Inspect the site and structures. If the property was built prior to 1978, conduct a lead hazard risk assessment. Then complete a preliminary_rehab/construction cost estimate in format that is acceptable to the Grantee. It is a good practice to have the inspector document in a written, signed, dated and filed report that the property is vacant and there is no personal property on site; or that it is occupied or has personal property on site. This will help determine whether the URA, 104(d), or tenant protection requirements may be applicable to the acquisition.. See section 5(E) below for more information on these important requirements.

B. Project Budget

Complete a project budget that includes all proposed NSP-funded expenses for acquisition, relocation, site work, rehab/construction, holding costs, marketing/sales costs, closing costs, developer fee (or estimated project management costs for grantees and sub-recipients), and other soft costs; HUD's "Planning and Budgeting for Relocation Costs for HUD Funded Projects" is a helpful publication if your project involves relocation. The publication is available at the following link: <http://www.hud.gov/offices/cpd/library/relocation/publications/1045.pdf>

C. Estimate of Property Value; Appraisals

While it is not required for voluntary acquisitions in an NSP program at the pre-offer stage, it is advisable to obtain a professional evaluation of the as-is market value of the property to determine the cost-reasonableness of the asking price or proposed offer price. Brokers' opinions and electronic appraisals are examples of low-cost assessments that might be used for the purpose of informing offers.

With voluntary acquisitions, as an alternative to the informal appraisal above, obtain a full URA-compliant appraisal if the property is foreclosed upon and the buyer plans to execute a sales agreement on the property within 60 days. For foreclosed properties as defined by NSP, an appraisal must be completed within 60 days of an offer made for the property, to confirm that the offer or sale price is at least 1% below appraised value, as required by NSP. Some NSP buyers complete these before they make an initial offer, while others want to make sure the initial offer is accepted before they incur this cost prior to a final offer. If a full appraisal is required by NSP (remember, in voluntary acquisitions, they are only required for foreclosed properties) and if not obtained before making the offer, then the option or purchase agreement must be conditional upon receiving an appraisal that confirms the required discount.

URA-compliant appraisals are also required for involuntary acquisitions subject to threat or use of eminent domain powers, which in practice is rarely being done in NSP programs but is possible. At the link below, see HUD's acquisition guidance, which describes the specific URA requirements for notifying the owner, appraising the property, inviting the owner to accompany the appraiser, review the appraisal, establishing just compensation, making the offer, and completing the sale or settlement.

<http://www.hud.gov/offices/cpd/library/relocation/policyandguidance/handbook1378.cfm>

E. Verification of Vacancy

Most NSP program implementers intend to purchase only vacant properties. If that is your intent, it is advisable to verify and document in a property file that the property is vacant and there are no personal possessions onsite. Documentation should include a signed and dated inspection report, photos, and notes from interviews with neighbors (if available) indicating the approximate last date of occupancy. If information from neighbors is not available, documentation should include data from a utility company or the local Post Office indicating the date service was terminated. See Section IV regarding relocation requirements and protections for tenants in occupied properties.

F. Compliance with Tenant Protection Laws

Prior to making an offer to purchase a property, assure that you have obtained proper and sufficient documentation that the rights of tenants in foreclosed properties were properly protected in compliance with recently enacted federal laws regarding tenants in foreclosed-upon properties, or that the laws are not applicable. See section 8(B) below for more details.

G. Notices to Occupants and Other Compliance with URA Relocation Requirements

If you decide to make an offer on an occupied property as a voluntary acquisition, the URA requires you to send a “*General Informational Notice*” (GIN) to all occupants other than an owner-occupant. A GIN informs such persons that in the event they are displaced by this project they may be eligible for relocation assistance and payments under the URA (and/or in some cases section 104(d) relocation assistance). GINs should be provided to property occupants early in the property acquisition process and prior to making an offer. See sample forms attached as Appendix C. If you proceed to acquire the property, URA requires that occupants be surveyed, a relocation plan created, a Notice of Relocation Eligibility or Notice of Non-displacement be provided, along with assistance for eligible persons to make a permanent or temporary move.. See section 8(d) below.

In a voluntary acquisition, owner occupants are not eligible for relocation assistance under the URA and there is no requirement or need to provide them with a General Information Notice (details of the proposed acquisition and their entitlements will be contained in the Notice to Owner). On the other hand, tenant occupants may be eligible as a result of such acquisitions and must be provided a GIN and a Notice of Eligibility for relocation assistance or a Notice of Nondisplacement. In some cases, the GIN should address the potential for temporary relocation if they may be required to move temporarily for rehabilitation of the property. Additionally, if the acquisition does not fall under the URA voluntary requirements of 49 CFR 24.101(b)(1)-(5), owner occupants should be issued a Notice of Relocation Eligibility since an involuntary acquisition of their property will entitle them to relocation assistance.

6. Agreements to Purchase; Relocation Requirements

A. Options and Purchase Agreements

Some NSP grantees require that developers and sub-recipients obtain their approval before entering into an option or purchase agreement for a property to be redeveloped using NSP funds, unless the property was identified in a developer or subrecipient agreement.

If an environmental review has not been completed prior to making the offer, the purchase agreement must be conditional upon that review being completed and accepted by the “responsible entity” (usually the grantee). The following language, or something similar to it, must be included in the purchase contract:

Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until [Responsible Entity] has provided Purchaser and/or Seller with a written determination, on the basis of a federally required environmental review and an approved request for release of federal funds, that purchase of the property by Purchaser may proceed, subject to any other Contingencies in this Contract, or may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property. [Responsible Entity] shall use its best efforts to conclude the environmental review of the property expeditiously.

Likewise, if the property is “foreclosed” as defined by NSP, then the purchase agreement should also be conditional upon obtaining a full, URA-compliance appraisal that demonstrates that the purchase price is at least 1% below the appraised value. (Congress added this provision to the NSP enabling legislation to ensure that lenders and other entities holding foreclosed properties were selling them at a discount to market value.)

B. Relocation Requirements at the Purchase Agreement Phase

In most NSP voluntary acquisitions, the execution of the option or purchase agreement will be considered the “Initiation of Negotiations” (ION). ION is term of art in the Uniform Act and related regulations and does not necessarily refer to the beginning of negotiations to buy a property. ION is the event that triggers a cluster of relocation-related requirements. When executing sales agreements for tenant-occupied properties or involuntary purchases of owner-occupied properties, NSP funding recipients should be well-prepared and ready to provide relocation assistance and payments by this time, including but not limited to notices, replacement housing and maximum replacement housing payment determinations, as well as information on moving costs reimbursement, etc.

Entities undertaking acquisitions under NSP should avoid negotiating for the purchase of occupied properties unless they have the desire and capacity to comply with related URA requirements. When subrecipients and developers are carrying out projects, the NSP grantee should make it clear in the written agreements what entity has financial and programmatic responsibility for URA compliance. If you are acquiring an occupied property, you will be well advised to have completed a tenant survey and relocation plan prior to executing the purchase agreement. If the speed of negotiating process prevents this from occurring—such as in instances where there is competition for a property—these steps need to be taken immediately after the purchase agreement is signed.

As indicated in Section 5(G) above, General Information Notices should be given to occupants, when required, at the earliest possible stage of property evaluation.

Be mindful, however, that initiation of negotiations is only one of several events that can cause a person to be “displaced” for purposes of the URA. For other triggering events, consult 24 CFR 570.606(b)(2) and 49 CFR 24.2(a)(9).

C. Relocation Requirements for “Contributed” Properties

There is another possible scenario for acquisition, in which a developer or subrecipient previously acquired a property without federal funding, then apply for an NSP loan or grant to rehabilitate or redevelop the property. In this case, ION occurs upon the execution of the loan or grant agreement between the grantee (or State or state recipient, as applicable) and the person or entity owning or controlling the real property. (This requirement follows from the definition of ION in the CDBG program regulations at 24 CFR 570.606(b)(3): ION occurs upon the execution of the loan or grant agreement between the grantee (or State or state recipient, as applicable) and the person owning or controlling the real property. URA requirements are then triggered if a tenant-occupant is displaced as a direct result of privately undertaken rehabilitation or demolition.

Be mindful, however, that initiation of negotiations is only one of several events that can cause a person to be “displaced” for purposes of the URA. For other triggering events, consult 24 CFR 570.606(b)(2) and 49 CFR 24.2(a)(9).

7. Closing the Purchases

Following are typical procedures followed by NSP developers to prepare for closings:

- Obtain a title policy binder for the property to ensure that the property is being purchased free and clear of all encumbrances.
- Complete the legal review of the closing documents to ensure that they are in order.
- Take the following steps to schedule the closing with the title company:
 - Prepare an acquisition draw request to the grantee (or internally if the grantee is acquiring the property) and transmit it to the NSP grantee along with copies of all documents required by the grantee.
 - When the draw request has been approved by the grantee and submitted through the DRGR system, schedule the closing. Make sure that the draw request is submitted a sufficient number of days prior to the scheduled closing date. Draw requests first have to be processed internally by the grantee, and then typically require three to four days to process with HUD. At this point the you should make best efforts to expend the NSP funds within three days of receipt but in no case more than 10 days. To summarize, the number of days it will take to close is based on the grantee’s internal processing time, plus an estimated four days to process and receive the NSP funds, then spending the funds at the closing within three additional days.

- Confirm that the grantee has wired or otherwise paid the required funds into an escrow account for the closing.

At the closing, a developer or sub-recipient may be required to execute a promissory note and mortgage deed (or deed of trust) in favor of the grantee for an open-ended amount, with the maximum amount equal to the projected NSP funding described in the project budget or another amount approved by grantee. The purpose of these liens is to give the grantee the ability to foreclose on the property if the terms of the developer agreement are not met.

When the closing is completed, developers and sub-recipients are typically required to transmit copies of their deed to the property, as well as the settlement sheet, to the grantee as documentation that the acquisition has occurred.

8. Ensuring Compliance with NSP Requirements

NSP comes with many requirements that are driven by the NSP statutory language, CDBG statute and regulations, and other applicable Federal requirements except where expressly waived or superseded. This guide summarizes the compliance issues you will need to pay careful attention to, and provides some insights as to how to do this. If you need more information, consult the NSP help desk at www.hudnsphelp.info. There you can search FAQs, websites, and other informational resources, ask a specific question, or request direct technical assistance.

A. Appraisals

NSP requires a full, URA-compliant appraisal if the anticipated value is greater than \$25,000. If the anticipated value is \$25,000 or less, you may opt to establish the market value of the property through a review of available data made by a person qualified to make the valuation. (See the Bridge Notice, Federal Register June 19, 2009 <http://edocket.access.gpo.gov/2009/pdf/E9-14360.pdf>.)

There is no NSP appraisal requirement for the purchase of abandoned, blighted, demolished, or vacant properties under NSP if they do not also meet the revised definition of foreclosed issued on April 2, 2010 (for NSP-2) or April 9, 2010 (for NSP). For example, if a property is “vacant” or “blighted” but also “foreclosed” per the HUD definitions, an appraisal and the minimum 1% discount are required. With foreclosed properties, the sole purpose of the appraisal is to ensure that foreclosed properties acquired with NSP funds are purchased at a discount of at least 1% of the current market-appraised value of the property. Appraisals must be completed within 60 days of an offer being made on a property. If that requirement is met, there is no need to obtain a new appraisal if the closing occurs more than 60 days after the appraisal is completed.

B. Tenant Protection Laws

There are several recently enacted laws that protect tenants in the event the property they live in is foreclosed upon. These are in addition to requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) which apply to occupants displaced by acquisition, demolition or rehabilitation for a federally-assisted project that are addressed in section 8(D) below.

1. The Recovery Act established tenant protections for NSP purposes. NSP tenant protections apply to “bona-fide” tenants of residential properties foreclosed upon after February 17, 2009.
2. A more recent law, the Protecting Tenants at Foreclosure Act of 2009 (PTFA), provides similar protections for tenants facing eviction as a result of foreclosure on virtually all mortgaged rental properties in the U.S.. PTAF requires that tenants residing in foreclosed residential properties be provided notice to vacate at least 90 days in advance of the date by which the immediate successor, generally, the purchaser, seeks to have the tenants vacate the property. Except where the purchaser will occupy the property as the primary residence, the term of any bona fide lease also remains in effect, allowing tenants with written leases to stay in residence for the terms of their leases.
3. Some states and municipalities have enacted local laws that provide an even greater level of protection, so you should check to verify if there are local laws protecting tenants.
4. NSP provides protections for “bona fide” tenants who are in occupancy when the unit is acquired by an “initial successor in interest” (ISII), which is usually a lender, through foreclosure. A bona fide tenant is one who is not a former mortgagor; where the lease/tenancy is an arm’s length transaction; and the rent is not substantially less than the fair market rent for the property. A written lease is not required.

When using NSP to acquire or renovate occupied properties, part of the required due diligence is to determine if the seller followed the new tenant protection laws. HUD strongly recommends that that NSP buyers obtain documentation from sellers that the laws were followed (or are not applicable). Acceptable documentation can include the following:

- a) Information that only the former mortgagor currently occupies and/or occupied the property at the time of the notice of foreclosure ;
- b) Copies of the tenant’s lease, and the notice to vacate from the ISII, to substantiate compliance;
- c) Where a tenancy existed without a written lease, information on the tenancy and the notice to vacate from the ISII to substantiate compliance;
- d) A documentation of compliance with the NSP tenant protections (or documentation of why the tenant protections are inapplicable) from the initial successor in interest.

If the above documentation cannot be obtained, HUD advises that the developer and/or grantee are at risk legal action if a qualified tenant comes forward at a later date. However if the acquisition is still desired, and you and the grantee understand the risks, perform due diligence to determine whether any bona fide tenant occupied the property. Documentation should include a signed and dated inspection report, photos, and notes from interviews with neighbors (if available) indicating the approximate last date of occupancy. If information from neighbors is not available, documentation should include data from a utility company or the local Post Office indicating the date of service

was terminated. Also determine if the tenants were allowed to remain through the end of the lease term or tenancy (as applicable) and whether they received any required notices.

As stated earlier, if the property buyer knows that the ISII did not comply with the NSP tenant protections, and vacated the property contrary to NSP requirements, the transaction should be abandoned. To see HUD's guidance on tenant protections and NSP, see

http://hudnsphelp.info/media/resources/NSPPolicyAlert_TenantProtections_8-12-10.pdf

C. URA Requirements, In General

The Uniform Act provides important protections and assistance for persons displaced by the acquisition, rehabilitation, or demolition of real property for Federal or federally funded projects. This law was enacted by Congress to ensure that when real property is acquired, or persons are required to move as a direct result of projects receiving Federal funds, are treated fairly and equitably and receive assistance in moving from the property they occupy.

D. URA Notice to Owner

This informational notice must be sent to a voluntary seller at the time of the purchase offer in order to comply with URA requirements, except that the notice requirements do not have to be sent to FHA, if FHA is the seller. Sample language for such notices—intended for use with foreclosed properties only—can be found in Appendix D. One version of the notice is intended to be used by purchasers that have eminent domain authority (such as a redevelopment authority – even if it is not using that authority) and another version is for purchasers that do not have eminent domain authority.

E. Involuntary Acquisitions As stated above in the section on property evaluations involuntary acquisitions subject to threat or use of eminent domain powers trigger certain different and additional requirements. See the link to HUD's URA handbook in that section as well as this link with a chart that succinctly summarizes the differences between voluntary and involuntary acquisitions.

<http://www.hud.gov/offices/adm/hudclips/handbooks/cpdh/1378.0/1378x23CPDH.doc>

E. URA Requirements for Displaced Occupants

The Uniform Relocation Act protects the rights of persons (including businesses, farms, and non-profit organizations) who are displaced due to certain federally-assisted activities. Such persons may be eligible for URA relocation assistance and payments if they are displaced as a direct result of acquisition, rehabilitation or demolition for a Federally-assisted program or project. Under NSP, all displaced persons, despite income level, are covered by the URA. Lower-income tenants who are displaced from housing that is demolished or lower-income housing which is converted (and lost to the supply of permanent affordable housing) have additional protections under Section 104(d).

After the “initiation of negotiations” as defined by HUD and ultimate purchase of the property, the grantee must assure compliance with URA with regard to property occupants by taking all required actions, such as providing notices, conducting tenant surveys, completing relocation plans, and providing financial and other assistance as required. Providing the “General Information Notice” as mentioned above is the only URA compliance action required with tenants prior to the initiation of negotiations.

HUD guidance and policy documents regarding URA requirements can be found at www.hudnsphelp.info and a handbook at www.hud.gov/offices/cpd/library/relocation/policyandguidance/handbook1378.cfm

E. Environmental Review

Both NSP 1 and NSP2 are subject to the environmental review requirements governed by NEPA 24 CFR, Part 50 and Part 58. While these can seem very complex, especially if you have encountered them before, there are strategies that that can be followed to make the process more manageable.

A good practice is for a responsible entity, typically the NSP grantee, to complete a tier one environmental assessment of all of the NSP target areas. This should ideally be done up front, before any properties are acquired or renovated. Otherwise, a full environmental assessment will have to be completed for each property.

Once the tier one assessment is completed, site-specific environmental reviews can take place as properties are identified. Site-specific reviews address issues such as historic preservation reviews by state historic preservation offices (SHPOs), floodplain clearance, and in some cases coastal zone management and other issues. Further guidance on tiered reviews is available from HUD Regional or Field Environmental Officers:

www.hud.gov/offices/cpd/environment/contact/localcontacts.

C. Tracking Acquisition Activities and Expenditures

NSP grantees must have procedures in place to get information from their own staff, developers, subrecipients and contractors in a standard format. This will ensure program compliance, facilitate required reporting to HUD, and help grantees complete draws from the DRGR system.

Compliance issues prior to obligating the funds include:

1. Ensuring that the properties that are proposed for acquisition and rehabilitation meet NSP requirements (vacant, foreclosed, abandoned, blighted, cost, 25% set aside for very low income households, etc.);
2. Documenting that the required environmental reviews, URA notices and actions, and appraisals have occurred as required and in the right sequence.

Once NSP funds have been obligated grantees need data to monitor the progress of individual projects, compile data from multiple projects, analyze data with spreadsheet tools, produce activity reports for the entire NSP program, and report required data to HUD.

Two examples of tracking spreadsheets that can be obtained from the NSP help website at www.hudnsphelp.info are the *Sample NSP Site and Rehab Approval Request Form*, and the *Sample NSP Property Development Activity Log*. These two excel spreadsheets are similar, but one is geared towards ensuring the selected property meets NSP criteria, while the second is more about tracking the progress of the project.

D. Obligation and Spending Deadlines

Finally, a major concern through the acquisition process should be the NSP obligation and spending deadlines. Naturally, acquisitions must occur far enough in advance of the spending deadlines in order to complete the full redevelopment of the property.

NSP1 grantees have 18 months from the time HUD signed their NSP grant agreement to use their funds. “Use” in this context means obligating the entirety of their NSP1 allocation. At the end of the 18-month use period their accounting records and DRGR information must reflect expenditures and unliquidated obligations (funds that have been obligated to a project but not yet expended) that are at least equal to the NSP allocation. In NSP1, expenditures of program income count toward both the obligation and spending deadlines.

Both NSP1 and NSP2 grantees must also ensure that 25 percent of expenditures assist projects that benefit households at or below 50 percent of median income.

NSP2 grantees must spend 50 percent of their award in two years, and 100 percent within three years of receiving their NSP awards.

To avoid the risk that funds will not be available if a purchase offer is accepted after the obligation or spending deadlines, grantees or subrecipients should condition purchase offers on their acceptance by the seller long enough in advance of the obligation or spending deadline to be able to substitute another property.

If actual purchase and rehabilitation costs come in less than the original contracted amount, funds are no longer considered obligated and would need to be obligated to another eligible use or be at risk for recapture. HUD has not yet issued policy on recapture. However, HUD has stated that it will take into account actions beyond the control of the grantee and will not act arbitrarily.

Appendices

Appendix A: Typical Process Steps for NSP Acquisitions

Appendix B: NSP Sample Property Acquisition File Checklist

Appendix C: Sample General Information Notice (for Tenants)

Appendix D: Sample Notices of Voluntary Acquisition for Vacant Properties

Appendix A: Typical Process Steps for NSP Acquisitions

Listed below are key steps in the process of using NSP funds to acquire properties.

<p>1. <u>Research Target Areas</u> – Research trends in prices, numbers of foreclosures and other factors to determine whether specific micro-markets are suitable for NSP program purposes (resale, rental, demolition, land banking etc.) and to determine a range of offer prices.</p>
<p>2. <u>Complete Target Areas Environmental Reviews</u> – A good practice is to complete a Tier One Environmental Assessment of NSP target areas. Site-specific reviews are required at a later stage but can be completed much faster if Tier One’s are already done.</p>
<p>3. <u>Investigate properties for sale in NSP target areas</u> –</p> <ol style="list-style-type: none">Seek property lists from REO holders, brokers and others.Verify properties are in target areas and appear to be suitable for acquisition/rehab, land-banking, demolition, or redevelopment.Depending on the proposed use properties must be foreclosed upon, vacant or abandoned.Good practice: Inform seller or broker in writing that you are interested only in vacant properties. If occupied properties are to be considered request that they be identified as vacant or occupied. Keep a record of this written notice in your files.
<p>4. <u>Ensure compliance with URA and tenant protection laws</u> – The time and costs involved in relocation can be significant and should be considered during the feasibility analysis process. If you elect to acquire occupied properties the following steps must be taken prior to making an offer:</p> <ul style="list-style-type: none">Send tenant information notice(s) – (NSP required) The grantee must assure that occupants who may be displaced receive a “General Informational Notice” (GIN) as required by the Uniform Relocation Act (URA). GINs should be provided to property occupants early in the property acquisition process and prior to making an offer.Conduct relocation survey - (NSP required) Obtain accurate information on the occupants in order to adequately plan for their relocation and budget for relocation costs.The time and costs involved in relocation can be significant and should be considered during the feasibility analysis process. HUD’s Planning and Budgeting Relocation Costs publication is a useful resource and is available at: http://www.hud.gov/offices/cpd/library/relocation/publications/1045.pdf
<p>5. <u>Obtain a preliminary appraisal</u> – Some state laws require government entities and their agents (e.g. developers, subgrantees) to obtain full appraisals before making an offer. Even if this is not the case, it is a good practice to obtain an electronic or opinion appraisal to get an independent estimate of the market value of the property. <i>See Step 13 below about the timing/ purpose of NSP-required appraisals.</i></p>
<p>6. <u>Complete rehab property inspections</u> – A best practice is to hire an experienced inspector to complete interior and exterior site inspections prior to making conditional offers on properties. Good practices include:</p> <ol style="list-style-type: none">Produce a complete work write-up and cost estimate if time permits.Otherwise provide a rough scope of work and written rehab estimate.

- c. Take photos of the building exterior, interior and any areas needing site work.
- d. Provide a written, signed statement that the property is vacant or is occupied.

7. Review and file inspection reports – The inspection reports may be needed later to confirm that the property was vacant or occupied, for purposes of bargaining on the price, or for other reasons.

8. Complete feasibility analysis -

- a. Determine if the asking price, projected soft costs, plus the cost of rehab is within your program’s investment parameters;
- b. Determine age of properties and prepare to conduct lead hazard inspections on pre-1978 properties;
- c. If demolishing, land banking or redeveloping a property with NSP funds, analyze suitability of the properties for those NSP-eligible activities;
- d. If relocation (permanent or temporary) is required, consider the associated time and costs as determined from the relocation survey.

9. Make pre-offer decisions - Determine your program’s price targets (thresholds) for the properties being investigated. Some sellers request that you react to their pricing at this stage.

10. Draft standard option or purchase contract addendum – With NSP you must use an option or a conditional purchase contract. Refer to the following web page link for HUD requirements and guidance with regard to conditional purchase agreements.

http://hud.gov/utilities/intercept.cfm?/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/cond_purchase_agreement.pdf

Your attorney should draft an option agreement or a purchase contract addendum that includes the following:

- a. (NSP Required) Completing an acceptable environmental review. See web page link above for recommended language.
- b. (May be NSP Required) Completing a historic preservation review by the state historic preservation officers (SHPO), if required by the SHPO. Some local governments have delegated review authority for certain types of properties per inter-agency agreements.
- c. (NSP Required) Obtaining a full appraisal that indicates the contract price is at least 1% below as-is appraised value. (Good practice: obtain after-rehab appraisal from same appraiser to establish the sale price of the rehabbed home.)
- d. (NSP Required) Paying only a nominal non-refundable fee, if any, to avoid the “choice limiting action” that is prohibited by environmental review regulations.
- e. (Optional) Seller agreeing to sign, prior to closing, a Seller Certification signifying that seller has complied with tenant protection laws.
- f. Obtaining good and marketable title.

11. Execute conditional purchase option/agreement - Make certain that the contract prices and conditions match your requirements, and that your attorney has reviewed contract and

conditions. (Note: A Notice of Voluntary Acquisition must be provided to the property owner at the time of your purchase offer (see below).

12. Send Notice of Voluntary Acquisition – (NSP required) This informational notice must be sent to the seller in order to comply with the Uniform Relocation Act.

13. Complete appraisal(s) – (NSP required, only for foreclosed properties) If not completed earlier, order full appraisal(s) for any foreclosed-upon properties to determine that the sale price(s) is at least 1% below market value. If the grantee uses eminent domain a full appraisal is required for NSP and URA compliance. (Note: acquisitions under threat and use of eminent domain cannot be considered voluntary and as a result are subject to the full acquisition requirements of the URA (see URA regulations @ 49 CFR 24 Subpart B – Real Property Acquisition). The appraisal must not be more than 60 days old at the time of making the final offer. *NSP does not require appraisals for vacant or abandoned properties, nor for closing.*

14. Complete title work – Obtain a title commitment from a title company or an opinion of title from an attorney (which one depends upon prevailing laws and practices) attesting to the property having good and marketable title.

15. Complete site-specific environmental reviews – (NSP required) Complete Assessment described in item #2 above, if not completed previously. Site-specific reviews address issues such as: historic preservation reviews (by SHPOs), floodplain clearance, and in some cases coastal zone management and other issues. Conduct review internally or outsource the review.

17. Prepare for closing - The following items need to be addressed prior to closing:

- a. Review environmental report(s) and appraisal(s) to determine if the properties are acceptable for purchase under NSP requirements.
- b. For bulk purchases, make a list of properties, if any that should be deleted from the purchase because they do not meet requirements.
- c. Request advance draw of NSP funds through DRGR, when you are certain of the final purchase price and any associated closing costs.
- d. Obtain property insurance binder.
- e. For properties where relocation of occupants is required, prepare for relocation. Preparations include but are not limited to locating decent, safe and sanitary comparable replacement housing, preparing notices of relocation eligibility (URA and 104(d) where applicable) including determination of replacement housing payments and moving payments for eligible displaced persons. A person's eligibility for relocation assistance generally occurs on the date of "initiation of negotiations" (ION) as defined by the URA or applicable Federal-agency regulations. Notices of Eligibility for Relocation Assistance should be provided to eligible persons on the date of ION or promptly thereafter. More information and resources are available on HUD's Acquisition & Relocation web site at: www.hud.gov/relocation

18. Close property purchase – Make sure to keep records documenting the status of foreclosed, abandoned properties and blighted properties to verify NSP eligibility.

19. Secure properties – Make sure properties are properly secured by board-ups, sturdy doors, locks, video surveillance, patrols, etc.

**Appendix B: NSP
Sample Property Acquisition File Checklist**

Property Address:

Appendix C: Sample General Information Notices (for Residential Tenants)

GUIDEFORM GENERAL INFORMATION NOTICE
RESIDENTIAL TENANT TO BE DISPLACED

Grantee or Agency Letterhead

(date)

Dear _____:

_____ (City, County, State, Public Housing Authority (PHA), other) _____, is interested in (acquiring, rehabilitating, demolishing) _____ the property you currently occupy at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

The purpose of this notice is to inform you that you may be displaced as a result of the proposed project. This notice also serves to inform you of your potential rights as a displaced person under a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). You may be eligible for relocation assistance and payments under the URA, if the proposed project receives HUD funding and if you are displaced as a result of acquisition, rehabilitation or demolition for the project.

- **This is not a notice to vacate the premises.**
- **This is not a notice of relocation eligibility.**

If you are determined to be eligible for relocation assistance in the future, you may be eligible for: 1) Relocation advisory services including help to you find another place to live; 2) At least 90 days advance written notice of the date you will be required to move; 3) Payment for your moving expenses; and 4) Replacement housing payments to enable you to rent, or if you prefer to purchase, a comparable replacement home. You will also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered. The enclosed HUD brochure, "Relocation Assistance To Tenants Displaced From Their Homes" provides an explanation of this assistance and other helpful information.

(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)

Please be advised that you should continue to pay your rent and meet any other obligations as specified in your lease agreement. Failure to do so may be cause for eviction. If you choose to move or if you are evicted prior to receiving a formal notice of relocation eligibility you will not be eligible to receive relocation assistance. It is important for you to contact us before making any moving plans.

Again, this is not a notice to vacate the premises and does not establish your eligibility for relocation payments or assistance at this time. If you are determined to be displaced and are required to vacate the premises in the future, you will be informed in writing. In the event the proposed project does not proceed or if you are determined not to be displaced, you will also be notified in writing.

If you have any questions about this notice or the proposed project, please contact
(name) _____, (title) _____,
(address) _____, (phone) _____.

Sincerely,

(name and title) _____

Enclosure

=====NOTES

1. The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3 I of Handbook 1378.)
2. This is a guide form. It should be revised to reflect the circumstances.
3. Optional paragraphs for displaced residents of public housing projects (may be modified based on the PHA's resident return policy):

“Even though you will be provided all of the assistance the URA requires for a permanent move, the Authority believes that every resident displaced from the site should have the right to reapply for occupancy once this project is complete. For this reason, after project completion, every resident who receives assistance as a “displaced person” will be contacted and offered an opportunity to reapply for occupancy in the newly-revitalized community. Furthermore, because you will be a former occupant who was “displaced” from the site, you will also receive a priority preference to return.

In the event the number of those who request to return and qualify for housing exceeds the number of units available, rating and ranking criteria will be used to identify those who will be offered a unit at the site until all available units are filled. If you do return, the Authority may help defray the costs of the return move. If you have Replacement Housing Payments not yet spent or obligated, you may be asked to forfeit these payments as a condition for returning to public housing, since this assistance will no longer be necessary to meet your housing needs. Such assistance, if not forfeited, must be considered as income and may affect your eligibility and rent.”

GUIDEFORM GENERAL INFORMATION NOTICE
RESIDENTIAL TENANT NOT DISPLACED

Grantee or Agency Letterhead

(date)

Dear _____:

_____(City, County, State, Public Housing Authority (PHA), other)_____, is interested in rehabilitating the property you currently occupy at _____(address)_____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the _____ program.

The purpose of this notice is to inform you that you will not be displaced in connection with the proposed project.

If the project application is approved and federal financial assistance provided, you may be required to move temporarily so that the rehabilitation can be completed. If you must move temporarily, suitable housing will be made available to you and you will be reimbursed for all reasonable out of pocket expenses, including moving costs and any increase in housing costs. You will need to continue to pay your rent and comply with all other lease terms and conditions.

Upon completion of the rehabilitation, you will be able to lease and occupy your present apartment or another suitable, decent, safe and sanitary apartment in the same building/complex under reasonable terms and conditions. *

If federal financial assistance is provided for the proposed project, you will be protected by a federal law known as the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA). One of the URA protections for persons temporarily relocated is that such relocations shall not extend beyond one year. If the temporary relocation lasts more than one year, you will be contacted and offered all permanent relocation assistance as a displaced person under the URA. This assistance would be in addition to any assistance you may receive in connection with temporary relocation and will not be reduced by the amount of any temporary relocation assistance previously provided. You will also have the right to appeal the agency's determination, if you feel that your application for assistance was not properly considered.

(NOTE: Pursuant to Public Law 105-117, aliens not lawfully present in the United States are not eligible for relocation assistance, unless such ineligibility would result in exceptional hardship to a qualifying spouse, parent, or child. All persons seeking relocation assistance will be required to certify that they are a United States citizen or national, or an alien lawfully present in the United States.)

We urge you not to move at this time. If you choose to move, you will not be provided relocation assistance.

Please remember:

- This is **not** a notice to vacate the premises.
- This is **not** a notice of relocation eligibility.

You will be contacted soon so that we can provide you with more information about the proposed project. If the project is approved, we will make every effort to accommodate your needs. In the meantime, if you have any questions about our plans, please contact:

(name) _____, (title) _____,
 (address) _____, (phone) _____.

Sincerely,

(name and title) _____

Enclosure

=====NOTES.

1. The case file must indicate the manner in which this notice was delivered (e.g., personally served or certified mail, return receipt requested) and the date of delivery. (See Paragraph 2-3 I of Handbook 1378.)
2. This is a guide form. It should be revised to reflect the circumstances.

- * *Based on the applicable HUD program regulations, if “reasonable terms and conditions,” are defined, one of the following statements or other language may also be required in this Notice:*
- a. *Under HOME at 24 CFR 92.353(c)(2)(C)(1): “Your new lease will be for a term of not less than one year at a monthly rent will remain the same or, if increased, your new monthly rent and estimated average utility costs will not exceed: 1) If you are low income, the total tenant payment as defined by HUD (under 24 CFR 5.628), or (2) 30% of the monthly gross household income, if you are not low income.”*
 - b. *Under CDBG at 24 CFR 570.606(b)(2)(D)(1): “Your monthly rent will remain the same or, if increased, your new rent and estimated average utility costs will not exceed 30% of the household’s average monthly gross income.”*
 - c. *Under Section 221 Mortgage Insurance Programs under 24 CFR 221.795(i): “Your monthly rent and estimated average utility costs will not exceed the amount approved by HUD.”*

Appendix D: Sample Notices of Voluntary Acquisition (for Vacant Properties)

GUIDEFORM
- NSP VOLUNTARY ACQUISITION OF FORECLOSED PROPERTY -
- Informational Notice -
(Agencies/Persons **Without** Eminent Domain Authority)

Grantee or Agency Letterhead

(date)

Dear _____:

(Name of Agency/Person) _____, is interested in acquiring property you own at (address) _____ for a proposed project which may receive funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the Neighborhood Stabilization Program (NSP).

Please be advised that (Name of Agency/Person) _____ does not have authority to acquire your property by eminent domain. In the event we cannot reach an amicable agreement for the purchase of your property, we will not pursue this proposed acquisition.

Under the NSP, we are required to purchase residential foreclosed properties (which may include certain residential properties in mortgage or tax default status that meet the NSP definition of “foreclosed”) at a discount from their market appraised value.

The subject property is listed for purchase at \$ _____. (If currently listed)

Select one: a) We currently believe that the property’s market value is \$_____.

We are prepared to purchase your property; however, depending on the results of the appraisal, our written offer may differ from this amount.

b) Our appraisal indicates the property’s market value is \$_____. We are prepared to offer you \$_____ to purchase your property.

Please contact us at your convenience, if you are interested in selling your property.

If your property is in default, but foreclosure proceedings have not been initiated / completed, and our offer is for less than the current balance of your mortgage loan(s), we suggest that you seek legal counsel or guidance. We cannot provide you with legal advice regarding any tax, credit, or deficiency judgment consequences to you related to the sale.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance. A tenant-occupant who moves as a result of a

voluntary acquisition for a federally-assisted project may be eligible for relocation assistance as a displaced person. Such displaced persons may include not only current lawful occupants, but also former tenants required to move for any reason other than an eviction for cause in accordance with applicable federal, state, and local law. If your property is currently tenant-occupied or a tenant lawfully occupied your property within the past 3 months prior to our offer, we need to know immediately. Further, you should not order current occupant(s) to move, or fail to renew a lease, in order to sell the property to us as vacant.

If you have any questions about this notice or the proposed project, please contact
(name) _____, (title) _____,
(address) _____, (phone) _____.

NOTES to NSP Voluntary Acquisition Notice (Agency/person without Eminent Domain authority).

1. The case file must indicate the manner in which this notice was delivered (e.g., personally served or via certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3 J of Handbook 1378.)
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiation of Negotiations (ION), and 49 CFR 24 Appendix A - 24.2(a)(15)(iv) and <http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm>
3. See 49 CFR 24.206 regarding eviction for cause.
4. This guide form may only be used if all of the requirements of 49 CFR 24.101(b)(2)(i) and (ii) or 49 CFR 24.101(b)(3) are met.
5. This is a guide form. It should be revised to reflect the circumstances. NSP defines “foreclosed” to include residential properties in which the property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or (b) the property owner is 90 days or more delinquent on tax payments. While considered “foreclosed” for NSP purposes, such properties may still be owned by the mortgagor unless the State foreclosure process is complete and title to the property transferred. Short sales and other foreclosure alternatives are complex transactions involving coordination and cooperation among a number of parties (e.g., owners, lenders, servicers, investors).

GUIDEFORM
- NSP VOLUNTARY ACQUISITION OF FORECLOSED PROPERTY -
- Informational Notice -
(Agencies with Eminent Domain Authority)

Grantee or Agency Letterhead

(date)

Dear _____:

(City, County, State, other) _____, is interested in acquiring property you own at (address) _____ for a project receiving funding assistance from the U.S. Department of Housing and Urban Development (HUD) under the Neighborhood Stabilization Program (NSP).

Please be advised that, (City, County, State, other) _____ possesses eminent domain authority to acquire property, however, in the event you are not interested in selling your property, or if we cannot reach an amicable agreement for the purchase of your property, we will not pursue its acquisition under eminent domain.

Your property is not a necessary part of the proposed project and is not part of an intended, planned, or designated project area where substantially all of the property within the area is to be acquired.

Under the NSP, we are required to purchase residential foreclosed properties (which may include certain residential properties in mortgage or tax default status that meet the NSP definition of “foreclosed”) at a discount from their current market appraised value.

The subject property is listed for purchase at \$ _____. (If currently listed)

Select one: a) We currently believe the property’s market value is \$ _____. We are prepared to purchase your property; however, depending on the results of the appraisal, our written offer may differ from this amount.

b) Our appraisal indicates the property’s market value is \$ _____. We are prepared to offer you \$ _____ to purchase your property.

Please contact us at your convenience, if you are interested in selling your property.

If your property is in default, but foreclosure proceedings have not been initiated/completed, and our offer is for less than the current balance of your mortgage loan(s), we suggest that you seek legal counsel or guidance. We cannot provide you with legal advice regarding any tax, credit, or deficiency judgment consequences to you related to the sale.

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), owner-occupants who move as a result of a voluntary acquisition are not eligible for relocation assistance. A tenant-occupant who moves as a result of a voluntary acquisition for a federally-assisted project may be eligible for relocation assistance as a displaced person. Such displaced persons may include not only current lawful occupants, but also former tenants required to move for any reason other than an eviction for cause in accordance with applicable federal, state, and local law. If your property is currently tenant-occupied or a tenant lawfully occupied your property within the past 3 months prior to our offer, we need to know immediately. Further, you should not order current occupant(s) to move, or fail to renew a lease, in order to sell the property to us as vacant.

If you have any questions about this notice or the proposed project, please contact
(name) _____, (title) _____,
(address) _____, (phone) _____.

NOTES to NSP Voluntary Acquisition of Foreclosed Property Informational Notice

1. The case file must indicate the manner in which this written notice was delivered (e.g., personally served or via certified mail, return receipt requested) and the date of delivery. (See 49 CFR 24.5 and Paragraph 2-3 J of Handbook 1378.)
2. Tenant-occupants displaced as a result of a voluntary acquisition may be entitled to URA relocation assistance and must be so informed per 49 CFR 24.2(a)(15)(iv) – Initiation of Negotiations (ION), 49 CFR 24 Appendix A - 24.2(a)(15)(iv), and <http://www.hud.gov/offices/cpd/library/relocation/nsp/index.cfm>
3. See 49 CFR 24.206 regarding eviction for cause.
4. This guide form may only be used if all of the requirements of 49 CFR 24.101(b)(1)(i)-(iv) are met.
5. This is a guide form. It should be revised to reflect the circumstances. NSP defines “foreclosed” to include residential properties in which the property’s current delinquency status is at least 60 days delinquent under the Mortgage Bankers of America delinquency calculation and the owner has been notified of this delinquency, or (b) the property owner is 90 days or more delinquent on tax payments. While considered “foreclosed” for NSP purposes, such properties may still be owned by the mortgagor unless the State foreclosure process is complete and title to the property transferred. Short sales and other foreclosure alternatives are complex transactions involving coordination and cooperation among a number of parties (e.g., owners, lenders, servicers, investors).