



**NEIGHBORHOOD STABILIZATION
PROGRAM**

PROGRAM DESCRIPTION

INTRODUCTION

The Neighborhood Stabilization Program (NSP) was authorized on July 30, 2008 as Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA) as amended by the American Recovery and Reinvestment Act (ARRA). THDA administers the federally funded NSP on behalf of the U.S. Department of Housing and Urban Development. The purpose of NSP is to provide emergency assistance to state and local governments to acquire and redevelop foreclosed properties that might otherwise become sources of abandonment and blight within their communities. Initial NSP funding is provided by formula based on the following criteria: areas with the greatest percentage of home foreclosures; areas with the highest percentage of homes financed with subprime mortgages; and, areas identified as likely to face a significant rise in the rate of home foreclosures.

NSP funds are considered a special allocation of Community Development Block Grant (CDBG) funding for FY 2008. The statutory and regulatory requirements of CDBG apply to NSP funds unless specifically waived by the NSP regulations. CDBG and NSP program regulations are incorporated by reference in this Program Description. In the event of conflicting requirements, the more stringent regulations will apply.

Time is of the essence with regard to NSP in that “any state or local government that receives amounts pursuant to this section shall not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties [*Housing and Economic Recovery Act of 2008, Section 2301(c)(1)*].”

“Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity. Funds are obligated for an activity when orders are placed, contracts are awarded, services are received and similar transactions have occurred that require payment by the state, unit of general local government, or subrecipient during the same or a future period.” (*Federal Register, volume 73, NO. 194, p. 58332, October 6, 2008*)

“ At the end of the statutory 18-month use period, which begins when the NSP grantee receives its funds from HUD, the state or local government NSP grantee’s accounting records and DRGR (*the federal Disaster Recovery Grant Reporting system collects information on expenditures and obligations*) information must reflect outlays (expenditures) and unliquidated obligations for approved activities that, in the aggregate, are at least equal to the NSP obligations...All NSP grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended.” (*Federal Register, volume 73, No. 194, p.58340 October 6, 2008*)

1. NSP OVERVIEW

1.1 DEFINITIONS

The following definitions apply to the NSP program even if they are used differently in the CDBG program:

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

- B. **BLIGHTED STRUCTURE.** A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.
- C. **CURRENT MARKET APPRAISED VALUE.** The current market appraised value means the value of a foreclosed upon home *or* residential property that is established through an appraisal made in accordance with the appraisal requirements of the Uniform Relocation and Property Acquisition Act at 49 CFR 24.103 and completed within 60 days prior to an offer made for the property by a subrecipient, grantee, developer or individual homebuyer.
- D. **FORECLOSED.** A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete, and title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

1.2 ELIGIBLE APPLICANTS

- A. Units of local government including CDBG entitlement cities and Small Cities jurisdictions
- B. Non-profit 501(c)(3) organizations that have experience in developing, implementing and administering projects similar to NSP eligible activities and who demonstrate the financial and organizational capacity to accomplish the project.

[Note: Unlike other federal programs, entitlement jurisdictions in Tennessee; namely, the city of Memphis, Nashville/Davidson County, the city of Knoxville, the city of Chattanooga and Shelby County, which are receiving a direct NSP allocation are also eligible to apply for State NSP funding.]

1.3 ELIGIBLE ACTIVITIES

The purpose of NSP is to stabilize neighborhoods by purchasing and redeveloping abandoned and foreclosed properties. In addition, each NSP-funded activity must also be an Entitlement CDBG-eligible activity and meet a CDBG national objective. The following are the five eligible activities under HERA:

- 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. This includes activity delivery costs as an eligible activity.
- 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. This also includes relocation costs, direct homeownership assistance and housing counseling.
- C. Establish and operate land banks for homes and residential properties that have been foreclosed upon. The land bank may not hold the property for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.
- D. Demolish blighted structures.
- E. Redevelop demolished or vacant properties as housing, including the new construction of housing to redevelop demolished or vacant properties.

1.4 INELIGIBLE ACTIVITIES

- A. Activities ineligible under the CDBG program;
- B. Foreclosure prevention activities;
- C. Demolition of structures that are not blighted;
- D. Purchase of residential properties and homes that have not been foreclosed upon except as provided in Eligible Use E; and
- E. Pay for any cost that is not eligible under NSP.

2. NSP REQUIREMENTS

2.1 INCOME TARGETING

Unlike the CDBG program, NSP requires that all of the funds be used with respect to individuals and families whose income does not exceed **120%** of area median income.

- A. "Low income" means a household whose income does not exceed 50% of the area median income, adjusted for family size;
- B. "Moderate income" means a household whose income exceeds 50% of the area median income, adjusted for family size, but does not exceed 80% of the area median income, adjusted for family size; and,
- C. "Middle income" means a household whose income does not exceed 120% of the area median income, adjusted for family size.

2.2 NATIONAL OBJECTIVE

For the purposes of NSP only, an activity may meet the low- and moderate-income national objective if the assisted activity:

- A. Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120% of area median income (abbreviated as LMMH);
- B. Serves an area in which at least 51% of the residents have incomes at or below 120% of area median income (abbreviated as LMMA); or
- C. Serves a limited clientele whose incomes are at or below 120% of area median income (abbreviated as LMMC).

[Note: The income of the household to be reported for purposes of eligibility is the sum of the annual gross income of the beneficiary, the beneficiary's spouse, and any other family member residing in the home or rental unit. Annual gross income is "anticipated" for the next 12 months, based upon current circumstances or known upcoming changes, minus certain income exclusions. For rental property, the income limits apply to the incomes of the tenants, not to the owners of the property. Household income limits are updated annually by HUD. That information for your locality can be accessed by using the HUD website.]

Activities do not qualify for NSP using the "prevent or eliminate slums or blight" or "address urgent community development needs" national objectives.

2.3 PROPERTY STANDARDS

A. Local Codes and Zoning

Any housing constructed or rehabilitated with NSP funds must meet all applicable local codes, rehabilitation standards, and zoning ordinances at the time of project completion.

B. Absence of Local Code

In the absence of a local code:

- a) new construction of multi-family apartments of 3 or more units must meet the 2003 International Building Code;
- b) new construction or reconstruction of single-family units or duplexes must meet the 2003 International Residential Code for One- and Two-Family Dwellings;
- c) rehabilitation of rental units or existing homeowner units must meet the 2003 International Property Maintenance Code; and,
- d) rental units must, at a minimum, continue to meet Section 8 Housing Quality Standards (HQS) on an annual basis.

The International Code books are available from:

International Code Council
4051 W. Flossmore Road
Country Club Hills, IL 60478-5795
Telephone: (800) 786-4452
Fax: (866) 891-1695
Website: www.iccsafe.org

C. Green Building

Subrecipients are strongly encouraged to incorporate modern, green building and energy efficient improvements in all NSP activities to provide for the long-term affordability and increased sustainability of housing and neighborhoods.

D. Energy Code

New construction projects must also meet the 2003 International Energy Conservation Code. Copies of the Energy Code may also be obtained from the International Code Council at the address listed above.

E. Section 504

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally-assisted activities and programs on the basis of handicap, and imposes requirements to ensure that qualified individuals with handicaps have access to these programs and activities.

- a) For new construction of multi-family projects (five or more units), a minimum of 5% of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and at a minimum, an additional 2% of the units (but not less than one unit) must be accessible to individuals with sensory impairments. The total number of units in a NSP-assisted project, regardless of whether they are all NSP-assisted, is used as the basis for determining the minimum number of accessible units. Also, in a project where not all the units are NSP-assisted, the accessible units may be either NSP-assisted or non-NSP-assisted.

- b) The Section 504 definition of substantial rehabilitation for multi-family projects includes construction in a project with 15 or more units for which the rehabilitation costs will be 75% or more of the replacement cost. In such developments, a minimum of 5% of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2%, at a minimum, (but not less than one unit) must be accessible to individuals with sensory impairments. As in the case of new construction, the total number of units in a NSP-assisted, regardless of whether they are all NSP-assisted, is used as the basis for determining the minimum number of accessible units, and, in a project where not all of the units are NSP-assisted, the accessible units may be either NSP-assisted or non-NSP-assisted.
- c) When rehabilitation less extensive than substantial rehabilitation is undertaken in projects of 15 or more units, alterations must, to the maximum extent feasible, make the units accessible to and usable by individuals with handicaps, until a minimum of 5% of the units (but not less than one unit) are accessible to people with mobility impairments. For this category of rehabilitation, the additional 2% of units requirement for individuals with sensory impairments does not apply. Alterations to common spaces must, to the maximum extent feasible, make those areas accessible.

2.4 ACQUISITION AND SALE OF HOUSING

A. Purchase Price Discount

The purchase price of a foreclosed upon home or residential property under NSP must be discounted at 1% of the current market appraised value of the home or property.

B. Limits on Property Acquisitions

An NSP grantee may not provide NSP funds to another party to finance an acquisition of tax foreclosed (or any other) properties from itself, other than to pay necessary and reasonable costs related to the appraisal and transfer of title. If NSP funds are used to pay such costs when property owned by the grantee is conveyed to a subrecipient, homebuyer, developer, or other jurisdiction, the property is NSP assisted and subject to all program requirements such as requirements for NSP eligible use and benefit to income qualified persons.

C. Recordkeeping Requirements for Acquisitions

The addresses, appraised value, purchase offer amount and discount amount of each property purchase must be documented in the grantee's program records.

D. Tenants Rights Applicable to NSP Assisted Acquisitions

Grantees must document their efforts to ensure that the "initial successor in interest in property" (usually the lender or the trustee for holders of obligations secured by mortgage liens) acquired through foreclosure, has provided bona fide tenants with notice and other protections outlined in ARRA. Otherwise, grantees that acquire properties from the initial successor in interest that failed to comply with applicable notice requirements will be required to assume the obligations of the initial successor which are:

- If the tenant has a bona fide lease, the tenant must be allowed to occupy the unit until the end of the lease term;
- If the tenant has no lease or has a lease terminable under State law, the tenant must be given a 90-day notice to vacate.

Grantees may not refuse to lease an NSP-assisted dwelling to a tenant based on their status as a Section 8 voucher holder.

E. Appraisal

a. Properties Valued at Less than \$25,000

If the anticipated value of the proposed acquisition is estimated at \$25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the grantee determines is qualified to make the valuation.

b. Properties Valued at More than \$25,000

If the anticipated value of the proposed acquisition is estimated at more than \$25,000, the current market appraised value must be established by an appraisal from a Tennessee state certified and licensed appraiser and is subject to the requirements of 49 CFR 24.103. The appraisal is the responsibility of the subrecipient and must have been completed within 60 days of the offer to purchase.

Because the Federal Housing Administration (FHA) has a portfolio of foreclosed upon properties it is willing to sell at a 50% discount in a bulk sale, THDA strongly encourages its subrecipients to purchase these properties if the acquisition activity meets the neighborhood revitalization goals of NSP.

F. Sales Price Requirements

- a) The sale of the abandoned or foreclosed upon home or residential property to an individual as a primary residence must be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate the home or property up to a decent, safe and habitable condition.
- b) The maximum sales price is determined by aggregating all costs of acquisition, rehabilitation, and redevelopment including related project delivery costs and costs related to the sale of the property. The maximum sales price does not include the costs of boarding up, lawn mowing, or costs for maintaining the property in a static condition. While these costs cannot be included in the sales price, they are recoverable with NSP funds.
- c) In the absence of NSP-assisted rehabilitation or redevelopment, the costs of completing a sales transaction or other disposition may not be included by the grantee in the determination of the sales price.

2.5 HOMEOWNERSHIP PROGRAMS

A. Homebuyer Requirements

Under homeownership programs, the homebuyers must meet the following requirements:

- a) The household income must be at or below 120% of area median income as defined by the Section 8 Rental Assistance Program.

- b) The household must occupy the property as his/her principal residence.
- c) The property must be a single-family (1-4 family residence, condominium unit, or combination manufactured home and lot).
- d) The homebuyer must make an out-of-pocket contribution to the purchase of the home equal to 1% of the purchase price.
- e) The household must complete a homeownership education program from a HUD approved homebuyer education counselor prior to closing.
- f) The household must obtain fee simple title to the property.
- g) The permanent financing must be a THDA Great Rate mortgage or a USDA Rural Development Direct Loan.

B. Period of Affordability

The sales price for a NSP-assisted unit to an eligible homebuyer must be as outlined at Section 2.4 – Acquisition and Sale of Housing. Subrecipients may further discount the sales price by as much as 50% to make the NSP assisted unit more affordable to the purchasing household. This subsidy will be in the form of a soft second mortgage, secured by a Grant Note and Deed of Trust, and will be subject to the following restrictions:

- a) The subsidy will be forgiven as long as the household continues to reside in the home as its principal residence during the affordability period.
- b) If the property is rented or otherwise does not remain the principal residence of the purchasing household during the period of affordability, the full amount of the NSP subsidy must be repaid.
- c) If the property is sold during the period of affordability, the amount of the NSP subsidy to be returned will be pro-rated based on the remaining years in the affordability period and the net proceeds are shared. *(Note: Net proceeds are the sales price minus closing costs and any non-NSP loan repayments.)* All recaptured funds are returned to THDA.
- d) Refinancing the first mortgage at any time during the NSP affordability period will require repayment of the full NSP grant to THDA.

The period of affordability for NSP subsidized homes is consistent with the HOME Program requirement at 24 CFR 92.254(a)(4) as follows:

NSP FUNDS PROVIDED	AFFORDABILITY PERIOD
Under \$15,000	5 Years
\$15,000 to \$40,000	10 Years
Over \$40,000	15 Years

2.6 RENTAL HOUSING PROGRAMS

Subrecipients may use NSP to develop affordable rental housing for low income households through new construction or conversion, acquisition, or acquisition and rehabilitation.

- A. **Affordability Period**
 NSP-assisted rental units are rent and income controlled for a period of ten years regardless of the amount of NSP funds invested per unit. Prior to drawing down NSP funds, owners of rental projects will be required to sign a grant note, deed of trust and restrictive covenant to enforce the NSP affordability period.
- B. **NSP Allowable Rents**
 The maximum allowable rent for an NSP rental unit will be the applicable high HOME rent. *(Note: HOME Program Rents can be found on the HUD website at www.hud.gov. These rents are determined on an annual basis by HUD and include all utilities.)*
- C. **Applicable Utility Allowance**
 The cost of utilities paid by tenants must be subtracted (using applicable utility allowances) from the published HOME rents to determine the maximum allowable rents.
- D. **Rental Program Income**
 Net rental income, that is, after all operating expenses and project reserves have been deducted, is considered program income and must be treated as CDBG program income.
- E. **Ongoing Requirements**
 The on-going requirements for a rental housing program include:
- a) Annual income certification of tenants;
 - b) Adherence to the rent and income guidelines;
 - c) Compliance with the Standard Housing Codes or Section 8 Housing Quality Standards;
 - d) Reporting to THDA.
- F. **Ongoing Compliance**
 After the project is officially closed out by letter to the Grantee, the record will be transferred to the Program Compliance Division of THDA for long-term compliance monitoring. The Program Compliance Division will provide Grantees with information on NSP Long Term Compliance. Each Grantee will be monitored annually to determine each project's compliance with the NSP Regulations. Each Grantee will also be monitored for adherence to its contract with THDA.

2.7 PROGRAM INCOME

- A. **General Program Income Requirements**
 Revenue received by a state, unit of local government or a subrecipient that is directly generated from the use of NSP funds constitutes CDBG Program Income and must be treated in compliance with 24 CFR 570.500. Program income derived from Tennessee NSP projects must be returned to THDA to be reallocated for NSP eligible activities.

Examples of program income:

- Proceeds from the sale or lease of property acquired/rehabilitated/redeveloped with NSP funds
- Principal and interest payments of loans made from NSP funds
- Revenue returned by individuals or other entities that are not subrecipients

- Recaptures on sales of homes pursuant to enforcement of NSP affordability requirements

2.8. RELOCATION REQUIREMENTS

THDA DISCOURAGES PROJECTS INVOLVING DISPLACEMENT OR RELOCATION OF HOUSEHOLDS. IF A SUBRECIPIENT IS PLANNING ANY PROJECT THAT MAY INVOLVE DISPLACEMENT OR RELOCATION, CONTACT THDA BEFORE PROCEEDING.

A. URA

- a) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act), and its implementing regulations, 49 CFR Part 24 requires relocation assistance where acquisition has occurred under the Uniform Act.
- b) In addition, the Uniform Act coverage was expanded in 1987 amendments to cover displacement of individuals resulting from rehabilitation, demolition or private acquisition carried out under a federally assisted project or program.

B. Section 104(d)

- a) The one-for-one replacement requirement in Section 104(d) of the Housing and Community Development Act ("The Barney Frank Amendments") and HUD's Residential Anti-Displacement and Relocation Assistance Plan at 24 CFR 570.488, 570.606(c) and 42.375 are waived for low- and moderate-income dwelling units demolished or converted in connection with an activity assisted with NSP funds.

C. Relocation Considerations

Understanding how relocation requirements are triggered, alternate ways of meeting them, and the costs of the alternatives is essential in making NSP program decisions.

- a) Vacant buildings might enable a subrecipient to avoid relocation expense but the condition of the building might make it infeasible to place back in service.
- b) Rehabilitating an occupied building even with the cost of assisting tenants to remain or relocate, may be less costly than rehabilitating a vacant building.
- c) If occupied buildings, program administrators must consider whether occupants will be able to return after rehabilitation and whether Section 8 assistance is available to help meet relocation costs.
- d) Selecting vacant projects does not relieve all relocation concerns. Vacant buildings in good condition may have been recently occupied. If so, the program administrator must consider whether the owner removed the tenants in order to apply for NSP assistance for a vacant building. If so, these tenants are displaced persons.

D. Handbook 1378

Failure to understand and follow relocation requirements can result in unnecessary costs for the local program. Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition consolidates relocation requirements for HUD programs into one document.

Handbook 1378 and other information related to relocation and displacement can be located at www.hud.gov.

E. URA Triggers

URA requirements are triggered at the time the application is being prepared, and additional requirements are triggered at the time the working agreement is signed between the owner and the grantee and when rehabilitation is completed.

F. Treatment of Displaced Person

Treatment of displaced persons depends upon whether the displaced person:

- a) is a tenant or owner;
- b) is a business or family;
- c) has income above or below the Section 8 Lower Income Limit.

G. Who Is a Displaced Person?

Any person (family, individual, business, farm, or non-profit organization) that moves from the real property, permanently, as a direct result of rehabilitation, demolition, or acquisition for a project assisted with NSP funds. (*Note: Relocation requirements apply to all occupants of a project/site for which NSP assistance is sought even if less than 100% of the units are NSP assisted.*)

H. Who Is Not a Displaced Person?

- a) A tenant evicted for cause, assuming the eviction was not undertaken to evade URA obligations.
- b) A person with no legal right to occupy the property under State or local law (e.g., squatter).
- c) A tenant who moved in after the application was submitted but before signing a lease and commencing occupancy, was provided written notice of the planned project, its possible impact on the person (e.g., the person may be displaced, temporarily relocated, or experience a rent increase), and the fact that the person would not qualify as a "displaced person" (or for any assistance under URA) as a result of the project.
- d) A person, after being fully informed of their rights, waives them by signing a Waiver Form.

I. How Is Displacement Triggered?

- a) *Before Application.* A tenant moves permanently from the property before the owner submits an application for NSP assistance **if** THDA or HUD determines that the displacement was a direct result of the rehabilitation, demolition, or acquisition for the NSP project. (e.g., THDA determines that the owner displaced tenants in order to propose a vacant building for NSP assistance.)
- b) *After Application.* A tenant moves permanently from the property after submission of the application, or, if the applicant does not have site control, the date THDA or the local program administrator approves the site because: (1) the owner requires the tenant to move permanently; or (2) the owner fails to provide timely required notices to

the tenant; or (3) the tenant is required to move temporarily and the owner does not pay all actual, reasonable out-of-pocket expenses or because the conditions of the move are unreasonable.

- c) *After Execution of Agreement.* A tenant moves permanently from the project after execution of the agreement covering the acquisition, rehabilitation or demolition because the tenant is not provided the opportunity to lease a suitable, affordable unit in the project.

Other Federal Requirements

3.0. EQUAL OPPORTUNITY AND FAIR HOUSING

No person in the United States shall on the grounds of race, color, national origin, religion, age, disability, familial status, or sex be excluded from participation, denied benefits or subjected to discrimination under any program funded in whole or in part by NSP funds. The following Federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and equal opportunity, are applicable to NSP projects:

Fair Housing Act	24 CFR 100
Executive Order 11063, as amended (Equal Opportunity in Housing)	24 CFR 107
Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federal programs)	24 CFR 1
Age Discrimination Act of 1975	24 CFR 146
Section 504 of the Rehabilitation Act of 1973	24 CFR 8
Executive Order 11246, as amended (Equal Employment Opportunity Programs)	41 CFR 60
Section 3 of the Housing & Urban Development Act of 1968	24 CFR 135

Section 3 requires that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low-income persons, particularly those who are recipients of government assistance for housing.

Executive Order 11625, as amended (Minority Business Enterprises)

Executive Order 12432, as amended (Minority Business Enterprise Development)

Executive Order 12138, as amended (Women's Business Enterprise)

Executive Orders 11625, 12432, and 12138 (Minority/Women's Business Enterprise) require that PJs and local programs must prescribe procedures acceptable to HUD for a minority outreach program to ensure

the inclusion, to the maximum extent possible, of minorities and women and entities owned by minorities and women in all contracts. Local programs must also develop acceptable policies and procedures if their application is approved by THDA.

In addition to the above requirements, the PJ and local programs must assure that its Equal Opportunity and Fair Housing policies in the NSP Program are consistent with its current Consolidated Plan.

3.1. SITE AND NEIGHBORHOOD STANDARDS

A. General

Housing provided through the NSP program must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Executive Order 11063, and HUD regulations issued pursuant thereto; and promotes greater choice of housing opportunities.

B. New rental housing

In carrying out the site and neighborhood requirements for new construction of rental housing, the grantee is responsible for making the determination that proposed sites for new construction meet the requirements in 24 CFR 983.6(b) which places limiting conditions on building in areas of "minority concentration" and "racially mixed" areas.

C. Common Sense Guidelines

These rules are complex and subject to interpretation. Several common sense actions will help in deciding on projects.

- a. Avoid action that would ultimately increase the racial segregation in your communities.
- b. Review rental new construction plans with your HUD field office.
- c. Try to get input from the Fair Housing person and the program person.
- d. Identify and address community concerns about projects to the greatest extent possible before committing funds.

3.2. AFFIRMATIVE MARKETING

A. Affirmative Marketing Procedures for Rental Housing

Local programs must adopt affirmative marketing procedures and requirements for all NSP rental housing with five or more units. These must be approved by THDA prior to any NSP funds being committed to a project. Requirements and procedures must include:

- a) Methods for informing the public, owners and potential tenants about fair housing laws and the local program's policies;
- b) A description of what owners and/or the program administrator will do to affirmatively market housing assisted with NSP funds;
- c) A description of what owners and/or the program administrator will do to inform persons not likely to apply for housing without special outreach;
- d) Maintenance of records to document actions taken to affirmatively market NSP-assisted units and to assess marketing effectiveness; and
- e) Description of how efforts will be assessed and what corrective actions will be taken where requirements are not met.

3.3 ENVIRONMENTAL REVIEW

In implementing the NSP program, the environmental effects of each activity must be assessed in accordance with the provisions of the National Environment Policy Act of 1969 (NEPA) and the related authorities listed in HUD's regulations at 24 CFR Parts 50 and 58.

- A. Environmental Review for Local Governments
THDA as the Responsible Entity and the units of local government funded by THDA will be responsible for carrying out environmental reviews. THDA will approve the release of funds for local governments.
- B. Environmental Review for Non-Profits
THDA must request the release of funds from HUD for any projects of non-profit organizations. The non-profit organizations will be responsible for gathering the information required for the environmental reviews.
- C. Release of NSP Funds
NSP funds cannot be committed until the environmental review process has been completed. Commitments for expenditures made prior to the approval of the environmental review cannot be reimbursed with NSP funds.

3.4. LEAD-BASED PAINT

- A. General
Housing assisted with NSP funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR Part 35, Subparts C through M. The lead-based paint provisions of 982.401(j) also apply, irrespective of the applicable property standard under 24 CFR 92.251. The Lead-Based Paint regulations are available at www.hud.gov/lea or by contacting 1-800-424-LEAD (5323).
- B. Rental Projects
In a rental project in which not all units are assisted with NSP funds, the lead-based paint requirements apply to all units and common areas in the project.

3.5. LABOR STANDARDS

- A. General
Davis-Bacon wage compliance and other Federal laws and regulations pertaining to labor standards apply to all contracts for rehabilitating 8 or more residential units assisted with NSP funds.
- B. Construction Contract
The contract for construction must contain the applicable wage provisions and labor standards.
- C. Sweat Equity / Labor
Davis-Bacon does not apply to projects using volunteer labor or to sweat equity projects.

3.6. DEBARMENT AND SUSPENSION

A. General

Local programs must require participants in lower-tier transactions covered by 24 CFR 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from the covered transaction.

3.7. FLOOD PLAINS

A. Construction and Reconstruction

NSP funds may not be used to construct or reconstruct housing in an area identified by the Federal Emergency Management Agency as having special flood hazards.

B. Rehabilitation

In addition, THDA discourages the rehabilitation of units located in special flood hazard areas, but in a few instances and with written permission from THDA, houses located in a floodplain may be assisted.

C. Participation in National Flood Insurance Program

The community must be participating in the National Flood Insurance Program and flood insurance must be obtained on the units.

3.8. CONFLICT OF INTEREST

A. General

In the procurement of property and services, the conflict of interest provisions in 24 CFR 85.36 and 24 CFR 84.42, respectively, apply. In all cases not governed by 24 CFR 85.36 and 24 CFR 84.42, the conflict of interest provisions of the CDBG program at 24 CFR 570.611 shall apply.

The CDBG conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, elected official or appointed official of THDA, a State recipient or subrecipient receiving NSP funds. No person listed above who exercises or has exercised any functions or responsibilities with respect to activities assisted with NSP funds or who is in a position to participate in a decision-making process or gain inside information with regard to these activities may obtain a financial interest or benefit from an NSP assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

3.9. PROCUREMENT

A. Procurement Policies

It is important to keep the solicitation of bids for goods and services as well as professional services *contracts open* and competitive. Cities, counties and non-profit organizations must follow their procurement policies and meet state and federal requirements. At a minimum, cities and counties must comply with 24 CFR 85.36 and non-profits must comply with 24 CFR 84.40 – 84.48.

B. Competitive Bids

Applicants should obtain 3 to 5 bids using formal advertising or requests for proposals for the procurement of professional services such as grant administration, inspections and work write-ups.

C. Defined Selection Procedures

There must be an established selection procedure and a written rationale for selecting the successful bid or proposal.