



Texas Department of Housing and Community Affairs

Texas Neighborhood Stabilization Program **Notice of Funding Availability (NOFA)**

1) Summary

- a) The Texas Department of Housing and Community Affairs (“TDHCA” or the “Department”) announces the expected distribution and use of \$101,996,848 (amount includes all administrative funds, see Figure 1) through the newly-authorized Neighborhood Stabilization Program (“NSP”), which the U.S. Department of Housing and Urban Development (“HUD”) is providing to the State of Texas. The NSP funds were authorized by the Housing and Economic Recovery Act of 2008 (“HERA”) as an adjunct to the Community Development Block Grant (CDBG) Program for the redevelopment of abandoned and foreclosed homes and residential properties. A Substantial Amendment (“Amendment”) to the Action Plan for FFY 2008 was submitted by the State of Texas to HUD in order to update the Consolidated Plan for FFY 2005 through 2009 for the Texas Neighborhood Stabilization Program requirements. The Amendment was approved by HUD on January 30, 2009.
- b) The availability and use of these funds is subject to the Community Development Block Grant regulations (24 CFR Part 570), as applicable, the federal HOME Investment Partnerships Program (HOME) regulations (24 CFR Part 92), as applicable, and Chapter 2306, Texas Government Code. Other federal regulations may also apply such as, but not limited to, 24 CFR Part 58 for environmental requirements, 24 CFR Parts 84 and 85, as applicable, for such issues as procurement and conflict of interest, and 24 CFR Parts 100-115 for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules and program guidelines that govern the program.

2) Allocation of Texas NSP Funds

- a) These funds will be distributed in partnership with the Office of Rural Community Affairs (“ORCA”) and the Texas State Affordable Housing Corporation (“TSAHC”). A Memorandum of Understanding (MOU) will be executed between TDHCA and ORCA to outline the responsibilities and parameters of the partnership. A contract will be executed between TDHCA and TSAHC to establish a statewide land bank for the Texas NSP. TDHCA will coordinate activities in accordance with NSP guidelines including the establishment of financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties, purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed, establishment of land bank/trusts,

removal of blight, and the redevelopment of demolished or vacant properties. Households directly assisted with NSP funds must income qualify and be at or below 120% of the Area Median Income (AMI), as defined by HUD.

- b) Texas NSP funding is available to eligible entities operating in counties meeting the threshold of greatest need, as defined by the State in the Amendment to the Action Plan. A multi-level approach will be used in the distribution of funds to communities. The first level, Direct Allocation, is a reservation of a specified amount available to eligible entities in 25 counties identified as having the highest order of significant need. The second level, Select Pool, is an initial competitive allocation of not less than \$500,000, available to entities in up to 76 additional counties which have also been identified as demonstrating significant need. In addition, a separate pool of Texas NSP funds is available for land banking activities; TDHCA will administer land bank activities in conjunction with the Texas State Affordable Housing Corporation (“TSAHC”). The following table summarizes the program distribution of Texas NSP funds:

Figure 1. Program Distribution of Texas NSP Funds

Direct Allocation	\$ 50,692,337
Select Pool	\$ 31,104,826
Land Banking	\$ 10,000,000
Administration (10% combines state and contracting entity)	\$ 10,199,685
Total Texas NSP Allocation	\$101,996,848

3) Definitions

As stipulated in the *Federal Register* Notice (Docket No. FR-5255-N-01) for the NSP, there are certain terms used in HERA that are not used in the regular CDBG program. Certain terms may be used differently in HERA and in the Housing and Community Development Act of 1974, as amended. When in conflict, definitions published in the *Federal Register* (Docket No. FR-5255-N-01) and any subsequent HUD Errata Notice are controlling for the Texas NSP.

4) Limitations on Funds

- a) In order to avoid allocating small amounts of funding that can have no meaningful impact on stabilizing of property values, the minimum award amount to an eligible entity cannot be less than \$500,000, excluding Administration costs.
- b) Before the effective date of the Texas NSP Contract, an eligible entity that ultimately receives an award of Texas NSP funds, (Contract Administrator) may incur and be reimbursed for travel costs, as provided for with Administration funds, related to implementation training required by the Department as a condition of receiving an NSP award and Contract.
- c) Department-authorized pre-award costs for predevelopment activities, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and

market study fees, may be reimbursed if incurred before the effective date of a Contract so long as the costs are in accordance with 24 CFR §§570.205 and 206 and 24 CFR Part 58 and at the sole discretion of the Department.

- d) Additional limitations as defined in HERA and HUD NSP Notices regarding purchases, rehabilitation, and sale of homes, will be strictly enforced.
- e) The Department may develop and enforce additional contract management benchmarks to ensure the proportionate use of funds to meet the federal mandates regarding serving households earning not more than 50% of AMI, discounts on acquisitions and timely use of funds.

5) Administrative and Activity Delivery/Soft Costs Limitations

- a) Each applicant that is awarded NSP funds may also be eligible to receive funding for administrative costs. The award amount for the Administration line item shall not exceed five percent (5%) of the contract amount for all activities except Land Bank activities. Administrative costs for Land Bank activities will be limited to a total of eight percent (8%), of which two percent (2%) will be reserved for long term oversight by the Department or its designee. These figures do not include Activity delivery costs described below. The administrator must use funds for all administrative costs in accordance with 24 CFR §§570.205 and 206, and Office of Management and Budget (OMB) Circulars A-87, A-122, A-102 and A-110, as applicable.
- b) Activity Delivery costs represent the administrative costs incurred in implementing specific activities but are separate from the general administrative costs, for which limits are set forth in the previous paragraph. The Texas NSP limits Activity Delivery costs according to activity as specifically described in program activity sections.
- c) Soft costs are a type of Activity Delivery costs that are directly related to and identified with a specific housing unit (property). Eligible project-related soft costs must be reasonable and consistent with industry norms. Specific eligible activities include:
 - i) preparation of work write-ups, work specifications, and cost estimates;
 - ii) architectural, engineering or professional services required to prepare plans, drawings or specifications directly attributable to a particular project;
 - iii) inspections for lead-based paint, asbestos, termites or septic systems;
 - iv) interim and final inspections by the construction inspector;
 - v) financing fees, credit reports, title binders and insurance;
 - vi) recordation fees, transaction taxes;
 - vii) legal and accounting fees;
 - viii) appraisal fees;
 - ix) architectural and engineering fees, including specifications and job progress inspections;
 - x) relocation costs;
 - xi) site specific environmental reviews; and
 - xii) lead hazard evaluation and reduction costs.

- d) For all activities, Activity Delivery costs must be reasonable and consistent with industry norms and will be restricted to a percentage of the non-administrative NSP costs per housing unit or property. The related Activity Delivery costs maximum will be based on the activity in a range from 5% to no more than 20% of the non-administrative NSP costs per housing unit or property.
- e) Activity Delivery costs may not exceed the forgoing limits without prior written approval by the Department. Upon prior approval of the Department, exceptions may be allowed in the case of Rehabilitation activities for lead-based paint hazard reduction and/or relocation and cost categories not identified in the Texas NSP NOFA.
- f) Contract Administrators must certify that the amount being disbursed is for the actual amount of costs, including Administrative and Activity Delivery costs, and must provide documentation to support such costs.
- g) Eligible Costs are limited to those listed in §570, Subpart C, or as otherwise identified in the NSP *Federal Register* Notice. No duplicate disbursement of costs is allowed. Costs may only be disbursed as either a project Activity Delivery cost or Administration cost but not both. Additionally, costs may only be disbursed once per occurrence when providing both acquisition and construction assistance to the same Project or Activity.

6) Eligible and Prohibited Activities.

- a) The use of NSP grant funds must constitute an eligible use under HERA. Most of the activities eligible in NSP represent a subset of the eligible activities under 42 U.S.C. §5305(a). The NSP eligible uses must be correlated with CDBG-eligible activities. See Section 8 of the NOFA for a complete listing of eligible activities and uses.
- b) Prohibited activities include, but are not limited to:
 - i) The payment of delinquent taxes, fees, or charges on properties to be assisted with NSP funds;
 - ii) The payment of any cost that is not eligible under 24 CFR §§570.201- 570.206;
 - iii) Assistance to persons who owe payments identified by the Comptroller of Texas as relevant (including, but not limited to, child support, student loans, and delinquent taxes);
 - iv) Assistance to any household whose property has current tax liens against it and/or judgments liens in favor of the State of Texas against it; or
 - v) The provision of rehabilitation on a housing unit without prior written consent of all persons who have any lien or ownership interest in the property, whether of record or not, unless exempted by state law.

7) Eligible and Ineligible Applicants.

- a) Eligible applicants are Units of General Local Government and nonprofit organizations. Nonprofit organizations must secure a letter from an eligible city or county granting the nonprofit organization the authority to apply on their behalf.

- b) **Direct Pool** -- Based on the county need score, eligible entities within the following 25 counties may submit an application to receive allocations from the Direct Pool: Bell; Bexar; Brazoria; Cameron; Collin; Dallas; Denton; Ector; El Paso; Fort Bend; Galveston; Harris; Hidalgo; Jefferson; Lubbock; McLennan; Montgomery; Nueces; Potter; Tarrant; Taylor; Travis; Webb; Wichita; and Williamson.
- c) **Select Pool:** Based on the county need score, eligible entities within the following 76 counties may submit an application to receive allocations from the Select Pool: Anderson; Angelina; Aransas; Atascosa; Austin; Bastrop; Bowie; Brazos; Brown; Burnet; Caldwell; Cherokee; Comal; Cooke; Coryell; Eastland; Ellis; Erath; Fannin; Gillespie; Gonzales; Grayson; Gregg; Grimes; Guadalupe; Hale; Harrison; Hays; Henderson; Hill; Hood; Hopkins; Howard; Hunt; Jackson Jasper; Jim Wells; Johnson; Kaufman; Kendall; Kerr; Kleberg; Lamar; Leon; Liberty; Llano; Matagorda; Maverick; Medina; Midland; Milam; Montague; Nacogdoches; Navarro; Orange; Palo Pinto; Parker; Polk; Randall; Rockwall; San Patricio; Smith; Starr; Tom Green; Upshur; Val Verde; Van Zandt; Victoria; Walker; Waller; Washington; Wharton; Willacy; Wilson; Wise; and Wood.
- d) The following violations will cause an Applicant and/or any Applications they have submitted to be ineligible:
- i) The Applicant is an Administrator of a previously funded Contract for which Department funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to application submission date; an exception may be made at the discretion of the Department if the deobligation was voluntary, part of project close-out or the remainder was completed on a subsequent Contract;
 - ii) The Applicant has failed, (within the reasonable time allotted for response), to submit a response to provide an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a monitoring review;
 - iii) The Applicant has failed to make timely payment or is delinquent on any loans or fee commitments made with the Department on the date of the Application submission;
 - iv) The Applicant has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs or has otherwise been debarred by HUD or the Department;
 - v) The Applicant has violated the State laws regarding ethics, including revolving door policy;
 - vi) The Applicant has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline;
 - vii) The Applicant at the time of Application submission is subject to the following for which proceedings have become final:
 - (a) an enforcement or disciplinary action under state or federal securities law or by the NASD;
 - (b) a federal tax lien;
 - (c) or is the subject of an enforcement proceeding with any governmental entity.

- viii) The submitted Application has excessive omissions of documentation from the Selection Criteria; or is so unclear, disjointed, or incomplete, as determined by the Department, that a thorough review cannot reasonably be performed. If an Application is determined ineligible pursuant to this section, the Application will be terminated without the opportunity for corrections of administrative deficiencies.
- ix) The Applicant or anyone that has controlling (51%) ownership interest in the development owner or developer that is active in the ownership or control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the Land Use Restriction Agreement (LURA) (10 TAC §60.121); and
- x) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.

8) Program Activities

a) Financing Mechanisms

Activity Type: NSP Eligible Use (A) Establish finance mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.

CDBG Eligible Activities: 24 CFR §570.206 Activity delivery costs; Also, the eligible activities listed here to the extent financing mechanisms are used to carry them out: 24 CFR §570.201 (a) Acquisition, (b) Disposition, (n) Homeownership Assistance; 24 CFR §570.202 Rehabilitation.

- i) This activity will provide affordable ownership and rental opportunities by providing financing mechanisms to a subgrantee, developer or individual homebuyer to purchase or facilitate the purchase of foreclosed homes or residential property.
- ii) **Permanent Financing:** Households earning 50% or less AMI may obtain up to 100% Mortgage Financing directly from the Department to purchase a foreclosed single-family house or residential property. This property must be the primary residence within 30 days of closing the mortgage loan (or completion of rehabilitation to the extent that rehabilitation is combined with available financing mechanisms). Mortgage loans will be for 30 years with a 0% interest rate. Fully amortizing scheduled repayment will be as set forth in loan documents executed at loan closing. Closing costs may be financed with the loan proceeds up to a loan to value ratio of 100%. Mortgage documents (Promissory Note and Deed of Trust) will be utilized to provide security for the repayment of the loan with stated rights and remedies in the event of default. A down payment of \$500 will be required from all homebuyers receiving Permanent Financing through the Texas NSP. Qualifying households will be allowed to participate in a self-help housing program, at the approval and discretion of the Department, through which a minimum number of self-help construction hours, to be specified through contract, will be allowed to substitute as “sweat equity” for the \$500 down payment requirement.

- iii) **Homebuyer Assistance:** Homebuyers who qualify as 51-120% AMI will be eligible to access Texas NSP funds for down payment assistance, reasonable closing costs, principal reductions, and gap financing in an amount needed to qualify for private mortgage financing, but not to exceed \$30,000. Households earning 50% or less AMI will also be eligible for principal reductions and gap financing in an amount needed to qualify for 100% financing through the Texas NSP, but not to exceed \$30,000. Homebuyer Assistance will be in the form of a deferred forgivable loan contingent upon the total amount of assistance, creating a 2nd or 3rd lien with a term based on the federal affordability requirements as referenced in Section 9 of the NOFA.
- iv) **Subgrantee Financing:** The acquisition of foreclosed single-family and multifamily residential properties by subgrantees and developers will be funded through a loan with the Department. These loans will not be considered a “financing mechanism” for the purposes of the Texas NSP. The loan to the subgrantee or developer may be transferred to the qualifying homebuyer and converted to a 30-year amortizing loan through the Department with 0% interest for households earning 50% or less AMI. Homebuyer Assistance will also be available through the Department for qualifying households in the same manner as described in the above paragraph to facilitate private financing and repayment of the acquisition loan from the Department.
- v) **Rental (Single-family and Multifamily) Residential Property Financing:** The acquisition of foreclosed single-family and multifamily residential properties by subgrantees and developers for rental opportunities will be funded through a loan with the Department. The loan to the subgrantee or developer may be converted to a 30-year amortizing loan through the Department with 0% interest for the percentage of units designated for households earning 50% or less AMI; i.e. if 60% of the units of a foreclosed apartment complex to be acquired will be filled with households earning 50% or less AMI, then 60% of the acquisition loan may be converted to a 30-year amortizing loan through the Department with 0% interest. The remaining 40% of the acquisition loan must be repaid to the Department. Homebuyer Assistance is unavailable for rental properties. Further detail of loan requirements is discussed in Section 10 of the NOFA. Texas NSP continued affordability requirements as referenced in Section 9 of the NOFA will apply.
- vi) **Acquisition:** Appraisals that conform to the requirements of the URA at 49 CFR 24.103 will be required for the purposes of determining the statutory purchase discount. The appraisal must be completed within 60 days prior to the final offer made for the property by a subgrantee, developer or individual homebuyer. An individual property may be purchased at as little as a 5% discount; however the portfolio of properties acquired by each contract administrator must reflect an overall 15% discount from current appraised values.
- vii) **Eligible and Ineligible Property:** Eligible property types for assistance under this activity are limited to single-family homes and residential property (property intended for residential purposes, i.e. zoned residential or where there is no zoning, residential

use is consistent with deed restrictions and any other limiting factors) including condominium units, apartment units, cooperative units in mutual housing projects and multifamily residential property.

viii) **Repayment:** The loans are to be repaid (if any of the following occurs before the end of the loan term): resale of the property; refinance of the first lien; repayment of first lien or if the unit ceases to be the assisted household's principal residence. The amount of recapture will be based upon the recapture provision at 24 CFR §92.254(a)(5)(ii), summarized as follows:

(1) Recapture of the amount of the NSP investment is reduced on a *pro rata* share based on the time the homeowner has owned and occupied the unit measured against the required affordability period. The recapture amount is subject to available shared net proceeds in the event of sale or foreclosure of the housing unit.

(2) In the event of sale or foreclosure of the housing unit, if the shared net proceeds (i.e., the sales price minus closing costs; any other necessary transaction costs; and superior lien loan repayment,) are in excess of the amount of the NSP investment that is subject to recapture, then the net proceeds may be divided proportionately between repayment of NSP loan(s) and the homeowner as set forth in the following mathematical formula: $(\text{NSP investment} / (\text{NSP investment} + \text{homeowner investment})) \times \text{net proceeds} = \text{NSP amount to be recaptured}$

ix) **Restrictions:** The following first lien purchase loan requirements are imposed for households receiving homebuyer assistance:

(1) No adjustable rate mortgage loans (ARMs) or interest rate buy-down loans are allowed;

(2) No mortgages with a loan to value equal to or greater than 100% are allowed;

(3) No subprime Mortgage Loans are allowed;

(4) Lenders must require the escrow of taxes and insurance;

(5) An origination fee and any other fees associated with the mortgage loan may not exceed 2% of the loan amount; and,

(6) The debt to income ratio (back-end ratio), as defined in Fannie/Freddie conventional loan underwriting guidelines, may not exceed 45%.

x) **Homebuyer Counseling:** All NSP-assisted homebuyers will be required to complete at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. Evidence must include documentation describing the level of homebuyer counseling, including post purchase counseling. Applicant must state who will provide the homebuyer counseling and must submit a copy of the curriculum. A proposed written agreement for service provider (if the applicant is not providing the service) must also be provided.

xi) **Income Targeting:** Benefits low, moderate and middle-income persons as defined in the NSP Notice ($\leq 120\%$ of area median income). As required in the Amendment, at

least 35% of the non-administrative allocation should be targeted to benefit households with incomes less than or equal to 50% AMI.

xii) **Program Income:** Any program income received from financing mechanisms utilizing Texas NSP funds, including principal payments from 0% financing, must be returned to the Department. Revenue received by a private individual or other entity as a result of a financing mechanism involving NSP funds must also be returned to the Department.

xiii) **Benchmarks:**

(1) Three months:

(a) Environmental Assessment complete and submitted to Department for review.

(2) Six months:

(a) All properties/households identified.

(b) For all properties to be purchased, earnest money contracts or options to purchase must have been executed to meet HERA requirement of obligation. Earnest money or option contracts must include the contingency of final environmental clearance prior to purchase (if environmental clearance and authority to use grant funds not already issued).

(3) Twelve months:

(a) Homebuyer counseling requirement met for all NSP-assisted homebuyers.

(b) All loans closed.

xiv) **Activity Delivery Cost Limits:** Activity Delivery costs for all financing mechanisms will be limited to 10% of the NSP non-administrative costs per housing unit or property.

b) **Acquisition of Real Property (Purchase and Rehabilitation)**

Activity Type: NSP Eligible Use (B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent or redevelop such homes and properties.

CDBG Eligible Activities: 24 CFR §570.201(a) Acquisition, (b) Disposition; 24 CFR §570.202 Rehabilitation.

i) To implement this activity, Applicants will purchase residential properties that have been abandoned or foreclosed at a discount to ensure purchasers are paying below-market value for the property. Appraisals that conform to the requirements of the URA at 49 CFR 24.103 will be required for the purposes of determining the statutory purchase discount. The appraisal must be completed within 60 days prior to the final offer made for the property by a subgrantee or developer. The acquisition of abandoned property may be funded if the property has been vacant for at least 90 days and payments on the mortgage or taxes have not been made for at least 90 days. Any individual property may be acquired at a 5% discount; however, any portfolio of properties must collectively reflect a 15% discount from current market values.

- ii) Acquired homes and residential properties must be rehabilitated and made available for sale or rent to eligible households within 12 months of acquisition.
- iii) The acquisition and subsequent rehabilitation, reconstruction or redevelopment of residential properties will be funded through a loan with the Department. A subgrantee or developer that has acquired and rehabilitated homes and residential properties through Texas NSP funds may repay the Department when private financing is secured by a qualifying homebuyer. If the property is eligible for Financing Mechanisms (foreclosed home or residential property), then the homebuyers may qualify for the Homebuyer Assistance available under that activity. A subgrantee or developer may also utilize Permanent Financing through the Department if the property is eligible and the homebuyers qualify under the activity of Financing Mechanisms. The loan will be transferred to the homebuyer and converted to a 30-year amortizing loan with 0% interest for qualifying homebuyers.
- iv) Rehabilitation includes activities and related costs as described in 24 CFR §570.202(b), but limited to the improvement or modification of an existing residential property through an alteration, addition, or enhancement including the demolition of an existing residential property and the reconstruction (rebuilding of a structure on the same site in substantially the same manner) of residential property.
- v) Rehabilitated residential property must result in permanent housing.
- vi) Eligible property types for rehabilitation are limited to single family dwellings, condominium units and cooperative units in mutual housing projects. A Manufactured Housing Unit is not an eligible property type for Rehabilitation. NSP funds may be used to replace (Reconstruct) a housing unit with a new MHU or Modular Home if:
 - (1) The unit complies with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;
 - (2) The unit is permanently installed in accordance with the Texas Manufactured Housing Standards Act;
 - (3) The unit is permanently attached to utilities; and
 - (4) The ownership of the unit is recorded in the taxing authority of the county in which it is located.
- vii) Texas NSP loans will be required to be repaid to the Department within 12 months of acquisition unless maintained as rental property (single-family or multifamily) under program requirements.
- viii) **Income Targeting:** Benefit to low, moderate and middle income persons as defined in the NSP Notice ($\leq 120\%$ of area median income). As required in the Amendment, at least 35% of the non-administrative allocation should be targeted to benefit households with incomes less than or equal to 50% AMI.

- ix) **Activity Delivery Costs:** Administrative costs directly associated with the activity of acquisition are limited to 15% of the hard costs required to acquire the property.
- x) **Program Income:** Any program income generated through the Acquisition and Rehabilitation activity must be returned to the Department.
- xi) **Benchmarks:** The performance under the contract will be evaluated according to the following benchmarks counting from the start date of the contract with the Department:
 - (1) Three months:
 - (a) Environmental assessment complete and submitted to Department for review.
 - (2) Six months:
 - (a) Properties identified and earnest money contracts have been initiated pending site-specific environmental clearance.
 - (3) Twelve months:
 - (a) Homebuyer counseling requirement met for all NSP-assisted homebuyers.
 - (b) All loans closed.
 - (4) Twenty-four months:
 - (a) Properties resold and 100% repayment made to the NSP.
- xii) **Activity Delivery Cost Limits:** Activity Delivery costs for acquisition only will be limited to 15% of the NSP non-administrative costs per housing unit or property however acquisition with rehabilitation will be limited to 20% of the NSP non-administrative costs per housing unit or property.

c) **Land Bank**

Activity Type: NSP Eligible Use (C) Establish land banks for home and residential properties that have been foreclosed upon.

CDBG Eligible Activities: 24 CFR §570.201 (a) Acquisition and (b) Disposition

A land bank is a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, manage temporarily, and dispose of properties for the purpose of stabilizing neighborhoods and encouraging reuse or redevelopment of the properties.

- i) The Department shall accept applications under this NOFA from qualified Applicants to establish local land banks to assemble, manage temporarily, and dispose of home and residential properties that have been foreclosed upon. HUD has limited the types of properties that may be acquired using land bank funding in the following manner:
 - (1) Properties must be located within an area with an AMI of 120% or less;
 - (2) Acquired properties must have been foreclosed upon through a legal proceeding under Texas state law, which includes, but is not limited to tax foreclosures and financial foreclosures;
 - (3) Properties to be acquired must be located within a defined service area, as defined by the Applicant according to the requirements in the Texas NSP Application;

- (4) Vacant land may not be acquired. Properties to be acquired must have a foreclosed upon home; however, it is permissible for acquired homes to be subsequently demolished and remain in the land bank.
- ii) Land bank funding may only be used to acquire and dispose of eligible properties. NSP funds may also be used for basic, reasonable maintenance intended to stabilize the property and for the temporary management of the property which includes maintenance, assembly facilitating the redevelopment of and marketing of land banked properties. If the land bank is a governmental entity, it may also maintain foreclosed property that it does not own provided that 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.
- iii) For the purposes of land bank activities in the NSP, a land bank acquires foreclosed properties that do not have a designated specific, eligible redevelopment use in accordance with NSP requirements. However, simply holding property off of the local real estate market is not considered sufficient to stabilize most neighborhoods. Therefore, an NSP land bank may only hold the property up to ten years before it obligates (commits through a contract) the property to an eligible NSP use.
- iv) **TSAHC NOFA:** The Department shall contract with the Texas State Affordable Housing Corporation (the “TSAHC”) to administer approximately \$5 million to establish and operate a statewide affordable housing land bank. The TSAHC land bank will provide a unique opportunity for eligible entities that have identified land banking as an NSP eligible use to stem the decline of residential property values in their communities but lack the capacity or desire to administer a land bank on their own in a contractual relationship with the Department. TSAHC will release a Request for Proposals (RFP) after the publication of this NOFA and after a grant agreement with the Department has been executed.
- (1) The TSHCA RFP will be open to units of local government and qualified nonprofit organizations on a renewable cycle allowing applicants to apply and be awarded partnership agreements based on a first-come, first-qualified basis.
- (2) TSHAC will also oversee the development and provision of training and technical assistance activities to Applicants under this NOFA that apply for land bank funding directly from the Department. All training and technical assistance will be provided to Applicants free of charge.
- v) **Program Income:** Any program income received from land banking activities utilizing Texas NSP funds must be returned to the Department. Revenue received by a private individual or other entity as a result of land banking involving NSP funds must also be returned to the Department.
- vi) **Benchmarks:** In accordance with HERA, the contract term for the Land Bank Program Activity shall not exceed 10 years, or until all land bank properties have been redeveloped in accordance with NSP requirements. Performance under the contract will be evaluated according to the following benchmarks:

- (1) Three months:
 - (a) Environmental Assessment complete and submitted to Department for review.
- (2) Six months:
 - (a) Properties identified and earnest money contracts have been initiated pending site-specific environmental clearance.
- (3) Twelve months:
 - (a) All loans closed for acquired properties.
- (4) Ten years:
 - (a) Properties resold and 100% repayment made to the NSP.

vii) **Activity Delivery Cost Limits:** Activity Delivery costs for Land Bank will be limited to 20% of the NSP non-administrative costs per housing unit or property.

d) Clearance (Removal of Blight or Demolition)

Activity Type: NSP Eligible Use (D) Demolish Blighted Structures

CDBG Eligible Activity: 24 CFR 570.201(d) Clearance of blighted structures only.

- i) As defined in the Amendment, this activity is anticipated to be used on a limited basis to address urbanized areas of greatest need where subrecipients can prove that blighted structures are affecting property values in the area and pose a threat to human health, safety, and public welfare. This activity cannot be utilized to target the 25% requirement for 50% AMI, but may be used in conjunction with other eligible activities. This activity is funded as a grant.
- ii) **Income Targeting:** Benefits areas with low, moderate and middle-income persons (LMMA) as defined in the NSP Notice ($\leq 120\%$ of area median income).
- iii) **Activity Delivery Costs:** Administrative costs directly associated with the activity of clearance are limited to 5% of the hard costs required to carry out the activity.
- iv) **Benchmarks:** The performance under the contract will be evaluated according to the following benchmarks counting from the start date of the contract with the Department:
 - (1) Three months:
 - (a) Environmental Assessment complete and submitted to Department for review.
 - (2) Six months:
 - (a) All properties to be demolished must be under contract for clearance or acquisition (if property is to be acquired) pending site-specific environmental clearance (if tiering methodology is used).
 - (b) All properties set up in contract management system.
 - (3) Eighteen months:
 - (a) 100% of Clearance activity funds drawn.

e) Redevelopment

Activity Type: NSP eligible use (E) Redevelop Demolished or Vacant Properties

CDBG Eligible Activities: 24 CFR §570.201(a) Acquisition, (b) Disposition, (c) Public Facilities, (e) Public Services, (i) Relocation, (n) Homeownership Assistance (restricted)

- i) Redevelopment of demolished or vacant properties will address areas of greatest need throughout the state wherever there are large amounts of demolished or vacant properties that are contributing to declining land values. “Vacant properties” includes both vacant land and properties with vacant structures on the land; however, the properties must have been previously improved. Undeveloped or “greenfield” sites may not be acquired under Eligible Use (E).
- ii) Eligible redevelopment activities include the new construction of housing and building infrastructure and the redevelopment of property to be used as rental housing.
- iii) Specific Requirements: 3-year redevelopment loans for up to 100% financing at 0% interest serving households earning 50% or below AMI
- iv) **Income Targeting:** Benefit to low, moderate and middle income persons as defined in the NSP Notice ($\leq 120\%$ of area median income). As required in the Amendment, at least 35% of the non-administrative allocation should be targeted to benefit households with incomes less than or equal to 50% AMI.
- v) **Benchmarks:**
 - (1) Three months:
 - (a) Environmental assessment complete and submitted to Department for review.
 - (2) Six months:
 - (a) All properties/households identified.
 - (b) For all properties to be acquired, earnest money contracts must have been initiated to meet HERA requirement of obligation pending site-specific environmental clearance.
 - (3) Twelve months:
 - (a) Homebuyer counseling requirement met for all NSP-assisted homebuyers.
 - (b) All loans to households closed.
 - (4) Twenty-four months:
 - (a) Contract 100% drawn
 - (5) Thirty-six months:
 - (a) Repayment of all redevelopment loans complete.
- vi) **Activity Delivery Cost Limits:** Activity Delivery costs for Redevelopment will be limited to 20% of the NSP non-administrative costs per housing unit or property.
- vii) **Program Income:** Any program income generated through the Redevelopment activity must be returned to the Department.

9) **Affordability Requirements**

- a) The Texas NSP will adopt the federal program standards for continued affordability for rental housing at 24 CFR §92.252. Continued affordability requirements may apply to rental activity as a result of the activities of Financing Mechanisms, Acquisition, Land Banking and/or Redevelopment.

Figure 2. Continuing Affordability of Texas NSP Funds

Rental Housing Activity	Minimum Period of Affordability in Years
Rehabilitation or acquisition of existing housing per unit amount of HOME funds: Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000 or rehabilitation involving refinancing	15
New construction or acquisition of newly constructed housing	20

- b) The Texas NSP will adopt the federal program standards for homeownership assistance at 24 CFR §92.254. Affordability periods will apply to any Homeownership Assistance as a result of the activities of Financing Mechanisms, Acquisition, Land Banking and/or Redevelopment.

Figure 3. Affordability Period of Texas NSP Funds

Homeownership Assistance Amount Per-Unit	Minimum Period of Affordability in Years
Under \$15,000	5
\$15,000 to \$40,000	10
Over \$40,000	15

- c) The subrecipient must ensure that the HOME requirements are enforceable for any NSP-assisted activities. (Note that the affordability standards dictated by HERA are longer than those under 24 CFR §570.503 and §570.501(b). HOME requirements reflect the minimum allowable standard).

- d) If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR Part 92, the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.

10) Loan Requirements

- a) **Single-Family Homeownership Loan Requirements.** The Texas NSP will follow the Single Family Mortgage limits set under the February 2008 edition of Section 203(b) of the National Housing Act. Eligible entities may, with written approval of the Department, utilize as a mortgage limit the most recent 95% of Actual Median Sales for each county as promulgated by HUD.
 - i) The unit assisted must be the primary residence of the homebuyer. Awarded entities may provide the NSP assistance to the qualifying homebuyer in the form of a loan or forgivable loan as a financing mechanism discussed in Section 8(a). A down payment of \$500 will be required from all homebuyers receiving Permanent Financing through the Texas NSP; however, qualifying households will be allowed to participate in a self-help housing program, at the approval and discretion of the Department, through which a minimum number of self-help construction hours, to be specified through contract, will be allowed to substitute as “sweat equity” for the \$500 down payment requirement. Affordability terms will be based on the total amount of assistance provided and in accordance with 24 CFR §92.254.
 - ii) Each loan to an assisted homebuyer must be payable to the Department. Each construction loan for reconstruction or rehabilitation shall be evidenced by a construction loan agreement, note, deed of trust, mechanic’s lien note, and mechanic’s lien contract secured by the property. Loan documents will be provided by the Department and must be executed prior to the commencement of any construction activities (including site clearance/demolition when performed in conjunction with an NSP Eligible Use other than Demolition).
 - iii) Forgiveness of the loan balance is calculated based on a *pro rata* annual share of the loan term. The anniversary date of the loan shall constitute completion of the year. Any partial year shall not be waived. The amount due will be based on the *pro rata* share number of years of the remaining loan term.
 - iv) If at any time prior to the full loan period there occurs a resale of the property, a refinance of any superior lien, a repayment of any superior lien, or if the unit ceases to be the assisted Household’s principal residence, the remaining loan balance shall become due and payable.
 - v) Subrecipients must ensure that each NSP-assisted homebuyer who receives conventional financing from a third party 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). NSP-assisted homebuyers may not receive subprime mortgage loans. Compliance must be documented in the records maintained for each homebuyer.

- vi) If NSP funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR Part 92, the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the continuing affordability requirements of this notice.
- b) **Multifamily Rental Development Loan Requirements.** The Texas NSP will follow the maximum per-unit subsidy amount and subsidy layering allowable under the HOME Program using Section 221(d)(3) limits as defined at 24 CFR §92.250.
- i) At least 20% of the assisted development must benefit households with incomes at or below 120% AMI.
 - ii) Award amounts are limited to available funding as limited in the application process and respective applicant pool. The minimum award may not be less than \$1,000 per NSP assisted unit. The Department's underwriting guidelines in 10 TAC §1.32 will be used which set as a feasibility criterion a 1.15 debt coverage ratio minimum. Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing. When NSP funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1).
 - iii) When Department funds will have a first lien position and funds are used for new construction and/or rehabilitation, assurance of completion of the development in the form of payment and performance bonds in the full amount of the construction contract will be required. Such assurance of completion will run to the Department as obligee and must be documented prior to closing.
 - iv) Properties will be restricted under a Land Use Restriction Agreement ("LURA"), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, prohibit the discrimination of renters using Section 8 Housing Choice Vouchers, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

- v) The Texas NSP will adopt the federal program standards for continued affordability for rental housing at 24 CFR §92.252, however, multifamily housing units may be required to adhere to a 30-year affordability period as defined in the Texas Government Code §2306.185, which outlines State of Texas long-term affordability requirements. Units targeting households earning 50% of AMI must maintain income and rent restrictions for households at that level published by the Department.

c) Documents Supporting Mortgage Loans

- i) Contract Administrators must not proceed or allow a contractor to proceed with construction, including demolition, on any Activity, Project or Development without first completing the required environmental clearance procedures and Loan closing with the Department.
- ii) A mortgage Loan shall be evidenced by a mortgage or deed of trust note or bond and by a mortgage that creates a lien on the housing development and on all real property that constitutes the site of or that relates to the housing development.
- iii) For each Loan made for the Development of multifamily housing with funds provided to the state under the NSP program, the Department shall obtain a mortgagee's title policy in the amount of the loan. The Department may not designate a specific title insurance company to provide the mortgagee title policy or require the borrower to provide the policy from a specific title insurance company. The borrower shall select the title insurance company to close the loan and to provide the mortgagee title policy.
- iv) A note or bond and a mortgage or deed of trust:
 - (1) must contain provisions satisfactory to the Department;
 - (2) must be in a form satisfactory to the Department; and
 - (3) may contain exculpatory provisions relieving the borrower or its principal from personal liability if the Department agrees.

d) Documents Supporting Homebuyer Assistance and Rehabilitation Loans

- i) Documentation required for Homebuyer Assistance and Rehabilitation Loans. The Administrator must ensure the following documents are submitted to the Department in order to request that Loan documents be prepared for the Household:
 - (1) A title report or a commitment to issue a title policy not older than ninety (90) days that:
 - (a) evidences no tax lien, mechanic's or materialman's lien or any other restrictions or encumbrances that impair the good and marketable nature of title to the ownership interest. The title report must be a report of the property reflecting the current owner's deed vesting title, including complete deed information, grantees, grantors, execution and recording dates, recording

references, and legal description, as well as all existing mortgage/deed of trust liens.

- (2) Tax certificate that evidences a current paid status, and in the case of delinquency, evidence of an approved payment plan with the taxing authority and evidence that the payment plan is current; and
- (3) Within ninety (90) days after the Loan closing date, the Administrator or Developer must submit to the Department the original recorded deed of trust and transfer of lien, if applicable. Failure to submit these documents within ninety (90) days after the Loan closing date will result in the Department withholding payment for disbursement requests.

11) Site and Construction/Development Restrictions

a) Single Family Housing

- i) Pursuant to 24 CFR §92.251, housing that is constructed or rehabilitated with NSP funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, the housing must meet the International Residential Code or Texas Minimum Construction Standards (TMCS), as applicable, and be in compliance with the basic access standards in new construction, established by §2306.514 of the Texas Government Code. In addition, housing that is rehabilitated with funds awarded under this NOFA must meet all applicable energy efficiency standards established by §2306.187 of the Texas Government Code, and energy standards as verified by RESCHECK.
- ii) If a Texas NSP assisted unit is reconstructed, the applicant must also ensure compliance with the universal design features in new construction, established by §2306.514 of the Texas Government Code, required for any applicant utilizing federal or state funds administered by TDHCA in the construction of single family homes.
- iii) All other assistance (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the Housing Quality Standards in 24 CFR §982.401. When NSP funds are used for rehabilitation the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a)(1).

b) Multifamily Rental Housing

- i) Pursuant to 24 CFR §92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, NSP-assisted new construction or rehabilitation must meet, as applicable, one of three model codes: Uniform Building Code (ICBO),

National Building Code (BOCA), Standard (Southern) Building Code (SBCCI); or the Council of American Building Officials (CABO) one or two family code; or the Minimum Property Standards (MPS) in 24 CFR §200.925 or §200.926. To avoid duplicative inspections when Federal Housing Administration (FHA) financing is involved in a HOME-assisted property, a participating jurisdiction may rely on a Minimum Property Standards (MPS) inspection performed by a qualified person. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

- ii) Housing must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) and covered multifamily dwellings, as defined at 24 CFR §100.201, must also meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. 3601–3619). Additionally, pursuant to the 2009 Qualified Allocation Plan (QAP), 10 TAC §49.9(h)(4)(H), Developments involving New Construction (excluding New Construction of nonresidential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (i.e. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. Any Developments designed as single family structures must also satisfy the requirements of §2306.514, Texas Government Code.
- iii) All of the current Qualified Allocation Plan and Real Estate Analysis Rules 10 TAC §49.6, excluding subsections (d), (f), (g) and (h) apply.
- iv) All other HOME-assisted housing (e.g., acquisition) must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR §982.401. When HOME funds are used for a rehabilitation development the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1).
- v) Multifamily housing assisted with NSP funds must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) and covered multifamily dwellings, as defined at 24 CFR §100.201, and the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).
- vi) All applications with multifamily housing units intended to serve persons with disabilities must adhere to the Department’s Integrated Housing Rule at 10 TAC §1.15.

vii) Rental units secured through Texas NSP assistance must be inspected prior to occupancy and must comply with Housing Quality Standards (HQS) established by HUD in 24 CFR Part 92.

viii) Multifamily properties will be restricted under a Land Use Restriction Agreement (“LURA”), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

c) Additional Requirements (Single and Multifamily Housing)

i) NSP assisted new construction or rehabilitation will comply with federal lead-based paint requirements including lead screening in housing built before 1978 in accordance with 24 CFR Part 92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R.

ii) Davis-Bacon Labor Standards, as applicable.

iii) Affirmative Marketing. Recipients must adopt affirmative marketing policies and procedures in furtherance of Texas’ commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status or disability. Records should be maintained describing actions taken by the Administrator to affirmatively market units and assess the results of these actions.

iv) Administrators may not retain Program Income of any kind, including Program Income to fund other eligible NSP Activities and submit any Program Income received to the Department within ten (10) days of receipt. Note: Revenue for the purposes of HERA has the same meaning as program income, as defined at 24 CFR §570.500(a) with the additional modifications as defined in the *Federal Register* notice for NSP.

12) Application Requirements

a) **Direct Pool:** To remain qualified for the reservation amount of a Direct Allocation, initial applications within each eligible county must be submitted within 30 days of notification on the TDHCA web site that HUD has approved this Amendment. Failure to meet the deadline will result in the relinquishment of the reservation of funds. After the deadline, requests for amounts in excess of the identified Direct Allocation amount for each county will be considered based on the availability of remaining funds, on a first-come, first-served basis.

- b) **Select Pool:** To remain qualified for this pool of funding, initial applications within each eligible county must be submitted within 30 days of notification on the TDHCA web site that HUD has approved the Amendment. The State will competitively award Select Pool funds based on the selection criteria defined in the activity described in this NOFA within 30 days from the application deadline. Failure to meet the deadline will result in the relinquishment of eligibility. After the deadline, requests for amounts in excess of \$500,000 for each county will be considered based on the availability of remaining funds and the score and ranking of the applicant's submission.
- c) Applicants may request more funding than initially reserved in this NOFA; however, the Department reserves the right to recommend those additional funds in accordance with Department processes, which may delay award. After the first thirty (30) days of the application period, all remaining reserved or unallocated funds in the NOFA will be made available to unfunded requests under Department review, by application pool. After one hundred and twenty (120) days after the opening of the application period, all remaining funds that have not been requested under the NOFA will be distributed by the Department in accordance with NSP federal program guidelines.
- d) Eligible applicants within the county should coordinate to ensure that their proposals consistently address the needs in their communities and do not duplicate the needs identified for each county. Duplication of requests for a county will delay the allocation agreement for a community and could result in a reduced amount of time available for applicants to contract for specific acquisitions. If needed, the State will allocate not less than \$500,000 to multiple entities based on their proportionate need and the county's available direct allocation amount.
- e) **Selection Criteria and Priorities:** The State of Texas has established the priorities and scoring described below that will be used in the application review process. While the criteria are important to demonstrate a successful proposal, the scoring structure was designed to ensure that the State complies with the HUD Notice designed to prioritize areas of greatest need, meets applicable CDBG regulations, and effectively spends the funds:
 - i) **Maximum Total Score = 100 Points:**
 - (1) Greatest Need (50 Points)
 - (2) Neighborhood Stabilization (20 Points)
 - (3) Low-Income Households (20 Points)
 - (4) Partnerships & Coordination (10 Points)
 - ii) **Greatest Need (50 Points):** The State will give priority to proposals that address the greatest need as represented on Exhibit 1; a higher Need Score indicates greater need. If an applicant has locally available, verifiable data that documents a greater need than established in the Amendment, it may be submitted. Controvertible date may include but is not limited to local data sources such as local financial institution data or local government records or a subset (smaller than county-level) of a national data source such as U.S. Postal Service data. Source documentation for all controvertible

data is required. Certifications will be required for primary source data submissions. Finally, the controvertible data submission must calculate a higher score than the State's proposal by utilizing the formulas and methodology as published in the Amendment. The State will consult with HUD to determine whether the alternate data source is acceptable by HUD standards.

- iii) **Neighborhood Stabilization (20 Points):** A narrative description that defines NSP-funded activities and meets the program's mission to alleviate distress of housing foreclosure and abandonment of properties caused by problematic mortgage lending activities. Priority will be given to applications which identify specific properties for eligible activities or provide a list of households to be assisted.
- iv) **Assistance to Low-Income Households at or Below 50% AMI (20 Points):** In order to emphasize affordability for households at or below 50% of the area median income (AMI), the State will give priority to proposals that will serve persons in this income category beyond the Texas NSP minimum allocation wide requirement of 35% for non-land bank activities. Proposal scores will be prorated according to the additional percentage of funds that will benefit households at or below 50% AMI.
- v) **Partnerships & Coordination (10 Points):** The State will give priority to those applicants that demonstrate effective cooperation in addressing needs by providing evidence of capacity, communication and planning with other entities in the area to be served. This priority will include proposals submitted by city and county governments, nonprofits and regional efforts to efficiently manage NSP funds. The applicant must demonstrate a strong management role in the program delivery.
- f) **Acquisitions & Relocation:** It is estimated that most properties will be vacant, but previously improved, abandoned and foreclosed; it is not anticipated that relocation will occur. However, the Texas NSP will require adherence to the guidelines set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24).
- g) **Resolution:** All applications submitted must include an **original** resolution from the Applicant's direct governing body, authorizing the submission of the Application, acknowledgement of NSP as a reimbursement program, naming of a person and the person's title authorized to represent the organization and signature authority to execute a contract. If submission of a resolution is prohibitive at the time of application submission due to the time constraints of the NSP, a letter of intent from the chief elected official or the Chief Executive Officer of the applicant will suffice for the purposes of an application. A resolution conforming to the requirements herein will be required prior to contract execution.

13) Review Process

- a) Each application will be assigned a "received date" based on the date and time it is physically received by the Division. Then each application will be reviewed on its own merits, as applicable. Applications will continue to be prioritized for funding based on

their competitive scoring or "received date", depending on allocation. Applications will be reviewed for applicant and activity eligibility, and threshold criteria as described in this NOFA.

- b) The Department will ensure review of materials required under the NOFA and Program Guide and will issue a notice of any Administrative Deficiencies within ten (10) business days of the received date. Administrative deficiencies are omissions, inaccuracies or incomplete information on the application that can be readily corrected. Applications with Administrative Deficiencies not cured within a subsequent ten (10) business days, will be terminated and must reapply for consideration of funds. Applications that have completed this phase will be reviewed for recommendation to the Board by the Selection Committee.
- c) If a submitted Application has an entire section of the application missing; has excessive omissions of documentation from the Selection Criteria or required documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant.
- d) The Department may decline to consider any Application if the proposed activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications that are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.
- e) All Applicants will be processed through the Department's Application Evaluation System, and will include a previous award and past performance evaluation. Poor past performance may disqualify an Applicant for a funding recommendation or the recommendation may include conditions.
- f) Funding recommendations of eligible Applicants will be presented to the Department's Governing Board of Directors based on eligibility and limited by the total amount of funds available under this NOFA and the maximum award amount.
- g) In accordance with §2306.082, Texas Government Code and 10 TAC §1.17, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals

processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC §1.17.

- h) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.
- i) Eligible applicants within the county should coordinate to ensure that their proposals consistently address the needs in their communities and do not duplicate the needs identified for each county. Duplication of requests for a county will delay the allocation agreement for a community and could result in a reduced amount of time available for applicants to contract for specific acquisitions. In the application, applicants are required to identify:
 - i) The geographic neighborhoods and communities targeted for Texas NSP funds within their jurisdiction;
 - ii) The Texas NSP eligible activities proposed to meet the specific needs in each area;
 - iii) The strategy for maximum revitalization and impact of funds.

14) Application Submission

- a) All applications submitted for the Direct Pool under this NOFA must be received on or before 5:00 p.m. on **Monday April 27, 2009, regardless of method of delivery.**
- b) All applications submitted for the Select Pool under this NOFA must be received on or before 5:00 p.m. on **Monday April 27, 2009, regardless of method of delivery.**
- c) The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. Questions regarding this NOFA should be addressed to:

Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, Texas 78701
Telephone: (512) 463-8921
E-mail: robb.stevenson@tdhca.state.tx.us

- d) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.
- e) Applicants must submit one complete printed copy of all Application materials and one complete scanned copy on a disc of the Application materials as detailed in the Program Guide. All scanned copies must be scanned in accordance with the guidance provided in the Program.

- f) All Application materials will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.
- g) This NOFA does not include text of the various applicable regulatory provisions that may be important to the NSP Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the NSP Division for guidance and assistance.
- h) **Application Workshop:** the Department will present an application workshop in Austin, Texas on a date to be determined. The workshop will address information such as the Application preparation and submission requirements, evaluation criteria, state and federal program information, and environmental requirements. The Application workshop schedule and registration will be posted on the Department's website at www.tdhca.state.tx.us
- i) **Audit Requirements:** An applicant is not eligible to apply for funds or any other assistance from the Department unless a past audit or Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application deadline for funds or other assistance per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified. Staff will not recommend applications for funding to the Department's Governing Board unless all unresolved audit findings, questions or disallowed costs are resolved per 10 TAC §1.3(c).
- j) Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs
Attn: Neighborhood Stabilization Program
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
Attn: Neighborhood Stabilization Program
Post Office Box 13941
Austin, TX 78711-3941

***NOTE:** This NOFA does not include the text of the various applicable regulatory provisions that may be important to the administration of the Neighborhood Stabilization Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.*

Exhibit 1. Texas Neighborhood Stabilization Program County Need Score

<i>County Name</i>	<i>Direct Texas NSP Allocation</i>	<i>Select Pool Eligible</i>	<i>Need Score</i>
Tarrant	\$7,320,349		13320
Dallas	4,684,332		10684
Cameron	3,465,632		9466
Bexar	3,150,408		9150
Hidalgo	3,005,258		9005
Harris	2,875,584		8876
Nueces	2,522,253		8522
Collin	2,278,454		8278
Webb	2,025,812		8026
Travis	2,017,952		8018
Montgomery	1,697,675		7698
El Paso	1,648,634		7649
Brazoria	1,586,234		7586
Potter	1,579,681		7580
Jefferson	1,498,945		7499
Denton	1,166,500		7166
Taylor	1,099,259		7099
Williamson	1,066,554		7067
Bell	1,064,488		7064
Lubbock	1,057,705		7058
Galveston	1,003,104		7003
Wichita	803,464		6803
Fort Bend	726,857		6727
Ector	699,232		6699
McLennan	647,971		6648
Gregg		Gregg	6143
Tom Green		Tom Green	6055
Grayson		Grayson	5809
Brazos		Brazos	5761
Victoria		Victoria	5741
Orange		Orange	5634
Bowie		Bowie	5593
Harrison		Harrison	5583
Midland		Midland	5507
Smith		Smith	5502
Comal		Comal	5498
Hays		Hays	5326
Ellis		Ellis	4325
Johnson		Johnson	4284
Kaufman		Kaufman	3964

<i>County Name</i>	<i>Direct Texas NSP Allocation</i>	<i>Select Pool Eligible</i>	<i>Need Score</i>
Parker		Parker	2295
Bastrop		Bastrop	1898
Hood		Hood	1658
Liberty		Liberty	1508
Hunt		Hunt	1473
Henderson		Henderson	1432
Rockwall		Rockwall	1266
Wise		Wise	996
Hill		Hill	766
Burnet		Burnet	766
Navarro		Navarro	746
Guadalupe		Guadalupe	683
Randall		Randall	567
Angelina		Angelina	495
Wood		Wood	463
Matagorda		Matagorda	452
Lamar		Lamar	401
San Patricio		San Patricio	391
Atascosa		Atascosa	389
Milam		Milam	366
Maverick		Maverick	359
Jim Wells		Jim Wells	341
Eastland		Eastland	316
Van Zandt		Van Zandt	300
Kleberg		Kleberg	296
Grimes		Grimes	292
Hale		Hale	269
Palo Pinto		Palo Pinto	243
Nacogdoches		Nacogdoches	242
Hopkins		Hopkins	242
Kendall		Kendall	234
Coryell		Coryell	230
Cooke		Cooke	224
Kerr		Kerr	210
Medina		Medina	196
Aransas		Aransas	184
Caldwell		Caldwell	183
Wilson		Wilson	176
Gonzales		Gonzales	169
Waller		Waller	167
Anderson		Anderson	165
Val Verde		Val Verde	165

<i>County Name</i>	<i>Direct Texas NSP Allocation</i>	<i>Select Pool Eligible</i>	<i>Need Score</i>
Montague		Montague	165
Llano		Llano	165
Washington		Washington	159
Fannin		Fannin	159
Walker		Walker	152
Upshur		Upshur	152
Brown		Brown	150
Cherokee		Cherokee	145
Jackson		Jackson	131
Austin		Austin	127
Starr		Starr	115
Wharton		Wharton	114
Polk		Polk	111
Gillespie		Gillespie	106
Jasper		Jasper	106
Leon		Leon	105
Willacy		Willacy	105
Erath		Erath	103
Howard		Howard	102

