

Texas Neighborhood Stabilization Program – Frequently Asked Questions

2/27/2009 **1. Q:** Who is eligible to apply?

Updated
8/28/2009

A: Any unit of local government in an eligible county, including the county and individual cities, may apply for funds allocated to county geographical areas in the Direct Allocation and Select Pools. A nonprofit organization may also apply for funds if it receives permission to apply on behalf of an eligible unit of local government. Entities may apply on an individual basis or as joint applicants.

The Texas NSP1 Application cycle closed on April 27, 2009. If TDHCA is awarded NSP2 funds, a NOFA will be published to alert communities that the funds are available.

3/27/2009 **2. Q:** Can CDBG/HOME funding be applied to any portion of the program? If so, what are the limitations?

Updated
8/28/2009

A: There are no published limitations on matching/leveraged funds from any source; however, where and how the leveraged funds will be used must be explained in the application. Proposed use of an outside funding source that is against TDHCA Board policy would not be allowed. A word of caution: the NSP has been granted some exceptions/alternative requirements, if CDBG/HOME funds are mixed with NSP funds, those exceptions would go away and the more stringent rule would apply.

2/27/2009 **3. Q:** What is the limit on administrative funds?

Updated
8/28/2009

A: Each Texas NSP contract will contain a general administrative line item not to exceed 5% of the non-administrative contract total. Contracts for Land Bank activities will include an 8% general administrative line item for that activity. However, this is not the only source of funds to reimburse administrative costs. Activity delivery costs which range from 5-20% depending on activity will be available to reimburse direct project delivery costs (soft costs).

3/27/2009 **4. Q:** Can a foreclosure be merely pending or does it have to be completely finalized to make the property eligible?

Updated
8/28/2009

A: Whether or not a property has to be completely foreclosed depends upon the proposed eligible use (activity). For example, Eligible Use (A): Financing Mechanisms requires that homes and residential properties be completely foreclosed upon. Eligible Use (B): Purchase and Rehabilitation allows for both foreclosed and abandoned properties. Eligible Use (E): Redevelopment allows for demolished or vacant properties.

Please note that the NSP has specific definitions for these terms: *Abandoned* means that mortgage or tax foreclosure proceedings have been initiated, and no mortgage or tax payments have been made by the owner for 90 days and the property has been vacant for at least 90 days. *Foreclosed* means that the mortgage or tax foreclosure is complete. Title to the property must have been transferred under foreclosure proceedings, or in lieu of foreclosure, in accordance with state and local law.

3/27/2009 **5. Q:** Can properties be purchased immediately after they are foreclosed or does the property have to be vacant for 90 days (like abandoned properties)?

Updated
8/28/2009

A: Foreclosed properties may be purchased immediately; however, please make sure that the contract with the State is in place and all environmental concerns have been resolved before the purchase. In addition, any tenants occupying the property with a bona fide lease have the right to continue to occupy until their lease expires. Failure to protect tenant's rights may create a liability to provide assistance to the tenant household. Relocation of tenants may also trigger Uniform Relocation Act benefit requirements.

Texas Neighborhood Stabilization Program – Frequently Asked Questions

2/27/2009 **6. Q:** Are tax foreclosed properties eligible?

Updated
8/28/2009

A: If the tax foreclosed property is owned by the applicant and the applicant is the entity to which the taxes are owed, there may be some limitations. It is not permitted for an entity to use NSP funds to pay itself in a tax foreclosure scenario for anything other than reasonable costs related to the appraisal and transfer of title. Otherwise, tax foreclosed properties are eligible in the NSP. However, it is recommended that potential applicants consult an attorney if tax foreclosed properties are to be acquired. State law includes provisions for foreclosed upon property owners to make restitution on tax liens and reclaim property within a specified time period, which may extend up to two-years.

3/27/2009 **7. Q:** Would vacant lots that have never had a structure, but that have been graded and have water/wastewater stubs, qualify for the Redevelopment activity?

Updated
9/25/09

A: Eligible use E is limited to the "redevelopment of demolished or vacant properties for housing". HUD has defined "vacant properties" to include both vacant land and vacant structures on the land. Because "redevelopment" implies that the property was developed at some point in the past, or that it is surrounded by existing development, HUD has further refined the description of eligible properties to exclude "greenfield" sites at the edge of current development. If the vacant lot in question is located within an existing subdivision, and is surrounded by existing homes, it would be eligible under use E.

3/27/2009 **8. Q:** Will demolition be allowed on properties that will not be acquired?

A: It is not required that properties be acquired in order to perform demolition or clearance. However, the property must meet the definition of *blighted structure*, negatively affecting property values in the area and must pose a threat to human health, safety, and public welfare. Also, the demolition must occur in a census tract that meets the HUD definition of an area-wide benefit. In other words, the demolition must occur in a census tract that is majority 120% AMI or below.

4/21/2009 **9. Q:** What alternatives do rural areas have in meeting the requirement to provide homebuyer counseling by a HUD-approved housing counseling agency?

Updated
8/28/2009

A: The homebuyer counseling must be provided by a HUD-approved housing counseling agency. However, the training may be conducted through the internet rather than in person. If the web-based training option is chosen, the Texas NSP subrecipient will be required to follow TDHCA control standards to assure that homebuyers complete the education requirement.

3/27/2009 **10. Q:** What is the 50% limit for downpayment assistance?

Updated
8/28/2009

A: The down payment assistance limit is set by CDBG regulations at 50%; this applies only to assistance with the 3rd party lender's programmatic or regulatory requirement for down payment. (The down payment required for 100% financing through the Department cannot be subsidized with NSP funds). CDBG regulations also allow for reasonable closing costs (up to 100%) and principal reduction/gap financing. For example, if the lender requires a minimum 5% downpayment, NSP homebuyer assistance may be used to pay ½ of that cost, or 2.5% of the purchase price – the balance of NSP funds, up to the \$30,000 maximum, may be used to reduce the principal balance of the note or pay reasonable closing costs.

Texas Neighborhood Stabilization Program – Frequently Asked Questions

3/27/2009

- 11. Q:** Is the Homebuyer Assistance for households with incomes between 51% AMI and 120% AMI provided from the State in the form of a deferred, forgivable, 0%-interest loan as it is for the under 50% AMI households?

Updated
8/28/2009

A: ALL homebuyer assistance is in the form of a deferred, forgivable loan. As long as the family stays in the home for the entire affordability period, the entire amount of the homebuyer assistance is forgiven. If the family remains in the home for only part of the affordability period, then only part of the loan will be forgiven (incrementally by years in the home according to HOME program affordability periods). If a household is at or below 50% AMI, they may qualify for a 0%, fully-amortized 30-year mortgage, in addition to the homebuyer assistance.

2/27/2009

- 12. Q:** Can homebuyers substitute "sweat equity" for the down payment requirement?

A: Yes, the current NOFA allows for a minimum amount of sweat equity, through a self-help program approved by the Department, to substitute for the down payment requirement.

3/27/2009

- 13. Q:** Is repayment to the State of Texas NSP funds used for Administration and Homebuyer Assistance expected? We are not sure how funding for these purposes can be recovered through the sale of redeveloped properties or rehabilitation of foreclosed homes.

A: No, repayment is not expected for those activities. The repayment of loans is only required for certain activities. Administration (both general line item and activity delivery/soft costs) is a grant as long as the costs are eligible and the limit is not exceeded.

Homebuyer assistance is a forgivable loan between TDHCA and the buyer. Repayment is not required as long as the applicable affordability period is observed. If a household violates the affordability period requirements, they will be required to pay the applicable portion of the assistance back (at that point, the issue will be between the homeowner and the State).

3/27/2009

- 14. Q:** How does TDHCA determine how much is needed to qualify for private mortgage financing?

A: Households seeking to access NSP Homebuyer Assistance must demonstrate their need for NSP funds in order to buy a foreclosed home. Basically, the "amount needed" is the minimum amount necessary for the homebuyer's total debt to income ratio to not exceed 45%, and the third-party lender to make the loan. The statement, "in the amount needed," is used intentionally to cover situations in which the full \$30,000 principal reduction forgivable loan (grant) is unnecessary because an affordable monthly payment can be realized with, for example, \$5,000 of assistance.

3/27/2009

- 15. Q:** What are the criteria for underwriting of permanent mortgages?

A: The NOFA includes a 45% total debt-to-income ratio requirement for homebuyer financing. Additional underwriting criteria will be made available at implementation workshops after the application cycle ends. The intent is to have reasonably flexible criteria for dealing with a very low income population, including a mechanism for nontraditional credit qualification..

Texas Neighborhood Stabilization Program – Frequently Asked Questions

- 3/27/2009
Updated
08/28/09
- 16. Q:** The NOFA indicates an origination fee and any other fees associated with the mortgage loan may not exceed 2% of the loan amount. What is included in “other fees”? Is this processing fee, underwriting fee, administrative fee, etc.; Fees that the lender retains?
- A:** NSP Homebuyer Assistance limits the amount of fees that will be paid to a third-party mortgage lender to 2% of the loan amount. The loan origination fee is limited to 1%, and other 1% may be used to pay other fees imposed by the lender, up to the maximum.
- 3/27/2009
- 17. Q:** How long do we have to find a qualified buyer to repurchase the foreclosed property, and what happens if we don't meet the deadline due to economic conditions beyond our control.
- A:** You have one year after purchase or the purchase and completion of rehab to rent or sell the property. The best advice is to be choosy when purchasing properties and, when applicable, to pre-qualify potential homebuyers. However, time extensions through a normal contract amendment process will be available for situations that are beyond the control of the subrecipient. If you had intended to sell, a change to rental to produce an NSP eligible use may be considered.
- 2/27/2009
- 18. Q:** Which activities can be used to meet the Texas NSP requirement for 35% of non-administrative funding to serve households with incomes at or below 50% of area median?
- A:** Activities that may meet the 35% requirement include: Financing Mechanisms; Purchase and Rehabilitation; and Redevelopment. Any property used to meet the 35% requirement must be a permanent residence as defined by the NSP, occupied by a household with income at or below 50% of area median income, and meet the NSP definition of abandoned or foreclosed. Please note that the 35% requirement is applied to the allocation dollar amount, not the total number of households served.
- 3/27/2009
Updated
8/28/2009
- 19. Q:** Do we include permanent mortgage financing in the total funds requested if the financing is going to be applied to households buying foreclosed homes, purchased and rehabilitated as part of the grant program? When these units are sold, the funds would be repaid to Texas NSP. It would seem like “double dipping” if we were to request funds for mortgages to the ultimate owner/homebuyer along with funds for purchase and rehabilitation of the same property.
- A:** No, Financing Mechanisms should not be included in the total amount of funds requested if the plan is to convert Texas NSP funds used for acquisition and rehabilitation into mortgage loans. The only instance in which the application budget would include a requested allocation in “Financing Mechanisms” is if the subrecipient does not plan to purchase and resell properties under any other eligible use; in other words, take title to the property.
- 2/27/2009
Updated
8/28/2009
- 20. Q:** Will the environmental review cost be reimbursed to the subrecipient if it turns out that there are issues that cannot be resolved and so the property will not be purchased?
- A:** Subject to Department review and approval, administrative costs, incurred in good faith, associated with the failed acquisition of a NSP-eligible property may be reimbursed. These costs may include environmental review, appraisals, or homebuyer counseling. They will be spread out across the allowable amount of activity delivery costs for a portfolio of acquired properties.

Texas Neighborhood Stabilization Program – Frequently Asked Questions

- 3/27/2009 **21. Q:** Can you explain in more detail what you are looking for with regards to a Community Revitalization Plan?
- A:** A Community Revitalization Plan is a publicly approved community plan to improve neighborhoods that many localities have created as a specific planning/development document. Only pre-existing Plans should be submitted and, in the case of a more extensive planning document, please submit only those sections that apply to the proposed neighborhood(s). If the neighborhoods proposed for Texas NSP activities are covered by a Consolidated plan, any applicable part or information that otherwise demonstrates need, capacity, and readiness to proceed may be submitted.
- 8/28/2009 **22. Q:** Is a foreclosed Contract for Deed eligible?
- A:** HUD Policy Guidance states that property will be considered to be foreclosed “after title for the property has been transferred”. Because title to the property does not transfer to the successor in interest if a Contract for Deed is terminated (as it was never transferred to the homebuyer in the first place), the property will not qualify as foreclosed.
- 8/28/2009 **23. Q:** Is a property that the subrecipient has foreclosed eligible?
- A:** The answer will vary with the type of subrecipient and type of foreclosure. For instance – cities and counties may not use NSP funds to pay themselves past-due taxes in a tax foreclosure. If a subrecipient anticipates using NSP funds for a property they have foreclosed, they should discuss the specifics with NSP staff to assure that all program and regulatory requirements are met.
- 8/28/2009 **24. Q:** Does Davis-Bacon apply to sweat-equity work?
- A:** The rehabilitation, reconstruction and new construction of single-family, owner-occupied homes are exempt from Davis-Bacon Labor Standards in CDBG – this applies regardless of the nature of the labor.
- 8/28/2009 **25. Q:** Will TDHCA be contracting locally for loans servicing?
- A:** There currently is no plan to contract locally for loan servicing.
- 8/28/2009 **26. Q:** Will TDHCA notify the subrecipient if a loan they originated is delinquent?
- A:** TDHCA will not be able to provide notification to subrecipients.
- 8/28/2009 **27. Q:** Will TDHCA consider mark to market provisions for all eligible uses?
- A:** Mark to market provisions will not be applied globally to NSP loans. If property values decline in a community so that subrecipients are not able to sell properties purchased with NSP funds, a reduced payoff may be considered on a case-by-case basis. Subrecipients should negotiate the largest possible discount when purchasing properties, in part to offset any future reduction in market value.
- 8/28/2009 **28. Q:** How will continued affordability of rental units be monitored?
- A:** The Texas NSP has adopted HOME program standards for continued affordability of rental units. TDHCA’s Compliance and Asset Oversight Division will be responsible for long-term monitoring of NSP rental units. Staff will work with subrecipients planning rental activities to assure they are aware of the requirements.

Texas Neighborhood Stabilization Program – Frequently Asked Questions

8/28/2009 **29.** **Q:** Should we use HOME rents?

A: The Texas NSP has adopted the HOME program standards for affordable rents, the applicable HOME rents are available on the TDHCA website, here:
<http://www.tdhca.state.tx.us/pmcomp/irl.htm>

For households between 80% AMI and 120% AMI, rent limits are not available – subrecipients may choose to use 30% of the eligible household's income, or 30% of the 120% AMI amount for their area. The method of determining rents must be consistent across all rental units and for the life of the project.

8/28/2009 **30.** **Q:** Please clarify Davis-Bacon requirements for single units in properties with more than 8 units total.

A: HUD has provided specific guidance regarding application of Davis Bacon to NSP-funded construction or rehabilitation in multi-unit properties:

“Davis-Bacon requirements apply to the rehabilitation of residential property only if the property contains not less than 8 units. In relation to this clause, HUD has defined property as one or more buildings on an undivided lot or on contiguous lots or parcels, which are commonly-owned and operated as one rental, cooperative or condominium project.

It is critical to note that the threshold applies to the number of units in the property, not the number of units in a building, not the number of units in a contract, and, in the case of an existing multifamily property, not the number of units that will undergo rehab in the property.”

Therefore, if a subrecipient seeks to rehabilitate even one unit in a property that consists of 8 or more units, Davis-Bacon Labor Standards will apply.

8/28/2009 **31.** **Q:** Should we document just NSP time, or is a timesheet for a full 40-hour week required?

A: Per OMB Circular A-122, Section 8.m.2.b. - Each report must account for the total activity for which employees are compensated and which is required in fulfillment of their obligations to the organization. Timesheets for a full 40-hour week will be required for NSP purposes.

8/28/2009 **32.** **Q:** Can we charge a flat rate for things like site-specific environmental review?

A: Because properties will vary by multiple factors, a flat-rate would not appropriate if reviews are conducted by the subrecipient. If the subrecipient has contracted with a third-party to conduct reviews for a flat rate, those costs will be reimbursed for the amount billed in accordance with the milestones of the third party's contract with the subrecipient.

8/28/2009 **33.** **Q:** Are City or County code inspections at completion sufficient to release Retainage?

A: If a Certificate of Occupancy is available, it will be part of the documentation required in order to release Retainage, in addition to a Housing Quality Standards (HQS) Inspection Report. An independent final inspection by a qualified inspector will be required for all activities.

Texas Neighborhood Stabilization Program – Frequently Asked Questions

- 8/28/2009 **34.** **Q:** What happens if we miss a milestone because TDHCA is late in approving an environmental review?
- A:** If a contract milestone is missed only because TDHCA was late in providing clearance or taking other action, there will be no penalty to the subrecipient. Subrecipients should be careful to submit complete packages, respond promptly to any communications or requests from TDHCA, and allow sufficient time for processing. Submission of incomplete or incorrect information will delay processing and approval.
- 8/28/2009 **35.** **Q:** Can the demolition lien be forgiven if the property is used for affordable housing in the future?
- A:** Demolition funds will be provided as a grant, reimbursing the costs to remove blighted structures. Contrary to prior guidance, TDHCA will not be recording a lien nor requiring that a subrecipient place a lien on properties demolished with NSP funds.
- 8/28/2009 **36.** **Q:** Can the Land Bank lien be forgiven or converted if the property is used for housing households at or below 50% AMI in the future?
- A:** Forgiveness of the lien, or conversion to an Eligible Use A: Financing Mechanisms lien, will not be available for land banked properties. The lien will become due and payable when the property reaches its final eligible use