



NSP Problem-Solving Clinics

What is a Land Bank?

- *A land bank is a governmental or non-governmental nonprofit entity created, in part, to acquire, hold, temporarily manage, redevelop, and dispose of foreclosed upon vacant land and other residential properties within a specific, defined geographic area.*
- **NSP Eligible Use C:**
 "Establish and operate land banks for homes and residential properties that have been foreclosed upon"

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What is a Land Bank?

If a land bank is a governmental entity:

- It may maintain a foreclosed property that it does not own, provided it charges the owner of the property the full cost of the service or places a lien on the property for the full cost of the service. [FR-5321-N-02]
- **For-profit entities are excluded from NSP-assisted land banking activities.**

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Elements of an Effective Land Bank

- Connected to the tax collection and foreclosure process
- Scaled at the metropolitan level, or most diverse real estate market possible
- Policy driven – transparent in policies and transactions
- Markets that are targeted by the community for redevelopment
- Emphasis on community engagement and participation

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What Can a Land Bank Do?

It can purchase properties that have been foreclosed upon to:

- Maintain and hold (up to 10 years)
- Assemble property
- Facilitate development (housing)
- Demolish (except for public housing)
- Market property
- Dispose of property

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Land Banking and NSP

Eligible Activities (in approved geographic areas):

- Acquisition of foreclosed properties (A)
- Disposition of foreclosed properties (D)

Including:

- Due diligence
- Purchase price
- Closing costs
- Property maintenance (between A&D) and management
- Resale closing costs/disposition-related costs

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Land Banking and NSP

Eligible Properties for Land Banking:

- Vacant and foreclosed upon homes and residential properties.
- A NSP grantee may not provide NSP funds to a land bank to finance acquisitions of properties from itself, other than to pay necessary and reasonable costs related to appraisals and transfers of titles. Does not preclude payment of tax liens (non-grantee owned property) or current taxes while in the land bank.

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Land Banking and NSP

Land Banking:

- Holding banked property alone does not meet HUD CDBG national objective requirements.
- A land bank may not hold a property for more than 10 years without obligating for a specific, eligible redevelopment (re-use plan) in accordance with NSP requirements.
- Grantees that have NSP2 funded properties in land banks at the three-year expenditure deadline will be required to fulfill this duty as part of their grant close-out.

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Land Banking and NSP

Land Banking:

- Land banking activities using NSP funding must meet one of the CDBG national objectives prior to final disposition of the property.
- Demolition of land banked property does not qualify as an "end-use" or eligible redevelopment in accordance with NSP requirements.

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Land Banking and NSP

Establishing Purchase Price:

- Land banks must purchase at a minimum 1% purchase discount from market appraisal.
- Value is established through an appraisal that conforms with Uniform Relocation Assistance (URA) requirements and completed within 60 days of the final purchase offer. No review appraisal is required.
- No appraisal is required for properties with anticipated values of \$25,000 or less.

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Land Banking and NSP

Establishing Sales Price:

- Maximum sales price should be equal to or less than the cost to acquire, maintain, and redevelop the property (including reasonable developers fees and other activity delivery costs (such as sales); or
- A price reflecting the fair market value of the property established by an appraisal at the time of property resale.

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Land Banking and NSP

Establishing Sales Price:

- In determining the sales price, the costs of boarding, mowing, maintenance (in a static condition) or--in the absence of NSP-assisted rehabilitation or development of the property--the costs of completing a sales transaction or other disposition costs should be excluded.

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Land Banking and NSP

Uniform Relocation Act (URA):

- Although land banked properties are to be vacant prior to acquisition, in some cases the URA may apply.
- Other URA requirements apply (such as notices) and vary depending on whether the NSP acquisition is voluntary or involuntary.

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Land Banking and NSP

Environmental Review:

- Part 58 Environmental Review (ER) process must be completed prior to committing NSP funds for any activity.
- “Neighborhood Target Review” is helping to expedite the ER process for land banks in targeted geographic areas.

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Land Banking and NSP

Neighborhood Target Review:

- Covers an identified geographic area, but is limited to acquisition, minor rehabilitation (<50% of property value), and disposition activities for single-family properties.
- Advantage: Site-specific reviews are not required until sites are identified.
- Tiered review is recommended for more activities (demolition, new construction, etc.) than permissible under the neighborhood review approach.

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Land Banking and NSP

Tiered Review Approach:

- HUD issues an *Authorization to Use Grant Funds* for the entire geographic area, and although site-specific reviews are required, they need not be submitted to HUD for individual review.

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HUD Guidance

- **Q:** “How did the Bridge Notice impact the use of land banks under NSP?”
- **A:** The October 6, 2008 NSP1 *Federal Register* Notice limited the use of land banks with the following language “establish land banks for homes that have been foreclosed upon.”
The June 19, 2009 NSP1 *Federal Register* Bridge Notice expands the use of land banks with the following language “establish and **operate** land banks for homes **and residential properties** that have been foreclosed upon.”

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HUD Guidance

- **Q:** “Can land banking include purchasing a foreclosed or abandoned property that has a structure on it or does the property have to be vacant land?”
- **A:** As stated in the NSP1 Bridge Notice “[NSP funds can be used to] establish and operate land banks for homes and residential properties that have been foreclosed upon;” abandoned homes and residential properties are not eligible.

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HUD Guidance

- **Q:** “How does a land bank differ from a land trust?”
- **A:** The basic differences are timing and land use. A land bank is a short-term (10 years maximum) means of managing land that may not have a defined purpose and cannot be immediately used (e.g., market conditions), while a land trust is a long-term land management technique with a defined purpose and benefit for another party.

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HUD Guidance

- **Q:** “Can NSP1 funds be used to support land trusts?”
- **A:** Yes. Land trusts could be classified as financing mechanisms permissible under eligible use (A) of NSP. *For example, the land trust could acquire homes or residential land with NSP funds, then build new or rehabilitate existing homes and sell them to NSP-eligible homebuyers while retaining ownership of the land. The occupant would own the structure and lease the land. The exclusion of the price of land keeps the overall cost lower, allowing the home to remain affordable long-term.*

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HUD Guidance

- **Q:** “If the grantee buys property for the purposes of a land bank under eligible use (C), and allows tenants to move into the units on a temporary basis, would those tenants be entitled to relocation assistance if they are later required to move out?” *The issue with this eligible activity is that grantees have 10 years to re-use the property, so it could presumably be many years later that someone would be asked to move out once a final use is determined.*

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HUD Guidance

- **A:** If no person was displaced by the acquisition of the property for the land bank, then the URA is not applicable at the time of the acquisition. If the grantee allows a tenant to move into the acquired property prior to a planned federally-funded re-use project, the tenant-occupant is not eligible for relocation assistance as a result of the original acquisition (see 49 CFR 24.2(a)(9)(ii)(B)). However, the tenant-occupant may be eligible for relocation assistance if they are made to move for a planned re-use project that is funded with federal financial assistance.

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Questions?

Daniel T. Kildee, President
Center for Community Progress
dkildee@communityprogress.net

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