

# Grantee Handbook

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Updated January 2009

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## 1990 Anti-Lobbying Certification

On Wednesday, December 20, 1989, a Notice was published in the Federal Register (page 52070) advising recipients and subrecipients of Federal contracts, grants, cooperative agreements, and loans of a new prohibition mandated by Congress. Section 319 of Public Law 101-121, signed on October 23, 1989, generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative branches of the Federal Government in connection with a specific contract, grant, or loan.

The Federal Register guidance specifically forbids the Department of Housing and Urban Development from awarding contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

This new requirement has since been narrowed to signed certifications for **all awards of Federal monies over \$100,000**. This begins with the State's award and goes to grantees, contractors, subcontractors, and suppliers, etc., over \$100,000 in all grants.

Failure of the grantee to obtain this certification from all awards of \$100,000 or more will result in a program finding.

Included herein is a copy of this certification.

**Certification Regarding Government-Wide  
Restriction on Lobbying  
(For Contracts Over \$100,000)**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, cooperative agreements) over \$100,000, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Date

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Principal

## **Kansas Department of Commerce Conflict of Interest Policy**

The State of Kansas agreed, when it accepted the CDBG program in 1983, to abide by 24 CFR 570.611 of the Federal regulations (conflict of interest) for the program. The Kansas Department of Commerce developed a conflict of interest policy on April 22, 1994, relating to housing. This policy has been broadened to cover all areas of participation in all programs funded by CDBG monies. In an attempt to clarify this issue for the State's program, the State has adopted, as of July 1, 1996, the following position on conflict of interest, incorporating the April 22, 1994, policy and extending the policy further to address other areas as provided in 24 CFR 570.611.

### Standard of Conduct Involving Conflict of Interest

- I. Persons Covered: The conflict of interest provisions of this policy shall apply to any person who is an employee, elected or appointed official, agent, consultant, officer, or any immediate family member or business partner of the above, of the recipient, or of any designated public agencies, or subrecipients which are receiving funds from the Kansas Community Development Block Grant program.
  
- II. Applicability:
  - A. In the area of procurement of supplies, equipment, construction, and services by recipients, subrecipients, or designated public agencies, the conflict of interest provisions in Public Law 103-355 or OMB Circular A-110, as applicable, shall apply.
  
  - B. In all cases not governed by PL 103-355, the provisions of this policy shall apply. Such cases include the acquisition and disposition of real property and the provisions of assistance by the recipient or subrecipients to individuals, businesses and other private entities in the form of grants, loans, or other assistance through eligible activities of the program which authorize assistance.
  
- III. Conflicts Prohibited: Except for approved eligible administrative or personnel cost, no persons described in I. above who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under the State program or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the State CDBG Economic Development program, the above restrictions shall apply to all activities that are a part of the funding approval for all projects, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

**Conflict of Interest Policy**  
**Page 2**

- A. An exception may be considered only after the grant applicant has provided the following:
  - 1. A disclosure of the nature of the conflict accompanied by an assurance that there has been a public disclosure of the conflict and a description of how the public disclosure was made;
  - 2. A recording of the disclosure in the official minutes of the governing body of the grantee; and
  - 3. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.
  
- B. In determining whether to grant an exception, after the above three items have been received, the State shall consider the following factors, where applicable:

Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

- 1. Whether an opportunity was provided for open competitive bidding or negotiation;

Whether the person affected is a member of a group or class of low- or moderate- income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

- 2. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- 3. Whether the interest or benefit was present before the affected person was in a position as described in Section III;
- 4. Whether undue hardship will result either to the recipient or the person affected when weighted against the public interest served by avoiding the prohibited conflict; and
- 5. Any other relevant considerations.

**Conflict of Interest Policy**  
**Page 3**

If after all considerations, determination is made to grant an exception, the State shall issue a waiver noting such exception and the conditions and the basis for the issuance of same.

It is the policy of the CDBG program that no waiver will be issued concerning benefit to the chief elected official or governing body members of the grantee, except in dire circumstances affecting performance.

## **Disclosure Requirements**

On March 16, 1991, HUD published in the Federal Register a final rule entitled, “Accountability in the Provision of HUD Assistance.” This rule was amended on January 16, 1992. This final rule implements Section 102 of the HUD Reform Act of 1989. Section 102 contains provisions to ensure greater accountability and integrity in the way in which HUD assistance is made available.

Subpart C of Section 102 is applicable to Commerce administered CDBG program. Subpart C requires certain applicants for CDBG assistance to make a number of disclosures. Since Subpart C applies to all CDBG applications that are submitted after March 16, 1992, all applicants will be required to submit a Disclosure Report with the applications. It is hoped that the following provides a general understanding of the disclosure requirements. Please review this material and the attached Disclosure Form and Instructions carefully. If you have any questions, please contact the Department of Commerce at (785) 296-3004, TTY (785) 296-3487.

Subpart C of 24 CFR Part 12 requires applicants for state-administered CDBG funds to make a number of disclosures if they meet a dollar threshold for the receipt of certain covered assistance.

### **Who Must Make the Disclosures?**

Full Disclosure Reports must be made by the following:

- ⇒ Any applicant applying for more than \$200,000 of CDBG funds.
- ⇒ Any applicant applying for less than \$200,000 of CDBG funds, but has received or could receive other covered assistance when added to the CDBG funds exceeds \$200,000.

An applicant is applying for CDBG funds amounting to \$200,000 or less, and will not be receiving other covered assistance, is not required to make full disclosures, but must complete and submit Part I of the Disclosure Report with its application.

### **Guidance Regarding Disclosures**

Applicants must submit an initial Disclosure Report with their CDBG applications. Those applicants required to submit full initial reports must also submit update reports as required by Section B below.

## A. Initial Reports

Applicants required to submit full initial reports must disclose the following:

1. Other government assistance (federal, state, and/or local) that is to be used in conjunction with the CDBG project.
2. The pecuniary interest of any developer, contractor, or consultant involved in the application for CDBG assistance or in the planning, development, or implementation of the CDBG project.
3. The pecuniary interest of any other person in the project that exceeds \$50,000 or 10 percent, whichever is lower, of the CDBG assistance applied for.
4. The sources of all funds to be used in the project (including those sources identified for Number 1 above) and the uses to which these funds are to be placed.

## B. Update Reports

Subsequent to the submission of CDBG applications, those applicants/grantees that are required to submit full initial reports are required to submit updated Disclosure Reports at any time any of the following occurs:

1. The applicant/grantee discovers that information was omitted from its initial report or last update report.
2. Additional persons or entities can be identified as interested parties. These are persons or entities that did not have a pecuniary interest when the initial or last update report was submitted, but who can now be identified as having a pecuniary interest that is required to be reported.
3. There is an increase in the amount of pecuniary interest of a person or entity identified in the last report, if this increased pecuniary interest is more than \$50,000 or 10 percent (whichever is lower) of the pecuniary interest (for that person or entity) listed in the initial or last update report.
4. There is a change in other government assistance from that which was provided in the last report. An updated report must be submitted if the total amount of other assistance reported in the initial or last update report has increased by \$250,000 or 10 percent (whichever is lower).
5. There is a change in the source and/or use of funds from that which was provided in the initial or last update report that exceeds the amount of all previously disclosed sources and/or uses of funds by \$250,000 or 10 percent (whichever is lower).

Grantees must constantly monitor their projects to ensure that an updated Disclosure Report is submitted within 30 days of any change meeting one of the five criteria discussed above. Updated reports are required until the project is closed out.

## **Commerce Responsibilities**

Commerce is prohibited from contracting CDBG funds to a local government applicant until that applicant has submitted a Disclosure Report.

Commerce must make all initial and updated Disclosure Reports available to the public for five years. Commerce will notify the public that it retains applicant/grantee Disclosure Reports for the state-administered CDBG program and provide information on how the public may obtain access to this material.

## **Instructions for Completion of Disclosure Report**

### **Overview:**

**A. Coverage.** You must complete this report if:

- (1) You are applying for assistance from CDBG for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of \$200,000 during the fiscal year;
- (2) You are updating a prior report as discussed below.

### **B. Update reports (filed by “Recipients”):**

**General.** All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

## **Line-by-Line Instructions**

### **Applicant/Recipient Information**

All applicants for CDBG assistance must complete the information required in blocks 1-5 of the disclosure report:

1. Enter the full name, address, city, State, zip code and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of assistance that is being requested. Recipients enter the amount of assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation.

5. Applicants enter the name and full address of the project or activity for which the assistance is sought. Recipients enter the name and full address of the assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., grant announcement No.; or contract, grant or loan No.) Include prefixes.

### **Part I. Threshold Determinations - Applicants Only**

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to *either* question 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

### **Part II. Other Government Assistance and Expected Sources and Uses of Funds**

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Other government assistance is defined in note 2 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD **and any other source** - that have been or are to be, made available for the project or activity. Non-government sources of funds typically include (but are not limited to) foundations and private contributors.

### **Part III. Interested Parties**

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors or consultants involved in the application for the assistance or in the planning, development or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

**Note:** A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

**Note** that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds.

#### **Notes:**

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.

4. For the purpose of this form and 24 CFR Part 4, “person” means an individual (including a consultant, lobbyist or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

**Instructions in General Application Requirements or Grantee Handbook**

**Applicant/Recipient Information**

Indicate whether this is an Initial Report  or an Update Report

1. Applicant/Recipient Name, Address, and Phone (include area code):  ( ) -	2. Social Security Number or Employer ID Number:  - -
3. CDBG Grant Number:	4. Amount of HUD Assistance Requested/Received
5. State the name and location (street address, City and State) of the project or activity:	

**Part I Threshold Determinations.**

1. Are you applying for assistance for a specific project or activity?  <input type="checkbox"/> Yes <input type="checkbox"/> No	2. Have you received or do you expect to receive assistance, involving the project or activity in this application, in excess of \$200,000 during this fiscal year.  <input type="checkbox"/> Yes <input type="checkbox"/> No
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If you answered “No” to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. **However,** you must sign the certification at the end of the report.

**Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.** Such assistance includes, but is not limited to, any grant, loan subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds

(Note: Use Additional pages if necessary.)

**Part III Interested Parties.** You must disclose:

- All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
- Any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity (\$ and %)

(Note: Use Additional pages if necessary.)

**Certification**

**Warning:** If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature:  X	Date: (mm/dd/yyyy)
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# NEIGHBORHOOD STABILIZATION PROGRAM Explanation of Property Types under Each Eligible Use

## INTRODUCTION

The Housing and Economic Recovery Act (HERA) uses different terms for each of the five Eligible Uses of funds in the Neighborhood Stabilization Program (NSP). HUD wishes to clarify these terms and to explain how this may affect what grantees can do with different types of property. Attachment A—NSP Eligible Uses by Property Type, was developed to serve as a visual aid to show the limitations and requirements that apply to NSP funds. The legislative language on Eligible Uses shows the terms that will be discussed in underline. This memorandum also discusses the property types required to satisfy the requirement that 25 percent of NSP funds are used to house individuals or families whose incomes do not exceed 50 percent of area median income.

In general, grantees must limit their activities in any Eligible Use only to those property types specifically cited. When combining uses (e.g. Acquisition and Rehabilitation under B with Financing under A), the more restrictive classification applies. All definitions should be understood to apply primarily to areas of greatest need or to constitute an improvement benefiting such areas as part of the overall NSP program. In addition, all activities must meet the national objective of benefiting low, moderate or middle-income persons; NSP grantees may not use slum and blight removal or urgent needs as national objectives. Subsequent guidance will further define the correlated eligible activities from the CDBG entitlement regulations.

## TERMS TO BE DISCUSSED

### Housing and Economic Recovery Act Title III Sec. 2301 (c):

- (3) ELIGIBLE USES**—Amounts made available under this section may be used to:
- (A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate- income homebuyers;
  - (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;
  - (C) establish land banks for homes that have been foreclosed upon;
  - (D) demolish blighted structures; and
  - (E) redevelop demolished or vacant properties.

### Housing and Economic Recovery Act Title III Sec. 2301 (f) (3) (A):

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

## **A. Financing Mechanisms:**

For “foreclosed-upon homes and residential properties”:

HUD interprets “homes” as any type of permanent residential dwelling unit, such as detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property) and manufactured homes where treated under state law as real estate (not personal property). The NSP Notice defines “foreclosed”; see excerpt below.

“Residential properties” includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

***NSP Notice Definition: Foreclosed.*** A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

## **B. Purchase and Rehabilitation:**

For “homes and residential properties that have been abandoned or foreclosed upon”: As above, HUD interprets “homes” as any type of permanent residential dwelling unit, including detached single family structures, townhouses, condominium units, multifamily rental apartments (covering the entire property), and manufactured homes where treated under state law as real estate (not as personal property). The NSP Notice defines “abandoned” and “foreclosed”; see excerpts below. “Residential properties” includes all of the above plus vacant land that is currently designated for residential use, e.g. through zoning.

***NSP Notice Definition: Abandoned.*** A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.

***NSP Notice Definition: Foreclosed.*** A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

## **C. Land Banks:**

For “homes that have been foreclosed upon”:

This terminology limits land banking to “foreclosed upon” “homes” as defined above. The absence of a reference in this section to “residential properties, means that vacant land may NOT be acquired through land banks. However, it is permissible for acquired homes to be subsequently demolished and remain in the land bank. Note that the definition of Land Banks at the beginning of the NSP Notice refers to vacant land, which has created some confusion. HUD regrets this inconsistency and is changing that section in an Errata Notice to be published soon.

#### **D. Demolition:**

For “blighted structures”:

The NSP Notice defines “blighted structures”, as shown below. HUD has taken the position that any type of structure that is blighted may be demolished with NSP funds. This means that commercial, industrial or other types of structures may be demolished in addition to homes and residential structures.

***NSP Notice Definition: 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.

#### **E. Redevelopment:**

For “demolished or vacant properties”:

This Eligible Use allows communities to address the broadest range of property types. Because the legislation does not limit this use to homes and/or residential properties, HUD will permit grantees to acquire and redevelop ANY property type. This includes commercial or industrial property in addition to all types of residential property. Note that property acquired under Redevelopment need not be abandoned or foreclosed upon.

However, it **MUST** be vacant. “Vacant properties” includes both vacant land and properties with vacant structures on the land. However, HUD understands redevelopment to imply that properties were once developed; therefore undeveloped or “greenfield” sites may not be acquired under Eligible Use E.

HUD expects that, unlike land banks, properties acquired and improved under Eligible Use E must proceed expeditiously to construction. Properties that are eligible to be land banked with unknown end uses, or for which the end use is not imminent, should be considered for Land Banks (assuming that they have been foreclosed upon). Some corollary considerations also merit discussion, which follows the next section on housing for low-income persons.

#### **Title III Sec. 2301 (f) (3) (A): Housing for individuals or families whose incomes do not exceed 50 percent of area median income:**

For “purchase and redevelopment of abandoned or foreclosed upon homes and residential properties”:

HERA requires that grantees allocate 25percent of their NSP funds for housing that serves lower income persons. Note that this is limited to abandoned or foreclosed upon homes or residential properties. The NSP definitions of “abandoned” and “foreclosed”, listed above, apply here also. HUD takes the position that this section refers to permanent housing; thus, such uses as homeless shelters cannot count toward the 25 percent requirement.

## RELATED CONSIDERATIONS

The following discussion concerns implications of the preceding clarifications, or instances in which more than one set of requirements apply.

First, new housing construction (benefiting low-, moderate-, or middle-income persons) is permitted under Eligible Use E, and ONLY under Eligible Use E. This supersedes the limitation on new construction of housing in the CDBG program and is described in Sec. II H. 3.c of the NSP Notice (see excerpt below on page 5).

Second, housing rehabilitation is currently not a CDBG-correlated eligible activity under Eligible Use E. However, HUD is issuing an Technical Correction Notice to add it. The CDBG regulations on public facilities (24 CFR 570.201 (c)) do allow rehabilitation. Thus, a vacant structure acquired under Eligible Use E may now be renovated into a public facility, such as a neighborhood center. After publication of the Errata Notice, grantees will also be able to rehabilitate vacant structures for housing.

Third, grantees may wish to construct new housing for persons at or below 50 percent of median income, especially affordable rental housing. In this case, the law requires that the property be abandoned or foreclosed upon. The Notice limits new construction to Eligible Use E, which can take place only on vacant or demolished property. Therefore, to meet the 25 percent requirement, new housing construction can occur only on demolished or vacant land that is either abandoned or foreclosed upon. After publication of the Technical Correction Notice, rehabilitation of vacant residential structures will be permissible, but to meet the 25 percent requirement the property must also have been abandoned or foreclosed upon.

Finally, as defined in the CDBG regulations below, shelters for persons with special needs (such as homeless shelters and halfway houses) are public facilities. Renovation or new construction of such structures is eligible as a public facility under Eligible Use E. However, because they are not defined as permanent housing, they cannot count towards the requirement that 25 percent of the NSP funds “be used to house individuals or families whose incomes do not exceed 50 percent of area median income”.

## ADDITIONAL REFERENCES

### NSP Notice Dated Oct. 6, 2008 II. H. Eligibility and Allowable Costs

c. **New construction of housing** is eligible as part of eligible-use (E) to redevelop demolished or vacant properties.

#### **Housing and Economic Recovery Act Title III Sec. 2301(f) (3) LOW AND MODERATE INCOME REQUIREMENT.—**

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1)—

(i) 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; and

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income. (emphasis added)

#### **CDBG regulations 24 CFR 570.201 (c):**

*Shelters for persons with special needs.* Excerpt –

“Facilities designed for use in providing shelter for persons having special needs are considered public facilities .... Such facilities include shelters for the homeless; convalescent homes; hospitals, nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims.”

ATTACHMENT A		NSP Eligible Uses by Property Type				<i>(Updated 02/12/09 Page 6 of 6)</i>	
	Eligible Uses	Foreclosed Homes and Residential Properties	Abandoned Homes and Residential Properties	Blighted Structures	Demolished Properties	Other Vacant Properties	
<b>A</b>	Financing Mechanisms	Yes	No	Only if Foreclosed (1)	N/A	Only if Foreclosed(1)	
<b>B</b>	Purchase and Rehab	Yes	Yes	If Foreclosed or Abandoned	N/A	No	
<b>C</b>	Land Banks	Yes (Homes only)	No (Foreclosed only)	Only if Foreclosed home	No	No	
<b>D</b>	Demolition	Only if Blighted (3)	Only if Blighted (3)	Yes	N/A	Only if Blighted (3)	
<b>E</b>	Redevelopment	Only if Vacant (5)	Only if Vacant (5)	Only if Vacant (5)	Yes	Yes	
<i>Comments</i>		<i>Locally defined not limited to residential structures.</i>	<i>Not limited to residential structures.</i>	<i>Land or structures. Not limited to residential property.</i>			