

U.S. Department of Housing and Urban Development
Office of Block Grant Assistance



Neighborhood Stabilization Program

2008 FORMULA GRANTS

**Module 2: Pre-Acquisition
Considerations**

Module 2 Content

- **Environmental Requirements**
- **Uniform Relocation Assistance**
- **Appraisals**
- **NSP Purchase Discount**



Environmental Requirements



Environmental Review Process for Responsible Entities

What is the likely impact
the project will have on the
environment?

And, what will be the
environment's impact upon
the project?



Basic Requirement

When Project is Federally Funded
In whole, or In part –

- Requires Compliance with 24 CFR Part 58
- Part 50, where applicable



National Environmental Policy Act 1969

NEPA:

- Federal Law
- Federal Environmental Policy
- Protect, Restore, and Enhance the Human Environment

NEPA

Environmental Study:

- Agency Comments
- Public Document
- Scientific Analysis
- Relevant Issues



HUD Regulations

- 24 CFR Part 50 HUD Procedure
- Part 58 Procedure for RE's
- Part 51 Hazards
- Part 52 Intergovernmental
- Part 55 Floodplains



Laws and Authorities in Part 58.5

Environmental concerns
must be considered



Laws and Authorities in Part 58.5

- Historic Preservation
- Floodplain and Wetlands
- Contaminated Site Cleanup



Laws and Authorities in Part 58.5

- Coastal Zone
- Aquifers
- Rivers
- Endangered Species



Laws and Authorities in Part 58.5

- Air Quality
- Farmlands
- HUD Environmental Standards
(hazardous areas, near airport or
other noise sources)
- Environmental Justice



Laws and Authorities

58.6 Other Responsibilities

- Flood Insurance
- Coastal Barrier
- Clear Zone



CDBG and NSP Differences for States

- For CDBG states *may not* carry out activities itself
- For NSP states *may* carry out activities



CDBG and NSP Differences for States

- For CDBG states may not use funds in entitlement areas
- For NSP states may use funds *anywhere*



CDBG and NSP Differences for States

- States may either distribute funds to an entitlement or use itself within entitlement community
- A state may elect to do both!



Who's Responsible?

- How NEPA responsibilities be met under various circumstances?



Who's Responsible? (see Part 58.4)

NSP Funds

- Direct Grants to Entitlements by HUD
 - Local Govt Responsible
- Grants to Local Government by States
 - LG Responsible
 - Request release of funds goes to State
- Grants used by States
 - State Responsible
 - Request release of funds goes to HUD



Steps in Environmental Process

- Define the Project
- Aggregate Activities
- Study Alternatives
- Determine Level of Review
- Conduct Review
- Publish or Post When Required
- Request Release of Funds Receive Authority To Use Grant Funds
- Commit Funds and Implement Project
- Monitor Mitigation



Level of Review

- Exempt
- Categorically Excluded
 - NOT Subject to 58.5
- Categorically Excluded
 - Subject to 58.5
- Full Assessment



Exempt Activities 24 CFR Part 58.34(a)

- Environmental, planning, & design costs
- Information & financial services
- Administrative/management activities
- Public services (no physical impact)
- Inspections
- Purchase of tools/insurance
- Technical assistance & training
- Temporary assistance for imminent threats
- Payment of principal and interest

Categorically Excluded Activities not subject to 58.5

- Tenant-based Rental Assistance
- Supportive Services
- Operating Costs (utilities, supplies)
- ED Costs (non-construction)
- Predevelopment Costs
- Supplemental Assistance
(New to Regs)



Categorically Excluded subject to 58.5 (see Part 58.35(a))

- Public Facilities < 20% increase in density
- Projects for Accessibility and Mobility
- Rehab of Single Family - no footprint increase in Flood Plain or Wet Land
- Minor Rehab of Multifamily (no change in use and < 20% change in density)
- Rehab of Nonresidential (no change in use and < 20% change in density)
- Acquisition/Disposition (no change in use)



Environmental Assessment

Projects not Categorically Excluded
or Exempt
require a Full Assessment
(See Part 58.36)



Environmental Assessment

- Designed to determine if an Environmental Impact Statement is required
- Requires alternatives
- Requires early consultation
- Broad interdisciplinary study



Environmental Impact Statement “EIS” 24 CFR Part 37

Completed for:

- Findings of Significant Impacts (FOISI)
- Controversial Projects
- Large Projects (2,500 or more units is common trigger)



Public Notification

EA=Environmental Assessment; CE=Categorical Exclusion;
FONSI=Finding of No Significant Impact

- **EA:** Combined Notice (FONSI and NOI)
- **CE that “trigger” compliance:**
NOI/RROF only
- **CE No Compliance Triggered:**
None
- **CE Not Subject to 58.5:**
None
- **Exempt:** None



Public Comment Periods

24 CFR part 58.45

NOI=Notice of Intent; FONSI=Finding of No Significant Impact;
RE=Responsible Entity

- **NOI/FONSI - 15 days *from* Publication**
18 days *from* Posting
- **NOI - 7 days *from* Publication**
10 days *from* Posting
- **RE must *consider* comments prior to submitting its RROF to HUD/State**
- **HUD/State Comment Period 15 days**

Final Steps in the Process

- Request Release of Funds (RROF)
- Release of Funds (ROF)



When Mixing State and Entitlement NSP Funds

- Entitlement Community Funds -
HUD approves RROF
- State Funds Used by Entitlement -
State approves RROF



Strategies for NSP

The same strategies in meeting environmental protection requirements of CDBG will generally work in the NSP

Know the categorical exclusions found at part 58.35(a)(4)



Special NSP Issues

- Tight time constraints
- Likelihood of bulk purchases



NSP Time Constraints

- Obligate all funds within 18 months
- Expend all grant funds within four years



Historic Preservation

- Timing concern
- Work out agreement with SHPO



Bulk Purchase Problem

- Impact on use of categorical exclusions



Tiered Approach

- Tiering begins after action plan developed
- Target neighborhood identified
- Specific sites unknown

Tiering offers a streamlined approach for NSP compliance



Using a Tiered Approach

Two step process:

- Tier 1-Target area assessment
- Tier 2-Site specific project review



Tier Approach Applies to Both

- Categorically Excluded activities
- Activities subject to environmental assessment



Q's and A's On Environmental Issues

- Go to HUD's environment web site <http://www.hud.gov/offices/cpd/environment/> for trainings
- Go to NSP web site at www.hud.gov/nsp, click on "NSP1", then click on "NSP1 Frequently Asked Questions", then look for the category Environmental Review

URA and Section 104(d)

- Acquisition and relocation assistance required by Federal statute



Federal Requirements

- The Uniform Act, and Section 104(d) – What you need to know for NSP



Why are URA and Section 104(d) important in NSP?

- Statutory protections for property owners & occupants
- Triggered by the use of Federal Financial Assistance
- Acquisition Requirements
- Relocation Requirements



Uniform Act

- Who does it protect?
- Triggered by displacement from demolition or rehabilitation
- What does it involve?
 - Planning
 - Manpower (44 hours per household)
 - Money



URA Regulations

URA Regulations are at
49 CFR Part 24



Section 104(d)

- Purpose: Minimize Displacement
- When does it apply?
(CDBG/HOME/NSP)
- Components:
 - RARAP (Residential Antidisplacement and Relocation Assistance Plan)
 - One-for-one replacement
 - Relocation for Lower Income tenants
- Triggers: Demolition or conversion

URA & 104(d) in NSP

- Both may apply to any NSP funded activity
- Plan your activities/projects wisely!



NSP Alternative Requirements

- Acquisition of property at a discount
- Appraisal required
- “One-for-one” replacement
 - Action plan goals & reporting
 - # expected to be demolished or converted
 - # affordable units to be made available
 - # unit for persons at or below 50% of median

URA Policies

- Acquisition of Real Property



URA Acquisition Requirements

Different requirements for:

- Acquisitions under threat of eminent domain (involuntary)
- Voluntary acquisitions



Involuntary Acquisition

(49 CFR 24.102 - .108)

- Basic Acquisition Policies
- Appraisal
- Appraisal Review
- Payment of Incidental Expenses



Involuntary Acquisition & Relocation

- Displaced owner-occupants eligible for relocation assistance and payments
- Displaced tenant-occupants eligible for relocation assistance and payments



Voluntary Acquisition

49 CFR 24.101(b)(1)-(5)

Different requirements for different situations

- Acquisition by agency with power of eminent domain (49 CFR 24.101(b)(1))
- Acquisition by agency without power of eminent domain (49 CFR 24.101(b)(2))



Agencies with Power of Eminent Domain

Must satisfy **all** requirements of 49 CFR 24.101(b)(1)(i)-(iv)

- No specific site needs to be acquired
- Not part of project where all property to be acquired
- Inform owner in writing that agency will not acquire if agreement not reached
- Inform owner in writing of property's market value



Agencies without Power of Eminent Domain

Must satisfy all requirements of 49 CFR
24.101(b)(2)

- Prior to offer, inform owner unable to acquire if agreement not reached
- Inform owner in writing of property's market value



Voluntary Acquisition & Relocation

- Displaced owner-occupants not eligible for relocation assistance and payments
- Displaced tenant-occupants eligible for relocation assistance and payments



NSP Acquisitions and the URA

- Most acquisitions will be voluntary
- Requirement for an appraisal
- Appraisal must meet requirements of 49 CFR 24.103
- Offer must be less than current appraised value



NSP Relocation Issues

- Avoid having to pay relocation
- Temporary relocation
- Acquiring occupied properties
- Paying for relocation when not required

(see 24 CFR 570.606(d))



Special NSP Situations

- Land Banking Concerns
- Mixing NSP with CDBG or HOME funds



Other NSP Situations

- Former owners of foreclosed properties
- Restoring ownership of foreclosed property to previous owner
- Lease to Purchase Agreements
- Acquiring property at Sheriff's Sale



Acquisition/Relocation Resources

- www.HUD.gov/relocation
 - Laws & Regulations
 - Policy & Guidance
 - Contacts
 - Forms
 - HUD RAP Newsletter
 - Publications
 - Training
 - MAILING LIST! Sign up for Listserv
- NSP Website & Q&As:
- <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>

Appraisals



Appraisals

- Statutory Issues
- Relationship to Purchase Discounts
- Credentials of Appraisers
- Appraisals of Properties Located in the same Target Area
- 60-Day Window
- Appraisal Content
- Potential Problem Scenarios



Statutory Issues

- Voluntary Acquisitions
- Foreclosed Upon Homes and Residential Properties
- Applicability of URA



Relationship to Discount Requirement

- Establish a Valid Base Line
- Informing Owner of Perceived Value
- Must Reach Mutual Agreement

Appraisers' Credentials

- Grantee Establishes Minimum Qualifications
- Use of Contract (Fee) Appraisers



Appraising Properties in the Same Area

- Area-wide Appraisals Not Acceptable
- Must Appraise Each Foreclosed Property to Be Acquired



60-Day Limitation

- Initial Offer
- Final Offer (usually at closing)



Appraisal Content

1. Describe Property
2. Identify Approaches Used
3. Comparable Sales
4. Statement of Value
5. Dates, Signature and Certification



Estimated Property Value of \$25,000 or Less

- Appraisal not subject to URA appraisal requirements
- Alternative valuation method can be used





Questions and Potential Problems



Purchase Discount

Purchase Discounts

Purchase Discount

- NSP Requirement for discount
 - Foreclosed properties
- Changes in NSP discount requirements
 - Reduction in individual discount
 - Elimination of aggregate discount
- URA Inapplicability
- Limitations on use of NSP funds for grantee owned property

Purchase Discounts

- **Required for purchase of foreclosed properties with NSP**
- **Strive for price reductions**





Minimum Discount for an Individual Property Reduced



Aggregate Discount Requirement Eliminated



Purchase Discount Requirements and the URA

Transactions Involving Grantee Owned Property

- Cannot finance purchases from itself
- Can collect back taxes from acquisition proceeds





FHA Foreclosures



Clarifications and Special Situations

Finding the Code of Federal Regulations

GPO Access URL

- <http://www.gpoaccess.gov/cfr/index.html>
- Click “Browse and/or Search the CFR” link
- Scroll to title 24 (or other title as needed), click on the version date, i.e. “Apr. 1, 2009”
- Click on the Part range that you want to access, i.e. “500-599”
- Click on the Part, i.e. “570”, then click on the pdf icon or txt icon to open the file.

Tenant Protections



Summary - Module 2 Topics

- **Environmental Requirements**
- **URA**
- **Appraisals**
- **Purchase Discount**
- **Tenant Protection Requirements**

