



Genesee County Land Bank Authority Neighborhood Stabilization Program 3

Request for Proposals– Environmental Abatement &
Disposal of Asbestos and Hazardous Materials on
Residential/Commercial Structures outside of the
City of Flint.

BID NUMBER: #LB: 12-004
DUE DATE: June 22, 2012 at 3:00 pm EST

The Genesee County Metropolitan Planning Commission (GCMPC) Neighborhood Stabilization Program 3 (NSP3) is funded through the U.S. Department of Housing & Urban Development (HUD).



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REQUEST FOR PROPOSALS

REQUEST FOR PROPOSALS–ENVIRONMENTAL ABATEMENT & DISPOSAL OF ASBESTOS AND HAZARDOUS MATERIALS ON RESIDENTIAL/COMMERCIAL STRUCTURES IN GENESEE COUNTY OUTSIDE THE CITY OF FLINT.

INTRODUCTION

A. Overview

This Request for Proposals (“RFP”) is being issued by Genesee County Land Bank Authority (GCLBA) in its capacity as manager of the Neighborhood Stabilization Program 3 (NSP3) for the Genesee County Metropolitan Planning Commission. GCLBA invites the submission of proposals from contractors experienced and licensed to conduct the abatement and disposal asbestos and other hazardous materials.

Qualified environmental abatement contractors may submit bids for the scope of work defined in this RFP. This proposal will be scored on the evaluation criteria set forth in this RFP. The GCLBA anticipates entering a contract for the scope of work set forth herein.

Addendums to this RFP can be found at www.thelandbank.org under the tab current bids. Please check any updates to this proposal.

Companies with demonstrated experience in the scope of work defined in this RFP and with an interest in making their services available to GCLBA are invited to respond to this RFP. “Respondents” means the companies or individuals that submit proposals in response to this RFP. It is understood that the selected Respondent acting as an individual, partnership, corporation or other legal entity, is State licensed and certified in accordance with provisions of Section 2301 (b) of the Housing and Economic Recovery Act of 2008, as amended, and an additional allocation of funds provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 and capable of providing the specified services. (See Appendix 4) The Respondent shall be financially solvent and each of its members if a joint venture, its employees, agents or sub-consultants of any tier shall be competent to perform the services required under this RFP document.

GCLBA is seeking to encourage participation by respondents who are MBE/WBE or Section 3 business enterprises.

Nothing in this RFP shall be construed to create any legal obligation on the part of GCLBA or any respondents. GCLBA reserves the right, in its sole discretion, to amend, suspend, terminate, or reissue this RFP in whole or in part, at any stage. In no event shall GCLBA be liable to respondents for any cost or damages incurred in connection with the RFP process, including but not limited to, any and all costs of

preparing a response to this RFP or any other costs incurred in reliance on this RFP. No respondent shall be entitled to repayment from GCLBA for any costs, expenses or fees related to this RFP. All supporting documentation submitted in response to this RFP will become the property of the GCLBA. Respondents may also withdraw their interest in the RFP, in writing, at any point in time as more information becomes known.

Each respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time and your firm's name. Late proposals will not be accepted. The proposal request number and due date for this Bid is:

PROPOSAL REQUEST NUMBER: #LB 12-004

DUE DATE: Friday, June 22, 2012 @ 3:00 pm EST

All inquiries relating to this RFP should be directed to Lucille James, Demolition Program Coordinator, Genesee County Land Bank, 452 S. Saginaw Street, 2nd Floor, Flint, Michigan 48502; (810) 257-3088 ext. 529 or ljames@thelandbank.org.

No proposal may be withdrawn for a period of thirty (30) days after submission. Proposals offering less than thirty (30) days for acceptance by the Genesee County Land Bank from the date set for opening will be considered non-responsive and will be rejected.

The GCLBA reserves the right to reject any or all proposals and to waive irregularities or informalities as may be deemed in the GCLBA's interest. It is the GCLBA's intent to award the project to the lowest responsive and responsible contractor for the proposal. The GCLBA may choose to enter into multiple contracts for the same scope of services to ensure that there is enough capacity within the NSP 3 program.

B. Time of Completion

Any agreement awarded pursuant to this RFP solicitation shall be in accordance with the Scope of Work and compensation as outlined below, and, within a mutually agreed upon expedited timeframe.

C. Term of Contract

Any agreement awarded pursuant to this RFP solicitation shall be for a contract period ending March 1, 2014, with the possibility of an extension or until the funds are exhausted, whichever comes first.

D. Background

Under the provisions of Section 2301 (b) of the Housing and Economic Recovery Act of 2008, as amended, and an additional allocation of funds provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 the Neighborhood Stabilization Program 3 (NSP3) was established. The goal of the

program is to stabilize neighborhoods whose viability is negatively affected by properties that have been foreclosed upon and abandoned.

Genesee County was awarded NSP3 funding in March 2011, and the GCLBA is a sub-recipient of the NSP3 award and will coordinate the demolition of several GCLBA owned properties over the period of the grant.

E. Federal Regulations

Award recipients implementing the Genesee County Metropolitan Planning Commission NSP3 grant must follow the Community Development Block Grant (CDBG) Program rules and regulations, unless stated otherwise in the October 19, 2010 Federal Register Notice [Docket No. FR-5447-N-01] regarding Section 2301(b) of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, approved July 30, 2008) (HERA), as amended, and an additional allocation of funds provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203, approved July 21, 2010) (Dodd-Frank Act), which is included in Appendix D.

Respondents are strongly encouraged to read these regulations prior to submitting their response to this RFP. All NSP3 funds must be spent on specific eligible activities no later than March 1, 2014 and 50% of NSP3 funds must be spent no later than March 1, 2013.

PROFESSIONAL SERVICE REQUIREMENTS

A. Scope of Work

GCLBA seeks sealed proposals from qualified respondents to provide any or all of the scopes of services described below on residential/commercial structures located in Genesee County. See *Appendix 2 – NSP3 Boundaries and Map*. Applicants can respond to the scopes of services described below:

GCLBA seeks sealed proposals from qualified respondents to provide the scope of services described below on residential/commercial structures located in targeted neighborhoods in Genesee County outside the City of Flint. See *Appendix 2 – NSP3 Boundaries and Map*. Nearly all of the targeted neighborhoods and census tracts contain abandoned and derelict residential/commercial structures. Applicants can respond to the proposal/ scope of services described below (*See Appendix 1 for full scope of work*):

Summary of Scope of Work:

Abatement and disposal of environmentally hazardous materials from Residential/Commercial Structures

During the program period, which ends March 1, 2014, GCLBA anticipates environmentally hazardous materials abatement projects across the respective NSP3 areas until the funds are exhausted. Further, GCLBA anticipates multiple requests within a short timeframe.

The purpose of the abatement and disposal is to properly remove environmental hazardous materials/waste concerns associated with the building, or within close proximity to the building, that may require removal and disposal, or other consideration, before a structure is renovated, demolished or deconstructed.

1. Structures have been identified for the presence of hazardous materials/waste including but not limited to one or more of:
 - Asbestos
 - Paint (Latex/Oil Base)
 - Pesticides/Herbicides
 - Fluorescent Light Bulbs
 - Fluorescent Light Fixture Ballasts
 - Mercury Switches
 - Fuels/Solvents/Oils
 - Underground Storage Tanks
 - Aboveground Storage Tanks
 - Refrigerators/Air Conditioners/Freezers
 - Chemicals

These materials shall be properly removed from the property, packed, and disposed of by current regulations.

2. The pre-demolition inspection will document the presence of each material/waste identified, the location and quantity of each material/waste. All materials identified during inspections have been clearly marked with fluorescent spray paint and where possible, moved to a central location that is also marked by spray paint.
3. A summary of the inspection work has been included with these bid documents and lists the type of each material/waste identified, the location within the property, and the quantity of each material waste.
4. For those sites listed on the inspection summary which contain “unknown” materials, the Contractor is required to perform characterization test(s) and properly dispose of the material.

The Contractor is responsible for providing the appropriate packaging to transport the materials/wastes from each site in accordance with all applicable state and federal laws.

1. All materials/wastes must be segregated and packaged according to the applicable hazardous class (i.e., flammables, corrosives, etc.) before leaving an individual site. Materials may be combined (lab packed) from site to site according to hazard class.

2. The Contractor is responsible for preparing the proper shipping papers necessary to transport the materials from each individual site at the time the materials leave the site.
3. If it is necessary for the Contractor to store the materials/wastes overnight to facilitate lab packing, the materials can only be stored at a licensed transfer, storage or disposal facility.
4. The shipping papers will be carried at all times by the transports when moving the materials/wastes on public roadways.
5. The Contractor will conform to all necessary vehicles placarding when transporting materials.
6. The Contractor will maintain separate inventory sheet (trip log) for each property that hazardous materials/wastes are removed in accordance with the Michigan Department of Environmental Quality Operation Memo 121-3, Revised part 121 Consolidated Manifest Management Procedures. The records must indicate the property address, type and quantity of materials/waste removed.

The properties that will be identified have been found to contain potentially environmentally hazardous material as provided by the hazardous materials inspector. The contractor will be required to remove and dispose of such materials as directed by GCLBA or its representative. These items are to be removed and disposed by a licensed contractor familiar with the proper procedures. These materials are required to be characterized and placed with like materials in clearly marked 55 gallon drum and disposed of properly prior to any site demolition work. Contractor shall supply Authority with a copy of all landfill and disposal receipts, manifests and other documentation.

Upon completion of the abatement and disposal of the hazardous materials the contractor shall submit the following documents to the GCLBA:

Hazardous Materials:

Upon completion of the material/waste collection and disposal the Contractor will provide a separate Inventory Sheet for each property that materials/wastes were removed.

The Inventory Sheet will be supported by the following paperwork (as applicable to the individual property).

- A copy of the disposal manifest and/or shipping papers used to dispose of materials/wastes from each disposal/recycling facility.
- A copy of the Freon recovery certificate signed and certified by the licensed Freon recovery professional.
- A copy of the scrap metal receipt for AST/USTs.

Hazardous Asbestos Materials:

1. Landfill records for record purposes indicating receipt and acceptance of hazardous asbestos materials by a landfill facility licensed to accept such wastes.

2. Contractor shall supply Authority with a copy of all landfill and disposal receipts, manifests and other documentation.

B. Additional Requirements

This project will comply with all codes, standards, regulations, and workers' safety rules that are administered by federal agencies (EPA, OSHA, and DOT), state agencies (MIOSHA, MDNRE, and DCH), and any other local regulations and standards that may apply.

Proposals shall be responsible for compliance with the following additional requirements:

1. Certification Form Note
2. OSHA 29 CFR 1926- Construction Industry Standards
3. 29 CFR 1910.1001, 19326.1101 & 1915.1001 – Procedures of Occupational Exposure to Asbestos
4. 29 CFR 1910.1200 – Hazard Communication
5. 40 CFR Part 261- EPA Regulations
6. HUD Title X parts 1012-1013
7. Federal Labor Standards and Provisions
8. Davis-Bacon Act
9. Equal Opportunity Clause
10. Section 3 Clause (See Attachment E)
11. HUD Contract and Subcontract Activity
12. Copeland Anti-kickback Act
13. Bidders Insurance Checklist (Attachment A)
14. Genesee County Labor Standards
15. And other Regulations Referenced throughout this document and attachments

EVALUATION CRITERIA AND SCORING

In evaluating responses to this Request for Proposal, GCLBA will take into consideration the experience, capacity, and costs that are being proposed by the

Respondent. The following Evaluation Criteria will be considered in reviewing submittals:

The GCLBA will evaluate the qualifications received and identify the submittal that is the most responsive, responsible and offers the best service to the GCLBA. The GCLBA will consider cost of services, consultant qualifications, financial viability, project references, and experience with comparable projects. Specifically, each Qualifications package will be reviewed based on the following selection criteria:

Proposal/ Evaluation Criteria for Scope of Work:

Abatement and disposal of environmentally hazardous materials from Residential/Commercial Structures

1. Pricing Proposal (20 points)

Pricing proposals that are in the highest cost 1/3 of proposals	5 Points
Pricing proposals that are in the middle cost 1/3 of proposals	10 Points
Pricing proposals that are in the lowest cost 1/3 of proposals	20 Points

2. Specialized experience in Neighborhood Stabilization Program and working with Land Banks (20 points)

Neighborhood Stabilization Program (NSP) Experience	5 Points
Tax Foreclosed /Land Bank Experience	10 Points
Both NSP and Tax Foreclosed/ Land Bank Experience	20 Points

3. Experience in providing abatement and disposal of environmental hazardous material services. (15 points)

One (1) to four (4) year of experience in completing abatement and disposal services of environmentally hazardous materials.	2 Points
Five (5) to nine (9) years of experience in completing abatement and disposal services of environmentally hazardous materials.	5 Points
Ten (10) to fourteen (14) years of experience in completing abatement and disposal services of environmentally hazardous	10 Points

materials.	
Greater than fifteen (15) years of experience in completing abatement and disposal services of environmentally hazardous materials.	15 Points

4. Capacity. Number of accurately completed abatement and disposal that the firm could provide to the GCLBA in less than three weeks (15 points)

Demonstrated capacity and experience to complete up to ten (10) abatement and disposals	5 Points
Demonstrated capacity and experience to complete up to fifteen (15) abatement and disposal	10 Points
Demonstrated capacity and experience to complete more than twenty-five (25) abatement and disposal	15 Points

6. Demonstrated Understanding of the Land Bank's NSP 3 needs as described in the respondents scope of work (15 points)

SUBMITTAL REQUIRMENTS

RFP responses must be submitted via hard copy. Each respondent shall submit one (1) original and two (2) copies of the following documents in a clear, legible, 12 point font, and 8.5 by 11 inch format. Responses not submitted via hard copy will not be considered. Respondents are advised to adhere to the Submittal Requirements. Failure to comply with the instructions of this RFP will be cause for rejection of submittals.

GCLBA reserves the right to seek additional information to clarify responses to this RFP. Each response must include the following:

A. Letter of Interest

Please submit a Cover Letter of Interest on your firms letterhead signed by a duly authorized officer or representative of the Respondent, not to exceed two pages in length. The Letter of Interest must also include the following information:

1. The principal place of business and the contact person, title, telephone/fax numbers and email address.
2. A brief summary of the qualifications of the Respondent and team. Please ensure you are including information for GCLBA to assess your qualifications in regards to the scoring criteria set forth in this RFP.
3. Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).

4. The names and business addresses of all Principals of the Respondent. For purposes of this RFP “Principals” shall mean persons possessing an ownership interest in the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
 - If the Respondent is a partially owned or fully-owned subsidiary of another organization, identify the parent organization and describe the nature and extent of the parent organization’s approval rights, if any, over the activities of the Respondent.
5. The Certification attached hereto at the end of this RFP and incorporated herein by reference must be signed by Respondent and attached to the Letter of Interest

B. Threshold Requirements

These documents must be submitted and acceptable before GCLBA will review the Experience and Capacity proposal:

1. Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
2. Evidence of Insurance: Commercial General Liability with limits not less than \$2,000,000; Workers Compensation and Employers Liability with limits not less than \$500,000; Automobile Liability with limits not less than \$1,000,000 per occurrence; and, Professional Liability with limits not less than \$1,000,000. (See Attachment A)
3. State licensed and certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.)
4. Evidence of Financial Stability: All Respondents shall include their most recent financial statements with the proposal response. This information will assist and GCLBA in determining the Respondent’s financial condition. GCLBA is seeking this information to ensure that the proposer’s have the financial stability and wherewithal to assure good faith performance.
5. Three (3) references of related projects, including date of project, contact person and phone number, and a brief description of the project. (See Attachment B)
6. Conflict of Interest Statement & Supporting Documentation: Respondent shall disclose any professional or personal financial interests that may be a conflict of interest in representing the GCLBA. In addition, all Respondents shall further disclose arrangement to derive additional compensation from various investment and reinvestment products, including financial contracts.
7. Staff certifications in 8-hour OSHA HAZWOPER
8. Performance Bond: Ability to secure Performance Bond in an amount equal to one hundred percent (100%) of the total contract amount.

9. Certification Form Note (Attachment C)

C. Main Proposal

Please provide the following information:

1. Experience and capacity to implement scope of work described in Scope of Services. Please ensure you are including information for GCLBA to assess your qualifications in regards to the scoring criteria set forth in this RFP.
2. Familiarity with the GCLBA and basic understanding of programs (see www.thelandbank.org for more information) including previous experience with NSP activities.
3. The qualification of assigned project staff and subcontracts, including (a) relevant professional and educational experience, (b) identification of specific staff individuals with experience managing hazardous materials inspection projects, and (c) identification of state certified laboratories who will participate in the project. (d) Past projects will be reviewed to determine if the respondent has successfully completed projects similar in nature and scope. Respondents should provide narrative examples of three (3) projects that are similar in nature to projects described in the RFP.
4. Capacity to complete multiple inspections on a weekly basis. (See RFP scoring criteria)
5. Pricing proposal. The contractor should provide a fixed price fee schedule including unit rates to the GCLBA for all work and services provided. (See Attachment D)
6. Reporting format to facilitate use of information collected to complete demolition, rehab or deconstruction.
7. Respondents should state whether they are an MBE/WBE or Section 3 business enterprise. If so, please provide a copy of a current MBE/WBE certification letter.

SELECTION PROCESS

The Selection Committee comprised of GCLBA and GCMPC staff will review qualifications in accordance with the evaluation criteria set forth herein and NSP3 objectives and policies. Proposals that are submitted timely and comply with the mandatory requirements of the RFP will be evaluated in accordance with the terms of the RFP. Any contract resulting from this RFP will not necessarily be awarded to the vendor with the lowest price. Instead, contract shall be awarded to vendor whose proposal received the most points in accordance with criteria set forth in RFP.

QUESTIONS

Questions regarding this RFP should be submitted in writing via email to ljames@thelandbank.org .

SUBMITTAL DUE DATE

Responses to this RFP are due by 3:00 pm on June 22, 2012. Each Respondent is responsible for labeling the exterior of the sealed envelope containing the proposal response with the proposal number, proposal name, proposal due date and time, and your firm's name. Hard copies must be delivered to:

Lucille James
Genesee County Land Bank Authority
452 S. Saginaw St. 2nd Floor
Flint, MI 48502

RFP SUBMITTAL REQUIREMENTS CHECKLIST

Please provide Checklist with response to RFP

- Letter of Interest
- Certification Form Note
- Certificate of Good Standing (Corporation) or Certificate of Existence (Limited Liability Company) issued by the Michigan Secretary of State (If Respondent is a joint venture, a Certificate of Good Standing or Certificate of Existence, as applicable, must be submitted for each entity comprising the joint venture.)
- Evidence of Insurance
- State License and or Certification
- Evidence of Financial Stability
- References (Attachment B)
- Conflict of Interest Statement & Supporting Documentation
- Description of Company
- Capacity of Company
- Unit Rate Pricing Bid Tab/Pricing Proposal (Attachment D)
- MBE/WBE, Local Hiring, HUD Section 3, if applicable (Attachment E)
- RFP Submittal Requirements Checklist

*** Some of the submittal requirements are included in the attachments.*

ATTACHMENTS

- A – GENESEE COUNTY BIDDERS INSURANCE CHECKLIST
- B – LIST OF REFERENCES (3)
- C – CERTIFICATION FORM NOTE
- D – UNIT RATE PRICING BID TAB
- E – SECTION 3 CERTIFICATION FORMS

ATTACHMENT A

GENESEE COUNTY BIDDERS INSURANCE CHECKLIST

Bid Title: INSPECTION OF RESIDENTIAL/COMMERCIAL STRUCTURES IN GENESEE COUNTY

Coverages Required	Limits (Figures denote minimums)
X 1. Workers Compensation	Statutory limits of Michigan
X 2. Employers Liability	\$100,000 accident/disease \$500,000 policy limit, disease
X 3. General Liability 1,000,000/OCC/AGG	Including Premises/operations \$1,000,000 per occurrence with \$2,000,000 aggregate
4. Professional liability	\$1,000,000 including errors & omissions \$200,000 per occurrence \$600,000 in aggregate for Medical Malpractice
X 5. Products/Completed operations	\$1,000,000 per occurrence with \$2,000,000 aggregate
X 6. Contractual liability	\$1,000,000 general aggregate (gen. agg.)
7. Explosion, Collapse, Subsidence	Excess Policy with limits at least \$2,000,000
X 8. Automobile liability	\$1,000,000 combined single limit each
Owned, hired, nonowned	accident-Owned, hired, nonowned
9. Umbrella liability/excess coverage	\$ X,000,000 BI & PD and PI
10. Garage liability	\$ _____ BI & PD, each occurrence
11. Garagekeepers legal liability	\$ _____ Comprehensive (Comp.) \$ _____ Collision
12. Authoritys and Contractors Protective	
X 13. Genesee County named as an additional insured on other than workers' compensation via endorsement. A copy of the endorsement must be included with the certificate.	
14. Other insurance required: <u>POLLUTION LIABILITY: Total limit excess of \$3,000,000 per occurrence and in aggregate</u>	
X 15. Cancellation notice is to read: Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will mail 30 days written notice to the certificate holder named to the left or 10 day notice for non-payment of premium.	
X 16. Bests rating: A VIII or better, or its equivalent (Retention Group Financial Statements)	
X 17. The certificate must state bid number and title	

Insurance Agents Statement

I have reviewed the requirements with bidder named below. In addition:

_____ The above policies carry the following deductibles:

_____ Liability policies are **occurrence** ___ **claims made** ___

Insurance Agent

Signature

Bidder's Statement

I understand the insurance requirements and will comply in full if awarded the contract.

Bidder

Signature

Required general insurance provisions are provided in the checklist above. These are based on the contract and exposures of the work to be completed under the bid. Modifications to this checklist may occur prior to the bid, or after the bid has been released. To the degree possible, all changes will be made as soon as feasible. REVISED 6/16/03

ATTACHMENT B: LIST OF REFERENCES (3)

Reference #1:

Company/Municipality: _____

Contact Person: _____ Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email: _____

Type of Project: _____

Budget: _____

Reference #2:

Company/Municipality: _____

Contact Person: _____ Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email: _____

Type of Project: _____

Budget: _____

Reference #3:

Company/Municipality: _____

Contact Person: _____ Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

Email: _____

Type of Project: _____

Budget: _____

ATTACHMENT C: CERTIFICATION FORM NOTE

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE SUBMITTAL CERTIFICATION

The undersigned hereby certifies, on behalf of the Respondent named in this Certification (the "Respondent"), that the information provided in this RFP submittal to GCLBA is accurate and complete and I am duly authorized to submit same. I hereby certify that the Respondent has reviewed this RFP in its entirety and accepts its terms and conditions.

(Name of Respondent)

(Signature of Authorized Representative)

(Typed Name of Authorized Representative)

(Title)

(Date)

ATTACHMENT D: UNIT RATE PRICING BID COVERSHEET & BID TAB

Company Name: _____

Statement of Experience

Years of Company Experience: _____

Years of Individual Experience: _____

Demonstration of Capacity

Number of units completed within a three (3) week period: _____

Number of employees: _____

I certify that I have the necessary equipment and staffing available in order to complete the Scope of Work outlined in this bid.

Signed this _____ day of _____, _____

(Name of Contractor/ Authorized Representative)

(Signature of Contractor /Authorized Representative)

(Contractor Address)

(Phone) (Email)

ATTACHMENT D:
UNIT RATE PRICE FOR ENVIRONMENT ABATEMENT AND DISPOSAL OF ASBESTOS AND
HAZARDOUS MATERIALS FROM RESIDENTIAL / COMMERCIAL STRUCTURES IN THE CITY OF FLINT

Asbestos Unit Rate Schedule			
Bidders must provide a unit rate price for:			
Item No.	Description	Unit	Unit Price
1	Sprayed-on Fireproofing	Square Foot	
2	Hard Wall/Ceiling Plaster (all layers, metal or wood lathe)	Square Foot	
3	Soft/Decorative Plaster (all layers, including substrate if necessary)	Square Foot	
4	Popcorn or Sprayed-on Ceiling or Wall Texture (all layers, including substrate if necessary)	Square Foot	
5	Drywall/Mud Compound	Square Foot	
6	Thermal System Insulation (TSI) Straight Pipe < 6" diameter	Linear Foot	
7	Thermal System Insulation (TSI) Straight Pipe > 6" to 12" diameter	Linear Foot	
8	Thermal System Insulation (TSI) Straight Pipe > 12" diameter	Linear Foot	
9	TSI Mud Fitting < 6" diameter	Each	
10	TSI Mud Fitting > 6 – 12" diameter	Each	
11	TSI Mud Fitting > 12" diameter	Each	
12	Duct Insulation (cloth or paper)	Square Foot	
13	Duct Insulation (fiberglass with ACM seam mud)	Square Foot	
14	Undercoated Sink	Each	
15	Fire Door	Each	
16	Floor Tile Only (any size)	Square Foot	
17	Floor Tile and Mastic (any size, any mastic type)	Square Foot	
18	Linoleum/Resilient Sheeting	Square Foot	
19	Linoleum/Resilient Sheeting and Mastic (any type)	Square Foot	
20	Window with associated caulk and/or glazing (any size including frame)	Each	
21	Furnace, boiler, or tank insulation (mud and jacket)	Square Foot	
22	Transite (Panels, Siding or Board)	Square Foot	
23	Fireproof Panels	Square Foot	

ATTACHMENT D:
UNIT RATE PRICE FOR ENVIRONMENT ABATEMENT AND DISPOSAL OF ASBESTOS AND
HAZARDOUS MATERIALS FROM RESIDENTIAL / COMMERCIAL STRUCTURES IN THE CITY OF FLINT

24	Asphalt Brick Siding (e.g., Insul-Brick, Brick-Kote, etc.)	Square Foot	
25	Electrical Panel	Each	
26	Glued-on ceiling tiles (any size) and glue pods	Square Foot	
27	Construction Adhesives/other glue pods	Square Foot	
28	Cove Base	Square Foot	
29	Vermiculite Insulation	Cubic Yard	
30	Miscellaneous Asbestos Debris (any type, total quantity)	Cubic Foot	
31	Cementitious Materials	Square Foot	
32	Roofing/Flashing/Tar (any type)	Square Foot	
33	Light Fixture Heat Shields	Each	
34	Foundation, wall or block caulk	Linear Foot	

Hazardous Material Unit Rate Schedule			
Item No.	Description	Unit	Unit Price
35	PCB or other ballasts	Each	
36	Fluorescent light tubes, >4'	Each	
37	Fluorescent light tubes, 4' or less	Each	
38	Mercury thermostats or switches	Each	
39	Misc household chemical containers	Each	
40	CFC (refrigerator, freezer, any size)	Each	
41	CFC A/C unit (window or whole house)	Each	

ATTACHMENT D:
UNIT RATE PRICE FOR ENVIRONMENT ABATEMENT AND DISPOSAL OF ASBESTOS AND
HAZARDOUS MATERIALS FROM RESIDENTIAL / COMMERCIAL STRUCTURES IN THE CITY OF FLINT

42	Household Oil filled equipment	Each	
43	Gas cylinders (any size and type including, but not limited to: propane, oxygen, acetylene, etc.)	Each	
44	High pressure light fixtures (sodium, mercury vapor, etc.)	Each	
45	Heating Oil	Gallon	
46	Miscellaneous Aerosol Containers	Each	
47	Car/vehicle battery	Each	
48	Bicycle tires	Each	
49	Automobile or truck tires	Each	
50	Television, microwave, computer monitor	Each	
51	Smoke detector	Each	
52	Paint cans (latex, oil, etc. any size)	Each	
53	Vehicles/boats	Each	

ATTACHMENT D:
 UNIT RATE PRICE FOR ENVIRONMENT ABATEMENT AND DISPOSAL OF ASBESTOS AND
 HAZARDOUS MATERIALS FROM RESIDENTIAL / COMMERCIAL STRUCTURES IN THE CITY OF FLINT

54	Lawn mowers/snow blowers (or other small engine item)	Each	
55	Automobile engine	Each	
56	Vehicle gas tank	Each	
57	Gas cans (6-gallons or less)	Each	
58	Empty 55-gallon drums	Each	
59	55-gallon drum with liquid	Each	
60	15-gallon drum with liquid	Each	
61	250 gallon fuel/heating oil tank, not including oil	Each	
62	Ethylene glycol (one gallon)	Each	
63	Fire extinguishers	Each	
64	Leaf blowers/weed whackers	Each	
65	Load, transport and dispose of non-hazardous contaminated soils	Cubic Yard	

ATTACHMENT D:
 UNIT RATE PRICE FOR ENVIRONMENT ABATEMENT AND DISPOSAL OF ASBESTOS AND
 HAZARDOUS MATERIALS FROM RESIDENTIAL / COMMERCIAL STRUCTURES IN THE CITY OF FLINT

66	Unknown waste material characterization (TCLP)	Per Waste Stream	
67	Unknown waste disposal	Per gal	

Mobilization Material Unit Rate Schedule			
Item No.	Description	Unit	Unit Price
68	Mobilization	Per Property	

If Bidder is aware of additional Unit Prices not described above, Bidder may provide a description and pricing of items in following table:

Additional Material Unit Rate Schedule			
Item No.	Description	Unit	Unit Price
69	Pumping of Water	Per hour	
70	Third Party Air Clearance	Per house	

ATTACHMENT E – SECTION 3 CERTIFICATION FORMS

- **SECTION 3 BUSINESS CERTIFICATION FORM**
- **STATEMENT OF QUALIFICATIONS FORM**
- **PERMANENT EMPLOYEE LISTING FORM**
- **RESIDENT EMPLOYMENT OPPORTUNITY ELIGIBILITY FOR PREFERENCE FORM**

Genesee County
CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE
IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business: _____

Address of Business: _____

Type of Business: Corporation Partnership Joint Venture
 Limited Liability Corporation Sole Proprietorship

Type of Work: _____

I, _____ hereby certify that the
business (Print Name and Title)

known as _____
(Print business name)

_____ **is not a Section 3 business (sign below)**

_____ is a Section 3 business because (check one of the following)

_____ 51 percent (51%) or more is owned by Section 3 residents*; or

_____ 30 percent (30%) of the permanent full time employees are currently Section 3 residents* or were Section 3 residents* when first hired (if within the last three years); or

_____ The business commits in writing to subcontract over 25 percent (25%) of the total dollar amount of all subcontracts to be let to businesses that meet the requirements of paragraphs 1 and 2 of this definition;

AND

The business was formed in accordance with state law and is licensed under state, county or municipal law to engage in the business activity for which it was formed.

* A Section 3 Resident is a person living in Genesee County who is a Public Housing resident or who is low or very low income as determined by household size and annual income.

Very Low and Low Income Persons means persons in households whose annual incomes do not exceed, respectively, 50% and 80% of the annual median income as adjusted by HUD, for Genesee County.

It is important to note that a Genesee County Section 3 Certification in itself, shall not in any way, be construed, that any bid or contract award is accepted, nor guaranteed, nor is any Business Concern entitled to any contract award based upon the Section 3 Certification.

Warning: This program is funded through Federal funds provided by the U.S. Department of Housing and Urban Development. Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions, including but not limited to : (i) fines and imprisonment under 18 U.S.C. §§ 287, 1001, 1010 and 1012; (ii) civil penalties and damages under 31 U.S.C. § 3729; and (iii) administrative sanctions, claims, and penalties under 24 C.F.R. parts 24, 28 and 30. Section 1001 of Title 18 U.S. Code makes it a criminal offense to make willful, false statements or misrepresentation of any material fact involving the use of or to obtain federal funds.

Name: _____

Signature

Date

Attach the following documentation, as applicable, as evidence of status. Not all may apply to your firm or circumstance, although at least one in the applicable category will apply.

For business claiming status as a Section 3 resident-owned business concern:

- | | |
|---|--|
| <input type="checkbox"/> Copy of resident lease | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of evidence of participation in a public tax assistance program | <input type="checkbox"/> Copy of previous year's business income filings |

For business claiming Section 3 status due to at least 30% of its current workforce is Section 3 residents, or were Section 3 residents when first hired (if within the last three years) please provide:

- | | |
|---|---|
| <input type="checkbox"/> List of all current full-time employees | <input type="checkbox"/> List of employees claiming Section 3 status |
| <input type="checkbox"/> PHA/IHA Residential lease less than 3 years from day of employment | <input type="checkbox"/> Copy of previous year's income tax filings for Section 3 residents |

For business claiming Section 3 status by subcontracting 25% of the dollar amount awarded to qualified Section 3 businesses (must provide each item with a check box:

- List of subcontracted Section 3 business(es), subcontract amount, and date of subcontract
- Copy of all Subcontractors' previous year's income tax filings

FY 2012 Median Family Income for Flint and Genesee County MSA - \$58,400		
Section 3 Maximum Annual Income Limits		
Number in Household	Very-Low Income	Low Income
One Person	\$20,450	\$32,700
Two Person	\$23,400	\$37,400
Three Person	\$26,300	\$42,050
Four Person	\$29,200	\$46,700
Five Person	\$31,550	\$50,450
Six Person	\$33,900	\$54,200
Seven Person	\$36,250	\$57,950
Eight Person	\$38,550	\$61,650

**Genesee County
STATEMENT OF QUALIFICATIONS
SECTION 3 CERTIFICATION - BUSINESS CONCERN**

Name of Business Concern: _____

List any/all Doing Business As (DBA) _____

Address: _____

The Company is a:

Sole Proprietorship

Joint Venture

Limited Liability Corporation (LLC)

A Partnership

Corporation

Contact Information: _____

(name, telephone, fax, email) _____

Submitted by: _____ _____
Signature *Date*

1. List Owners of Business and Percentage of Ownership

Name	% Ownership
_____	_____
_____	_____
_____	_____

2. List All Employees of the Business Concern and their Job Category

Please note: A computer generated employee list can be submitted as long s it lists the employee name, job category, Part time or Full time status, and Section 3 Resident status.

Name	Full (FT) Part (P)	Job Category	Section 3 Resident?
1 _____	_____	_____	<input type="checkbox"/>
2 _____	_____	_____	<input type="checkbox"/>
3 _____	_____	_____	<input type="checkbox"/>
4 _____	_____	_____	<input type="checkbox"/>
5 _____	_____	_____	<input type="checkbox"/>
6 _____	_____	_____	<input type="checkbox"/>
7 _____	_____	_____	<input type="checkbox"/>
8 _____	_____	_____	<input type="checkbox"/>

If any current employees are considered Section 3 Residents, please provide documentation as evidence of status, as described in the Business Concern Certification Form.

Genesee County
Section 3 RESIDENT EMPLOYMENT OPPORTUNITY
ELIGIBILITY FOR PREFERENCE

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by Section 3 will certify, or submit evidence to Genesee County, subrecipient, subgrantee, contractor or subcontractor, that the person is a Section 3 resident, as defined in Section 135.5. (Examples of evidence of eligibility for the preference include demonstration of receipt of public assistance; or evidence of participation in a public assistance program; or previous year's income tax filings.) All residents of public housing developments located in Genesee County qualify as Section 3 residents. Additionally, individuals residing in Genesee County who meet the annual income limits set forth in the following table can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a legal resident of _____	
_____ and meet the income eligibility guidelines for a low- or very-low-income person as included in this Certification.	
My permanent address is: _____	

I have attached the following documentation as evidence of my status:	
<input type="checkbox"/> Copy of lease	<input type="checkbox"/> Copy of receipt of public assistance
<input type="checkbox"/> Copy of Evidence of participation in a public assistance program	<input type="checkbox"/> Copy of the most recent year's income tax return
<input type="checkbox"/> Other evidence _____	

Warning: This program is funded through Federal funds provided by the U.S. Department of Housing and Urban Development. Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions, including but not limited to : (i) fines and imprisonment under 18 U.S.C. §§ 287, 1001, 1010 and 1012; (ii) civil penalties and damages under 31 U.S.C. § 3729; and (iii) administrative sanctions, claims, and penalties under 24 C.F.R. parts 24, 28 and 30. Section 1001 of Title 18 U.S. Code makes it a criminal offense to make willful, false statements or misrepresentation of any material fact involving the use of or to obtain federal funds.

Print Name

Date

Signature

Date

FY 2012 Median Family Income for Flint and Genesee County MSA - \$58,400

**Section 3
Maximum Annual Income Limits**

Number in Household	Very Low Income	Low Income
1 individual	\$20,450	\$32,700
2 individuals	\$23,400	\$37,400
3 individuals	\$26,300	\$42,050
4 individuals	\$29,200	\$46,700
5 individuals	\$31,550	\$50,450
6 individuals	\$33,900	\$54,200
7 individuals	\$36,250	\$57,950
8 individuals	\$38,550	\$61,650

APPENDICES

- 1 – SCOPE OF WORK
- 2 – MAP AND BOUNDARIES OF NSP3 TARGET AREA
- 3 – FEDERAL AND COUNTY REGULATIONS
- 4 – NSP3 FEDERAL REGISTER – NOTICE OF FORMULA ALLOCATIONS

APPENDIX 1– Scope of Work for Residential/Commercial
Environmental Abatement & Disposal:

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SECTION 1 – SUMMARY OF WORK

RESIDENTIAL/COMMERCIAL ENVIRONMENTAL ABATEMENT AND DISPOSAL

1.0 PROJECT/SITE CONDITIONS

A. General requirements

The work covered by this section includes the abatement and disposal of asbestos and potentially environmentally hazardous material located on selected tax-reverted residential/commercial properties owned by Genesee County and Land Bank or other local municipality. The purpose of the abatement and disposal is to properly remove asbestos and environmental hazardous materials/waste concerns associated with the residential/commercial properties prior to the structures being demolished or rehabilitated.

B. Responsibility

It shall be the responsibility of the Contractor to review the specifications; the conditions, and the relative difficulty thereof, which are present and that may affect results of the environmental abatement measures.

C. Knowledgeable Person

It shall be the Contractor's responsibility to assure that the abatement measures and disposal of material is supervised by individuals certified and knowledgeable on the State of Michigan and local regulations in such endeavors. Such persons shall comply with the appropriate Federal, State, and local regulations that mandate work practices and shall be capable of performing the work under this contract.

D. Supplying Necessary Items

The Contractor shall be responsible for supplying all labor, material, equipment, services, insurance, bonds and all incidentals which are necessary or required to perform the Work in accordance with applicable regulations and these specifications.

E. Liability

The Contractor shall assume full responsibility and liability for the compliance with all Federal, State, regional and local regulations pertaining to work practices, confined spaces, hauling, disposal and protection of workers, visitors to the site. This shall include Hazard Communication to workers and visitors of the work site (29 CFR 1926.59).

Furnish Certificates of Insurance which specifically set forth evidence of all coverage required of the Contractor and Sub-Contractor(s) prior to commencement of work. Certificates shall be sent to the Genesee County Land Bank, 452 S. Saginaw St., Second Floor Flint, MI 48502. Furnish to the GCLBA copies of all endorsements that are subsequently issued amending coverage or limits.

2.0 DESCRIPTION OF WORK

The Work covered by this section includes the abatement and disposal of asbestos containing material and environmentally hazardous material/wastes located on residential/commercial properties scheduled for demolition or rehabilitation in the City of Flint.

SUMMARY OF WORK

A. Hazardous Materials/Waste Disposal

- 1) Contractors will be authorized by the GCLBA to proceed on the removal and disposal of environmentally hazardous materials from specific residential/commercial structures.
- 2) Each residential/commercial building has been surveyed and inspected for the presence of hazardous materials/waste including but not limited to one or more of:
 - Asbestos Containing Building Materials
 - Paint (Latex/Oil Base)
 - Pesticides/Herbicides
 - Fluorescent Light Bulbs
 - Fluorescent Light Fixture Ballasts
 - Mercury Switches
 - Fuels/Solvents/Oils
 - Underground Storage Tanks
 - Aboveground Storage Tanks
 - Refrigerators/Air Conditioners/Freezers
 - Chemicals

The Contractor shall properly remove, pack, and dispose of these in accordance with all applicable current regulations.

- 3) A site specific Pre-Demolition Inspection/Hazardous Materials Survey will be prepared by others for each structure.
- 4) The Pre-Demolition Inspection/Hazardous Materials Survey will document the presence of each material/waste identified, the location and quantity of each material/waste. All materials identified during inspections have been clearly marked with fluorescent spray paint and where possible, moved to a central location that is also marked by spray paint.
- 5) A copy of the Hazardous Materials Survey and summary of identified materials will be supplied at the time Contractor is authorized to proceed with the removal and disposal of environmentally hazardous materials from specific residential/commercial structures. The survey will list the type of each material/waste identified, the location within the property, and the quantity of each material.
- 6) Following authorized to proceed and receipt of the Pre-Demolition Inspection/Hazardous Materials Survey, Contractor is encouraged to inspect the site of the proposed work. Prior to proceeding on the authorized work, Contractor may visit each of the listed sites to arrive at a clear understanding of the conditions under which the work is to be done and to make their own determination as to the amount of asbestos and/or hazardous materials to be removed from the sites. Contractor will be held responsible to have compared the premises with the hazardous materials survey, drawings, specifications, or other provided items, and to have satisfied himself as to all conditions affecting the execution of the work.
- 7) Contractor shall remove all asbestos, hazardous materials, and other materials banned from landfill disposal, regardless of the estimated quantities provided in the Hazardous Materials Survey Report.
- 8) No payment adjustments in excess of the quantities identified in the hazardous materials survey shall be made by the GCLBA without prior written authorization. Deviations from the hazardous materials survey shall be submitted to the Demolition Program Coordinator: Genesee County Land Bank, 452 South Saginaw Street, Flint, Michigan 48502, (810) 257-3088.

- 9) Contractor shall also establish and obtain prior written authorization for abatement and disposal of asbestos and hazardous materials not included in Unit Rate Schedule. Prior written authorization is required for payment of items not included in unit rate schedule.
- 10) For those sites listed on the inspection summary which contain “unknown” materials, the Contractor is required to perform characterization test(s) and properly dispose of the material in accordance with Unit Rate Schedule.
- 11) A summary of hazardous materials within each structure will also be provided in an electronic spreadsheet. Following abatement and removal, Contractor shall provide to GCLBA all actual quantities on a per unit basis. Contractor shall submit the inventory of actual quantities removed in hardcopy and electronic format. Reporting formats shall be provided by the GCLBA.
- 12) Contractor shall submit invoices on a per unit basis. Invoices formats shall be pre-approved by the GCLBA.

3.0 HAZARDOUS MATERIAL/WASTE COLLECTION AND DISPOSAL

- A. The Contractor is responsible for providing the appropriate packaging to transport the materials/wastes from each site in accordance with all applicable state and federal laws.
- B. All materials/wastes must be segregated and packaged according to the applicable hazardous class (i.e., flammables, corrosives, etc.) before leaving an individual site. Materials may be combined (lab packed) from site to site according to hazard class.
- C. The Contractor is responsible for preparing the proper shipping papers necessary to transport the materials from each individual site at the time the materials leave the site.
- D. If it is necessary for the Contractor to store the materials/wastes overnight to facilitate lab packing, the materials can only be stored at a licensed transfer, storage or disposal facility.
- E. The shipping papers will be carried at all times by the transporter when moving the materials/wastes on public roadways.
- F. The Contractor will conform to all necessary vehicles placarding when transporting materials.
- G. The Contractor will maintain a separate inventory sheet (trip log) for each property that hazardous materials/wastes are removed in accordance with the Michigan Department of Environmental Quality Operation Memo 121-3, Revised part 121 Consolidated Manifest Management Procedures. The records must indicate the property address, type and quantity of materials/waste removed.

4.0 TECHNICAL

A. DESCRIPTION

Environmentally Hazardous Material Removal and Disposal

1. It shall be the responsibility of Contractor to remove and dispose of material identified in the pre-demolition inspection/hazardous materials survey of structures as being environmentally hazardous. Contractor shall remove all asbestos, hazardous materials, and other materials banned from landfill disposal, regardless of the estimated quantities provided in the Hazardous Materials Survey Report. Adjustments shall be included in the final total quantity reported by the Contractor; however, no payment adjustments in excess of the quantities identified in the hazardous materials survey shall be made by the GCLBA without prior written authorization.

B. SUMMARY

This section includes the following:

1. Removal and disposal of potentially environmentally hazardous material.

C. SUBMITTALS

1. Upon completion of the material/waste collection and disposal the Contractor will provide a separate Inventory Sheet for each property that materials/wastes were removed. Asbestos and hazardous materials removed must be itemized for each structure on a per unit basis.

The Inventory Sheet will be supported by the following paperwork (as applicable to the individual property).

- A copy of the disposal manifest and/or shipping papers used to dispose of materials/wastes from each disposal/recycling facility.
 - A copy of the CFC recovery certificate signed and certified by the licensed CFC recovery professional.
 - A copy of the scrap metal receipt for AST/USTs and other metals.
2. Landfill records for record purposes indicating receipt and acceptance of asbestos materials by a landfill facility licensed to accept such wastes.
 3. Contractor shall supply GCLBA with a copy of all landfill, recycling, weight tickets, disposal receipts, manifests and other documentation relating to the removal and disposal of asbestos and hazardous materials from the properties.

D. HAZARDOUS CONDITIONS:

1. The Contractor will be authorized to perform work at properties identified to contain potentially environmentally hazardous material as provided by the pre-demolition inspector. The contractor will be required to remove and dispose of such materials as directed by the GCLBA.
2. The pre-demolition inspection will have identified potentially environmentally hazardous material. These items may include but not be limited to the following: flammables, fuels/waste oils, thinners/paints/solvents; underground storage tanks; pesticides; mercury switches, aerosol cans, fluorescent light bulbs, etc... These items are to be removed and disposed by a licensed contractor familiar with the proper procedures. These materials are required to be characterized and placed with like materials in clearly marked 55 gallon drums or other containers and disposed of properly prior to any site demolition work.
3. Contractor shall supply GCLBA with a copy of all landfill, recycling, weight tickets, disposal receipts, manifests and other documentation relating to the removal and disposal of asbestos and hazardous materials from the properties.

E. CERTIFICATION OF PROPERTY

1. Contractor shall notify owner/owner's representative in writing when each specific listed property has been mitigated of potentially environmentally hazardous material within 24 hours of completion of said work.

F. POLLUTION CONTROLS

1. Under the authority of Section 112 of the Clean Air Act, as amended, 42 U.S. C. 1857 (C-7), the Administrator of the United States Environmental Protection Agency (EPA) promulgated National Emission Standards for Hazardous Air Pollutants on April 6, 1973, (38 F.R. 8820) Asbestos was designated a hazardous air pollutant, and standards were set for its use, and to control asbestos emissions. It was determined that one significant source of asbestos emissions was the demolition of certain buildings and structures.

Additionally, contractors are required under authority of Section 114 (a) to follow EPA personnel (or other authorized regulatory personnel) to freely enter any of your facilities or demolition sites, to review any records, inspect any demolition method, and sample or observe any omissions.

All demolition operations conducted by Contractor are to be in compliance with applicable provisions of Section 112 of the Act and 40 C.F.R. Section 61.22(d).

In addition, Section 113(c)(1) of the Act (42 U.S.C. 1857 C-8(c)(1)), provides that any person who knowingly fails or refuses to comply with any such order shall be punished by a fine of not more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both.

Finally, Section 113(c)(2) of the Act (42 U.S.C. 1857 C-8(c)(2)), provides that any person who knowingly makes any false statement in any report required under the Act shall be punished, upon conviction, by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both.

2. Use water mist, temporary enclosures, and other suitable methods to limit the spread of dust and dirt. Comply with governing environmental protection regulations.

Do not create hazardous or objectionable conditions, such as ice, flooding, and pollution, when using water.

3. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
4. Clean adjacent buildings and improvements of dust, dirt and debris caused by demolition operations. Return adjacent areas to condition existing before start of demolition.
5. Contractor shall limit hours of operation to Monday through Friday during the hours of 7:00 a.m. to 6:00 p.m. Special hours of operation outside the normal hours must be approved by the GCLBA. Contractor shall limit noise pollution at all times to prevent objectionable conditions.

SECTION 2- ASBESTOS ABATEMENT & DISPOSAL SCOPE OF WORK

PART 1 General

1.01 SECTION INCLUDES

A. Removal and disposal requirements for asbestos containing materials (ACM). It is recommended that the contractor review and consider the recommendations reported in the Pre-Demolition Inspection/Hazardous Materials Survey when performing asbestos abatement and general building demolition activities.

1.02 REFERENCE STANDARDS

The publications listed below form a part of this Section to the extent referenced. The publications are referenced in the text by basic designation only.

- A. American Society for Testing and Materials (ASTM)
 - 1. ASTM E 736 (1986) Cohesion/Adhesion of Sprayed Fire-Resistive Materials Applied to Structural Members.
 - 2. ASTM 1368 (1990) Visual Inspection of Asbestos Abatement Projects.
- B. Code of Federal Regulations (CFR)
 - 1. CFR 29 Part 1926/1910 Construction Industry Occupational Safety and Health Standards.
 - 2. CFR 40 Part 61 National Emissions Standards for Hazardous Air Pollutants.
 - 3. CFR 40 Part 260 General Regulations for Hazardous Waste Management.
 - 4. CFR 40 Part 263 Standards Applicable to Transporters of Hazardous Waste.
 - 5. CFR 40 Part 763 Asbestos.
 - 6. CFR 49 CFR 171 Department of Transportation Regulations to Stipulate Requirements for Containers and Procedure for Shipment of Hazardous Waste.
- C. National Fire Protection Association (NFPA)
 - 1. NFPA 10 (1988) Portable Fire Extinguishers.
 - 2. NFPA 70 B (1990) Recommended Practice for Electrical Equipment Maintenance.
 - 3. NFPA 90A (1989) Installation of Air Conditioning and Ventilating Systems.
 - 4. NFPA 101 (1988) Safety to Life from Fire in Buildings and Structures.
 - 5. NFPA 90A (1989) Installation of Air Conditioning and Ventilating Systems.
- D. National Institute of Occupational Safety and Health (NIOSH)
 - 1. NIOSH -01 Manual of analytical Methods
- E. State of Michigan
 - 1. P.A. Act 451, Michigan Natural Resources and Environmental Protection Act
 - 2. MIOSHA Act 154 General Industry and Construction (as amended) Safety Standards.
- F. United States Environmental Protection Agency (U.S. EPA)
 - 1. U.S. EPA SW-846, Test Methods for Evaluating Solid Waste.

1.03 MEASUREMENT

A. Removal and Disposal of ACM

The removal and disposal of ACM will be a unit rate pay item. Estimated quantities of ACM will be provided in the Pre-Demolition Inspection/Hazardous Materials Survey.

1.04 PAYMENT

A. Removal and Disposal of ACM

All acceptably completed work as required under this Section for the removal and disposal of ACM found

on site will be paid as a unit rate as bid and authorized.

1.05 DEFINITIONS

A. Friable Asbestos Containing Material

As defined in 40 CFR Part 61, Subpart M, any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763, Appendix A, Subpart F, Section 1, Polarized Light Microscopy, that when dry, can be crumbled, pulverized, or reduced to powder by hand pressure.

B. Nonfriable Asbestos Containing Material

As defined in 40 CFR Part 61, Subpart M, any material containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763, Appendix A, Subpart F, Section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized or reduced to powder by hand pressure.

C. Category I Nonfriable Asbestos Containing Material

As defined in 40 CFR Part 61, Subpart M, asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in 40 CFR Part 763, Appendix A, Subpart F, Section 1, Polarized Light Microscopy, that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

D. Category II Nonfriable Asbestos Containing Material

As defined in 40 CFR Part 61, Subpart M, any material, except Category I nonfriable ACM, containing more than 1 percent asbestos as determined using the methods specified in Appendix A, Subpart F, 40 CFR Part 763, Section 1, Polarized Light Microscopy, that when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.

E. Asbestos Regulated Work Area

An area contained and controlled where asbestos containing materials (ACM) operations are performed and isolated by physical boundaries to prevent the spread of ACM and control access to authorized persons. Containment may consist of full containment area, single or double bulkhead containment area, mini-containment area, modified containment, glove bag, or other techniques. An outdoor regulated work area is not isolated within a containment enclosure, but is otherwise secured by means of physical barriers, boundary warning tape, and signage, etc., to control access by unauthorized persons.

F. Time-Weighted Average

The Time Weighted Average (TWA) is an average of airborne concentration of fibers (longer than 5 micrometers) per cubic centimeter of air based on an 8-hour exposure duration, which represents the employee's 8-hour workday as defined in Appendix A of 29 CFR Part 1926, Section 1926.1101.

G. Amended Water

Water containing a wetting agent or surfactant with a surface tension of at least 29 dynes per square centimeter when tested in accordance with ASTM D 1331.

H. Adequately Wet

As defined in 40 CFR Part 61, Subpart M, sufficiently mix or penetrate with liquid to prevent the release of particulates from the source material. Continue wetting asbestos-containing material (ACM) if visible emissions are encountered during abatement activities. When uncertainties arise, continue wetting material until uncertainties diminish.

I. Competent Person

As defined in 29 CFR Part 1926, should be experienced in administering and supervising asbestos abatement projects. A competent person should be familiar with safe and reasonable work practices, abatement methods, protective measures for personnel, inspection of asbestos abatement work areas, evaluating the adequacy of containment barriers, placement and operation of local exhaust systems, waste containment and disposal procedures, decontamination units, and site health and safety health requirements. The designated "competent person" will be responsible for compliance with applicable local State, and Federal requirements and for enforcing the site-specific Health and Safety Plan (HASp).

1.07 SUBMITTALS

A. Work Plan

Before proceeding with any removal and disposal work, submit a work plan that includes the procedures proposed for the accomplishment of all specified activities. The procedures shall provide for safe conduct of the work, careful removal and disposition of asbestos-containing materials, and property protection. The procedures shall provide a detailed description of the methods and equipment to be used for each operation, and the sequence of operations. The work plan shall be based on work experience, and the guidance provided in this specification.

B. Health and Safety Plan

Submit a Health and Safety Plan (HASP) before beginning removal or disposal activities. Include in the HASP required personal protective equipment, respiratory protection, asbestos regulated work area controls, and hazard communication program. Refer to Section 00100 for other HASP requirements.

C. Qualifications

Submit adequate information to conclude the qualifications of the Contractor, on-site supervisors, workers, all subcontractors, and the independent testing laboratory performing asbestos abatement activities are properly trained in safety procedures associated with handling asbestos-containing materials. Specify the staff organization to include subcontractors used for this project. Include qualifications and certifications of the designated “competent person.”

D. Air Sampling Results

Conduct fiber counting for air quality during each sampling event. Provide results within 24 hours of completion of each sampling event. Notify the GCLBA immediately if any airborne levels of asbestos fibers are encountered above levels established in the HASP. Provide a table including sampling results within 10 working days of the date of collection. Provide a signature of the authorized representative of testing laboratory.

G. Manifests

Submit waste documentation for all shipments removed from the property. Waste disposal manifests will be signed by the GCLBA-appointed representative.

1.08 REGULATORY REQUIREMENTS

A. Permits

Obtain all necessary permits and licenses for asbestos abatement activities. Provide all required pre-abatement notifications. Notify the State of Michigan, Michigan Department of Energy, Labor & Economic Growth, local agencies, and the GCLBA in writing at least 10 calendar days before beginning abatement activities. Where applicable, notify the Michigan Department of Environmental Quality in writing at least 10 business days before beginning abatement activities. Conduct all abatement activities in accordance with 40 CFR Part 61, Subpart M, state and local requirements to include the mandatory “Notification of Intent to Renovate/Demolish” form and other required notification documents.

B. Health and Safety Compliance

Comply with all applicable laws, ordinances, rules, regulations, whether stated or omitted from bidding documents. While conducting all handling, storing, transporting, and disposing activities for asbestos waste materials, comply with the applicable requirements of 29 CFR Part 1910, 29 CFR Part 1926, 40 CFR Part 61, Subpart A, and 40 CFR Part 61, Subpart M, NFPA 10, NFPA 70, NFPA 90A, NFPA 101. In case of a discrepancy between the requirements of this specification, applicable laws, rules, criteria, ordinances, regulations, and referenced documents vary, the most stringent requirement as determined by the GCLBA or GCLBA’s Representative shall apply.

1. Air Monitoring

a. Conduct personal air sampling as defined by the previously noted regulations.

Monitoring for of airborne asbestos fibers and lead dusts. Adhere to all permit and regulatory requirements for air quality.

2. Respiratory Protection Program

a. Establish and implement a respiratory protection program in accordance with 29 CFR 1926, Section 1926.1101, 29 CFR Part 1910, Section 1910.134. Include medical monitoring, employee training, procedures for respirator use, respirator fit-testing, routine inspection, and storage. Select and use respirators in accordance with manufacturers' recommendations, Mine Safety and Health Administration, and the National Institute for Occupational Safety and Health requirements for use in environments containing airborne asbestos fibers.

3. Training

a. All employees working directly with asbestos-containing material and wastes must have successfully completed a course of asbestos training as specified by United States Environmental Protection Agency (EPA) requirements at 40 CFR Part 763, Subpart E, Appendix C, within 1 year prior to conducting asbestos abatement activities. Each worker must successfully complete the "Worker" course, and on-site supervisors and technical support personnel must successfully complete the "Contractor/Supervisor" course.

4. Medical Monitoring

a. Conduct medical monitoring requirements as described in 29 CFR Part 1926, Section 1926.1101 and the requirements of the Contractor's Health and Safety Plan found.

5. Personal Protective Equipment

a. Provide personnel working in asbestos environments with whole body protection as specified in Section 01110, Health, Safety, and Emergency Response. Single-use coveralls shall be disposed as asbestos-contaminated waste upon exiting from the asbestos regulated work area.

1.09 PROJECT CONDITIONS

Site summaries and Pre-Demolition Inspection/Hazardous Materials Survey will be provided to Contractor at the time Contractor is authorized to proceed with abatement and disposal.

PART 2 PRODUCTS

2.01 MATERIALS

A Wetting Agent

1. Amended Water

a. Comply with ASTM D 1331.

2. Removal Encapsulant

a. Provide a removal or penetrating encapsulant when conducting asbestos abatement activities that require a longer removal time or are subject to rapid evaporation of amended water. The removal encapsulant shall be capable of wetting the ACM and retarding fiber release during disturbance of the ACM equal to or greater than provided by amended water.

- B. Strippable Coating
Provide additional incidental items necessary to complete specified activities.
- C. Prefabricated Decontamination Unit(s)
Provide additional incidental items necessary to complete specified activities.
- D. Chemical encapsulant
Provide additional incidental items necessary to complete specified activities.
- E. Chemical encasement materials
Provide additional incidental items necessary to complete specified activities.
- F. Material Safety Data Sheets (for all chemicals proposed)
Provide additional incidental items necessary to complete specified activities.
- G. Sheet Plastic
Provide sheet plastic as specified herein and in the largest size necessary to minimize seams. Comply with ASTM D 4397 and NFPA 701.
- H. Other items
Provide additional incidental items necessary to complete specified activities.

2.02 EQUIPMENT

- A. High efficiency filtered local exhaust equipment
- B. Vacuum equipment
- C. Pressure differential monitor
- D. Air monitoring equipment
Provide appropriate air monitoring equipment to evaluate concentrations of airborne asbestos fibers and comply with applicable regulations.
- E. Respirators
Provide respirators as specified in Part 1.08.B.2 of this Section
- F. Glove Bag
Provide glove bags that comply with 29 CFR Part 1926.
- G. Duct Tape
Provide industrial grade duct tape in 2 inch and 3 inch widths, suitable for bonding sheet plastic and disposal containers specified herein.
- H. Leak-Tight Containers
Provide leak-tight disposal containers and bags for asbestos-containing materials and generated wastes as specified herein. All disposal containers shall be either pre-labeled or affixed with OSHA warning label, as specified in 29 CFR Part 1926.

2.03 SOURCE QUALITY CONTROL

Encapsulants shall conform to USEPA requirements, shall contain no toxic or hazardous substances or solvent, and shall meet the following requirements:

A. Requirements and Corresponding Test Standards for All Encapsulants		
Requirement		Test Standard
Flame Spread – 25, Smoke Emission – 50	ASTM E 84	

Combustion Toxicity
Zero Mortality
Life Expectancy – 20 years
Permeability – Minimum 0.4 perms

University of Pittsburg Protocol
University of Pittsburg Protocol
ASTM C 732 (Accelerated Aging Test)
ASTM E 96

B. Additional Requirements and Corresponding Test Standards for Bridging Encapsulant Requirement

Cohesion/Adhesion Test – 50 pounds of force/foot
Fire Resistant
Impact Resistance – Minimum 43 in/lb
Flexibility – no rupture or cracking

Test Standard
ASTM E 736
ASTM E 119
ASTM D 2794 (Gardner Impact Test)
ASTM D 522 (Mandrel Bend Test)

C. Additional Requirements and Corresponding Test Standards for Penetrating Encapsulant Requirement

Cohesion/Adhesion Test – 50 pounds of force/foot
Fire Resistant
Impact Resistance – Minimum 43 in/lb
Flexibility – no rupture or cracking

Test Standard
ASTM E 736
ASTM E 119
ASTM D 2794 (Gardner Impact Test)
ASTM D 522 (Mandrel Bend Test)

D. Additional Requirements and Corresponding Test Standards for Bridging Encapsulant Requirement

Cohesion/Adhesion Test – 50 pounds of force/foot
Fire Resistant
Impact Resistance – Minimum 43 in/lb
Flexibility – no rupture or cracking

Test Standard
ASTM E 736
ASTM E 119
ASTM D 2794 (Gardner Impact Test)
ASTM D 522 (Mandrel Bend Test)

E. Additional Requirement and Corresponding Test Standards for Lock-Down Encapsulant Requirement

Fire Resistant
Bond Strength

Test Standard
ASTM E 119
ASTM E 736

PART 3 EXECUTION

3.01 GENERAL

Remove and dispose asbestos-containing material to a licensed recycle facility. Obtain all required permits and approval documents. Provide approved containers, vehicles, equipment, labor, signs, placards, labels, manifests, and other documents necessary for accomplishing the work including materials necessary for spill cleanup from removal operations. Coordinate any additional sampling that may be necessary with GCLBA.

A. Safety Guidelines

Personnel working inside and in the general vicinity of the cleanup area shall be trained and made thoroughly familiar with the safety precautions, procedures, and equipment required for controlling the potential hazards associated with this work. Personnel shall use proper protection and safety equipment during work in and around the asbestos regulated work area.

B. Controls

Areas where asbestos abatement activities are conducted should be adequately secured as specified herein.

Perform work in accordance with the requirements and specifications and take direction only from the GCLBA for this contract. Any other party that proposes to give direction to the contractor shall be immediately referred to the GCLBA.

C. Routine Cleaning

1. Package all loose asbestos-containing materials and debris and remove from the work area to

- the load-out area.
2. Vacuum work areas with HEPA vacuum or other high volume HEPA-filtered transfer equipment.
 3. Inspect and maintain polyethylene and PVC in work and high traffic areas.
 4. If air sample results exceed prescribed level, wipe clean containment and decontamination areas.

3.02 ABATEMENT PROCEDURES

A. Methods

Determine and implement the most efficient asbestos abatement method in conformance with this specification and applicable regulations. Employ proper handling procedures in accordance with 29 CFR Part 1926 and 40 CFR Part 61, Subpart M, and the requirements specified herein. Abatement techniques and items identified shall be detailed in the Work Plan including but not limited to details of construction materials, equipment, and handling procedures, and necessary safety precautions.

B. Revised Quantities

Before the Asbestos containing materials and/or contaminated debris has been removed, verify the previously submitted quantity estimates of other asbestos-containing materials and notify the GCLBA of any changes in the quantities. No payment adjustments in excess of the quantities identified in the hazardous materials survey shall be made by the GCLBA without prior written authorization.

C. Air Monitoring

Perform sampling and analysis for airborne concentration of asbestos fibers in accordance with 29 CFR Part 1926 Section 1926.1101, the air monitoring plan, and as specified herein. Collect personal air monitoring samples to represent the work activities for each shift, or a minimum of two, whichever is greater. Results of the personal samples shall be posted at the job site and made available to the GCLBA as specified herein. The Contractor shall maintain a fiber concentration inside enclosed containment regulated work area equal to or less than 0.1 f/cc expressed as an 8 hour, TWA during asbestos abatement. If fiber concentration rises above 0.1 f/cc, the Contractor will examine work procedures to determine the cause and work to implement corrective actions.

Workers shall not be exposed to an airborne fiber concentration in excess of 1.0 f/cc, as average over a sampling period of 30 minutes. If either an environmental concentration of 1.0 f/cc expressed as an 8-hour TWA or a personal excursion concentration of 1.0 f/cc expressed as a 30-minute sample occur inside the enclosed work area, stop work immediately, notify the GCLBA, and implement additional engineering controls and work practice controls to reduce airborne fiber levels below prescribed limits in the work area.

Conduct personal sampling required by 29 CFR Part 1926 Section 1926.1101, in accordance with the NIOSH Method 7400, Phase Contrast Microscopy (PCM).

Per regulation, environmental and perimeter air monitoring outside of regulated containment areas shall not exceed clearance levels contained in 40 CFR part 763, subpart E, which is 0.01 f/cc or no more than background levels representing the same area before the asbestos work began.

For final clearance samples, the Contractor will conduct sampling at a sufficient velocity and time to collect a sample volume necessary to establish the limit of detection of the method used at 0.01 f/cc or background levels, whichever is higher. Background, environmental, quality assurance and final air clearance samples will be collected and analyzed according to NIOSH Method 7400 methodology.

1. Routine Air Sampling

Provide personal sampling as indicated in 29 CFR Part 1926 Section 1926.1101, state and local requirements, and in accordance with the air monitoring plan. Conduct air sampling at least once during every shift, close to the work in the containment area, outside the

clean room entrance to the containment area, inside the clean room, outside the load-out unit exit, and at the exhaust discharge point of the local exhaust system.

2. Sampling After Final Clean-Up (Clearance Sampling)

Prior to conducting final air clearance monitoring, conduct a final visual inspection with the Engineer. Final clearance air monitoring shall not begin until acceptance of this final cleaning by the Engineer. Comply with the sampling and analytical methods provided in NIOSH-01 Method 7400 (PCM) with optional confirmation of results by NIOSH-01 Method 7402 (TEM).

3. Failure to Meet Air Quality Requirements

If clearance sampling results fail to meet the final clean-up requirements, reclean, resample, and reanalyze until final clean-up requirements are met. Costs associated with additional samples, cleaning, and inspections will be paid by the Contractor.

D. Additional Bulk Asbestos Sampling

Bulk asbestos sampling and polarized light microscopy analysis (PLM) has been conducted for various materials located throughout the site. During debris removal, previously unidentified potential asbestos-containing material may be encountered, requiring bulk sampling and analysis. Additional bulk sample analyses as required under this Section shall be paid by the Contractor. Perform bulk sampling as required or as specified by the GCLBA. Employ a laboratory for testing and analysis, which routinely provides analytical services acceptable to Michigan Department of Environmental Quality and EPA.

E. Asbestos Abatement

Collect and place in sealed, leak-tight containers all asbestos waste, scrap, debris, bags, containers, equipment, and asbestos contaminated personal protective equipment. Use 6-mil, double wrapped polyethylene sheets, sealed fiberboard boxes, or other approved containers. Waste within the containers must be wetted in case the container is damaged. Affix a warning label and a Department of Transportation (DOT) label on each bag. Dispose waste material at an approved, licensed asbestos landfill. For temporary storage, keep sealed impermeable containers in asbestos waste load-out unit or in a storage/transportation conveyance (dumpsters or roll-off boxes) in a manner as acceptable by the GCLBA. Procedure for hauling and disposal asbestos-containing material shall comply with 40 CFR Part 61, Subpart M, state, regional, and local standards and specifications.

F. Waste Records

Provide final completed copies of the Waste Shipment Record for shipments of all waste material as specified in 40 CFR Part 61, Subpart M, and other required state waste manifest shipment records within 10 days of project completion.

G. Final Cleaning

Abate asbestos by collecting, packing, and storing all gross contamination in accordance with all references and specifications. Once cleaning has been completed, conduct a visual pre-inspection of the cleaned area. A final air monitoring event will be performed to verify adequacy of clean-up. Re-cleaning and follow-up inspections shall be at the Contractor's expense. Upon completion of the final cleaning, conduct a final visual inspection of the cleaned area. Document the results. If the GCLBA or GCLBA's Representative determines that the abatement area does not meet final cleaning requirements, re-clean as necessary and conduct additional follow-up inspection with the GCLBA.

H. Lock Down Encapsulant

In areas where friable ACM was removed, after clean-up of gross contamination, and final visual inspection, but before removing plastic barriers, apply a post removal (lockdown) encapsulant to floor, walls, ceilings, and other surfaces in the removal area. When work was limited to glove bags only apply encapsulate to item within glove bag.

END OF SECTION

SECTION 3 – PCB CONTAINING EQUIPMENT REMOVAL

PART 1 General

1.01 SECTION INCLUDES

- A. Removal and disposal requirements for PCB ballasts. PCB containing light ballasts and other electrical equipment may be present at the subject property.

1.02 REFERENCE STANDARDS

The publications listed below form a part of this Section to the extent referenced. The publications are referenced in the text by basic designation only.

- A. American Petroleum Institute (API)
 - 1. APR Rp 2003, Protection Against Ignitions Arising out of Static, Lightning and Stray Currents.
 - 2. API Publ 2015, Safe Entry and Cleaning Petroleum Storage Tanks.
 - 3. API Publ 2217, Guidelines for Confined space Work in the Petroleum Industry.
 - 4. API Publ 2219, Safe Operation of Vacuum Trucks in Petroleum Service.
- B. Code of Federal Regulations (CFR)
 - 1. CFR 29 CFR 1910.146 OSHA - Permit Required Confined Spaces.
 - 2. CFR 29 CFR 1926/1910 Construction Industry Occupational Safety and Health Standards.
 - 3. CFR 40 CFR 260 General Regulations for Hazardous Waste Management.
 - 4. CFR 40 CFR Part 261 Identification and Listing of Hazardous Waste.
 - 5. CFR 40 CFR Part 262 Standards Applicable to Generators of Hazardous Waste.
 - 6. CFR 40 CFR Part 263 Standards Applicable to Transporters of Hazardous Waste.
 - 7. CFR 40 CFR Part 264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
 - 8. CFR 40 CFR Part 265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
 - 9. CFR 49 CFR 171 Department of Transportation Regulations to Stipulate Requirements for Containers and Procedure for Shipment of Hazardous Waste.
 - 10. CFR 40 CFR Part 761 Polychlorinated Biphenyls (PCB) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.
- C. National Fire Protection Association (NFPA)
 - 1. NFPA 30 (1990) Flammable and Combustible Liquids Code.
 - 2. NFPA 70 B (1990) Recommended Practice for Electrical Equipment Maintenance.
 - 3. NFPA 325M (1991) Fire Hazard Properties of Flammable Liquids, Gases, and Volatile Solids.
 - 4. NFPA 327 (1987) Standard Procedures for Cleaning or Safeguarding Small Tanks and Containers.
- D. National Institute of Occupational Safety and Health (NIOSH)
 - 1. NIOSH 80-106 Criteria for a Recommended Standard for Working in Confined Spaces.
- E. State of Michigan
 - 1. P.A. Act 451, Michigan Natural Resources and Environmental Protection Act
 - 2. MIOSHA Act 154 General Industry and Construction (as amended) Safety Standards.
- F. United States Environmental Protection Agency (U.S. EPA)
 - 1. U.S. EPA SW-846, Test Methods for Evaluating Solid Waste.

1.03 MEASUREMENT

- A. Removal and Disposal of PCB-containing Light Ballasts and Equipment
The removal and disposal of containerized PCB-containing light ballasts will be a unit rate pay item. Estimated quantities of PCB-containing Light Ballasts and Equipment are included the Pre-Demolition Inspection/Hazardous Materials Survey.

1.04 PAYMENT

- A. Removal and Disposal of PCB-containing Light Ballasts
All acceptably completed work as required under this Section for the removal and disposal of containerized PCB-containing light ballasts found on site will be paid as the lump sum cost as bid.

1.05 SUBMITTALS

A. Work Plan

Before proceeding with any removal and disposal work, submit a work plan that includes the procedures proposed for the accomplishment of the removal and disposal work. The procedures shall provide for safe conduct of the work; careful removal and disposition of solid materials and liquid wastes; and property protection. The procedures shall provide a detailed description of the methods and equipment to be used for each operation, and the sequence of operations. The work plan shall be based on work experience, and the guidance provided in this specification.

B. Health and Safety Plan

Before proceeding with any removal and disposal work, submit a site-specific health and safety plan (HASP) that includes the necessary precautions and safety procedures proposed for the accomplishment of the removal and disposal work. Include detailed information regarding temporary controls, including lock-out/tag-out procedures, and hazardous material handling. The HASP shall be based on applicable regulations, work experience, and the guidance provided in this specification.

C. Copies of all analyses performed for disposal.

D. Copies of all waste analyses or waste profile sheets.

E. Copies of all certifications of final disposal signed by the responsible disposal facility official.

F. Information on who sampled, analyzed, transported, and accepted all wastes encountered.

G. Information describing the sample method, rationale, results, and chain-of-custody documentation for all testing.

F. Copies of all disposal manifests, bills of lading, load tickets, and other transportation documentation.

G. Notice of Acceptance

After removing and disposing drums and small containers from the project site, submit the name and location of the properly licensed disposal facility and a copy of the written agreement from the disposal facility agreeing to accept contaminated materials for disposal. This documentation shall include manifests with quantities. The documentation is due 10 days after removal from the site.

H. Disposal Documents

Provide copies of all licenses, certificates, permits, agreements, manifests, chain of custody records, weigh tickets, meter recordings, delivery tickets, and receipts required or issued for material disposal. Provide a list of the equipment used, the methods used, and the disposal areas and facilities used for disposing ballasts. Provide a copy of the results of tests performed to comply with the requirements of each disposal facility.

I. Manifests

Submit a copy of the official manifest for each shipment of contaminated materials including, but not limited to, ballast contents and ballast carcasses evidencing delivery of the material to the approved licensed disposal facility. All manifests shall be in accordance with the requirements of 40 CFR, Part 262, 40 CFR, Part 761, Section 23 and State and local regulations. Manifests shall be signed by the GCLBA or authorized official.

1.07 REGULATORY REQUIREMENTS

A. Statutes and Regulations

PCB-containing liquid removal, transportation, and disposal work shall be carried out in accordance with 29 CFR, Part 1910 and 1926, State of Michigan Act 64, Act 641, Act 307 and Act 136 wherever applicable. Hazardous material shall be transported in accordance with 40 CFR Part 263 to disposal facilities that

operate in accordance with 40 CFR Part 264 and 40 CFR Part 265. Obtain all licenses, permits, certifications, receipts, etc., as required by such laws, regulations, codes, and ordinances.

B. General

All health and safety regulations relating to the removal, transportation, and disposal of ballasts available in 29 CFR, Parts 1926 and 1910 shall be complied with at all times. All pertinent regulations such as 29 CFR Parts 1910 and 1926 and 40 CFR 260, 261, 262, 263, 264, 761 and applicable state and local regulations shall be followed for storing, containing, and handling drums and small containers and for maintaining equipment for handling materials.

C. Protection of Employees and Visitors

Address the work in a manner such that its employees and site visitors will not be subjected to hazardous and unsafe conditions. Comply with all safety precautions, as required by 29 CFR Parts 1926 and 1910 and NFPA 329. Conduct and document the appropriate level of electrical lock-out/tag-out procedures.

D. Toxicity Considerations

Exercise care to minimize exposure to PCB-containing material and petroleum compounds when present during the handling of PCB-containing materials.

E. Flammability and Combustibility Considerations

Flammable and combustible vapors are likely to accumulate in work areas. Exercise caution by observing the following precautions: (a) eliminate all potential sources of ignition within the area; (b) prevent the discharge of static electricity during venting of flammable and combustible vapors; and (c) prevent the accumulation of vapors at ground level. Refer to API Publication 2015, 2015A and Recommended Practice 2003 for precautionary measures to follow during vapor evacuation activities. All open flame and spark-producing equipment is to be shut down and all electrical equipment must be explosion proof in compliance with NFPA 70B Class I, Division I, Group D or otherwise approved for use in potentially explosive atmospheres.

PART 2 PRODUCTS

2.01 GENERAL

Provide incidental equipment and materials necessary to complete specified activities, including, but not limited to, provision of drums for PCB-containing ballasts, and any scaffolding, cranes, or lifting equipment necessary to reach the areas for removal.

PART 3 EXECUTION

3.01 GENERAL

Disconnect or have disconnected power from ballasts and equipment being removed. Remove and containerize all PCB-containing light ballasts and equipment and dispose of properly. Obtain all required permits and approval documents. Provide approved containers, vehicles, equipment, labor, signs, placards, labels, manifests, and other documents necessary for accomplishing the work including materials necessary for spill cleanup for material from removal operations. Coordinate and pay for any additional sampling that may be necessary. Remove all PCB containing equipment discovered during abatement activities. No payment adjustments in excess of the quantities identified in the hazardous materials survey shall be made by the GCLBA without prior written authorization.

A. Safety Guidelines

Personnel working inside and in the general vicinity of the cleanup area shall be trained and made thoroughly familiar with the safety precautions, procedures, and equipment required for controlling the potential hazards associated with this work. Personnel shall use proper protection and safety equipment during work in and around the ballast, as specified in API Publication 2217, AP RP 1604, and in the site-specific health and safety plans. Proper guidelines regarding safety precautions shall be required for

handling all other items.

- B. Control of the Work
Perform work in accordance with the requirements and specifications and take direction only from the Engineer or On-site Representative for this contract. Any other party that proposes to give direction to the contractor shall be immediately referred to Engineer or On-Site Representative. Perform control measures as specified in Section 01570.

3.02 CONTENTS VERIFICATION

- A. Sampling and Analytical Testing
A Pre-Demolition Inspection/Hazardous Materials Survey will be provided for each structure. In general, the survey activities include an identification of the general location and quantity of mechanical and/or electrical equipment that may contain PCBs.

Any additional testing necessary is the responsibility of the Contractor. If necessary, the Contractor shall collect samples to the extent required by the approved off-site disposal facility receiving the material. All analytical testing as required under this section shall be paid for by the Contractor and is incidental to the Contract. Meet all regulatory requirements, including chain-of-custody documentation. Provide testing results to the GCLBA.

3.03 EXAMINATION

Selected contractors will be authorized to proceed on the removal and disposal of environmentally hazardous materials from specific residential/commercial structures. A site specific hazardous material survey will be prepared by others for each structure and will be provided to the contractor at the time of authorization. The Contractor is encouraged to inspect the site of the proposed work, at the time of authorization to proceed on the removal and disposal of environmentally hazardous materials from specific residential/commercial structures. Prior to proceeding on the authorized work Contractor may visit each of the listed sites to arrive at a clear understanding of the conditions under which the work is to be done and to make their own determination as to the amount of hazardous materials to be removed from the sites. Contractor will be held responsible to have compared the premises with the hazardous materials survey, drawings, specifications, or other provided items, and to have satisfied himself as to all conditions affecting the execution of the work. No payment adjustments in excess of the quantities identified in the hazardous materials survey shall be made by the GCLBA without prior written authorization.

3.05 DISPOSAL REQUIREMENTS

- A. General
Materials requiring disposal shall become the property of the Contractor. Dispose light ballasts at a facility licensed to receive, clean, recycle, and dispose PCB-containing electrical equipment. Dispose all wastes in accordance with all local, State, and Federal solid and liquid waste laws and regulations, including those for hazardous waste, when applicable, as well as the Resource Conservation and Recovery Act (RCRA), and conditions specified herein. These services shall include all necessary personnel, labor, transportation, packaging, manifesting or completing waste profile sheets, equipment, and reports. Provide all disposal and recycle information to the GCLBA.
- B. Records
Maintain disposal and recycle records for all waste determinations, including (1) appropriate results of analyses performed, (2) sample locations, (3) substances detected, (4) time of collection, and (5) other pertinent data as required by 40 CFR Part 280, Section 74 and 40 CFR Part 262 Subpart D. Record and make available information regarding method of transportation, method of treatment, method of disposal, quantities of waste, the names and addresses of each transporter, and the disposal or reclamation facility. Prepare and maintain copies and originals of disposal manifests, waste analyses or waste profile sheets, and certifications of final treatment/disposal signed by the responsible disposal facility official. Following contract completion, the records shall become the property of the GCLBA.

C. Hazardous/Special Waste Manifests

U.S. EPA waste generator's identification number for the site may be required due to the nature of the materials to be disposed. Work with the generator to obtain this or other generator identification numbers. For hazardous and non-hazardous contaminated liquid waste, utilize a State of Michigan approved manifest system in conformance with the requirements identified in 40 CFR Part 262, 40 CFR Part 263 and 40 CFR Part 761.

The manifests shall comply with all of the provisions of the transportation and disposal regulations. Prepare manifests for each load and obtain the appropriate identification numbers and signatures. The designated representative of the GCLBA will sign all hazardous and non-hazardous waste manifests.

Before waste transportation, all of the established pre-transport requirements shall be met. The wastes shall be transported by a certified waste hauler (i.e., the hauler must have an appropriate State waste identification number) in approved containers. All transporters must sign the appropriate portions of the manifest and must comply with all of the provisions established in the applicable regulations. Hazardous waste manifests must be signed by the generator.

Provide the GCLBA with manifests, certificates, and other such evidence as may be required by local, State, and Federal regulations, to demonstrate that waste materials of all types were properly transported to, received at, and disposed at approved disposal facilities. After delivery of the load, provide a copy of the manifest to the GCLBA.

D. Documentation of Treatment and Disposal

Dispose hazardous wastes at an approved treatment, storage, or disposal facility. The disposal facility will maintain U.S. EPA or appropriate State permits and waste treatment identification numbers and will comply with all of the provisions of the disposal regulations. Documentation of acceptance of special waste by a facility legally permitted to treat or dispose those materials shall be furnished to the GCLBA following the delivery of those materials to the facility.

3.06 SPILLS

A. Spill Responsibility

The Contractor is responsible for cleaning up all the leaks and spills from decommissioning operations, drums, or other containers that occur because of the Contractor's negligence. Immediate containment actions shall be taken as necessary to minimize the effect to natural surroundings. Notify the GCLBA and appropriate governmental authorities of the incident. Cleanup shall be in accordance with applicable local, State, and Federal laws and regulations at no additional cost to the GCLBA.

END OF SECTION

SECTION 4 – RECYCLING OF CFCs

PART 1 GENERAL

1.1 GENERAL

- A. Contractor shall furnish all labor, material, equipment and incidentals required to remove, handle, transport and recycle residual refrigerants (assumed to be CFCs) contained in air conditioning units, refrigerators, drinking fountains, or other similar devices.
- B. Contractor shall submit to the GCLBA a copy of the applicable Contractor license for CFC removal and handling.
- C. Upon removal of CFCs from each unit, Contractor shall label each unit to indicate the refrigerant has been recovered.
- D. Contractor shall provide record documents in accordance with 40 CFR 82 verifying the removal procedures and amounts recovered.

PART 2 PRODUCTS

2.1 CONTAINERS AND LABELS

- A. Cylinders for CFC removal, storage, and transportation shall be provided to the Contractor by a licensed recycling facility.
- B. Contractor shall provide labels that indicate that the refrigerant materials have been evacuated.

PART 3 EXECUTION

3.1 GENERAL

- A. Contractor shall identify the locations of all equipment at the Site that are believed to contain refrigerants and shall disconnect all utility services.
- B. Using a method acceptable to the licensed recycling facility, Contractor shall evacuate each unit of all refrigerants and containerize the materials for recycling.
- C. Contractor shall ensure that the CFC containing units are de-pressurized and free of all refrigerants. This may be accomplished by subsequent flushing with pressurized nitrogen or another acceptable method.
- D. Contractor shall transport all cylinders containing CFCs in accordance with the applicable DOT regulations.
- E. Contractor shall record and provide to GCLBA documentation of devices evaluated, procedures used, amounts recovered and other information as required by 40 CFR 82 upon completion of removal activities.

ENDOF SECTION

SECTION 5 – ABATEMENT OF REGULATED MISCELLANEOUS MATERIALS

PART 1 GENERAL

1.1 GENERAL

- A. Contractor shall furnish all labor, material, equipment, packaging, sampling, and testing, and incidentals required to remove/abate, transport and dispose/recycle all substances regulated under Federal, State and local statutes and land ban restrictions. These substances may include but are not limited to idem listed in the Unit Rate Bid Schedule.
- B. The quantities of hazardous and/or regulated materials are provided in the Hazardous Materials Survey. Contractor will be authorized to proceed on the removal and disposal of environmentally hazardous materials from specific residential/commercial structures. A site specific hazardous material survey will be prepared by others for each structure and will be provided to the contractor at the time of authorization. The Contractor is encouraged to inspect the site of the proposed work, at the time of authorization to proceed on the removal and disposal of environmentally hazardous materials from specific residential/commercial structures. Prior to proceeding on the authorized work Contractor may visit each of the listed sites to arrive at a clear understanding of the conditions under which the work is to be done and to make their own determination as to the amount of hazardous materials to be removed from the sites. Contractor will be held responsible to have compared the premises with the hazardous materials survey, drawings, specifications, or other provided items, and to have satisfied himself as to all conditions affecting the execution of the work. No payment adjustments in excess of the quantities identified in the hazardous materials survey shall be made by the GCLBA without prior written authorization.
- C. Contractor shall be aware that the buildings may contain lead based paint and as such the potential for exposure exists. Contractor shall handle lead based paint in accordance with all federal, state, and local regulations.
- D. The Michigan Occupational Safety and Health Administration (MIOSHA) provides protection and regulations for the safety and health of workers. The Department of Community Health provides for the health of workers (517) 373-3500.
 - 1. Contractor shall post any applicable State and/or Federal government regulations at the job sites in prominent locations.
 - 2. Contractor shall be responsible for training their workers in safe work practices and in proper removal methods when coming in contact with hazardous materials.
- E. Applicable Regulations (include but are not limited to):
 - 1. RCRA, 1976 -Resource Conservation and Recovery Act: This federal statute regulates generation, transportation, treatment, storage or disposal of hazardous wastes nationally.
 - 2. Part 111, Act 451, 1994 -Michigan's Hazardous Waste Management Act: This statute regulates generation, transportation, treatment, storage and disposal of hazardous wastes in Michigan.
 - 3. Part 121, Act 451, 1994 -Liquid Industrial Waste Act: This statute regulates the transportation of liquid industrial wastes in Michigan. This includes non-hazardous

liquids and hazardous liquids, which are not subject to management under RCRA or Part 111, Act 451, 1994.

4. Toxic Substances Control Act (TSCA), 1976. This statute regulates the generation, transportation, storage, and disposal of PCB wastes.

F. To use an off-site hazardous waste disposal facility, the Contractor must use the Uniform Hazardous Waste Manifest (shipping paper).

1. Hazardous wastes may not be disposed of in sanitary landfills used for solid waste.

2. Hazardous waste manifests shall be signed by the GCLBA or designated representative.

G. Federal, State and local laws and regulations may apply to the storage, handling, and disposal of hazardous materials and wastes generated at the Site. The list below includes the regulations that are most frequently encountered.

Topic	<u>Agency and Telephone Number</u>
Small quantity hazardous waste management, including hazardous waste stored in tanks	Waste and Hazardous Materials Div., MDNRE (517) 335-2690 in Lansing, or District Office
Liquid industrial waste disposal (hazardous and non-hazardous)	Certified County Health Department Waste and Hazardous Materials Div., MDNRE (517) 335-2690 in Lansing, or District Office
Disposal of hazardous waste into municipal sanitary sewers	Contact the superintendent of your wastewater treatment plant for permission
Discharges to surface water such as through a drain pipe or wastewater discharge	Water Division, MDNRE (517) 335-2690 in Lansing, or District Office
Discharges to groundwater, including septic systems	Waste and Hazardous Materials Div., MDNRE (517) 335-2690 in Lansing, or District Office
Pollution Incident Prevention Plans (PIPP)	Waste and Hazardous Materials Div., MDNRE (517) 335-2690 in Lansing, or District Office
Hazard Communication (for chemicals in the work place)	Michigan Department of Consumer and Industry Services (517) 373-1820
Burning of waste oil and other discharges to the air	Air Quality Div., MDNRE (517) 373-7023 in Lansing, or District Office
Registration of underground fuel storage tanks	Waste and Hazardous Materials Div., MDNRE (517) 335-2690 in Lansing, or District Office
Installation, Inventory, testing & other requirements for above ground and underground storage tanks (for flammable and combustible)	Waste and Hazardous Materials Div., MDNRE (517) 335-2690 in Lansing, or District Office
Local fire prevention regulations and codes (including chemical storage requirements)	Local fire chief or fire marshal
Building and outdoor storage	Local government building or zoning official requirements (including setbacks)

PART 2 PRODUCTS

2.1 PACKAGING AND CONTAINERIZATION MATERIALS

A. Packaging and containerization materials shall include but not be limited to the following:

1. Lab packing requirements per licensed disposal or recycling facility.

2. Fiberboard barrels
3. DOT approved removable head drums; roll-off boxes or equivalent
4. Drum labels and marking which conform to 29 CFR 1926.58 K and all other Federal, State and local regulations
5. Spill prevention countermeasure materials and control products consistent with 49 CFR 173 and Contractor approved SPCC plan.
6. Sampling equipment and containers consistent with standard sampling technique

PART 3 EXECUTION

3.1 REMOVAL OF CHEMICAL FIRE EXTINGUISHERS

- A. Chemical fire extinguishers may be present at the Site. Contractor shall be responsible for the removal, proper handling, and disposal of all chemical fire extinguishers.
- B. Contractor shall properly collect, label and stage all chemical fire extinguishers throughout the Site. All chemical fire extinguishers shall be recycled or disposed at a licensed facility. Chemical fire extinguishers shall be transported in a manner that minimizes the potential for discharge.

3.2 REMOVAL OF MERCURY DEVICES

- A. High intensity discharge lamps and fluorescent light bulbs that may contain mercury are present either in fixtures or stored in bulk. The approximate locations of these lamps/bulbs will be identified in the Hazardous Materials Survey Report. Contractor shall remove all lamps/bulbs regardless of the estimated quantities provided in the Hazardous Materials Survey Report.
 1. Many light fixtures and/or associated components may be suitable for recycling or resale. Contractor is encouraged to account for recycling or resale of such fixtures in its bid, if feasible.
 2. Contractor shall be responsible for the removal of all regulated lamps and bulbs from the associated lighting fixtures. All lamps and bulbs shall be carefully removed from the fixtures and placed in appropriate sized containers equipped with dividers.
 3. All containers intended for off-site recycling shall be either shrink-wrapped or placed in a secure crate to avoid accidental breakage. All containers shall be labeled as hazardous waste in accordance with applicable MDOT regulations.
 4. Contractor must use all precautions when handling lamps to avoid accidental breakage. Should accidental breakage of lamps occur, then the lamp debris shall be collected and placed in segregated reinforced drums or similar containers pending disposal.
 5. Light ballasts containing PCBs shall be managed in accordance with applicable regulations and appropriate sections of this Bid Document.

- B. Mercury switches and thermometers are present at the Site as indicated in the Hazardous Materials Survey Report, Contractor shall be responsible for the removal, transport and recycling or disposal of all mercury containing devices.

3.3 REMOVAL OF NON-HAZARDOUS EQUIPMENT OIL

- A. Oil-filled blowers, compressors, hydraulic hoists, and motors may be present at the site. The approximate locations of this oil filled equipment will be identified in the Hazardous Materials Survey Report. Contractor shall remove all oil filled equipment regardless of the estimated quantities provided in the Hazardous Materials Survey Report
- B. Contractor shall drain all free flowing oil from each oil-filled unit. All oil shall be drained into appropriate storage containers, consolidated, and staged on-site with appropriate labeling pending transport and disposition to a licensed reclamation facility.
- C. Upon removal of all free-flowing oil, equipment will be released by the GCLBA for disposition/recycling.

3.4 REMOVAL OF MISCELLANEOUS CHEMICALS, CONTAINERS, AND LIQUIDS

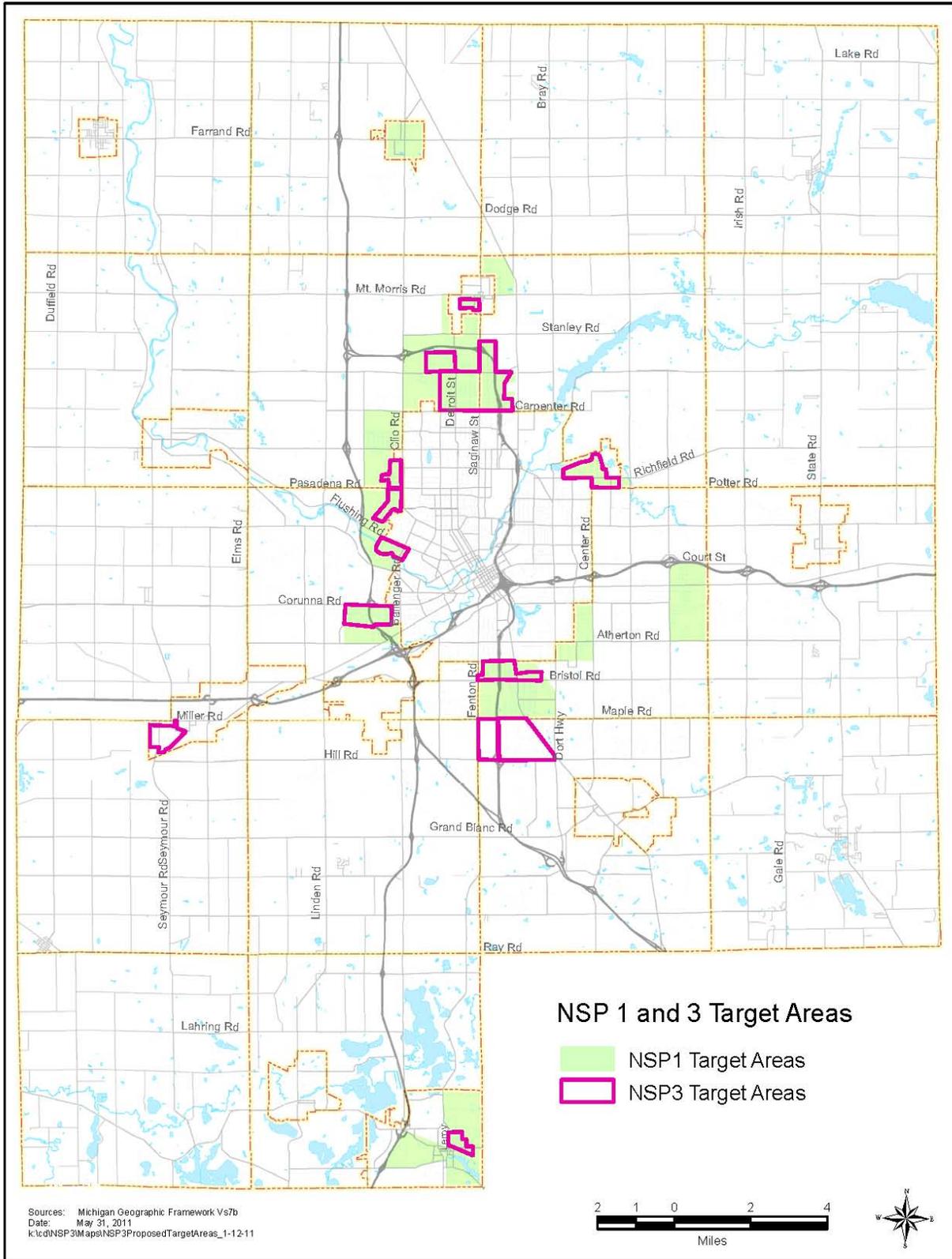
- A. Liquid filled containers, miscellaneous chemicals, and other hazardous materials banned from landfill disposal are present at the site. The approximate locations of these materials will be identified in the Hazardous Materials Survey Report. Contractor shall remove all liquid filled containers, miscellaneous chemicals, and other hazardous materials banned from landfill disposal, regardless of the estimated quantities provided in the Hazardous Materials Survey Report.
- B. Contractor shall remove all liquid filled containers, miscellaneous chemicals, and other hazardous materials banned from landfill disposal. All materials shall be staged on-site with appropriate labeling pending transport and disposition to a licensed reclamation/disposal facility.

3.5 TRANSPORTATION

- A. Contractor shall evaluate all materials associated with the activities to designate materials classification for transportation purposes.
- B. Contractor shall package all hazardous materials for transportation and storage in accordance with 49 CFR 172.101 and applicable sections of 49 CFR 173. In addition, the Contractor shall comply with any packaging requirements identified by the licensed disposal or recycling facilities used for waste disposition during this project.
- C. Contractor shall label and mark all hazardous materials packaged and temporarily staged for subsequent off-site transport. Hazardous materials that have been specifically prepared for off-site transport shall be labeled in accordance with 40 CFR 172.101 and 49 CFR 173 Subparts D and E. Contractor shall provide all labels.
- D. Contractor shall ensure that the transporter has applied all appropriate placards to the transport vehicle according to the requirements outlined in 49 CFR 172.101 and 49 CFR Subpart F and all applicable MDOT/DOT regulations. The Contractor or transporter shall provide all such placards.
- E. Contractor shall submit the manifest to the GCLBA for review prior to signature by the GCLBA or designated representative and prior to removal of any material.

END OF SECTION

APPENDIX 2: MAP AND BOUNDARIES OF NSP3 TARGET AREA



APPENDIX 3 – FEDERAL AND COUNTY REGULATIONS

Federal Requirements

The above-referenced project is a federally funded activity authorized under the Housing and Community Development Act of 1974. All successful bidders must comply with the federal labor standards, including the Davis-Bacon Act and the Copeland Anti-Kickback legislation, federal equal opportunity requirements and Section 3 of the Housing and Urban Development Act.

Enclosed is the set of documents related to compliance with federal requirements concerning Genesee County Community Development Block Grant (CDBG) projects:

Labor Standards Requirements

- Genesee County Labor Standards
- Genesee County Bid Procedures
- Federal Labor Standards Provisions (Form HUD-4010)

Equal Employment Opportunity Requirements

- Equal Employment Opportunity Clause
- Standard Federal Equal Employment Opportunity Construction Contract Specifications
- Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity
- Participation Goals for Minorities and Females

Minority/Women/Handicap Business Enterprise Requirements

- Minority/Women/Handicap Business Enterprise (MBE/WBE/HBE) Procurement Procedures
- Genesee County MBE/WBE/HBE Outreach Form
- Genesee County Office of Equity & Diversity Certified Businesses and Minority Directory

Section 3 Clause Requirements

- Section 24 CFR, Part 135.38 and HUD Grant Agreement (Section 3)
- Certification for Business Concerns Seeking Section 3 Preference in Contracting
- Resident Opportunity for Section 3 Eligibility

Applicable Federal Acts, Guidelines and Orders

- Architectural Barriers Act of 1968 Provision
- Accessibility Guidelines for Buildings and Facilities
- Clean Air Act of 1970 and Federal Water Pollution Control Act Provisions
- Wetlands Protection Clause Executive Order 11990

Davis-Bacon Act Requirements

- Project Wage Decision

GENESEE COUNTY LABOR STANDARDS

- **Contract under \$2,000**

No Labor Standards required.

- **Contract exceeds \$2,000**

Notify County for Wage Decision and Federal Requirements/contract material to be incorporated into bid specifications at least two weeks before advertising for bids. Obtain approval of Genesee County Community Development Program staff at 810-257-3010 ***prior to advertising bid opportunities.***

Bid Project - Published Notice must state that this project is federally funded with language included according to Federal Requirements.

Notify Genesee County Community Development Program staff at 810 257-3010 to establish preconstruction meeting ***immediately after contract has been awarded.***

GENESEE COUNTY BID PROCEDURES

- **Contract for Services/Emergency Repairs/Supplies Over \$250**

For activities that are on-going throughout the year exceeding \$250, three or more companies should be asked to submit costs/prices (quotes must be retained in subrecipient's file and copies sent to Genesee County Community Development Program). At least one of the three companies asked for quotes should be certified as Minority/Women/Handicapped Business Enterprise (MBE/WBE/HBE). Lowest responsible bid should be awarded contract. Contract with the selected company may not exceed a one year period. New bids must be secured on an annual basis. Examples of activities that may use this process include monthly printing of newsletters, cleaning services, snow removal, trash removal, weed cutting, emergency repairs for such items as heating and plumbing, and monthly purchases of like supplies such as paper, pens, paper towels, etc.

- **Contract Between \$250 and \$10,000**

Three or more companies should be asked to submit costs/prices (quotes must be retained in subrecipient's file and copies sent to Genesee County Community Development Program). At least one of the three companies asked for quotes should be certified as MBE/WBE/HBE.

Lowest responsible bid should be awarded contract (letter of award/rejection must be placed in subrecipient's file and copy sent to Genesee County Community Development Program).

Bid notice must be sent to the Flint Housing Commission, to the attention of the Section 3 Coordinator, for construction and/or rehabilitation activities.

- **Contract Exceeds \$10,000**

Bid notice must be formally advertised in local newspapers and a trade journal (affidavit placed in subrecipient's file and copy sent to Genesee County Community Development Program).

Bid notice also should be sent to as many applicable MBE/WBE/HBE firms as can be found through means inclusive, but not limited to, the "Genesee County Equity & Diversity Directory" (Document this and send copies to Genesee County Community Development Program.)

Bid notice must be sent to the Flint Area Building Trades Council.

Bid notice must be sent to the Flint Housing Commission, to the attention of the Section 3 Coordinator, for construction and/or rehabilitation activities.

Sealed bids must be publicly opened and recorded (bid tabulation placed in subrecipient's file and copy sent to Genesee County Community Development Program).

Lowest responsible bid should be awarded contract (letter of award/rejection placed in subrecipient's file and copy sent to Genesee County Community Development Program). **IF** lowest responsible bidder is not awarded, the subrecipient ***must submit written justification and obtain approval*** of the award from Genesee County Community Development Program staff.

- **Contract Equal to or Exceeds \$100,000**

The work to be performed under these contracts, and any subsequent subcontracts for work performed under this amount of contract award, are subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. Bid notice must include reference of Section 3 opportunities available under this contract/subcontract. Any vacant employment positions, including training positions to be filled as a direct result of this contract/subcontract, must be in compliance with Section 3 requirements.

Bid notice must be sent to the Flint Housing Commission, to the attention of the Section 3 Coordinator, for construction and/or rehabilitation activities.

- **MANDATORY FOR ALL CONTRACTS**

1. Bid specifications submitted to and approved by GCMPC staff

2. Pre-bid meeting with GCMPC staff

3. Staff to provide Wage Decisions for bid packet for construction activities

- **Davis-Bacon Act:** Contracts greater than \$2,000 - all prime contractor and subcontractor laborers must be paid Prevailing Wages in order to receive reimbursement

4. Publish Bid Notice

5. Submit bid tabulation to GCMPC staff

6. Award bid to lowest responsible bidder

7. Pre-construction meeting (if applicable) with GCMPC staff, prime contractors and subcontractors present

- g. A copy of any signed contract assisted with Federal funds must be retained in Subrecipient's file and a copy submitted to Genesee County Community Development Program offices, located at:

Room 223, 1101 Beach Street, Flint, MI 48502

Telephone: 810-257-3010

Fax: 810-257-3185

www.gcmnpc.org

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EQUAL EMPLOYMENT OPPORTUNITY
(Executive Order 11246, as amended -41 CFR Part 60-1.4(b))

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which s/he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or

purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provision, including sanctions for noncompliance: *Provided, however,* that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS
(Executive Order 11246 - 41 CFR Part 60.4.3)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

d. "Minority" includes:

(1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith

effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 18.7a through 18.7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (18.7a through 18.7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 18.7a through 18.7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 18.7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to

keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(Executive Order 11246 - 41 CFR PART 60-2)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for Minority Participation in Each Trade

Time Table: Until Further Notice Trade: All Trades Goal (Percent): 12.6%

Goals for Female Participation in Each Trade

Time Table: Until Further Notice Trade: All Trades Goal (Percent): 7.0%

These goals are applicable to all the contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its Federally involved and non-federally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training shall be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project, for the sole purpose of meeting the contractor's goals, shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Director, OFCCP, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is [insert description of the geographical areas where the contract is to be performed giving the state, county, and city, if any].

PARTICIPATION GOALS FOR MINORITIES AND FEMALES
(Office of Federal Contract Compliance Programs (OFCCP)
Technical Assistance Guide for Federal Construction Contractors, Appendix E)

Contractors may establish higher goals if they desire. Although a contractor is required to make good faith efforts to meet their goals, the goals are not quotas and no sanctions are imposed solely for failure to meet them. The following factors explain the difference between permissible goals, on the one hand, and unlawful preferences, on the other:

- Participation rate goals are not designed to be, nor may they properly or lawfully be interpreted as, permitting unlawful preferential treatment and quotas with respect to persons of any race, color, religion, sex, or national origin.
- Goals are neither quotas, set-asides, nor a device to achieve proportional representation or equal results. Rather, the goal-setting process is used to target and measure the effectiveness of affirmative action efforts to eradicate and prevent barriers to equal employment opportunity.
- Goals under Executive Order 11246, as amended, do not require that any specific position be filled by a person of a particular gender, race, or ethnicity. Instead, the requirement is that contractors engage in outreach and other efforts to broaden the pool of qualified candidates to include minorities and women.
- The use of goals is consistent with principles of merit, because goals do not require an employer to hire a person who does not have the qualifications needed to perform the job successfully, hire an unqualified person in preference to another applicant who is qualified, or hire a less qualified person in preference to a more qualified person.
- Goals may not be treated as a ceiling or a floor for the employment of members of particular groups.
- A contractor's compliance is measured by whether it has made good faith efforts to meet its goals, and failure to meet goals, by itself, is not a violation of the Executive Order.

MINORITY/WOMEN/HANDICAP BUSINESS ENTERPRISE PROCUREMENT PROCEDURES

Projects assisted with Genesee County Community Development Block Grant (CDBG); Emergency Shelter Grants (ESG); HOME Investment Partnerships Program (HOME); and Supportive Housing Program (SHP) funds must comply with Program procurement standards. Federal regulations contained at 24 CFR 85.36(e)(2)(I) require that the opportunity to bid on activities assisted, in any part, with these Genesee County Program funds, be offered to MBE/WBE/HBE firms.

Local Units of Genesee County government, Non-Profit Agencies, Architectural / Engineering / Design / Consulting firms; Prime Contractors, and Subcontractors must complete the appropriate Procurement Outreach form (attached) in order for bid procedures to be complete and compliant with federal regulations. For your convenience a copy of the *Genesee County Office of Equity & Diversity Certified Businesses and Minority Business Directory* can be found at <http://www.gc4me.com/employment/services.php> to assist you in identifying contractors and businesses needed to carry out your project activity. The *Directory* is not to be construed as the sole source listing of MBE/WBE/HBE firms in our community, but rather as one source.

It is required that a minimum of three contractors/business be contacted for each industry Procurement that proposed to be assisted with Genesee County federal Program funds. Of these three, at least one MBE/WBE/HBE per industry must be offered the opportunity to bid on the project activity. Examples of industries are: architectural and engineering services; janitorial services; paper goods; asphalt paving services; roofing firms; electrician services; and other construction trades. This is not an exhaustive list of activities. Procurement procedures depend on the amount of the work to be procured. Please reference the attached information on procurement and labor standards for federally assisted projects and activities.

All subrecipients are responsible for ensuring that their Prime and Subcontractors also complete the MBE/WBE/HBE outreach form in order for the bid process to be considered compliant. Prime Contractors are required to perform the outreach procedures when seeking subcontractors for performing work / offering materials, services, or supplies on the federally assisted project / activity. Proper documentation includes: the name of the company, name of person contacted, date of contact, registered mail slip, and identification of selected MBE/WBE/HBE. Should the outreach documentation not include a potential MBE/WBE/HBE, the subrecipient; prime and subcontractors must indicate through written documentation the reason(s) why this situation has occurred. This must be attached to the proposed bid tabulations prior to approval of acceptable bid by Genesee County.

If the proper documentation is not provided to Genesee County, the project procurement procedures will not be considered compliant, and therefore any resulting bids will not be considered acceptable. The bid process may be delayed and/or may be required to be re-bid should the MBE/WBE/HBE outreach process be non-compliant. This will be determined at the sole discretion of Genesee County.

In order to assure compliance with federal regulations, a copy of all bid tabs and the MBE/WBE/HBE outreach forms must be submitted to Genesee County prior to any award of contracts, the preconstruction meeting; and/or any purchase of equipment, supplies, and / or services to be assisted under a federally assisted project / activity.

**APPENDIX 4 –NSP3 FEDERAL REGISTER – NOTICE OF FORMULA
ALLOCATIONS**

number for this notice (USCG–2010–0212) in the “Keyword” box, and then click “Search.”

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair’s discretion, members of the public may make brief oral presentations during the meeting. If you would like to make an oral presentation at a meeting, please notify the Assistant to the Chairman no later than November 12, 2010. Written material (no more than 2 full pages) for distribution at the meeting should reach the Coast Guard no later than November 12, 2010. If you would like a copy of your material (no more than 2 full pages) distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Assistant to the Chairman no later than November 12, 2010.

The transcript of the meeting, including all comments received during the meeting, will be posted to <http://www.regulations.gov> and will include any personal information you have provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Chairman as soon as possible.

Authority: This notice is issued under authority of 5 U.S.C. 552(a).

Dated: October 14, 2010.

J.R. Caplis,

Captain, U.S. Coast Guard, Chief, Office of Incident Management & Preparedness.

[FR Doc. 2010–26287 Filed 10–18–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5447–N–01]

Notice of Formula Allocations and Program Requirements for Neighborhood Stabilization Program Formula Grants

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of allocation method, waivers granted, alternative requirements applied, and statutory program requirements.

SUMMARY: This notice advises the public of the allocation formula and allocation amounts, the list of grantees, alternative requirements, and the waivers of regulations granted to grantees under Section 2301(b) of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, approved July 30, 2008) (HERA), as amended, and an additional allocation of funds provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111–203, approved July 21, 2010) (Dodd-Frank Act) for additional assistance in accordance with the second undesignated paragraph under the heading ‘Community Planning and Development—Community Development Fund’ in Title XII of Division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009) (Recovery Act), as amended, for the purpose of assisting in the redevelopment of abandoned and foreclosed homes. Except where provided for otherwise, these amounts are distributed based on funding formulas for such amounts established by the Secretary in accordance with HERA.

The additional allocation represents the third round of Neighborhood Stabilization Program funding and is referred to throughout this notice as NSP3. HERA provided a first round of formula funding to States and units of general local government, and is referred to herein as NSP1. The Recovery Act provided a second round of funds awarded by competition and is referred to herein as NSP2. The three rounds of funding are collectively referred to as NSP. As described in the Supplementary Information section of this notice, HUD is authorized by statute to specify alternative requirements and make regulatory waivers for this purpose. This notice also notes statutory issues affecting program design and implementation.

Note: This notice is intended to provide unified program requirements for grantees of the two formula NSP grant programs, NSP1 and NSP3. The allocation and application information under Section I.A and Section II.B below is only applicable to NSP3 grants. For NSP1, HUD awarded grants to a total of 309 grantees including the 55 states and territories and selected local governments to stabilize communities hardest hit by foreclosures and delinquencies. For the allocation formula and application process for NSP1, please see the October 6, 2008 **Federal Register** Notice (73 FR 58330), as amended by the June 19, 2009 “Bridge” Notice (74 FR 29223), and Appendix A attached hereto. For NSP2, HUD awarded a combined total \$1.93 billion in NSP2 grants to 56 grantees nationwide on January 14,

2010. Funds under NSP2 were distributed by competition under criteria described in the May 4, 2009 Notice of Funding Availability. Where requirements differ between the rounds of funding, it is so noted.

DATES: *Effective Date:* October 19, 2010.

FOR FURTHER INFORMATION CONTACT: Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. FAX inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the “800” number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Program Background and Purpose

Recipients will use the funds awarded under this notice to stabilize neighborhoods whose viability has been, and continues to be, damaged by the economic effects of properties that have been foreclosed upon and abandoned. In 2008, Congress appropriated funds for neighborhood stabilization under HERA. In 2009, Congress appropriated additional neighborhood stabilization funds under the Recovery Act. In 2010, Congress appropriated a third round of neighborhood stabilization funds in the Dodd-Frank Act.

When referring to a provision of the first appropriations statute, this notice will refer to HERA; when referring to a provision of the second appropriations statute, this notice will refer to the Recovery Act; and when referring to the third appropriations statute this notice will refer to the Dodd-Frank Act. When referring to the grants, grantees, assisted activities, and implementation rules under the Dodd-Frank Act, this notice will use the term “NSP3.” When referring to the grants, grantees, assisted activities, and implementation rules under the Recovery Act, this notice will use the term “NSP2”. When referring to the grants, grantees, assisted activities, and implementation rules under HERA, this notice will use the term “NSP1.” Collectively, the grants, grantees, assisted activities, and implementation rules under these three rounds of funding is referred to as NSP. NSP is a component of the Community Development Block Grant (CDBG) program (authorized under Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*) (HCD Act)).

Program Principles

Programs under NSP should aim to integrate the following principles:

- Retain CDBG distinctive requirements. Congress gave HUD broad waiver and alternative requirement authority, which HUD used in designing NSP program requirements. However, distinctive characteristics of the CDBG program including the objectives of the HCD Act, financial accountability, local citizen participation and information, grantee selection of activities within broad Federal policy parameters, and income targeting of beneficiaries were retained. All of these elements are required in NSP1, NSP2, and NSP3.

- Target and reconnect neighborhoods. Invest funds in programs and projects that will revitalize targeted neighborhood(s) and reconnect those targeted neighborhoods with the economy, housing market, and social networks of the community and metropolitan area as a whole.

- Rapidly arrest decline. Support NSP uses and activities that will rapidly arrest the decline of a targeted neighborhood(s) that has been negatively affected by abandoned or foreclosed properties.

- Assure compliance with the NSP "deep targeting" requirement. No less than 25 percent of the funds shall be used to house individuals and families whose incomes do not exceed 50 percent of area median income.

- Ensure longest feasible continued affordability. Invest in affordable housing that will remain desirable and affordable for the longest feasible period.

- Support projects that optimize economic activity, and the number of jobs created or retained or that will provide other long-term economic benefits.

- Build inclusive and sustainable communities free from discrimination.

- Coordinate planning and resources. Integrate neighborhood stabilization programs with other Federal policy priorities and investments, including energy conservation and efficiency, sustainable and transit-oriented development, integrated metropolitan area-wide planning and coordination, improvements in public education, and access to healthcare.

- Leverage resources and remove destabilizing influences. Augment neighborhood stabilization programs with other Federal, public and private resources. Eliminate destabilizing influences, such as blighted homes, that can prevent programs from producing results.

- Set goals. Set aggressive, but achievable, goals for outputs and outcomes.

- Ensure accountability. Ensure accountability for all programs, keep citizens actively informed, and provide all required NSP reporting elements.

Objectives and Outcomes

1. *Objectives.* The primary objective of the CDBG program is the development of viable urban communities, by providing decent housing, a suitable living environment, and economic opportunity, principally for persons of low- and moderate-income. NSP grantees must strive to meet this objective in neighborhoods that are in decline (or further decline) due to the negative effects of a high number and percentage of homes that have been foreclosed upon. The first goal is to arrest the decline. Then the grantee must stabilize the neighborhood and position it for a sustainable role in a revitalized community.

2. *Outcomes.* Measurable NSP short term program outcomes may include, but are not limited to:

- Arresting decline in home values based on average sales price in targeted neighborhoods, and
- Reduction or elimination of vacant and abandoned residential property in targeted neighborhoods.

The long term outcomes may include, but are not limited to:

- Increased sales of residential property in targeted neighborhoods, and
- Increased median market values of real estate in targeted neighborhoods.

Authority To Provide Alternative Requirements and Grant Regulatory Waivers

The Dodd-Frank Act states that, except where provided for otherwise, assistance shall be provided in accordance with the same provisions applicable under the NSP2 authorization. In turn, the Recovery Act provides that assistance shall be made available as authorized under HERA. The Recovery Act authorizes the Secretary to specify waivers and alternative requirements for any provision of any statute or regulation in connection with the obligation by the Secretary or the use of funds except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint), upon a finding that such a waiver is necessary to expedite or facilitate the use of such funds.

The Secretary finds that the following alternative requirements are necessary to expedite the use of these funds for their required purposes.

Except as described in this notice, statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subpart I for states, and those at 24 CFR part 570 subparts A, C, D, J, K, and O for CDBG entitlement communities, as appropriate, shall apply to the use of these funds. The State of Hawaii will be allocated funds and will be subject to part 570, subpart I, as modified by this notice. Other sections of the notice provide further details of the changes, the majority of which deal with adjustments necessitated by statutory provisions, simplify program rules to expedite administration, or relate to the ability of state grantees to act directly instead of solely through distribution to local governments. Additional guidance and technical assistance will be available at <http://www.hud.gov/nspta>.

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I. Allocations

A. *Formula: Allocation.* Grants awarded under NSP1 were allocated to States and local governments according to the formula described in Attachment A. The Dodd-Frank Act makes available an additional \$1 billion that is generally to be construed as CDBG program funds (NSP3) for the communities and in the amounts listed in Attachment B to this notice.

B. *Formula: Reallocation.*

1.a. *Failure to Apply (NSP3).* To expedite the use of NSP3 funds, the Department is specifying alternative requirements to 42 U.S.C. 5306(c). If a unit of general local government receiving an allocation of NSP3 funds under this notice (as designated in Attachment B) fails to submit a substantially complete application for its grant allocation by March 1, 2011, or submits an application for less than the total allocation amount, HUD will notify the jurisdiction of the cancellation of all or part of its allocation amount and proceed to reallocate the funds to the state in which the jurisdiction is located.

b. If a state or insular area receiving an allocation of funds under this notice fails to submit a substantially complete application for its allocation by March 1, 2011, or submits an application for less than the total allocation amount, HUD will notify the state or insular area of the reduction in its allocation amount and proceed to reallocate the funds to the 10 highest-need states based on original rankings of need.

2.a. *Failure to Meet 18-Month Obligation Deadline (NSP1).* Consistent with the August 23, 2010 Notice of NSP Reallocation Process Changes (Docket No. FR-5435-N-01), HUD will block each grantee's ability to obligate NSP1 grant funds in the Disaster Recovery Grant Reporting System (DRGR) on the first business day after the statutory 18-month deadline for use of funds. HUD will notify the grantee of this action by electronic mail. Grantees will not be able to obligate grant funds after the deadline without requesting and receiving permission from HUD, and HUD determines that the grantee is not high risk consistent with this notice. The grantee will still be able to expend grant funds obligated before the deadline. Receipt and use of any program income will also be unaffected.

b. Grantees that fail to obligate an amount equal to or greater than its initial grant amount may submit information to HUD, for up to 30 days following its 18-month deadline, documenting any additional obligation of funds not already recorded in the

DRGR system and demonstrating to HUD that the obligation occurred on or before the 18-month deadline. Before the 18-month deadline, each grantee should also review its recorded obligations and notify HUD within 30 days following the deadline of any necessary adjustments to the amount and the reason for such an adjustment. For example, the grantee has become aware that an obligation amount that was previously recorded for an acquisition will not proceed, therefore a downward adjustment is necessary.

c. After the deadline, if a grantee needs to decrease or increase the amount of grant funds obligated to an activity, it must first ask HUD to remove the DRGR block on changing the amount obligated. If the amount of decrease is more than 15 percent of the obligation for any activity, the grantee must submit to HUD a written request that clearly demonstrates with compelling information that factors beyond the grantee's reasonable control caused the need to adjust after the deadline. If HUD agrees to grant the request, it will restore the grantee's ability to obligate grant funds in DRGR. If HUD does not grant the request, the grantee must either complete the activity as originally obligated or the amount previously obligated for that activity will be recaptured. HUD may also remove the obligations block following risk assessment of the grantee or a review of some or all of a grantee's obligation documentation.

d. Before HUD determines the appropriate corrective action or recaptures grant funds, HUD will review the submitted information, consider the grantee's capacity as described in 24 CFR 570.905 and 24 CFR 570.493, and the grantee's continuing need for the funds.

e. Following the review and consistent with the procedures described in 24 CFR 570.900(b), HUD will proceed to notify the grantee of the selected corrective action it is required to undertake.

f. HUD will recapture and reallocate up to \$19.6 million from any state grantee with unused NSP1 grant funds. Additional corrective actions may be taken related to any amount of unused funds greater than \$19.6 million.

g. HUD will reallocate recaptured NSP1 grant funds in accordance with the reallocation formula described in a separate reallocation notice. A grantee receiving a reallocation must apply for the grant in accordance with the NSP1 Notice or this notice, as applicable. A nonentitlement grantee that is not required to submit a consolidated plan to HUD under the CDBG program will

prepare an abbreviated plan. The substance of an abbreviated plan must include all the required elements that entitlement communities provide as part of an NSP Action Plan substantial amendment as described under Section II.B.2 of the NSP1 Notice or this Notice, as applicable.

h. Each grantee must meet the statutory requirement to expend 25 percent of its grant amount for activities that will provide housing for households whose income is at or under 50 percent of area median income. This cannot occur unless the funds are first obligated to activities for this purpose, or program income is received and used for eligible activities. Therefore, if a grantee fails to obligate or record program income use of at least 25 percent of its original grant amount for activities that will provide housing for households whose income is at or under 50 percent of area median income, HUD may issue a concern or a finding of noncompliance. Consistent with the procedures described in 24 CFR 570.900(b), HUD will require as a corrective action that the grantee either adjust its remaining NSP1 planned activities to ensure that 25 percent of the original NSP1 formula grant amount and program income supports activities providing housing to households with incomes at or under 50 percent of area median income, or make a firm commitment to provide such housing with nonfederal funds in an amount sufficient to offset any deficiency to comply with the requirement before the expenditure deadline for the NSP1 grant.

i. The NSP1 Notice allows each grantee to use up to 10 percent of its NSP1 grant for general administration and planning activities. If HUD recaptures funds from a grant, this percentage limitation will still apply to the remaining grant funds, reducing the amount available for administration activities.

3. *Failure to Meet Expenditure Deadline for NSP3.*

NSP3 grantees must expend 50 percent of their grants within 2 years and 100 percent of their grants within 3 years. HUD will recapture and reallocate the amount of funds not expended by those deadlines or provide for other corrective action(s) or sanction. Further guidance will be issued prior to the deadline.

II. Alternative Requirements and Regulatory Waivers

This section of the notice briefly provides a justification for alternative requirements, where additional explanation is necessary, and describes

the necessary basis for each regulatory waiver. This section also highlights some of the statutory requirements applicable to the grants. This background narrative is followed by the NSP requirements. While program requirements across the three rounds of NSP funding are similar, certain requirements differ in accordance to statutory provisions.

Each grantee eligible for an NSP grant that already receives annual CDBG allocations has carried out needs hearings, has a consolidated plan, an annual action plan, a citizen participation plan, a monitoring plan, an analysis of impediments to fair housing choice, and has made CDBG certifications. The consolidated plan already discusses housing needs related to up to four major grant programs: CDBG, HOME, Emergency Shelter Grants (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). A grantee's annual action plan describes the activities budgeted under each of those annual programs.

HUD is treating a state and entitlement grantee's use of its NSP grant to be a substantial amendment to its current approved consolidated plan and 2010 annual action plan. The NSP grant is a special CDBG allocation to address the problem of abandoned and foreclosed homes. Treating NSP3 as a substantial amendment will expedite the distribution of NSP3 funds, while ensuring citizen participation on the specific use of the funds. HUD is waiving the consolidated plan regulations on the certification of consistency with the consolidated plan to the extent necessary to mean NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the grantee's substantial amendment. In addition, HUD is waiving the consolidated plan regulations to the extent necessary to adjust reporting to fit the requirements of HERA and the use of DRGR.

Non-entitlement local government grantees receiving NSP3 funds that are not required to submit a consolidated plan to HUD under the CDBG program will prepare an abbreviated plan. The substance of an abbreviated plan must include all the required elements that entitlement communities provide as part of an NSP Action Plan substantial amendment as described under Section II.B.2.

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

a project. They provide expedited program implementation and implement statutory requirements unique to the covered NSP appropriations.

A. Definitions for Purposes of the Neighborhood Stabilization Program

Background

Certain terms are used in HERA that are not used in the regular CDBG program, or the terms are used differently in HERA and the HCD Act. In the interest of clarity of administration, HUD is defining these terms in this notice for all grantees, including states. For the same reason, HUD is also defining eligible fund uses for all grantees, including states. States may define other program terms under the authority of 24 CFR 570.481(a), and will be given maximum feasible deference in accordance with 24 CFR 570.480(c) in matters related to the administration of their NSP programs.

Requirement

Abandoned. A home or residential property is abandoned if either (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 or local law or otherwise meets a state definition of an abandoned home or residential property.

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

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

Current market appraised value. The current market appraised value means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with either: (1) The appraisal requirements of the URA at 49 CFR 24.103, or (2) the Uniform Standards of Professional Appraisal Practice (USPAP), or (3) the appraisal requirements of the Federal Housing Administration (FHA) or a government sponsored enterprise (GSE); and the appraisal must be completed or updated within 60 days of a final offer made for

the property by a grantee, subrecipient, developer, or individual homebuyer. However, 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.

Date of Notice of Foreclosure. For purposes of the NSP tenant protection provisions described at Section K, the date of notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed. If none of these events occur in the acquisition of a foreclosed property (e.g. in a short sale), in order to ensure fair and equitable treatment of *bona fide* tenants and consistency with the NSP definition of foreclosed, the date of notice of foreclosure shall be deemed to be the date on which the property is acquired for the NSP-assisted project. **Note:** This definition does not affect or otherwise alter the definition of "foreclosed" as provided in this notice.

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; (b) the property owner is 90 days or more delinquent on tax payments; (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.

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

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

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

Vicinity. For the purposes of NSP3, HUD defines "vicinity" as each neighborhood identified by the NSP3 grantee as being the areas of greatest need.

B. NSP3 Pre-Grant Process

Background

With this notice, HUD is establishing the NSP3 allocation formula, including reallocation provisions, and announcing the distribution of funds. CDBG grantees receiving NSP3 allocations may immediately begin to prepare and submit action plan substantial amendments for NSP3 funds, in accordance with this notice. (Insular areas should follow the requirements for entitlement communities.) Non-entitlement local government grantees will follow entitlement requirements except for the submission of an abbreviated plan rather than a substantial amendment or as otherwise explained in this notice.

To receive NSP3 funding, each grantee listed in Attachment B must submit an action plan substantial amendment or abbreviated plan to HUD in accordance with this notice by March 1, 2011.

HUD encourages each grantee to carry out its NSP activities in the context of a comprehensive plan for the community's vision of how it can make its neighborhoods not only more stable, but also more sustainable, inclusive, competitive, and integrated into the overall metropolitan fabric, including access to transit, affordable housing, employers, and services. HUD also

encourages grantees to incorporate green and sustainable development practices, such as the examples in Attachment C.

HUD encourages each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline.

Jurisdictions may cooperate to carry out their grant programs through a joint request to HUD. HUD is providing regulatory waivers and alternative requirements to allow joint requests among units of general local government and to allow joint requests between units of general local government and a state. Any two or more contiguous units of general local government that are in the same metropolitan area and that are eligible to receive an NSP grant may instead make a joint request to HUD to implement a joint NSP program. A jurisdiction need not have a joint agreement with an urban county under the regular CDBG entitlement program to request a joint program for NSP funding. Similarly, any community eligible to receive an NSP grant may instead make a request for a joint NSP program with its state. An NSP joint request under a cooperation agreement results in a single combined grant and a single action plan substantial amendment. Potential requestors should contact HUD as soon as possible (as far as possible in advance of publishing a proposed NSP substantial amendment) for technical guidance. The requestors will specify which jurisdiction will receive the funds and administer the combined grant on behalf of the requestors; in the case of a joint request between a local government jurisdiction and a state, the state will administer the combined grant. (Grantees choosing this option should consider the Consolidated Plan and citizen participation implications of this approach. The lead entity's substantial amendment or abbreviated plan will cover any participating members. The citizen participation process must include citizens of all jurisdictions participating in the joint NSP program, not just those of the lead entity.)

Given the rule of construction in HERA that NSP funds generally are construed as CDBG program funds, subject to CDBG program requirements, HUD generally is treating NSP3 funds as a special allocation of Fiscal Year (FY) 2010 CDBG funding. This has important consequences for local governments presently participating in an existing urban county program, and for metropolitan cities that have joint agreements with urban counties. HUD will consider any existing cooperation agreements between a local government

and an urban county governing FY2010 CDBG funding (for purposes of either an urban county or a joint program) to automatically cover NSP funding as well. These cooperation agreements will continue to apply to the use of NSP funds for the duration of the NSP grant, just as cooperation agreements covering regular CDBG Entitlement program funds continue to apply to any use of the funds appropriated during the 3-year period covered by the agreements. For example, a local government presently has a cooperation agreement covering a joint program or participation in an urban county for Federal FYs 2009, 2010 and 2011. The local government may choose to discontinue its participation with the county at the end of the applicable qualification period for purposes of regular CDBG entitlement funding. However, the county will still be responsible for any NSP3 projects funded in that community, and for any NSP3 funding the local government receives from the county, until those funds are expended and the funded activities are completed.

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

Each NSP3 grantee will have until March 1, 2011, to complete and submit a substantial amendment to its annual action plan or an abbreviated plan. A grantee that wishes to submit its action plan amendment to HUD electronically in the DRGR system rather than by paper may do so by contacting its local field office for the DRGR submission directions. Paper submissions to HUD also will be allowed, although each grantee must set up its action plan in DRGR prior to the deadline for the first required performance report after receiving a grant.

HUD encourages grantees, during development of their action plan amendments or abbreviated plans, to contact HUD field offices for guidance in complying with these requirements, or if they have any questions regarding meeting grant requirements.

Normally, in the CDBG program, a grantee takes at least 30 days soliciting comment from its citizens before it submits an annual action plan to HUD, which then has 45 days to accept or reject the plan. To expedite the process and to ensure that the NSP grants are

awarded in a timely manner, while preserving reasonable citizen participation, HUD is waiving the requirement that the grantee follow its citizen participation plan for this substantial amendment. HUD is shortening the minimum time for citizen comments and requiring the substantial amendment or abbreviated plan to be posted on the grantee's official Web site as the materials are developed, published, and submitted to HUD.

A grantee will be deemed by HUD to have received its NSP grant at the time HUD signs its NSP grant agreement (or amendment thereof, in the case of a state that later receives reallocated grant funds).

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

HUD will review each grantee submission for completeness and consistency with the requirements of this notice and will disapprove incomplete and inconsistent action plan amendments or abbreviated plans. HUD will allow revision and resubmission of a disapproved amendment or abbreviated plan in accordance with 24 CFR 91.500(d) so long as any such resubmission is received by HUD 45 days or less following the date of first disapproval.

In combination, the notice alternative requirements provide the following expedited steps for NSP grants:

- Proposed action plan amendment or abbreviated plan published via the usual methods and on the Internet for no less than 15 calendar days of public comment;
- Final action plan amendment or abbreviated plan posted on the Internet and submitted to HUD by March 1, 2011 (grant application includes Standard Form 424 (SF-424) and certifications);
- HUD expedites review;
- HUD accepts the plan and prepares a cover letter, grant agreement, and grant conditions;

- Grant agreement signed by HUD and immediately transmitted to the grantee;
- Grantee signs and returns the grant agreements;
- HUD establishes the line of credit and the grantee requests and receives DRGR access (if it does not already have access);
- After completing the environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receiving from HUD or the state an approved Request for Release of Funds and certification, the grantee may draw down funds from the line of credit.

In consideration of the shortened comment period, it is essential that grantees ensure that affected parties have sufficient notice of the opportunity to comment. The action plan substantial amendment or abbreviated plan and citizen participation alternative requirement will permit an expedited grant-making process, but one that still provides for public notice, appraisal, examination, and comment on the activities proposed for the use of NSP3 grant funds.

Note: HUD believes an adequate and acceptable substantial amendment or abbreviated plan should be no longer than 25 pages. A plan should provide sufficient detail for citizens and HUD reviewers. Internet address links can be provided to longer elements that may change, such as detailed rehabilitation standards.

Requirement

1. General. Except as described in this notice, statutory and regulatory provisions governing the CDBG program for states and entitlement communities, as applicable, shall apply to the use of these funds. Except as described in this notice, non-entitlement local government grantees receiving a grant directly from HUD shall follow statutory and regulatory provisions governing the CDBG program for entitlement communities.

2. Contents of an NSP Action Plan substantial amendment or abbreviated plan. The elements in the NSP substantial amendment to the Annual Action Plan or an abbreviated plan required for the CDBG program under part 91 are:

- a. General information about needs, distribution, use of funds, and definitions:
 - i. Each grantee must use the HUD Foreclosure Need Web site as linked to from <http://www.hud.gov/nsp> to submit to HUD the locations of its NSP3 areas of greatest need. On this site, HUD provides estimates of foreclosure need and a foreclosure related needs scores at the Census Tract level. The score rank

need from 1 to 20, with 20 being census tracts with the HUD-estimated greatest need.

ii. The neighborhood or neighborhoods identified by the NSP3 grantee as being the areas of greatest need must have an individual or average combined index score for the grantee's identified target geography that is not less than the lesser of 17 or the twentieth percentile most needy score in an individual state. For example, if a state's twentieth percentile most needy census tract is 18, the requirement will be a minimum need of 17. If, however, a state's twentieth percentile most needy census tract is 15, the requirement will be a minimum need of 15. HUD will provide the minimum threshold for each state at its Web site <http://www.hud.gov/nsp>. If more than one neighborhood is identified in the Action Plan, HUD will average the neighborhood NSP3 scores, weighting the scores by the estimated number of housing units in each identified neighborhood.

iii. A narrative describing how the distribution and uses of the grantee's NSP funds will meet the requirements of Section 2301(c)(2) of HERA, as amended by the Recovery Act and the Dodd-Frank Act;

iv. For the purposes of the NSP3, the narratives will include:

(A) A definition of "blighted structure" in the context of state or local law;

(B) A definition of "affordable rents;"

(C) A description of how the grantee will ensure continued affordability for NSP-assisted housing; and

(D) A description of housing rehabilitation standards that will apply to NSP-assisted activities.

b. Information by activity describing how the grantee will use the funds, identifying:

i. The eligible use of funds under NSP3;

ii. The eligible CDBG activity or activities;

iii. The areas of greatest need addressed by the activity or activities;

vi. The expected benefit to income-qualified persons or households or areas;

v. Appropriate performance measures for the activity (e.g., units of housing to be acquired, rehabilitated, or demolished for the income levels represented in DRGR, which are currently 50 percent of area median income and below, 51 to 80 percent, and 81 to 120 percent);

vi. Amount of funds budgeted for the activity;

vii. The name and location of the entity that will carry out the activity; and

viii. The expected start and end dates of the activity.

c. A brief description of the general terms under which assistance will be provided, including:

i. Range of interest rates (if any);

ii. Duration or term of assistance;

iii. Tenure of beneficiaries (*e.g.*, renters or homeowners); and

vi. If the activity produces housing, how the design of the activity will ensure continued affordability;

v. How the grantee shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity of NSP3 projects or contract with small businesses that are owned and operated by persons residing in the vicinity of such project, including information on existing local ordinances that address these requirements;

vi. The procedures used to create preferences for the development of affordable rental housing developed with NSP3 funds; and

vii. Whether the funds used for the activity are to count toward the requirement to provide benefit to low-income persons (earning 50 percent or less of area median income).

d. The action plan narrative should specifically address how the grantee's program design will address the local housing market conditions.

e. Information on how to contact grantee program administrators, so that citizens and other interested parties know whom to contact for additional information.

3. Continued affordability. Grantees shall ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed-upon homes and residential properties under this section remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income or, for units originally assisted with funds under the requirements of section 2301(f)(3)(A)(ii) of HERA, as amended, remain affordable to individuals and families whose incomes do not exceed 50 percent of area median income.

a. In its NSP action plan substantial amendment, a grantee will define "affordable rents" and the continued affordability standards and enforcement mechanisms that it will apply for each (or all) of its NSP activities. HUD will consider any grantee adopting the HOME program standards at 24 CFR 92.252(a), (c), (e), and (f), and 92.254, to be in minimal compliance with this standard and expects any other

standards proposed and applied by a grantee to be enforceable and longer in duration. (Note that HERA's continued affordability standard is longer than that required of subrecipients and participating units of general local government under 24 CFR 570.503 and 570.501(b).)

b. The grantee must require each NSP-assisted homebuyer to receive and complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. If the grantee is unable to meet this requirement for a good cause (*e.g.*, there are no HUD-approved housing counseling agencies within the grantee's jurisdiction, or there are no HUD-approved housing counseling agencies within the grantee's jurisdiction that engage in homebuyer counseling), the grantee may submit a request for an exception to this requirement to the responsible HUD field office, and the HUD field office has the authority to grant an exception for good cause. The grantee must ensure that the homebuyer obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages (*see*, Statement on Subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration, available at <http://www.fdic.gov/regulations/laws/rules/5000-5160.html>). Grantees must design NSP programs to comply with this requirement and must document compliance in the records, for each homebuyer. Grantees are cautioned against providing or permitting homebuyers to obtain subprime mortgages for whom such mortgages are inappropriate, including homebuyers who qualify for traditional mortgage loans.

4. Citizen participation alternative requirement. HUD is providing an alternative requirement to 42 U.S.C. 5304(a)(2) and (3), to expedite distribution of grant funds and to provide for expedited citizen participation for the NSP substantial amendment. Provisions of 24 CFR 91.105(k), 91.115(i), 570.302 and 570.486, with respect to following the citizen participation plan, are waived to the extent necessary to allow implementation of the requirements below.

a. *Initial Allocation.* To receive its grant allocation, a grantee must submit to HUD for approval an NSP3 application by March 1, 2011. This

submission will include a signed SF-424, signed certifications, and a substantial action plan amendment or abbreviated plan meeting the requirements of paragraph b below. (24 CFR 91.505 is waived to the extent necessary to require submission of the substantial amendment to HUD for approval in accordance with this notice.)

Reallocation. To receive an NSP reallocation, a grantee must submit to HUD for approval an NSP application by the deadline indicated in a reallocation announcement. This submission will include a signed standard Federal form SF-424, signed certifications, and a substantial action plan meeting the requirements of paragraph B.3.b below. (24 CFR 91.505 is waived to the extent necessary to require submission of the substantial amendment to HUD for approval in accordance with this notice.)

b. Each grantee must prepare and submit its annual Action Plan amendment or abbreviated plan to HUD in accordance with the consolidated plan procedures under the CDBG program as modified by this notice, or HUD will reallocate the funds allocated for that grantee. HUD is providing alternative requirements to 42 U.S.C. 5304(a)(2) and waiving 24 CFR 91.105(c)(2), 91.105(k), 91.115(c)(2), and 91.115(i) to the extent necessary to allow the grantee to provide no fewer than 15 calendar days for citizen comment (rather than 30 days) for its initial NSP submission and any subsequent substantial NSP action plan amendment, and to require that, at the time of submission to HUD, each grantee post its approved action plan amendment and any subsequent NSP amendments on its official Web site along with a summary of citizen comments received within the 15-day comment period. After HUD processes and approves the plan amendment and both HUD and the grantee have signed the grant agreement, HUD will establish the grantee's line of credit in the amount of funds included in the Action Plan amendment, up to the allocation amount.

5. Joint requests. To expedite the use of funds, HUD is providing an alternative requirement to 42 U.S.C. 5304(i) and is waiving 24 CFR 570.308 to the extent necessary to allow for additional joint programs described below.

a. *Unit of General Local Government Joint Agreements.* Two or more contiguous jurisdictions that are eligible to receive a NSP allocation and are located in the same metropolitan area

may enter into joint agreements. All members to the joint agreement must be eligible to receive NSP1 or NSP3 funds, and one unit of general local government must be designated as the lead entity. The lead entity must execute the NSP grant agreement with HUD. Consistent with 24 CFR 570.308, the lead entity must assume responsibility for administering the NSP grant on behalf of all members, in compliance with applicable program requirements. The lead entity's substantial amendment to the action plan or abbreviated plan will include all participating communities.

b. Joint agreements with a state. Any jurisdiction that is eligible to receive an NSP allocation may enter into a joint agreement with its state. The state shall be the lead entity and must assume responsibility for administering the NSP grant on behalf of the local government, in compliance with applicable program requirements. The substantial amendment to the state's action plan will include any participating unit of general local government.

c. Local jurisdictions receiving reallocation funds may enter into joint agreements in accordance with paragraph B.5.a. or b., regardless of whether the local jurisdiction had a joint agreement for the original NSP allocation.

6. Effect of existing cooperation agreements governing joint programs and urban counties for NSP3 (see NSP1 Notice for parallel language for NSP1 grantees). Any cooperation agreement between a unit of general local government and a county, concerning either a joint program or participation in an urban county under 24 CFR 570.307 or 570.308, and governing CDBG funds appropriated for Federal FY 2010, will be considered to incorporate and apply to NSP3 funding. Any such cooperation agreements will continue to apply to the use of NSP3 funds until the NSP3 funds are expended and the NSP3 grant is closed out. Grantees should note that certain provisions in existing cooperation agreements that govern CDBG funding may be inconsistent with parts of HERA, the Recovery Act, the Dodd-Frank Act or this notice. For instance, set minimum and/or maximum allocation amounts may conflict with priority distributions to areas of greatest need identified in the grantee's action plan substantial amendment. Conforming amendments should be made to existing cooperation agreements, as necessary, to comply with NSP statutory requirements and this notice.

C. Reimbursement for Pre-Award Costs

Background

NSP grantees will need to move forward rapidly to prepare the NSP substantial amendment or abbreviated plan and to undertake other administrative actions, including environmental reviews, as soon as allocations are known. Therefore, HUD is granting permission to states and jurisdictions receiving a direct allocation of NSP funds to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds.

Requirement

HUD is waiving 24 CFR 570.200(h) to the extent necessary to grant permission to jurisdictions receiving a direct NSP allocation under this notice to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. Similarly, in accordance with OMB Circular A-87, Attachment B, paragraph 31, HUD is allowing states to incur pre-award costs as if each was a new grantee preparing to receive its first allocation of CDBG funds. NSP grantees will be allowed to incur costs necessary to develop the NSP substantial action plan amendment and undertake other administrative actions necessary to receive its first grant, prior to the costs being included in the final plan, provided that the other conditions of 24 CFR 570.200(h) are met. (For units of general local government applying to the state (including entitlements not receiving a direct NSP allocation under this notice), 24 CFR 570.489(b) applies unmodified. Units of general local government receiving direct NSP allocations may incur pre-award costs as would an entitlement community.)

D. Grantee Capacity and Grant Conditions

Background

In the October 6, 2008 Notice, HUD encouraged each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline. To support this consideration, HUD will provide each grantee a self-assessment tool that grantees may find useful in better understanding their capacity to undertake and manage NSP activities. This is essentially the same self-assessment tool that is used for NSP Technical Assistance purposes and it will allow HUD to more rapidly identify capacity gaps and technical assistance needs and to provide appropriate technical assistance. Although HUD suggests that every NSP grantee

complete and submit the self-assessment with its substantial amendment or abbreviated plan, HUD will require some grantees to complete and submit such a self-assessment as a special condition of receiving funding.

Requirement

For NSP grantees that HUD determines are high risk in accordance with 24 CFR 85.12(a), HUD will apply additional grant conditions in accordance with 24 CFR 85.12(b).

E. Income Eligibility Requirement Changes

Background

The NSP program includes two low- and moderate-income requirements at HERA section 2301(f)(3)(A) that supersede existing CDBG income qualification requirements. Under the heading "Low and Moderate Income Requirement," HERA states that:

all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income.

This provision does two main things. First, for the purposes of NSP, it effectively supersedes the overall benefit provisions of the HCD Act and the CDBG regulations, which allow up to 30 percent of a grant to be used for activities that meet a national objective other than low- and moderate-income benefit. Thus, NSP allows the use of *only* the low- and moderate-income benefit national objective. Activities may **not** qualify under NSP using the "prevent or eliminate slums and blight" or "address urgent community development needs" objectives.

Second, this provision also redefines and supersedes the definition of "low- and moderate-income," effectively allowing households whose incomes exceed 80 percent of area median income but do not exceed 120 percent of area median income to qualify as if their incomes did not exceed the published low- and moderate-income levels of the regular CDBG program. To prevent confusion, HUD will refer to this new income group as "middle income," and keep the regular CDBG definitions of "low-income" and "moderate income" in use. Further, HUD will characterize aggregated households whose incomes do not exceed 120 percent of median income as "low-, moderate-, and middle-income households," abbreviated as LMMH. For the purposes of NSP only, an activity may meet the HERA low- and moderate-income national objective if the assisted activity:

- Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);

- Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA); or

- Serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

HUD will use the parenthetical terms above to refer to NSP national objectives in program implementation, to avoid confusion with the regular HCD Act definitions.

Land banks are not allowed in the regular CDBG program because of the very high risk that the delay between acquiring property and meeting a national objective can be excessively long, attenuating the intended CDBG program benefits by delaying benefit far beyond the annual or even the 5-year consolidated plan cycles. In the regular CDBG program (and in NSP other than in an eligible land-bank use), a property acquisition activity is dependent on the subsequent re-use of the property meeting a national objective in order to demonstrate program compliance. Given this, the HERA direction that assistance to land banks is an eligible use of NSP funds requires an alternative requirement and policy clarification.

For grantees choosing to assist land banks or demolition of structures with NSP funds, the change to the income qualification level for low-, moderate- and middle-income areas will likely include most of the neighborhoods where property stabilization is required. If an assisted land bank is not merely acquiring properties, but is also working in an area in which other activities are being carried out that are intended to arrest neighborhood decline, such as maintenance, demolition, and facilitating redevelopment of the properties, HUD will, for NSP-assisted activities only, accept that the acquisition and management activities of the land bank may provide sufficient benefit to an area generally (as described in 24 CFR 570.208(a)(1) and 570.483(b)(1)) to meet a national objective (LMMA) prior to final disposition of the banked property. HUD notes that the grantee must determine the actual service area benefiting from a land bank's activities, in accordance with the regulations.

However, HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods or that this is the best use of limited NSP funds absent a re-use plan. Therefore, HUD requires that a

land bank may not hold a property for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

Note that if a state provides funds to an entitlement community, the entitlement community must apply the area median income levels applicable to its regular CDBG program geography and not the "balance of state" levels.

Other than the change in the applicable low- and moderate-income qualification level from 80 percent to 120 percent and this notice's change to the calculation at 570.483(b)(3), the area benefit, housing, and limited clientele benefit requirements at 24 CFR 570.208(a) and 570.483(b) remain unchanged, as does the required documentation.

The other NSP low- and moderate-income related provision, as modified by the Dodd-Frank Act, states that:

"not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income."

The Dodd-Frank Act struck language in HERA that specified that funds meeting the 25 percent requirement must be used specifically for the purchase and redevelopment of abandoned and foreclosed homes or residential properties. This means that, as of the effective date of the Dodd-Frank Act, any NSP eligible activity used to house individuals or families at or below 50 percent area medium income may be used to satisfy this requirement (*i.e.*, vacant properties that are not abandoned or foreclosed may be used to meet the requirement as well as eligible commercial properties that are reused to house individuals and families at or below 50% AMI). However, NSP1 and NSP2 funds already obligated or expended prior July 21, 2010, do not retroactively satisfy this requirement.

HUD advises grantees to take note of this threshold as they design NSP activities. This provision does not have a parallel in the regular CDBG program. Grantees must document that an amount equal to at least 25 percent of a grantee's NSP grant (initial allocation plus any program income) has been budgeted in the initial approved action plan substantial amendment or abbreviated plan for activities that will provide housing for income-qualified individuals or families. Prior to and at grant closeout, HUD will review grantees for compliance with this provision by determining whether at least 25 percent of grant funds have

been expended for housing for individual households whose incomes do not exceed 50 percent of area median income.

HUD is providing a waiver and alternative requirement to allow grantees to determine low- and moderate income benefit on a unit basis to allow greater support of mixed income housing than the structure basis required by 24 CFR 570.483(b)(3). (Under the cited regulation, the general rule is that at least 51 percent of the residents of an assisted structure must be income eligible.) Under the unit approach, one or more of the units in a structure must house income-eligible families, but the remainder of the units may be market rate, so long as the proportion of assistance provided compared to the overall project budget is no more than the proportion of units that will be occupied by income-eligible households compared to the number of units in the overall project. Under the unit approach, the number of income-eligible units is proportional to the amount of assistance provided. Note that this approach may only be used if the units are generally comparable in size and finishes. Based on HUD experience, this approach is generally more compatible with large-scale development of mixed-income housing than the structure approach under which a dollar of CDBG assistance to a structure means that 51 percent of the units must meet income requirements.

For the purposes of NSP, adopting the unit basis continues to benefit individuals and families whose income does not exceed 120 percent of area median income by limiting the proportion of the funding to the proportion of units that are being assisted with NSP funds. This approach also helps to avoid displacing existing over-income tenants in a building being treated with NSP. Finally, it promotes the type of mixed-income developments that experience shows to be more successful both economically and socially. Therefore, the waiver and alternative requirements allow the grantee a choice. The grantee may measure benefit within a housing development project (1) according to the existing CDBG requirements, (2) according to the HOME program requirements at 24 CFR 92.205(d) or (3) according to the modified CDBG alternative requirements specified in this notice, which extend the CDBG exception noted above. The grantee must select and use just one method for each project.

Requirements

1. Overall benefit supersession and alternative requirement. The requirements at 42 U.S.C. 5301(c), 42 U.S.C. 5304(b)(3)(A), 24 CFR 570.484 (for states), and 24 CFR 570.200(a)(3) that 70 percent of funds are for activities that benefit low- and moderate-income persons are superseded and replaced by section 2301(f)(3)(A) of HERA. One hundred percent of NSP funds must be used to benefit individuals and households whose income does not exceed 120 percent of area median income. NSP shall refer to such households as “low-, moderate-, and middle-income.”

2. National objectives supersession and alternative requirements. The requirements at 42 U.S.C 5301(c) are superseded and 24 CFR 570.208(a) and 570.483 are waived to the extent necessary to allow the following alternative requirements:

a. for purposes of NSP only, the term “low- and moderate-income person” as it appears throughout the CDBG regulations at 24 CFR part 570 shall be defined as a member of a low-, moderate-, and middle-income household, and the term “low- and moderate-income household” as it appears throughout the CDBG regulations shall be defined as a household having an income equal to or less than 120 percent of area median income, measured as 2.4 times the current Section 8 income limit for households below 50 percent of median income, adjusted for family size. A state choosing to carry out an activity directly must apply the requirements of 24 CFR 570.208(a) to determine whether the activity has met the low-, moderate-, and middle-income (LMMI) national objective and must maintain the documentation required at 24 CFR 570.506 to demonstrate compliance to HUD.

b. The national objectives related to prevention and elimination of slums and blight and addressing urgent community development needs (24 CFR 570.208(b) and (c) and 570.483(c) and (d)) are not applicable to NSP-assisted activities.

c. Each grantee whose plan includes assisting rental housing shall develop and make public its definition of affordable rents for NSP-assisted rental projects.

d. An NSP-assisted property may not be held in a land bank for more than 10 years without obligating the property for a specific, eligible redevelopment of that property in accordance with NSP requirements.

e. Not less than 25 percent of any NSP grant shall be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

f. HUD will consider assistance for a multi-unit housing project involving new construction, acquisition, reconstruction, or rehabilitation to benefit LMMI households in the following circumstances:

(i)(A) The NSP assistance defrays the development costs of a housing project providing eligible permanent residential units that, upon completion, will be occupied by income-qualified households; and

(B) if the project is rental, the units occupied by income-qualified households will be leased at affordable rents. The grantee or unit of general local government shall adopt and make public its standards for determining “affordable rents” for this purpose; and

(C) The proportion of the total cost of developing the project to be borne by NSP assistance is no greater than the proportion of units in the project that will be occupied by income-qualified households; or

(ii) When NSP assistance defray the development costs of eligible permanent residential units, such assistance shall be considered to benefit LMMI persons if the grantee follows the provisions of 24 CFR 92.205(d); or

(iii) The requirements of 24 CFR 570.208(a)(3) or 570.483(b)(3) are met, as applicable.

(iv) The grantee must select and use just one method for each project.

(v) The term “project” will be defined as in the HOME Program at 24 CFR 92.2.

(vi) If the grantee applies option (i) or (ii) above to a housing project, 24 CFR 570.208(a)(3) or 570.483(b)(3), as applicable, is waived for that project.

F. State Distribution to Entitlement Communities and Indian Tribes

Background

This notice includes an alternative requirement to the HCD Act and a regulatory waiver allowing distribution of funds by a state to CDBG regular entitlement communities and Tribes. This is consistent with the provision of HERA that specifically sets distribution priorities for areas with the greatest need, including “metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas * * *.” Therefore, states receiving allocations under this notice may distribute funds to or within any jurisdiction within the state that is among those with the greatest need, even if the jurisdiction is among those

receiving a direct formula allocation of funds from HUD under the regular CDBG program or this notice.

Requirement

Alternative requirement for distribution to CDBG metropolitan cities, urban counties, and Tribes. In accordance with the direction of HERA that grantees distribute funds to the areas of greatest need, HUD is providing an alternative requirement to 42 U.S.C. 5302(a)(7) (definition of “nonentitlement area”) and waiving provisions of 24 CFR part 570, including 24 CFR 570.480(a), that would prohibit states electing to receive CDBG funds from distributing such funds to units of general local government in entitlement communities or to Tribes. The appropriations law supersedes the statutory distribution prohibition at 42 U.S.C. 5306(d)(1) and (2)(A). Alternatively, the state is required to distribute funds without regard to a local government status under any other CDBG program and must use funds in entitlement jurisdictions if they are identified as areas of greatest need, regardless of whether the entitlement receives its own NSP allocation.

G. State’s Direct Action

Background

In the State CDBG Program, states receiving CDBG funds may not directly use the funds for activities, but must distribute them to units of general local government, which then use the funds for program activities. HUD also notes the language of HERA section 2301(c) that says, in part, that:

“Any State * * * that receives amounts pursuant to this section shall * * * use such amounts to purchase and redevelop * * *.”

This clearly speaks to the states using funds directly for projects and supersedes the HCD Act direction for states to only *distribute* funds to nonentitlement areas. Direct use of funds by a state may also result in more expeditious use of NSP funds. Therefore, a state receiving NSP funds may carry out NSP activities directly for some or all of its assisted grant activities, just as CDBG entitlement communities do under 24 CFR 570.200(f), including, but not limited to, carrying out activities using its own employees, procuring contractors, private developers, and providing loans and grants through nonprofit subrecipients (including local governments and other public nonprofits such as regional or local planning or development authorities and public housing authorities).

For those activities a state chooses to carry out directly, HUD strongly advises the state to adopt the recordkeeping required for an entitlement community at 24 CFR 570.506 and the subrecipient agreement provisions at 24 CFR 570.503. Also, in such cases, as an alternative requirement to 42 U.S.C. 5304(i), the state may retain and re-use program income as if it were an entitlement community.

HUD is granting regulatory waivers of State CDBG regulations to conform the applicable management, real property change of use, and recordkeeping rules when a state chooses to carry out activities as if it were an entitlement community.

Requirements

1. Responsibility for state review and handling of noncompliance. This change conforms NSP requirements with the waiver allowing the state to carry out activities directly. 24 CFR 570.492 is waived and the following alternative requirement applies: The state shall make reviews and audits, including on-site reviews of any subrecipients, designated public agencies, and units of general local government as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2), as amended, as modified by this notice. In the case of noncompliance with these requirements, the state shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The state shall establish remedies for noncompliance by any designated public agencies or units of general local governments and for its subrecipients.

2. Change of use of real property for state grantees acting directly. This waiver conforms the change of use of real property rule to the waiver allowing a state to carry out activities directly. For purposes of this program, in 24 CFR 570.489(j), (j)(1), and the last sentence of (j)(2), "unit of general local government" shall be read as "unit of general local government or state."

3. Recordkeeping for a state grantee acting directly. Recognizing that the state may carry out activities directly, 24 CFR 570.490(b) is waived in such a case and the following alternative provision shall apply:

State Records. The state shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the state's administration of NSP funds under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other

Federal requirements, the content of records maintained by the state shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly by the state; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan. For fair housing and equal opportunity purposes, and as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program.

4. State compliance with certifications for state grantees acting directly. This is a conforming change related to the waiver to allow a state to act directly. Because a state grantee under this appropriation may carry out activities directly, HUD is applying the regulations at 24 CFR 570.480(c) with respect to the basis for HUD determining whether the state has failed to carry out its certifications, so that such basis shall be that the state has failed to carry out its certifications in compliance with applicable program requirements.

5. Clarifying note on the process for environmental release of funds when a state carries out activities directly. Usually, a state distributes CDBG funds to units of local government and takes on HUD's role in receiving environmental certifications from the grantees and approving releases of funds. For NSP, HUD allows a state grantee to also carry out activities directly instead of distributing them to other governments. According to the environmental regulations at 24 CFR 58.4, when a state carries out activities directly, the state must submit the certification and request for release of funds to HUD for approval.

H. Eligibility and Allowable Costs

Background

Most of the activities eligible under NSP are correlated with CDBG-eligible activities under 42 U.S.C. 5305(a). This correlation reduces implementation risks, because it ensures that the NSP grants are administered largely in accordance with long-established CDBG rules and controls. The table in the requirements paragraph below shows the eligible uses under NSP and the eligible activities from the regulations for the regular CDBG entitlement program that HUD has determined best correspond to those uses. If a grantee creates a program design that includes a CDBG-eligible activity that is not

shown in the table to support an NSP-eligible use, the Department is providing an alternative requirement to 42 U.S.C. 5305(a) that HUD may allow a grantee an additional eligible-activity category if HUD finds the activity to be in compliance with NSP statutory requirements. As under the regular CDBG program, grantees may fund costs, such as reasonable developer's fees, related to NSP-assisted housing rehabilitation or construction activities. Only NSP1 funds may be used to redevelop acquired property for nonresidential uses, such as public parks, commercial uses, or mixed residential and commercial uses. Redevelopment activities using NSP2 and NSP3 funds must be for housing.

The annual entitlement CDBG program allows up to 20 percent of any grant amount plus program income may be used for general administration and planning costs. The State CDBG Program is also subject to the 20 percent limitation, but within that cap up to 3 percent may be used by the state for state administrative costs and technical assistance to potential local government program grantees, with the remainder available to be granted to local government grantees for their administrative costs. Because some of the costs usually allocated under these caps are not applicable to NSP grants (for example, the costs of completing the entire consolidated plan process), these amounts seem excessive to HUD in the context of the NSP program. On the other hand, HUD wants to encourage and support expeditious, appropriate, and compliant use of grant funds, and to prevent fraud, waste, and abuse of funds. Therefore, HUD is providing an alternative requirement that an amount of up to 10 percent of an NSP grant provided to a jurisdiction and of up to 10 percent of program income earned may be used for general administration and planning activities as those are defined at 24 CFR 570.205 and 206. For all grantees, including states, the 10 percent limitation applies to the grant as a whole.

The regulatory and statutory requirements for state match for program administration at 24 CFR 570.489(a)(i) are superseded by the statutory direction at section 2301(e)(2) of HERA that no matching funds shall be required for a state or unit of general local government to receive a grant.

Requirements

1. Use of grant funds must constitute an eligible use under HERA.
2. In addition to being an eligible NSP use of funds, each activity funded under NSP must also be CDBG-eligible under

42 U.S.C. 5305(a) and meet a CDBG national objective.

3.a. Certain CDBG-eligible activities correlate to specific NSP-eligible uses and vice versa. 42 U.S.C. 5305(a) and 24 CFR 570.201–207 and 570.482(a) through (d) are superseded to the extent

necessary to allow the eligible uses described under section 2301(c)(4) of HERA in accordance with this paragraph (including the table and subparagraphs below) or with permission granted, in writing, by HUD

upon a written request by the grantee that demonstrates that the proposed activity constitutes an eligible use under NSP. All NSP grantees, including states, will use the NSP categories and CDBG entitlement regulations listed below.

NSP-eligible uses	Correlated eligible activities from the CDBG entitlement regulations
(A) Establish financing mechanisms for purchase and redevelopment of <i>foreclosed upon homes and residential properties</i> , including such mechanisms as soft-seconds, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.	<ul style="list-style-type: none"> • As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. • Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate <i>homes and residential properties that have been abandoned or foreclosed upon</i> , in order to sell, rent, or redevelop such homes and properties.	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance (as modified below); • 24 CFR 570.202 eligible rehabilitation and preservation activities for homes and other residential properties.
(C) Establish and operate land banks for <i>homes and residential properties that have been foreclosed upon</i> .	<ul style="list-style-type: none"> • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.
(D) Demolish <i>blighted structures</i>	<ul style="list-style-type: none"> • 24 CFR 570.201(a) Acquisition and (b) Disposition. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.
(E) Redevelop <i>demolished or vacant properties as housing</i> .*	<ul style="list-style-type: none"> • 24 CFR 570.201(d) Clearance for blighted structures only. • 24 CFR 570.201(a) Acquisition, (b) Disposition, (c) Public facilities and improvements, (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties, (i) Relocation, and (n) Direct homeownership assistance (as modified below). • 24 CFR 570.202 Eligible rehabilitation and preservation activities for demolished or vacant properties. • 24 CFR 570.204 Community based development organizations. • HUD notes that any of the activities listed above may include required homebuyer counseling as an activity delivery cost.

* NSP1 funds used under eligible use (E) may be used for nonresidential purposes, while NSP2 and NSP3 funds must be used for housing.

b. HUD will not consider requests to allow foreclosure prevention activities, or to allow demolition of structures that are not blighted. Neither will it allow purchase of residential properties and homes that have not been abandoned or foreclosed upon, except under paragraph (E) of the eligible use chart above. HUD does not have the authority to permit uses or activities not authorized by HERA.

c. New construction of housing is eligible as part the redevelopment of demolished or vacant properties as provided in paragraph (E) of the eligible use chart above.

d. 24 CFR 570.201(n) is waived and an alternative requirement provided for 42 U.S.C. 5305(a) to the extent necessary to allow provision of NSP-assisted homeownership assistance to persons whose income does not exceed 120 percent of median income.

e. No NSP2 or NSP3 funds may be used to demolish any public housing (as defined by Section 3 of the U.S. Housing Act of 1937 (42 U.S.C. 1437a)).

f. For NSP2 and NSP3, a grantee may not use more than 10 percent of its grant for demolition activities under HERA sections 2301(c)(4)(C) and (D), unless the Secretary determines that such use represents an appropriate response to

local market conditions. NSP2 and NSP3 grantees seeking to use more than 10 percent of their grant amounts on demolition activities must request a waiver from HUD.

4. Alternative requirement for the limitation on planning and administrative costs. 24 CFR 570.200(g) and 570.489(a)(3) are waived to the extent necessary to allow each grantee under this notice to expend no more than 10 percent of its grant amount, plus 10 percent of the amount of program income received by the grantee, for activities eligible under 24 CFR 570.205 or 206. The requirements at 24 CFR 570.489 are waived to the extent that they require a state match for general administrative costs. (States may use NSP funds under this 10 percent limitation to provide technical assistance to local governments and nonprofit program participants.)

I. Rehabilitation Standards

Background

HERA provides that any NSP-assisted rehabilitation of a foreclosed-upon home or residential property shall be to the extent necessary to comply with applicable laws, codes, and other requirements relating to housing safety,

quality, and habitability, in order to sell, rent, or redevelop such homes and properties. HUD is also imposing this requirement for NSP3-assisted new construction. This imposes a requirement that does not exist in the CDBG program. This means that each grantee must describe or reference in its NSP action plan amendment what rehabilitation standards it will apply for NSP-assisted rehabilitation. As a reminder, grantees are subject to Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act, including their respective provisions related to physical accessibility standards for persons with disabilities. See 24 CFR part 8; 24 CFR 100.205. See also 24 CFR 570.487 and 24 CFR 570.602. HUD will monitor to ensure the standards are implemented.

HERA defines rehabilitation to include improvements to increase the energy efficiency or conservation of such homes and properties or to provide a renewable energy source or sources for such homes and properties. Such improvements are also eligible under the regular CDBG program. HUD strongly encourages grantees to use NSP funds not only to stabilize neighborhoods in the short-term, but to strategically incorporate modern, green

building and energy-efficiency improvements in all NSP activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods. At minimum, NSP3 grantees must have the rehabilitation standards required below. See Appendix C for examples of green and energy-efficiency actions. Additional resources related to sustainable and energy-efficient construction are available on the NSP Resource Exchange Web site (<http://www.hud.gov/nspta>).

Requirement. For NSP3, HUD is requiring that all gut rehabilitation (*i.e.*, general replacement of the interior of a building that may or may not include changes to structural elements such as flooring systems, columns or load bearing interior or exterior walls) or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation or new construction of mid- or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1–2004, Appendix G plus 20 percent (which is the Energy Star standard for multifamily buildings piloted by the Environmental Protection Agency and the Department of Energy). Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken, *e.g.*, replace older obsolete products and appliances (such as windows, doors, lighting, hot water heaters, furnaces, boilers, air conditioning units, refrigerators, clothes washers and dishwashers) with Energy Star-labeled products. Water efficient toilets, showers, and faucets, such as those with the WaterSense label, must be installed. Where relevant, the housing should be improved to mitigate the impact of disasters (*e.g.*, earthquake, hurricane, flooding, fires).

J. Sale of Homes

Background

Section 2301(d)(3) of HERA directs that, if an abandoned or foreclosed-upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition. (Sales and closing costs are eligible NSP redevelopment or rehabilitation costs). Note that the maximum sales price for a property is determined by aggregating

all costs of acquisition, rehabilitation, and redevelopment (including related activity delivery costs, which generally may include, among other items, costs related to the sale of the property).

Requirements

1. In its records, each grantee must maintain sufficient documentation about the purchase and sale amounts of each property and the sources and uses of funds for each activity so that HUD can determine whether the grantee is in compliance with this requirement. A grantee will be expected to provide this documentation individually for each activity.

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

3. For reporting purposes only, for a housing program involving multiple single-family structures under the management of a single entity, HUD will permit reporting the aggregation of activity delivery costs across the total portfolio of projects until completion of the program or closeout of the grant with HUD, whichever comes earlier.

K. Acquisition and Relocation

Background

Acquisition of Foreclosed-Up On Properties. HUD notes that section 2301(d)(1) of HERA conflicts with section 301(3) of the URA (42 U.S.C. 4651) and related regulatory requirements at 49 CFR 24.102(d). As discussed further, section 2301(d)(1) of HERA requires that any acquisition of a foreclosed-upon home or residential property under NSP be at a discount from the current market-appraised value of the home or property and that such discount shall ensure that purchasers are paying below-market value for the home or property. Section 301(3) of the URA, as implemented at 49 CFR 24.102(d), provides that an offer of just compensation shall not be less than the agency's approved appraisal of the fair market value of such property. These URA acquisition policies apply to any acquisition of real property for a federally funded project, except for acquisitions described in 49 CFR 24.101(b)(1) through (5) (commonly referred to as "voluntary acquisitions").

As the more recent and specific statutory provision, section 2301(d)(1) of HERA prevails over section 301 of the URA for purposes of NSP-assisted acquisitions of foreclosed-upon homes or residential properties.

NSP Appraisal Requirements. Section 2301(d)(1) of HERA requires an appraisal for purposes of determining the statutory purchase discount. This appraisal requirement applies to any NSP-assisted acquisition of a foreclosed-upon home or residential property (including voluntary acquisitions). As noted above, section 301 of the URA does not apply to voluntary acquisitions. While the URA and its regulations do not require appraisals for such acquisitions, the URA acquisition policies do not prohibit acquiring agencies from obtaining appraisals. Appendix A, 49 CFR 24.101(b)(1)(iv) and (2)(ii), acknowledges that acquiring agencies may still obtain an appraisal to support their determination of fair market value.

One-for-One Replacement. HUD is providing an alternative requirement to the one-for-one replacement requirements set forth in 42 U.S.C. 5304(d)(2), as implemented at 24 CFR 42.375. The Department anticipates a large number of requests from grantees for whom the requirements will be onerous given the pressing rush to implement NSP, and several of the major housing markets affected by the foreclosure crisis have a surplus of abandoned and foreclosed-upon residential properties. The additional workload of reviewing requests under 42 U.S.C. 5304(d)(3) and 24 CFR 42.375(d) could cause a substantial backlog at HUD and delay NSP program operations. Therefore, the alternative requirement is that an NSP grantee is not required to meet the requirements of 42 U.S.C. 5304(d), as implemented at 24 CFR 42.375, to provide one-for-one replacement of low- and moderate-income dwelling units demolished or converted in connection with activities assisted with NSP funds. Alternatively, each grantee must submit the information described below relating to its demolition and conversion activities in its action plan substantial amendment or abbreviated plan. The grantee will report to HUD and citizens (via prominent posting of the DRGR reports on the grantee's official Internet site) on progress related to these measures until the closeout of its grant with HUD. HUD reminds grantees to be aware of the requirement to have and follow a residential antidisplacement and relocation plan for the CDBG and HOME programs. This requirement is not waived for those programs and

continues to apply to activities assisted with regular CDBG and HOME funds.

Relocation Assistance. HUD is not waiving or specifying alternative requirements to the URA's relocation provisions. Those requirements that do not conflict with HERA continue to apply. HUD is *not* specifying alternative requirements to the relocation assistance provisions at 42 U.S.C. 5304(d). Guidance on meeting these requirements is available on the HUD Web site and through local HUD field offices. HUD urges grantees to consider URA requirements in designing their programs and to remember that there are URA obligations related to voluntary and involuntary property acquisition activities, even for vacant and abandoned property.

Tenant Protections. The Recovery Act included tenant protections applicable to NSP grants. First, the Recovery Act included a provision applicable to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a *bona fide* tenant at the time of foreclosure. The use of NSP funds for acquisition of such property is subject to a determination by the grantee that the initial successor in interest complied with these requirements. Second, NSP grantees may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) because of the status of the prospective tenant as such a participant.

Requirements

One for One Replacement Requirements.

1. The one-for-one replacement requirements 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. As an alternative requirement to 42 U.S.C. 5304(d)(2)(A)(i) and (ii), each grantee planning to demolish or convert any low- and moderate-income dwelling units as a result of NSP-assisted activities must identify all of the following information in its NSP substantial amendment or abbreviated plan:

(a) The number of low- and moderate-income dwelling units reasonably expected to be demolished or converted as a direct result of NSP-assisted activities;

(b) The number of NSP affordable housing units (made available to low-, moderate-, and middle-income

households) reasonably expected to be produced, by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion); and

(c) The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

The grantee must also report on actual performance for demolitions and production, as required elsewhere in this notice.

Tenant Protections.

2. The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a *bona fide* tenant at the time of foreclosure. The use of NSP funds for acquisition of such property is subject to a determination by the grantee that the initial successor in interest complied with these requirements.

a. The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any *bona fide* tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any *bona fide* tenant, as of the date of such notice of foreclosure: (i) Under any *bona fide* lease entered into before the date of notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

b.i. In the case of any qualified foreclosed housing in which a recipient of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) (the "Section 8 Program") resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit.

ii. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

iii. If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family—(1) to pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or (2) for the family's reasonable moving costs, including security deposit costs.

c. For purposes of this section, a lease or tenancy shall be considered *bona fide* only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm's length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property. See Section II.A for the definition of date of notice of foreclosure.

d. The grantee shall maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under section K.2.a. and K.2.b. If the grantee determines that the initial successor in interest in such property failed to comply with such requirements, it may not use NSP funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in section K.2.a. and K.2.b.

e. Grantees must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of an NSP-assisted activity and maintain records in sufficient detail to demonstrate compliance with the provisions of that section. For purposes

of clarification, grantees need to be aware that the NSP tenant protection requirements under the Recovery Act are separate and apart from the obligations imposed on grantees by the URA. The URA applies to any person displaced as a direct result of acquisition, rehabilitation, and/or demolition of real property for a federally-assisted project. Eligibility determinations under the URA and the required notices and relocation assistance requirements are separate and distinct from the NSP tenant protections in the Recovery Act. Grantees cannot assume that a person entitled to the NSP tenant protections under the Recovery Act is also eligible for assistance under the URA (or vice versa). Any tenant lawfully occupying the property evicted by the owner/mortgagor in order to facilitate an acquisition under the NSP program (including short sales) is most likely eligible for URA relocation assistance and payments as a displaced person.

3. The grantee of any grant or loan made from NSP funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.

4. This section shall not preempt any Federal, State or local law that provides more protections for tenants.

L. Note on Eminent Domain

Although section 2303 of HERA appears to allow some use of eminent domain for public purposes, HUD cautions grantees that HERA section 2301(d)(1) may effectively ensure that all NSP-assisted property acquisitions must be voluntary acquisitions as the term is defined by the URA and its implementing regulations. Section 2301(d)(1) of HERA directs that any purchase of a foreclosed-upon home or residential property under NSP be at a discount from the current market appraised value of the home or residential property and that such discount shall ensure that purchasers are paying below-market value for the home or property. However, the Fifth Amendment to the U.S. Constitution provides that private property shall not be taken for public use without just compensation. The Supreme Court has ruled that a jurisdiction must pay fair market value for the purchase of property through eminent domain. A grantee contemplating using NSP funds to assist an acquisition involving an eminent domain action is advised to consult appropriate legal counsel before taking action.

M. Timeliness of Use and Expenditure of NSP Funds

Background

One of the most critical NSP1 provisions is the HERA requirement at section 2301(c)(1) that any grantee receiving a grant:

“* * * 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.”

HUD has defined the term “use” in this notice to include obligation of funds.

A further complication is that HERA clearly expects grantees to earn program income under this grant program. As provided under 24 CFR 85.21, entitlements grantees and subrecipients shall disburse program income before requesting additional cash withdrawals from the U.S. Treasury. States are governed similarly by 24 CFR 570.489(e)(3) and 31 CFR part 205. This requirement is reflected in the regulations governing use of program income by states and units of general local government under the CDBG program. This means that a grantee that successfully and quickly deploys its program and generates program income may obligate, draw down, and expend an amount equal to its NSP1 allocation amount, and still have funds remaining in its line of credit, possibly subject to recapture at the 18-month deadline.

On consideration, the Department chose to implement the NSP1 use test based on whether the state or unit of general local government has expended or obligated the NSP1 grant funds and program income in an aggregate amount at least equal to the NSP1 allocation. HUD also imposed a deadline for expending NSP1 grant funds because the intent of these grants clearly is to quickly address an emergency situation in areas of the greatest need.

NSP2 and NSP3 grants follow the statutory expenditure deadlines described under the Recovery Act, which provides that grantees:

“shall expend at least 50 percent of allocated funds within 2 years of the date funds become available to the [recipient] for obligation, and 100 percent of such funds within 3 years of such date.”

NSP2 and NSP3 expenditure timelines are tighter than under NSP1. In the NSP2 NOFA, HUD required NSP2 grantees to expend their entire grant, including program income, within the statutory timeframes. Upon reflection, HUD has determined that the better interpretation would be similar to the NSP1 requirement that requires the

expenditure of grant funds and program income in an aggregate amount at least equal to the NSP2 or NSP3 allocation. HUD is therefore including a revision to the NSP2 NOFA program requirements in this Notice. If any NSP grantee fails to meet the requirement to expend an amount equal to its grant within the relevant timelines, HUD, on the first business day after that deadline, will notify the grantee and restrict the amount of unused funds in the grantee's line of credit. HUD will allow the grantee 30 days to submit information to HUD regarding any additional expenditure of funds not already recorded in DRGR. Then HUD may proceed to recapture the unused funds or provide for other corrective action(s) or sanction.

Requirements

1. Timely use of NSP1 funds. At the end of the statutory 18-month use period, which begins when the NSP grantee receives its funds from HUD, the state or unit of general local government NSP grantee's accounting records and DRGR information must reflect outlays (expenditures) and unliquidated obligations for approved activities that, in the aggregate, are at least equal to the NSP allocation. (The DRGR system collects information on expenditures and obligations.) Grantees receiving a reallocation of NSP1 funds must also comply with the 18-month use requirement.

2. Timely expenditure of NSP1 funds. The timely distribution or expenditure requirements of sections 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: All NSP1 grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP1 funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended.

3. Timely expenditure of NSP2 and NSP3 funds. The timely distribution or expenditure requirements of sections 24 CFR 570.494 and 570.902 are waived to the extent necessary to allow the following alternative requirement: NSP2 and NSP3 grantees must expend on eligible NSP activities an amount equal to or greater than the 50 percent of the initial allocation of NSP funds within 2 years of receipt of those funds and 100 percent of the initial allocation of NSP funds within 3 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended or provide for other corrective action(s) or sanction. A grantee will be deemed by HUD to have received its

NSP grant at the time HUD signs its NSP grant agreement.

N. Alternative Requirement for Program Income (Revenue) Generated By Activities Assisted With Grant Funds

Requirement

1. Revenue (*i.e.*, gross income) received by a state, unit of general local government, or subrecipient (as defined at 24 CFR 570.500(c)) that is directly generated from the use of CDBG funds (which term includes NSP grant funds) constitutes CDBG program income. To ensure consistency of treatment of such program income, the definition of program income at 24 CFR 570.500(a) shall be applied to amounts received by states, units of general local government, and subrecipients.

2. Cash management. Substantially all program income must be disbursed for eligible NSP activities before additional cash withdrawals are made from the U.S. Treasury.

3. Agreements with subrecipients. States and units of general local government must incorporate in subrecipient agreements such provisions as are necessary to ensure compliance with the requirements of this section.

O. Reporting

Background

HUD is requiring regular reporting on each NSP grant in the DRGR system to ensure the Department has sufficient management information to follow-up promptly if a grantee lags in implementation and risks recapture of its grant funds. For NSP, HUD is waiving the annual reporting requirements of the consolidated plan to allow HUD to collect more regular information on various aspects of the uses of funds and of the activities funded with these grants. HUD will use the reports to exercise oversight for compliance with the requirements of this notice and for prevention of fraud, waste, and abuse of funds.

The regular CDBG performance measurement requirements will not apply to the NSP funds. HUD has configured DRGR performance measures to fit the NSP activities and will provide additional guidance on NSP performance measures.

To collect these data elements and to meet its reporting requirements, HUD is requiring each grantee to report on its NSP funds to HUD using the online DRGR system, which uses a streamlined, Internet-based format. HUD will use grantee reports to monitor for anomalies or performance problems that

suggest fraud, waste, and abuse of funds; to reconcile budgets, obligations, fund draws, and expenditures; to calculate applicable administrative and public service limitations and the overall percent of benefit to LMMI persons; and as a basis for risk analysis in determining a monitoring plan.

The grantee must post the NSP report on a Web site for its citizens when it submits the report to HUD (DRGR generates a version of the report that the grantee can download, save, and post).

The Office of Management and Budget has established October 1, 2010 as the deadline for Federal agencies to initiate sub-award reporting in compliance with the Federal Funding Accountability and Transparency Act (Pub. L. 109–282) (FFATA). NSP3 grantees will be required to comply with this additional reporting requirement. Additional HUD guidance on compliance with the FFATA requirements is forthcoming.

Requirements

1. Performance report alternative requirement. The Secretary may specify the form and timing of reports provided by the grantee under both 42 U.S.C. 5304(e) (the HCD Act) and 42 U.S.C. 12708 (NAHA). Therefore, the consolidated plan regulation at 24 CFR 91.520 is waived and the alternative reporting form and timing for the NSP funds is that:

a. Each grantee must enter its NSP Action Plan amendment or abbreviated plan into HUD's web-based DRGR system in sufficient detail to meet the NSP action plan content requirements of this notice and to serve as the basis for acceptable performance reports.

b. NSP1 and NSP3 grantees must submit a quarterly performance report, as HUD prescribes, no later than 30 days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award and continuing until the end of the grant. In addition to this quarterly performance reporting, beginning three months prior to its use or expenditure deadline, as applicable, each grantee will report monthly on its NSP use and expenditure of funds, and continuing monthly until reported total uses or expenditure of funds are equal to or greater than the total NSP grant or the deadline occurs. After HUD has accepted a report from a grantee showing such use or expenditure of funds, the monthly reporting requirement will end. Quarterly reports will continue until all NSP funds (including program income) have been expended and those expenditures are included in a report to HUD, or until HUD issues other instructions. Each

report will include information about the uses of funds, including, but not limited to, the project name, activity, location, national objective, funds budgeted and expended, the funding source and total amount of any non-NSP funds, numbers of properties and housing units, beginning and ending dates of activities, beneficiary characteristics, and numbers of low- and moderate-income persons or households benefiting. Reports must be submitted using HUD's web-based DRGR system and, at the time of submission, be posted prominently on the grantee's official Web site.

c. Additional reporting requirements consistent with the Federal Funding Accountability and Transparency Act will be required for NSP3 Grantees. HUD guidance on these requirements is forthcoming.

P. FHA First Look Program

The Department notes that it is an eligible use of NSP grant funds to acquire and redevelop FHA foreclosed properties. The Federal Housing Administration's (FHA) First Look sales method provides NSP grantees exclusive access to review and purchase newly conveyed FHA real estate-owned (REO) properties that are located in their designated areas. Grantees will have the opportunity to make a purchase offer on a property prior to it being made available to other entities. NSP grantees can purchase these properties at up to a 10% discount from the appraised value. Further information about First Look was published in the **Federal Register** on July 15, 2010 (75 FR 41225), and is also available online at: <http://edocket.access.gpo.gov/2010/pdf/2010-17335.pdf>.

HUD will provide technical assistance on its Web site regarding how these programs can effectively interact. Grantees may also contact their local HUD FHA field office for further information.

Q. Purchase Discount

Background

HERA Section 2301(d)(1) limits the purchase price of a foreclosed home or residential property, as follows:

Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

To ensure that uncertainty over the meaning of this section does not delay program implementation, HUD is

defining “current market appraised value” in this notice. For mortgagee foreclosed properties, HUD is requiring that grantees seek to obtain the “maximum reasonable discount” from the mortgagee, taking into consideration likely “carrying costs” of the mortgagee if it were to not sell the property to the grantee or subrecipient. HUD has adopted an approach that requires a minimum discount of one percent for each foreclosed upon home or residential property purchased with NSP funds.

Requirements

1. Individual purchase transaction. Each foreclosed-upon home or residential property shall be purchased at a discount of at least one percent from the current market-appraised value of the home or property.

2. 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. This section does not preclude payment of tax liens on property that is not owned by the grantee or payment of current taxes while the property is being redeveloped or held in a land bank.

3. The address, appraised value, purchase offer amount, and discount amount of each property purchase must be documented in the grantee’s program records. The address of each acquired property must be recorded in DRGR.

R. Removal of Annual Requirements

Requirement

Throughout 24 CFR parts 91 and 570, all references to “annual” requirements such as submission of plans and reports are waived to the extent necessary to allow the provisions of this notice to apply to NSP funds, with no recurring annual requirements other than those related to civil rights and fair housing certifications and requirements.

S. Affirmatively Furthering Fair Housing

Nothing in this notice may be construed as affecting each grantee’s responsibility to carry out its certification to affirmatively further fair housing. HUD encourages each grantee

to review its analysis of impediments to fair housing choice to determine whether an update is necessary because of current market conditions or other factors. Non-entitlement local government grantees must affirmatively further fair housing by adopting and following procedures and requirements to affirmatively market NSP3-assisted housing opportunities. This means that they will affirmatively market NSP3 assisted units and carry out NSP3 activities that further fair housing through innovative housing design or construction to increase access for persons with disabilities, language assistance services to persons with limited English proficiency (on the basis of national origin), or location of new or rehabilitated housing in a manner that provides greater housing choice or mobility for persons in classes protected by the Fair Housing Act, and maintain records reflecting the actions in this regard.

T. Certifications

Background

HUD is substituting alternative certifications. The alternative certifications are tailored to NSP3 grants and remove certifications and references that are appropriate only to the annual CDBG formula program. NSP1 and NSP2 certifications have already been submitted to HUD in accordance with the requirements of the NSP1 Notice and the NSP2 NOFA.

Requirements

1. *Certifications for states and for entitlement communities, alternative requirement.* Although the NSP3 is being implemented as a substantial amendment to the current annual action plan, HUD is requiring submission of this alternative set of certifications as a conforming change, reflecting alternative requirements and waivers under this notice. Each jurisdiction will submit the following certifications:

1. Affirmatively furthering fair housing. The jurisdiction certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

2. Anti-displacement and relocation plan. The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.

3. Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

4. Authority of jurisdiction. The jurisdiction certifies that the consolidated plan or abbreviated plan, as applicable, is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.

5. Consistency with plan. The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan or abbreviated plan, as applicable.

6. Acquisition and relocation. The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.

7. Section 3. The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

8. Citizen participation. The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.

9. Following a plan. The jurisdiction certifies it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD. [Only States and entitlement jurisdictions use this certification.]

10. Use of funds. The jurisdiction certifies that it will comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and Title XII of Division A of the American Recovery and Reinvestment Act of 2009 by spending 50 percent of its grant funds within 2 years, and spending 100 percent within 3 years, of receipt of the grant.

11. The jurisdiction certifies:

a. That all of the NSP funds made available to it will be used with respect to individuals and families whose

incomes do not exceed 120 percent of area median income; and

b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

12. Excessive force. The jurisdiction certifies that it has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

13. Compliance with anti-discrimination laws. The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

14. Compliance with lead-based paint procedures. The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

15. Compliance with laws. The jurisdiction certifies that it will comply with applicable laws.

2. Certifications for Non-Entitlement Local Governments, alternative requirement.

For non-entitlement local government grantees that do not have annual action plans to amend, NSP3 is being implemented through the submission of

an abbreviated plan under 25 CFR 91.235. HUD is requiring submission of this alternative set of certifications as a conforming change, reflecting alternative requirements and waivers under this notice. Each jurisdiction will submit the following certifications:

1. Affirmatively furthering fair housing. The jurisdiction certifies that it will affirmatively further fair housing.

2. Anti-displacement and relocation plan. The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.

3. Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

4. Authority of jurisdiction. The jurisdiction certifies that the consolidated plan or abbreviated plan, as applicable, is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.

5. Consistency with plan. The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan or abbreviated plan, as applicable.

6. Acquisition and relocation. The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.

7. Section 3. The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

8. Citizen participation. The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.

9. Use of funds. The jurisdiction certifies that it will comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act and Title XII of Division A of the American Recovery and Reinvestment Act of 2009 by spending 50 percent of its grant funds

within 2 years, and spending 100 percent within 3 years, of receipt of the grant.

10. The jurisdiction certifies:

a. That all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income; and

b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

11. Excessive force. The jurisdiction certifies that it has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

12. Compliance with anti-discrimination laws. The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

13. Compliance with lead-based paint procedures. The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

14. Compliance with laws. The jurisdiction certifies that it will comply with applicable laws.

U. Additional NSP3 Requirements— Preferences for Rental Housing and Local Hiring

The NSP3 allocation included statutory language requiring grantees to “establish procedures to create preferences for the development of affordable rental housing for properties assisted with NSP3 funds.” HUD is requiring grantees to describe such procedures as part of their substantial amendments or abbreviated plans as described in Section II.B. above.

Grantees also “shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, as such term is defined by the Secretary, of projects funded under this section or contract with small businesses that are owned and operated by persons residing in the vicinity of such projects.” For the purposes of administering this requirement, HUD is adopting the Section 3 applicability thresholds for community development assistance at 24 CFR 135.3(a)(3)(ii). **Note:** The NSP3 local hiring requirement does not replace the responsibilities of grantees under Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135, except to the extent the obligations may be in direct conflict.

For the purposes of NSP3, HUD defines “vicinity” as each neighborhood identified by the NSP3 grantee as being the areas of greatest need. See section II.B.2. Small business means a business that meets the criteria set forth in section 3(a) of the Small Business Act. See 42 U.S.C. 5302(a)(23).

V. Note on Statutory Limitation on Distribution of Funds

Section 2304 of HERA and 1479(a)(7)(A) of the Dodd-Frank Act states that none of the funds made available under this Title or title IV shall be distributed to an organization that has been convicted of a violation under Federal law relating to an election

for Federal office; or an organization that employs applicable individuals. Section 1479(a)(7)(B) defines applicable individuals.

W. Information Collection Approval Note

HUD has approval from the Office of Management and Budget (OMB) for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). OMB approval is under OMB control number 2506–0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

X. Duration of Funding

The appropriation accounting provisions in 31 U.S.C. 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP1 and NSP3 grants direct that these funds be available until expended.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for grants made under NSP are as follows: 14.218; 14.225; and 14.228.

Finding of No Significant Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)(2)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451

Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Establishment of Formula

The funding formula set out in Attachment B to this notice was established by HUD on August 18, 2010.

Dated: October 13, 2010.

Mercedes M. Márquez,
Assistant Secretary for Community Planning and Development.

Attachments

- A—Formula Allocation
- B—NSP3 Formula and Allocation of Funds
- C—Recommended Green and Sustainable Practices

Attachment A

HUD’s Methodology for Allocating the Funds for Neighborhood Stabilization Program 1 (NSP1)

HERA calls for allocating funds “to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

- (A) The number and percentage of home foreclosures in each State or unit of general local government;
- (B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and
- (C) the number and percentage of homes in default or delinquency in each State or unit of general local government.”

It further directs that “each State shall receive not less than 0.5 percent of funds”. The allocation formula operates as follows. In this formula, the primary data on foreclosure rates, subprime loan rates, and rates of loans delinquent or in default come from the Mortgage Bankers Association National Delinquency Survey (MBA–NDS). Because the MBA–NDS may have uneven coverage from state-to-state in respect to the total number of mortgages reported, the total count of mortgages is calculated as the number of owner-occupied mortgages from the 2006 American Community Survey increased with data from the Home Mortgage Disclosure Act to capture the proportion of total mortgages made within a state made to investors between 2004 and 2006. The first step of the allocation is to make a “statewide” allocation using the following formula:

Statewide Allocation = \$3.92 billion *	
{[0.70 * (State’s number of foreclosure starts in last 6 quarters) *]	(Percent of all loans in state to enter foreclosure last 6 quarters) +
National number of foreclosure starts in last 6 quarters]	Percent of all loans in nation to enter foreclosure last 6 quarters
0.15 * (State’s number of subprime loans) *]	(Percent of all loans in state subprime) +
National number of subprime loans]	Percent of all loans in nation subprime
0.10 * (State’s number of loans in default (90+ days delinquent). *]	(Percent of all loans in state in default) +
National number of loans in default]	Percent of all loans in nation in default
0.05 * (State’s number of loans 60 to 89 days delinquent). *]	Percent of all loans in state 60 to 89 days delinquent)] *
National number of loans 60 to 89 days delinquent]	National percent of all loans 60 to 89 days delinquent

(Pct of all addresses in state vacant in Census Tracts where more than 40% of the 2004 to 2006 loans were high cost);
Pct of all addresses in nation vacant in Census Tracts where more than 40% of the 2004 to 2006 loans were high cost

This formula allocates 70 percent of the funds based on the number and percent of foreclosures, 15 percent for subprime loans, 10 percent for loans in default (delinquent 90 days or longer), and 5 percent for loans delinquent 60 to 90 days. The higher weight on foreclosures is based on the emphasis the statute places on targeting foreclosed homes. The percentage adjustments, the rate of a problem in a state relative to the national rate of a problem, are restricted such that a state's allocation based on its proportional share of a problem cannot be increased or decreased by more than 30 percent.

Because HERA specifically indicates that the funds are needed for the "redevelopment of abandoned and foreclosed upon homes and residential properties," HUD has included a variable to proxy where abandonment of homes due to foreclosure is more likely, specifically each state's rate of vacant residential addresses in neighborhoods with a high proportion (more than 40 percent) of loans in 2004 to 2006 that were high cost. Information on vacant addresses is based on United States Postal Service data as of June 30, 2008 aggregated by HUD to the Census Tract level. The residential vacancy adjustment factor reflects

a state's vacancy rate relative to the national average and cannot increase or decrease a state's proportional share of the allocation based on foreclosures, subprime loans, and delinquencies and defaults by more than 10 percent.

Finally, if a statewide allocation is less than \$19.6 million, the statewide grant is increased to \$19.6 million. Because this approach will result in a total allocation in excess of appropriation, all grant amounts above \$19.6 million are reduced pro-rata to make the total allocation equal to the total appropriation.

From each statewide allocation, a substate allocation is made as follows:

- Each state government is allocated \$19.6 million
- If the statewide allocation is more than \$19.6 million, the remaining funds are allocated to FY 2008 CDBG entitlement cities, urban counties, and non-entitlement balance of state proportional to relative need.
- If a local government receives less than \$2 million under this sub-allocation, their grant is rolled up into the state government grant.

Note that HUD has determined that HERA's direction that a minimum of \$19.6

million be allocated to the state means that a minimum grant must be provided to each state government of \$19.6 million. As a result, this approach provides state governments with proportionally more funding than their estimated need. As such, state governments should use their best judgment to serve both those areas not receiving a direct grant and those areas that do receive a direct grant, making sure that the total of all funds in the state are going proportionally more to those places (as prescribed by HERA):

- "With the greatest percentage of home foreclosures;
- With the highest percentage of homes financed by a subprime mortgage related loan; and
- Identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures."

For the amount of funds above each state's \$19.6 million, the remaining funds are allocated among the entitlement communities and non-entitlement balances using the following formula:

$$\text{Local Allocation} = (\text{Statewide Allocation} - \$19,600,000) * \frac{(\text{Local estimated number of foreclosure starts in last 6 quarters}) * \text{State total number of foreclosure starts in last 6 quarters}}{(\text{Local vacancy rate in Census Tracts with more than 40\% of the loans High-cost}) * \text{State vacancy rate in Census Tracts with more than 40\% of the loans High-cost}}$$

Where: The residential vacancy rate adjustment cannot increase or reduce a local jurisdiction's allocation by more than 30 percent and the estimated number of foreclosures is calculated based on a predicted foreclosure rate times the estimated number of mortgages in a community.

HUD analysis shows that 75 percent of the variance between states on foreclosure rates can be explained by three variables available from public data:

- Office of Federal Housing Enterprise Oversight (OFHEO) data on change in home values as of June 2008 compared to peak home value since 2000.
- Percent of all loans made between 2004 and 2006 that are high cost as reported in the Home Mortgage Disclosure Act (HMDA).
- Unemployment rate as of June 2008 (from Bureau of Labor Statistics).

Because these three variables are publicly available for all CDBG eligible communities and they are good predictors of foreclosure risk, they are used in a model to calculate the

estimated number of foreclosures in each jurisdiction within a state. The formula used is as follows:

$$\begin{aligned} \text{Predicted Foreclosure Rate} = & -2.211 \\ & - (0.131 \times \text{Percent change in MSA OFHEO} \\ & \text{current price relative to the maximum in past} \\ & \text{8 years}) \\ & + (0.152 * \text{Percent of total loans made between} \\ & \text{2004 and 2006 that are high cost}) \\ & + (0.392 * \text{Percent unemployed in the place} \\ & \text{our county in June 2008}). \end{aligned}$$

This predicted foreclosure rate is then multiplied times the estimated number of mortgages within a jurisdiction (number of HMDA loans made between 2004 and 2006 times the ratio of ACS 2006 data on total mortgages in state/HMDA loans in state). This "estimated number of mortgages in the jurisdiction" is further adjusted such that the estimated number of foreclosures from the model will equal the total foreclosure starts in the state from the Mortgage Bankers Association National Delinquency Survey.

As noted above, for entitlement cities and urban counties that would receive an NSP allocation of less than \$2 million, the funds are allocated to the state grantee. The District of Columbia and the four Insular Areas receive direct allocations and are not subject to the minimum grant threshold.

Because this funding is one-time funding and the eligible activities under the program are different enough from the regular program, HUD believes that a grantee must receive a minimum amount of \$2 million to have adequate staffing to properly administer the program effectively. In addition, fewer grants will allow HUD staff to more effectively monitor grantees to ensure proper implementation of the program and reduce the risk for fraud, waste, and abuse.

Attachment B

HUD's Methodology for Allocating the Funds for Neighborhood Stabilization Program 3 (NSP3)

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

State	Grantee	NSP3 Grant
Alaska	State of Alaska	\$5,000,000
Alabama	State of Alabama	5,000,000
	Birmingham	2,576,151
	Alabama Total	7,576,151
Arkansas	State of Arkansas	5,000,000
Arizona	Avondale City	1,224,903
	State of Arizona	5,000,000

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	Chandler	1,332,011
	Glendale	3,718,377
	Maricopa County	4,257,346
	Mesa	4,019,457
	Mohave County	1,990,744
	Peoria City	1,198,780
	Phoenix	16,053,525
	Pinal County	3,168,315
	Surprise City	1,329,844
	Tucson	2,083,771
	Arizona Total	45,377,073
California	Apple Valley	1,463,014
	Bakersfield	3,320,927
	State of California	7,777,019
	Compton	1,436,300
	Contra Costa County	1,871,294
	Corona	1,317,310
	Fontana	2,695,735
	Fresno	3,547,219
	Fresno County	2,739,766
	Hemet	1,360,197
	Hesperia	1,785,047
	Imperial County	1,708,780
	Indio City	1,092,071
	Kern County	5,202,037
	Lancaster	2,364,566
	Long Beach	1,567,935
	Los Angeles	9,875,577
	Los Angeles County	9,532,569
	Madera County	1,659,017
	Merced	1,196,182
	Merced County	2,705,877
	Modesto	2,951,549
	Monterey County	1,284,794
	Moreno Valley	3,687,789
	Oakland	2,070,087
	Ontario	1,872,853
	Orange County	1,004,948
	Palmdale	2,310,023
	Perris City	1,342,449
	Pomona	1,235,629
	Rialto	1,936,370
	Richmond	1,153,172
	Riverside	3,202,152
	Riverside County	14,272,400
	Sacramento	3,762,329
	Sacramento County	4,595,671
	San Bernardino	3,277,401
	San Bernardino County	10,438,181
	San Joaquin County	4,398,543
	Santa Ana	1,464,113
	Solano County	1,622,757
	Stanislaus County	4,175,947
	Stockton	4,280,994
	Tulare County	2,845,529
	Vallejo	1,744,593
	Victorville	2,159,937
	California Total	149,308,651
Colorado	Adams County	1,997,322
	Aurora	2,445,282
	State of Colorado	5,098,309
	Colorado Springs	1,420,638
	Denver	2,700,279
	Greeley	1,203,745
	Pueblo	1,460,506
	Weld County	1,023,188
	Colorado Total	17,349,270
Connecticut	Bridgeport	1,215,150

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	State of Connecticut	5,000,000
	Hartford	1,029,926
	New Haven	1,041,579
	Waterbury	1,036,101
	Connecticut Total	9,322,756
District of Columbia	Washington, DC	5,000,000
Delaware	State of Delaware	5,000,000
Florida	Boynton Beach	1,168,808
	Brevard County	3,032,850
	Broward County	5,457,553
	Cape Coral	3,048,214
	Charlotte County	2,022,962
	Citrus County	1,005,084
	Clearwater	1,385,801
	Collier County	3,884,165
	Coral Springs	1,657,845
	Davie	1,171,166
	Daytona Beach	1,127,616
	Deerfield Beach	1,183,897
	Deltona	1,964,066
	Escambia County	1,210,487
	State of Florida	8,511,111
	Ft Lauderdale	2,145,921
	Ft Myers	1,539,941
	Hernando County	1,953,975
	Hialeah	2,198,194
	Hillsborough County	8,083,062
	Hollywood	2,433,001
	Indian River County	1,500,428
	Jacksonville-Duval County	7,102,937
	Kissimmee	1,042,299
	Lake County	3,199,585
	Lakeland	1,303,139
	Lauderhill	1,500,609
	Lee County	6,639,174
	Manatee County	3,321,893
	Margate	1,148,877
	Marion County	4,589,714
	Martin County	1,563,770
	Melbourne	1,257,986
	Miami	4,558,939
	Miami Beach	1,475,088
	Miami Gardens City	1,940,337
	Miami-Dade County	20,036,303
	Miramar	2,321,827
	North Miami	1,173,374
	Orange County	11,551,158
	Orlando	3,095,137
	Osceola County	3,239,646
	Palm Bay	1,764,032
	Palm Beach County	11,264,172
	Palm Coast City	1,375,071
	Pasco County	5,185,778
	Pembroke Pines	2,330,542
	Pinellas County	4,697,519
	Plantation	1,216,427
	Polk County	5,443,116
	Pompano Beach	1,500,572
	Port St Lucie	3,515,509
	Sanford	1,037,697
	Sarasota	1,038,811
	Sarasota County	3,949,541
	Seminole County	3,995,178
	St Petersburg	3,709,133
	St. Lucie County	1,947,657
	Sunrise	1,775,162
	Tamarac	1,427,857
	Tampa	4,691,857
	Titusville	1,005,731
	Volusia County	3,670,516

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant	
	West Palm Beach	2,147,327	
Georgia	Florida Total	208,437,144	
	Atlanta	4,906,758	
	Augusta-Richmond County	1,161,297	
	Carroll County	1,190,390	
	Clayton County	3,796,167	
	Cobb County	2,415,784	
	Columbus-Muscogee County	1,128,174	
	Dekalb County	5,233,105	
	Douglas County	1,628,471	
	Fulton County	3,094,885	
	State of Georgia	18,679,977	
	Gwinnett County	2,065,581	
	Henry County	1,217,736	
	Macon	1,503,897	
	Paulding County	1,372,214	
	Savannah	1,027,553	
	Georgia Total	50,421,988	
Hawaii	State of Hawaii	5,000,000	
Iowa	State of Iowa	5,000,000	
Idaho	State of Idaho	5,000,000	
Illinois	Chicago	15,996,360	
	Cook County	7,776,324	
	State of Illinois	5,000,000	
	Lake County	1,370,421	
	Illinois Total	30,143,105	
Indiana	Anderson	1,219,200	
	Elkhart	1,022,717	
	Elkhart County	1,193,194	
	Fort Wayne	2,374,450	
	Gary	2,717,859	
	Hammond	1,243,934	
	State of Indiana	8,235,625	
	Indianapolis	8,017,557	
	Kokomo	1,014,327	
	Lake County	1,613,168	
	Muncie	1,148,363	
		South Bend	1,708,707
	Indiana Total	31,509,101	
Kansas	Kansas City	1,137,796	
	State of Kansas	5,000,000	
	Kansas Total	6,137,796	
Kentucky	Commonwealth of Kentucky	5,000,000	
Louisiana	State of Louisiana	5,000,000	
Massachusetts	Commonwealth of Massachusetts	5,000,000	
	Springfield	1,197,000	
	Worcester County	1,190,994	
	Massachusetts Total	7,387,994	
Maryland	State of Maryland	5,000,000	
	Prince George's County	1,802,242	
	Maryland Total	6,802,242	
Maine	State of Maine	5,000,000	
Michigan	Dearborn	1,027,354	
	Detroit	21,922,710	
	Flint	3,076,522	
	Genesee County	2,663,219	
	Grand Rapids	1,378,788	
	Jackson County	1,162,482	
	Lansing	1,162,508	
	Macomb County	2,536,817	
	State of Michigan	5,000,000	
	Muskegon County	1,071,900	
	Oakland County	2,080,700	
		Pontiac	1,410,621

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND
CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	Saginaw	1,242,318
	Southfield	1,084,254
	St. Clair County	1,129,355
	Warren	1,735,633
	Wayne County	7,839,293
	Michigan Total	57,524,473
Minnesota	Anoka County	1,226,827
	Hennepin County	1,469,133
	Minneapolis	2,671,275
	State of Minnesota	5,000,000
	St Paul	2,059,877
	Minnesota Total	12,427,113
Missouri	Kansas City	1,823,888
	State of Missouri	5,000,000
	St Louis	3,472,954
	St. Louis County	2,813,762
	Missouri Total	13,110,604
Mississippi	State of Mississippi	5,000,000
Montana	State of Montana	5,000,000
North Carolina	State of North Carolina	5,000,000
North Dakota	State of North Dakota	5,000,000
Nebraska	State of Nebraska	5,000,000
	Omaha	1,183,085
	Nebraska Total	6,183,085
New Hampshire	State of New Hampshire	5,000,000
New Jersey	Essex County	1,851,984
	Newark	2,018,637
	State of New Jersey	5,000,000
	Paterson	1,196,877
	Union County	1,574,051
	New Jersey Total	11,641,549
New Mexico	State of New Mexico	5,000,000
Nevada	Clark County	16,156,114
	North Las Vegas	4,097,147
	Henderson	3,901,144
	Las Vegas	10,450,623
	State of Nevada	5,000,000
	Reno	1,973,724
	Washoe County	1,735,918
	Nevada Total	43,314,669
New York	Islip Town	1,429,561
	Nassau County	2,116,070
	New York	9,787,803
	State of New York	5,000,000
	Suffolk County	1,501,506
	New York Total	19,834,940
Ohio	Akron	2,674,298
	Butler County	1,327,123
	Canton	1,233,756
	Cincinnati	3,160,661
	Clark County	1,105,306
	Cleveland	6,793,290
	Columbus	4,843,460
	Cuyahoga County	2,551,533
	Dayton	3,115,780
	East Cleveland	1,068,142
	Euclid	1,031,230
	Hamilton County	1,469,242
	Lorain County	1,619,474
	Montgomery County	1,145,712
	State of Ohio	11,795,818
	Richland County	1,022,278
	Toledo	3,591,715
	Trumbull County	1,143,889

NEIGHBORHOOD STABILIZATION PROGRAM (NSP3) FUNDING UNDER DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT—Continued

State	Grantee	NSP3 Grant
	Youngstown	1,096,328
	Ohio Total	51,789,035
Oklahoma	State of Oklahoma	5,000,000
Oregon	State of Oregon	5,000,000
Pennsylvania	Commonwealth of Pennsylvania	5,000,000
Puerto Rico	Commonwealth of Puerto Rico	5,000,000
Rhode Island	Providence	1,309,231
	State of Rhode Island	5,000,000
	Rhode Island Total	6,309,231
South Carolina	State of South Carolina	5,615,020
	South Carolina Total	5,615,020
South Dakota	State of South Dakota	5,000,000
Tennessee	Memphis	5,195,848
	State of Tennessee	5,000,000
	Tennessee Total	10,195,848
Texas	Dallas	2,356,962
	Dallas County	1,364,426
	Harris County	1,925,917
	Hidalgo County	1,716,924
	Houston	3,389,035
	State of Texas	7,284,978
	Texas Total	18,038,242
Utah	State of Utah	5,000,000
Virginia	Richmond	1,254,970
	Commonwealth of Virginia	5,000,000
	Virginia Total	6,254,970
Vermont	State of Vermont	5,000,000
Washington	State of Washington	5,000,000
Wisconsin	Milwaukee	2,687,949
	State of Wisconsin	5,000,000
	Wisconsin Total	7,687,949
West Virginia	State of West Virginia	5,000,000
Wyoming	State of Wyoming	5,000,000
Insular Areas		300,000
	Total	970,000,000

Overview

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 provided an additional \$1 billion for the Neighborhood Stabilization Program (NSP) that was originally established under the Housing and Economic Recovery Act of 2008.

The statute calls for allocating funds to States and local governments with the greatest need, as determined by:

- (A) “The number and percentage of home foreclosures in each State or unit of general local government;
- (B) “The number and percentage of homes financed by a subprime mortgage in each State or unit of general local government; and
- (C) “The number and percentage of homes in default or delinquency in each State or unit of general local government.”

The statute also requires that a minimum of 0.5 percent of the appropriation, \$5 million be provided to each state.

The Department has determined that for NSP3, the states and local governments with the greatest need for neighborhood

stabilization funding are those communities that have high numbers of foreclosed and/or vacant properties in the neighborhoods with the highest concentrations of foreclosures, delinquent loans, and subprime loans. The basic formula allocates funds based on the number of foreclosures and vacancies in the 20 percent of U.S. neighborhoods (Census Tracts) with the highest rates of homes financed by a subprime mortgage, are delinquent, or are in foreclosure. This basic allocation is adjusted to ensure that every state receives a minimum of \$5 million. The net result is that these funds are highly targeted to communities with the most severe neighborhood problems associated with the foreclosure crisis.

Estimating Greatest Need

To target the funds to States and local communities with the greatest need, HUD estimated the number of loans 90 days delinquent or in foreclosure for each Census Tract in America. This estimate was based on a model that was comprised of three factors

that explain most foreclosures and delinquent loans (see note 1):

- Rate of Subprime Loans. This is measured with HMDA data on high cost and high leverage loans made between 2004 and 2007. These data are available at the Census Tract (neighborhood) level.
- Increase in Unemployment Rate between March 2005 and March 2010. These data are from the BLS Local Area Unemployment Statistics, at the city and county level.
- Fall in Home Value from Peak to Trough. Home value data at the Metropolitan Area level is available quarterly through March 2010 from the Federal Housing Finance Agency Home Price Index.

In addition to wanting to capture loans that are currently delinquent or in the foreclosure process, HUD sought to capture the aggregate impact of the foreclosure crisis on individual neighborhoods between 2007 and 2010. To do this, HUD estimated for each neighborhood the number of foreclosure starts between January 2007 and March 2010 as well as the number of foreclosure

completions between January 2007 and June 2010 (see note 2). Each neighborhood was assigned the larger of the two estimates.

Finally, HUD has administrative data from the United States Postal Service on addresses not picking up mail for 90 days or longer. These data are very good current indicators of neighborhood stress from vacant housing. This number is adjusted using Census 2000 tract level data to remove vacant vacation properties from the count.

The Formula

Using the estimated rate of loans in foreclosure or delinquent, HUD identified the 20 percent of neighborhoods likely to be most distressed. This equates to an estimated serious delinquency rate (90 days delinquent or in foreclosure) of greater than 17.8 percent. Using the methodology described above, the national rate was estimated at 8.9 percent.¹

For each place and balance of county in the United States we add up only from the 20 percent of neighborhoods with the greatest need the number of foreclosed homes between 2007 and 2010 and separately the number units 90 days or more vacant in March 2010.

This "jurisdiction level" file is then used to run a formula to allocate the funds available, \$969,700,000. Sixty percent of these funds are allocated based on each jurisdiction's share of foreclosures and 40 percent of the funds are allocated based on each jurisdiction's share of vacancies.

Minimum Grant Threshold

If a place gets less than HUD's established minimum grant threshold of \$1 million, its grant is rolled up into the county grant. If the county grant is less than the minimum grant threshold of \$1 million, its grant is rolled up into the state grant.

State Minimum Grant of \$5 million

For any state government that would receive less than \$5 million, its grant is increased to \$5 million with all grant amounts above the minimum grant threshold reduced on a pro-rata basis to only allocate the amounts available.

Note 1: Identifying Census Tracts with High Rates of Foreclosures, Delinquencies, and Subprime Loans:

To estimate which neighborhoods are likely to have high rates of foreclosures, delinquencies, and subprime loans, HUD used a July 2010 extract of county level serious delinquency rates from McDash Analytics to develop a predictive model using public data that was available for every Census Tract in the United States. The predictive model, which was weighted on number of mortgages in each county, was able to predict most of the variance between counties in their serious delinquency rate (R-square of 0.821). The model used is as follows:

0.523 (intercept)
+0.476 Unemployment Change 3/2005 to 3/2010 (BLS LAUS)

-0.176 Rate of low cost high leverage loans 2004 to 2007 (HMDA)
+0.521 Rate of high cost high leverage loans 2004 to 2007 (HMDA)
+0.090 Rate of high cost low leverage loans 2004 to 2007 (HMDA)
-0.188 Fall in Home Value Since Peak (FHFA Metro and Non-Metro Area)

The predictive rate of seriously delinquent mortgages was multiplied times the number of loans made between 2004 and 2007 in a Census Tract to estimate the number of seriously delinquent loans in a Census Tract.

Note 2: Calculating Number of Foreclosures at the Neighborhood Level:

To estimate the number of homes in a neighborhood that have completed, or are at risk of becoming Real Estate Owned in a Census Tract, was done by allocating the statewide total of the greater of the sum of all foreclosure completions between January 2007 and June 2010 (from RealtyTrac) or the sum of all foreclosures starts between January 2007 and March 2010 (from the Mortgage Bankers Association) based on each Tracts share of a states estimated number of seriously delinquent loans. The estimated number of seriously delinquent loans was calculated by multiplying the estimated rate of seriously delinquent loans times the number of mortgages made between 2004 and 2007 (from Home Mortgage Disclosure Act data).

Attachment C

NSP Recommended Energy Efficient and Environmentally-Friendly Green Elements

HUD strongly recommends that your proposed NSP3 program incorporate the following energy efficient and environmentally-friendly Green elements. No specific element is required. HUD encourages thoughtful, achievable consideration and implementation of energy efficient and environmentally friendly elements inside your NSP3 program.

HUD is providing the guidance below because the Department has become aware during the implementation of NSP1 that many grantees are not aware that many of their common community development practices, such as trying to help police and teachers live in the neighborhood in which they work, are also considered sustainable and environmentally friendly. Similarly, most affordable housing units are also smaller and can easily be made more energy efficient than larger units. The increased energy efficiency then serves to increase the long-term affordability of the units.

Transit Accessibility

Select NSP target areas that are transit accessible, for example those that are in a census tract with convenient bus service (local bus service every 20 minutes during rush hour or an express commuter bus); or bordering a census tract with a passenger rail stop or station (including, for example, commuter rail, subway, light rail, and streetcars).

Green Building Standards

Comply with the required NSP rehabilitation standards and also fund new construction and gut rehabilitation activities

that will exceed the Energy Star for New Homes standard. Ensure that moderate rehabilitation or energy retrofits will purchase only Energy Star products and appliances. You may go further and require NSP homes to achieve an established environmental or energy efficiency standard such as Green Communities or equivalent.

Re-Use Cleared Sites

Re-use cleared sites in accordance with a comprehensive or neighborhood plan. Plan to re-use all demolition sites within the term of your NSP grant as replacement housing, for use as a community resource, or to provide an environmental function. Examples include community gardens, pocket parks, or floodplain impoundment areas.

Deconstruction

Deconstruction means salvaging and re-using materials resulting from demolition activities. It recycles building materials, and provides employment.

Renewable Energy

1. *Passive Solar.* Orient the building to make the greatest use of passive solar heating and cooling.

2. *Photovoltaic-ready.* Site, design, engineer and wire the development to accommodate installation of photovoltaic panels in the future.

Sustainable Site Design

1. *Transportation Choices.* Locate projects within a one-quarter mile of at least two, or one-half mile of at least four community and retail facilities.

2. *Connections to Surrounding Neighborhoods.* Provide three separate connections from the development to sidewalks or pathways in surrounding neighborhoods.

3. *Protecting Environmental Resources.* Do not locate the project within 100 feet of wetlands; 1,000 feet of a critical habitat; or on steep slopes, prime farmland or park land.

4. *Erosion and Sediment Control.* Implement EPA's Best Management Practices for erosion and sedimentation control during construction.

5. *Sustainable Landscaping.* Select native trees and plants that are appropriate to the site's soils and microclimate.

6. *Energy Efficient Landscaping.* Locate trees and plants to provide shading in the summer and allow for heat gain in the winter.

Water Conservation

1. *Efficient Irrigation.* Install low volume, non-spray irrigation system (such as drip irrigation, bubblers, or soaker hose).

Energy Efficient Materials

1. *Durable Materials.* Use materials that last longer than conventional counterparts such as stone, brick or concrete.

2. *Resource Efficient Materials.* Use layouts and advanced building techniques that reduce the amount of homebuilding material required.

3. *Heat Absorbing Materials.* Use materials that retain solar heat in winter and remain cool in summer.

4. *Solar-Reflective Paving.* Use light-colored/high-albedo materials and/or open-

¹ This less than the Mortgage Bankers Association National Delinquency Survey rate of 9.54 percent for March 2010 and slightly more than the McDash Analytics rate of 8.39 percent as of July 2010.

grid pavement with a minimum Solar Reflective index of 0.6 over at least 30 percent of the site's hardscaped areas.

5. *Local Source Materials.* Use materials from local sources that are close to the job site.

6. *Green Roofing.* Use Energy Star-compliant and high-emissive roofing, and/or install a Green (vegetated) roof for at least 50 percent of the roof area; or a combination of high-albedo and vegetated roof covering 75 percent of the roof area.

Healthy Homes

1. *Green Label Certified Floor Covering.* Do not install carpets in basements, entryways, laundry rooms, bathrooms or kitchens; if using carpet, use the Carpet and Rug Institute's Green Label certified carpet and pad.

2. *Healthy Flooring Materials: Alternatives.* Use non-vinyl, non-carpet floor coverings in all rooms.

3. *Healthy Flooring Materials: Reducing Dust.* Install a whole-house vacuum system with high-efficiency particulate air filtration.

4. *Sealing Joints.* Seal all wall, floor and joint penetrations to prevent pest entry; provide rodent and corrosion proof screens (e.g., copper or stainless steel mesh) for large openings.

5. *Termite-Resistant Materials.* Use termite-resistant materials in areas known to be infested.

6. *Tub and Shower Enclosures: Moisture Prevention.* Use one-piece fiberglass or similar enclosure or, if using any form of grouted material, use backing materials such as cement board, fiber cement board, fiberglass reinforced board or cement plaster.

7. *Green Maintenance Guide.* Provide a guide for homeowners and renters that explains the intent, benefits, use and maintenance of Green building features, and encourages additional Green activities such as recycling, gardening and use of healthy cleaning materials.

8. *Resident Orientation.* Provide a walk-through and orientation to the homeowner or new tenants.

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DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

[Docket No. BOEM-2010-0052]

BOEMRE Information Collection Activity: 1010-0182, Increased Safety Measures for Energy Development on the OCS NTL, Extension of a Collection; Comment Request

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of an extension of an information collection (1010-0182).

SUMMARY: To comply with the Paperwork Reduction Act of 1995

(PRA), BOEMRE is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in Notice to Lessees and Operators (NTL) "No. 2010-N05, Increased Safety Measures for Energy Development on the OCS."

DATES: Submit written comments by December 20, 2010.

FOR FURTHER INFORMATION CONTACT:

Cheryl Blundon, Regulations and Standards Branch at (703) 787-1607. You may also contact Cheryl Blundon to obtain a copy, at no cost, of NTL No. 2010-N05 that requires the subject collection of information.

ADDRESSES: You may submit comments by either of the following methods listed below.

- *Electronically:* go to <http://www.regulations.gov>. In the entry titled "Enter Keyword or ID," enter docket ID BOEM-2010-0052 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this collection. BOEMRE will post all comments.

- *E-mail* cheryl.blundon@boemre.gov. Mail or hand-carry comments to the Department of the Interior; Bureau of Ocean Energy Management, Regulation and Enforcement; *Attention:* Cheryl Blundon; 381 Elden Street, MS-4024; Herndon, Virginia 20170-4817. Please reference ICR 1010-0182 in your comment and include your name and return address.

SUPPLEMENTARY INFORMATION:

Title: Increased Safety Measures for Energy Development on the OCS, NTL No. 2010-N05.

OMB Control Number: 1010-0182.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to manage the mineral resources of the OCS. Such rules and regulations will apply to all operations conducted under a lease, right-of-use and easement, and pipeline right-of-way. Operations on the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; preserve and maintain free enterprise

competition; and ensure that the extent of oil and natural gas resources of the OCS is assessed at the earliest practicable time. 43 U.S.C. 1332(6) states that "operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health."

To carry out these responsibilities, BOEMRE issues regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protect the environment; and result in diligent exploration, development, and production of OCS leases. In addition, we also issue NTLs that provide clarification, explanation, and interpretation of our regulations. These NTLs are also used to convey purely informational material and to cover situations that might not be adequately addressed in our regulations. The latter is the case for the information collection required in the NTL. Because of the unusual nature of this information collection, issuing an NTL is the appropriate means to collect the information at the time of the event.

The subject of this ICR is an NTL based on the recommendations in the May 27, 2010, Report from the Secretary of the Interior to the President of the United States, *Increased Safety Measures for Energy Development on the Outer Continental Shelf* (Report). BOEMRE issued NTLs for operators to comply with the requirements and recommendations of the report as a result of the Deepwater Horizon oil spill in the Gulf of Mexico. This collection pertains to one NTL, covered under the regulations at 30 CFR part 250, subparts, A, D, E, and F. The primary information collections for these regulations are approved under the Office of Management and Budget (OMB) Control Numbers 1010-0114, 1010-0141, 1010-0067, and 1010-0043, respectively. However, BOEMRE believes that the paperwork burdens in the NTL are in addition to those currently approved. Only one of the requirements in the NTL has not yet been fully met; therefore, we are renewing that requirement in this collection to allow operators and/or lessees more response time than allowed by the original emergency OMB request.

BOEMRE issued this NTL for lessees and operators to comply with the requirements and recommendations of