



Neighborhood Stabilization Program (NSP) Land Banking Closeout Guide

April 2024



Neighborhood Stabilization Program (NSP) LAND BANKING GUIDE

For Closeout Purposes

Land Banking Closeout and Compliance

This guide document discusses strategies available to grantees to address NSP funded properties remaining in a land bank. Grantees have the ability to facilitate NSP closeout with land bank properties in the portfolio. While these properties may remain in the land bank at the time of closeout, a feasible plan to obligate each property in the land bank for redevelopment needs to be in place before closeout can occur. Two key areas of compliance:

- The disposition of each NSP-funded property in a land bank must occur within 10 years of the date of the grantee's NSP Closeout Agreement.
- All properties held in a land bank after NSP closeout continue to be subject to monitoring for compliance within the 10-year time limit requirement. DRGR will be used to demonstrate that a property land banked at closeout has been obligated or otherwise committed.

What is a Land Bank?

Land banks are public or non-profit entities created to acquire, manage, maintain, and repurpose foreclosed properties. Land banks may have already been formed prior to the inception of a NSP grantee's program or formed as a part of the program – every community is different.

A NSP land bank must meet the following requirements:

- ✓ A governmental or non-profit entity created to acquire, manage, maintain, and repurpose foreclosed properties.
- ✓ Land banking must be included in the entity's organizing documents as a listed purpose of the entity.
- ✓ All properties in the land bank must have met the NSP definition of foreclosed home or residential property when acquired by the NSP grantee.

Preparing for Closeout

Determining LH25 Set-Aside Requirement

At the time of closeout, the grantee will need to determine if the LH25 set-aside requirement has been met. The LH25 set-aside requires that at least 25% of the grantee's NSP1, NSP2, or NSP3 grant (initial allocation plus any program income) have been expended to house individuals or families whose incomes do not exceed 50% of area median income (AMI).

In addition, if the grantee generates NSP program income exceeding \$250,000 per program year, the LH25 set-aside requirement must also be met. Meaning the grantee must expend at least 25% of all program income earned to house individuals at or below 50% AMI.

HUD encourages grantees to meet this requirement before closeout. Grantees have an option, however, to close out their grant and demonstrate within 3 years of closeout that they have met the 25% set-aside requirement with program income earned as of the date of the grantee's NSP



Closeout Agreement. If the grantee takes advantage of the 3-year option, disposition plans must take compliance into consideration.

LH25 compliance is determined by occupancy and meeting a NSP national objective. Land banked properties cannot meet the LH25 requirement based on future development plans.

To help determine if the LH25 requirement has been met, grantees can run a **DRGR Analytics Report F67 – CUM – Grant Financial Summary – by Activity, Resp Org, Act Type and Nat Obj**. This report shows a grant-level snapshot of financial activity for activities benefiting households below 50% AMI.

Property Identification

Grantees will need to develop a land bank inventory listing all properties acquired with NSP funding and identify which properties has not yet met a NSP national objective. This inventory must be included in the NSP Closeout Agreement with HUD.

Some grantees may not be aware of all properties acquired with NSP funds. Grantees should review DRGR records and reports, but may be limited, especially if data was not entered in a timely manner or accordingly. In addition, grantees may review submitted Quarterly Performance Reports (QPRs) which list properties NSP funds were expended on during a specified time period. Grantees would also need to work with their land banks to identify all parcels acquired with NSP funds, document which properties have or have yet met a NSP national objective. If grantees are unable to recover complete NSP records, grantees should contact their local CPD Representative for guidance and assistance.

Grantees should keep in mind record retention requirements, that a file should exist for each acquisition. Grantee staff will likely need to work with the record retention staff for their jurisdiction to gain access to the files, especially the paper files. While the NSP grant is open, all relevant files pertaining to NSP activities should be available and not archived.

Once the inventory is complete, grantees should update DRGR to match internal files. Then properties should be reviewed for disposition that can be completed prior to closeout. By minimizing the number of parcels in the land bank, grantees can reduce additional maintenance and administrative costs while helping to stabilize neighborhoods.

Land Bank Management Plan

Prior to NSP closeout, grantees must develop a plan for disposing of each NSP land banked property and identify the proposed NSP national objective the property will achieve within the 10-year period after NSP Closeout Agreement. The Plan should also include the following elements:

- Authority of the land bank, including contact information
- Roles and responsibilities for land bank personnel and NSP grantee in the oversight of NSP properties
- NSP property inventory, including acquisition date, planned use, and proposed national objective
- Projected timeline for each disposition, including milestones

Property Disposition

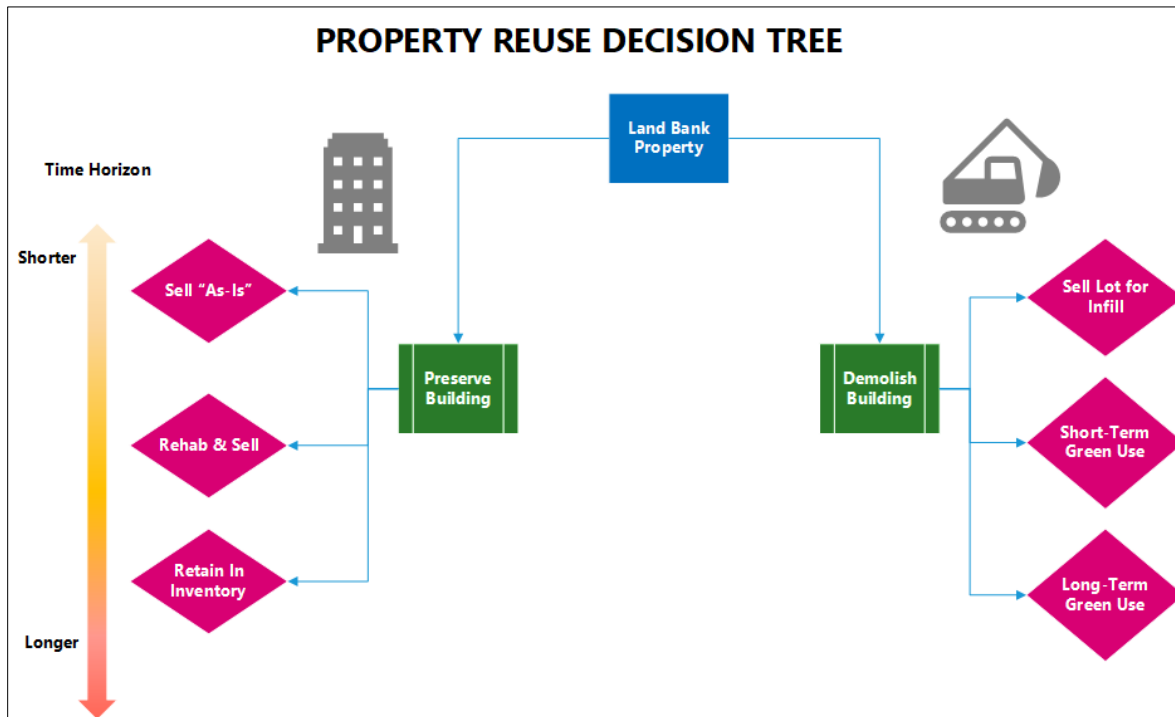
Grantees will need to identify local regulations and individual property features to determine the proper disposition options. Program Income generated from the disposition of land banked property proceeds may be subject to the LH25 set-aside requirement.

Options for Land Banked Properties

There are four main options available for land banked properties:

- Make properties available for redevelopment by a third party
- The Land Bank redevelops the sites
- Parcels can be donated to neighboring landowners
- A combination of one or more of the above options

Figure below shows the options for reusing a property.



Grantees may need to consider and identify why properties remain in the Land Bank portfolio. There are several possible reasons, including but not limited to:

- Current zoning or building codes, the size or shape of the lot makes it difficult to redevelop for marketable use
- There is limited demand for housing in the area
- Total development costs exceed appraised values
- Lack of available subsidy to make the units affordable
- Environmental constraints make redevelopment prohibitively expensive
- Given the length of time since acquisition, land bank staff have moved on to other projects



Zoning Considerations: Nonconforming Uses, Structures and Lots

Over time local zoning ordinances typically evolve and get updated, making it possible for an existing structure or land use to lose their excepted status if it remains undeveloped for a particular time. This is known as nonconforming use, and may cover several situations, including lots and structures.

Grantees will need to review their local zoning ordinances to determine if the nonconforming property has lost its excepted status. Meaning, has the nonconforming property been abandoned or not used for a prescribed time period that the property cannot resume its original use. The time period may vary between communities, and therefore grantees will need to comply accordingly.

Side Lot Disposition

In some instances, the size or shape of a site or a limited demand for housing in the neighborhood may dictate that the best use is to transfer the parcel to a neighboring property owner. These side lot disposition programs typically require the receiving property to be owner-occupied and have a contiguous boundary with the land bank held site. Owners receiving the lot may also have to agree to incorporate the side lot into the legal description of their contiguous site.

For additional information and considerations, review the [Sample Side Lot Disposition Policies and Procedures document](#).

Redevelop Parcels for Affordable Ownership or Rental

Some parcels may be redeveloped as affordable ownership or rental units. In evaluating these parcels for redevelopment, both the market for end-use as well as the development potential of the site must be considered.

For both ownership and rental deals, the market area must include an adequate number of households within the targeted income band. The NSP program allows assistance to be provided to households earning up to 120% of area median income.

Maximum incomes may be lower if other programs are used to provide subsidy, or if the grantee has elected to use lower limits. Keep in mind the LH25 set-aside requirement of expending at least 25% of NSP grant funds to house individuals or families whose incomes do not exceed 50% of area median income.

The [NSP income limits](#) are available on the HUD Exchange Website. Grantees should review the NSP income limits when preparing to dispose land banked properties for housing activities to ensure the beneficiaries are income eligible.

Homeownership Activities

The demand for homeownership units in a particular market area can be determined by looking at the number of sales compared to the total number of properties in the area as well as the sales price

Future Disposition 10 Years After Close Out

If a grantee has any NSP-assisted properties remaining in the land bank 10 years after the date of the NSP Closeout Agreement, the property reverts entirely to the CDBG program and must meet a CDBG national objective or disposed of in accordance with CDBG requirements.



level. An area that has a strong demand has a large number of sales and higher prices, while an area with weak demand will typically have fewer sales and lower prices.

In the strongest markets, properties that come on the market typically sell quickly for prices that are usually more than the cost to build a similar home on a vacant lot. While it is unlikely that a land bank would have acquired a property in a market that was strong at the time of acquisition, it is possible that a neighborhood has changed from weak to strong since a property was acquired.

Properties in strong markets have the best potential for redevelopment.

In the weakest real estate environments, there may not be a market for properties to sell at any price. In some distressed areas, a year may go by without a single private market real estate transaction. These areas typically exhibit a higher-than-average percentage of tax-delinquent properties and below average median household incomes.

Developing housing for ownership in weak markets is difficult. Appraised values are often below the cost of building a home, resulting in a gap between total development cost and the sales price. Disinvestment in the area, perceptions of or actual high crime rates, and actual or perceived low-quality schools can make redevelopment difficult.

The market area for the development must be identified. The market area is the most probable geographic area from which potential buyers will come. The median household income of renter households in the market area can be used as a representation of the likely income of potential buyers. Census data and local knowledge can be used to determine the median household income for renters in the market area and whether there is sufficient number of potential buyers with enough income to qualify for the anticipated mortgage amount.

Grantees should consider the NSP income limits and recognize that eligible buyers will likely need homebuyer assistance to purchase a residential property. A Grantee's NSP program may already include a homebuyer assistance program. If the grantee's NSP program does not provide homebuyer assistance, the grantee may want to identify additional resources which are listed within the Funding Resources section.

The [NSP Sample Single-Family Development and Sales Program Manual](#) is a good resource for grantees running programs to develop homeownership properties. This sample manual addresses policies and approaches to carrying out a single-family development and sales program using NSP funds.

Rental Activities

Like ownership activities, rental developments also need a market area to be identified. The median household income of renter households in the market area can be used as a representation of the income of potential tenants. Rents must be set at a level that is affordable to the target market, while high enough to cover operating expenses plus any debt that must be repaid. Subsidies, provided in a manner that does not have to be repaid, are the most common way to make rental housing affordable. If available, project-based rental assistance vouchers are also a very effective way to create long-term affordability.

In affordable rental developments, subsidies are used to reduce the amount of debt needed for construction and permanent financing. Replacing debt with subsidies reduces the amount that must be borrowed, which in turn reduces the monthly debt. By reducing the monthly debt payment, the



property owner's monthly costs are lower, and the amount of tenant rent – and tenant income – can be lower.

Project-based vouchers can make up the difference between Fair Market Rent and what a household can afford to pay for rent. This enables developments to rent to households with very limited incomes.

Rental development activities work best on larger sites that are appropriately zoned for high density residential. Scattered site rental development is possible but can be more difficult to develop and manage and more expensive to operate than units built on a single site.

HUD has published several documents on the HUD Exchange to assist grantees with rental development including [Creating an NSP-Eligible Rental Project](#) and [Basics of Rental Development: A Primer on Using Rental Projects to Meet NSP Obligation and 25% Set-Aside Requirement](#).

Special Economic Development (NSP 1 Only)

The [NSP Closeout Notice](#) added the **Jobs** national objective (**LMMJ**) allowing **NSP1** activities to create or maintain jobs for persons whose household incomes are at or below 120% of area median income.

Activities that meet this national objective include:

- Acquiring, constructing, reconstructing, rehabilitating, or installing commercial or industrial buildings, structures, and other real property equipment and improvements
- Assisting a private, for-profit business. Assistance may include grants, loans, loan guarantees, and technical assistance
- Providing economic development services in connection with otherwise eligible CDBG economic development activities
- Microenterprise development activities designed to foster the development, support, and expansion of microenterprise businesses

The [NSP Commercial, Public and Mixed-Use Facilities Toolkit](#) on the HUD Exchange provides additional information and considerations when using NSP1 funds for LMMJ national objective.

Funding Resources

Program Income

Grantees may choose to use the NSP program income generated for expenses related to land bank maintenance, stewardship and redevelopment. Grantees that generate program income of \$250,000 or more in a program year will need to comply with the LH25 set-aside requirement.

After closeout of the NSP program, grantees may generate program income from the disposition of existing land banked properties. Grantees may choose to use the program income to acquire additional properties in the land bank. Grantees will need to dispose of all properties, including newly acquired properties, within the 10-years of the date of the grantee's NSP Closeout Agreement. NSP properties that remain in the land bank at the end of the 10-year period will be transferred to the CDBG program losing the NSP identity including the 120% area median income eligibility.



Subsidy Programs to Support Other Eligible Activities

Subsidies will likely be needed to redevelop the land banked properties for eligible uses. As a result, grantees must look to other subsidy programs. When combining multiple sources of funds, grantees must comply with the requirements of all programs. Generally, this can be achieved by complying with the most restrictive requirement. Potential sources of funding for meeting a NSP national objective include:

HOME Investment Partnerships Program

Created by the National Affordable Housing Act of 1990 (NAHA), the HOME program is the largest Federal block grant available to communities to create affordable housing. HOME eligible uses, in conjunction with NSP funds, include the development of affordable rental or affordable home ownership units for low- (80% AMI) and very low (50% AMI)-income households.

Combining NSP with HOME

Grantees that operate the local HOME program may want to consider methods for incorporating NSP land bank properties into the funding application process. One method could offer incentives for CHDO's and developers who submit proposals using NSP land banked properties for redevelopment.

[HOME-ARP](#)

Funded under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) for the HOME Investment Partnerships Program to provide homelessness assistance and supportive services. HOME-ARP eligible uses include the development and support of affordable rental housing for qualifying populations, which includes homeless, at risk of homelessness, those fleeing domestic violence, or other populations where providing assistance would prevent the family's homelessness or would serve those with the greatest risk of housing instability.

When using NSP funds in conjunction with HOME-ARP, at least 70% of affordable rental housing units must be occupied by qualifying populations. Units that are not restricted to occupancy by qualifying populations are subject to income targeting and rent requirements established under the HOME-ARP Rental Program rules. The homeownership activities are ineligible with HOME-ARP funds. The period of performance for HOME-ARP grants ends on September 30, 2030.

[Community Development Block Grant \(CDBG\)](#)

Authorized under Title I of the Housing and Community Development Act of 1974 (HCDA), as amended, CDBG is an annual grant to localities and states to assist in the development of viable communities. The primary objective of CDBG funds is to benefit low- and moderate-income persons at or below 80% AMI. CDBG eligible uses include homeownership assistance, rental or owner rehabilitation, and public facilities and economic development.

[Low Income Housing Tax Credits \(LIHTC\)](#)

Created by the Tax Reform Act of 1986, the LIHTC program provides State and local LIHTC-allocating agencies the authority to issue tax credits for the acquisition, rehabilitation, or new construction of rental housing targeted to lower-income households. The tax credit can take the form of competitive 9% LIHTC award or non-competitive 4% LIHTC awards. The LIHTC affordability period is 30 years although some states may require a longer term.



Community Development Financial Institutions (CDFI) Fund

The U.S. Department of Treasury, CDFI Fund provides financial services in distressed communities and to people who lack access to financing. CDFI Fund offers a variety of programs and resources that invest federal funds alongside private sector capital that may be used as subsidy for creation of affordable housing.

New Market Tax Credit (NMTC)

Established in 2000 and part of CDFI Fund program, the NMTC Program helps economically distressed communities attract private capital by providing investors with a federal tax credit. The NMTC Program supports businesses including manufacturing, food, retail, housing, health, technology, energy, education, and childcare.

The NMTC Program offers businesses more favorable terms and conditions than the market typically offers. Terms can include lower interest rates, flexible provisions such as subordinated debt, lower origination fees, higher loan-to-values, lower debt coverage ratios, and longer maturities.

State or local programs

Additional funding sources supporting affordable housing production at the state or local level include housing trust funds, tax-exempt bonds, state historic tax credit programs. Other potential funding partner agencies include healthcare and education industries, large employers, and banks.

Meeting a National Objective

Within 10 years of grantees Closeout Agreement, all land banked properties must be used for eligible activities, contributed to the LH25 Set-aside requirement, if the grantee has not done so already, and meet one of the following national objectives of benefiting **low-, moderate-, and middle-income residents (LMMI)**:

Housing Activities (LMMH): Providing or improving permanent residential structures that will be occupied by a household whose income is at or below 120% of area median income (or at or below 50% for the 25% Set-aside requirement).

Area Benefit Activities (LMMA): Benefiting all the residents of a primarily residential area in which at least 51% of the residents have incomes at or below 120% of area median income. Most frequently demolition is an area benefit. Activities assisting businesses serving a target area, such as providing goods and services in an LMMA trade area can also be considered an area benefit.

Limited Clientele Activities (LMMC): Serving a limited clientele, whose incomes are at or below 120% of area median income, for example funding for a homeless shelter or group home.

Continued Monitoring of Land Banked Properties

The disposition of each NSP-funded property in a land bank must occur within 10 years of the date of the grantee's NSP Closeout Agreement.

All properties held in a land bank after NSP closeout continue to be subject to monitoring for compliance within the 10-year time limit requirement. DRGR will be used to demonstrate that a property land banked at closeout has been obligated or otherwise committed.



Jobs Activities (LMMJ): Creating or maintaining jobs for persons whose incomes are at or below 120% of median income, for example funding for a home-based day care center. This objective was added through the NSP Closeout Notice and is for **NSP1 funding only**.

Grantees should keep in mind that property acquisition, on its own, does not meet a NSP national objective. However, blighted homes and residential property in a land bank that was demolished prior to NSP closeout does not NEED to be disposed of for an end use that meets a national objective. That is, demolition is an eligible end use if it meets the local definition of having been "blighted," and it meets the **LMMA** national objective, so long as at least 51% of the residents of the area are below 120% of area median income.

The [NSP National Objectives Chart](#) provides a quick reference for NSP grantees that helps clarify the often-complex interplay among eligible properties, uses, and activities all of which must result in activities that meet a national objective.

Change in Use

The NSP Closeout Agreement includes provisions for the use of NSP assisted properties in accordance with the change in use principles in 24 CFR 570.505. These rules apply if a change in use takes place within five years of closeout.

If a grantee spent **less than \$25,000** on acquisition and/or improvements, and the initial acquisition (and clearance, if applicable) met a national objective, then the change of use provision would not apply. It is possible that a property will no longer be considered NSP assisted and the change in use does not apply; however, these cases must be cleared through the grantee's Field Office.

If a grantee **spent more than \$25,000** on acquisition and/or improvements and cannot continue to meet an LMMI national objective after it has demolished or disposed of the property, then the grantee's line of credit or local program account must be reimbursed the current fair market value (FMV) of the property, less any portion of the value attributable to non-NSP funds for acquisition of, and improvements to, the property. These reimbursed funds would be subject to all applicable NSP requirements.

If the grantee **never met a national objective**, the grantee must reimburse the program for the full cost of the activity. In addition, citizen participation requirements will be triggered in cases of a change in use within five years of closeout of a property that has had over \$25,000 in NSP funds invested.

Grantees should coordinate with local HUD field office for situations involving a change of use for NSP-assisted property.

Maintaining and Disposing of Land Bank Properties

The land bank must identify a source of funding for maintaining, administering, and reporting to HUD the properties in the land bank, and for disposing of them. Naturally, the grantee cannot use NSP Line of Credit funds after NSP closeout. In addition, the funds needed for land bank maintenance and stewardship cannot be considered an NSP contingent liability for the purposes of NSP closeout. Similarly, line of credit funds that had been reserved previously for administration cannot be carried over for use following closeout.



Non-Compliance

After closeout, if a land banked property is determined to be in non-compliance the provisions for corrective and remedial actions as identified in 24 CFR 570.910 apply. Such actions may include repayment of NSP funds improperly expended on the land banked property.

Post Closeout Requirements

Reporting and Monitoring

The [CPD-22-14 Closeout Instructions for Community Development Block Grant Programs](#) outlines record management requirements for the NSP program. Grantees will need to continue to monitor and reference the Land Banked Management Plan along with other reporting requirements.

The long-term nature of the land bank's responsibilities dictates that a land bank should have a regular – at least annual – process to review the status of:

- All properties in the land bank inventory
- All properties that have been sold by the land bank subject to performance conditions

Grantees should use the inventory prepared for closeout as the basis for any reporting – along with the Land Bank Management Plan's disposition or redevelopment milestones and timeline. To monitor progress, grantees should compare actual disposition or reuse to the proposed timeline.

Continued Affordability

Grantees must ensure that NSP assisted units remain affordable as long as possible and are charged with monitoring the continued affordability requirement. As a safe harbor, grantees may use the periods of affordability set forth by HOME program at [24 CFR 92.252\(e\)](#) and [92.254\(a\)\(4\)](#). Some grantees may have chosen to exceed these affordability requirements which would be identified within their Consolidated Plan.

After closeout, grantees are to submit an annual performance report in DRGR. NSP grants that are subject to the annual reporting are marked in DRGR with a grant status of "Closed with Ongoing Reporting." The [NSP Closeout Guide](#), Appendix G – Management Plan Template for Continuing Affordability Requirements (Form) provides a framework that would aid in the annual performance report. Grantees may create their own tracking mechanism such as Excel document to track addresses, DRGR Activity #, the start of and end dates of affordability period for each NSP assisted property. Resale and Recapture are two main methods of ensuring continued affordability as defined by [24 CFR 92.254\(a\)\(5\)](#). Administration of these methods differ, and grantees should follow the provisions of their Substantial Amendment or Action

Management Plan for Continued Affordability

The Management Plan for Continued Affordability is a **separate document** that must be completed by NSP grantees prior to closeout ([HUD Form 40181](#)). On that form, the grantee must list each NSP property, the DRGR Activity Number, the start and end of the NSP affordability period, and the mechanism that is in place to enforce the NSP affordability requirements for each NSP property.



Plans as well as the content of their written agreements, loan documents, liens and covenants. The [HOME Resale and Recapture Summary](#) chart provides the resale and recapture provisions work in practice.

Grantees will need to develop an internal process for ensuring that the NSP-assisted homeowner units continue to be the principal residence of the eligible beneficiaries. Periodically, grantees will need to review local county records to determine current ownership of the NSP-assisted property.

Continued affordability reporting for rental units will be required as well. Rental properties must be made available to income-eligible residents only for the duration of the affordability period. Rents must be restricted to the affordable amounts established by the Action Plan or Substantial Amendments. Prior to initial occupancy, grantees are required to verify the household income to determine eligibility.

Resources

Grantees have access to a variety of NSP resources at the [HUD Exchange website](#), including trainings, reports and DRGR guidance. The following links are a few of the land banking resources:

[Notice CPD-22-14 Closeout Instructions for CDBG Programs](#)

[NSP Closeout Guide](#)

[NSP National Objectives Chart](#)

[NSP Commercial, Public and Mixed-Use Facilities Toolkit](#)

[Creating an NSP-Eligible Rental Project](#)

[Sample Side Lot Disposition Policies and Procedures document](#)

[Basics of Rental Development](#)

[NSP Closeout Crosswalk](#)

[NSP Closeout Process and Guidance](#)

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