

## Guidance on Conditional Purchase Agreements

For NSP-assisted acquisition and rehabilitation of single family properties (1–4 units)

- Q. Can a Responsible Entity (RE) allow a recipient, subrecipient, or third party to purchase an existing single family home (one to four units) before the HUD environmental review of the property is complete when NSP funds will be used for acquisition and/or rehabilitation<sup>1</sup> or demolition<sup>2</sup> of the home?
- A. An RE can allow a recipient, subrecipient, or third party to enter into a purchase contract for an existing 1 to 4 unit house before the RE has completed the environmental review, provided that:
- (1) the purchase contract includes the appropriate language for a conditional contract (see below);
  - (2) no transfer of title to the purchaser or removal of the environmental conditions in the purchase contract occurs unless and until the RE determines, on the basis of the environmental review, that the transfer to the homebuyer should go forward, and the RE has obtained approval of a Request for Release of Funds and environmental certification; and
  - (3) any deposit using NSP funds or other funds is refundable if the conditions are not met, or if non-refundable, is nominal (\$1000 or less).

The following language, or similar language, must be included in the purchase contract:

Notwithstanding any other provision of this Contract, Purchaser shall have no obligation to purchase the Property, and no transfer of title to the Purchaser may occur, unless and until [Responsible Entity] has provided Purchaser and/or Seller with a written determination, on the basis of a federally required environmental review and an approved request for release of federal funds, that purchase of the property by Purchaser may proceed, subject to any other Contingencies in this Contract, or may proceed only if certain conditions to address issues in the environmental review shall be satisfied before or after the purchase of the property. [Responsible Entity] shall use its best efforts to conclude the environmental review of the property expeditiously.

The RE must complete the environmental review of the property pursuant to HUD regulations at 24 CFR Part 58 and receive approval of a Request for Release of Funds before the RE provides its written determination that the purchase of the property may proceed. If the environmental review requires conditions to mitigate any environmental impacts, then the RE (if it is not the Purchaser) should enter into an agreement with the Purchaser to ensure that the conditions will be undertaken.

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<sup>1</sup> Rehabilitation that meets the requirements of 24 CFR 58.35(a)(3)(i)

<sup>2</sup> Demolition of existing single family home, provided that the end use of the property is limited to vacancy, reconstruction of single family house or is unknown at the time of acquisition.