

D.C. Department of Housing and Community Development

**NSP Single-Family Development and Sales Program Manual:
Property Owned, Under Site Control or
To be Acquired by Developer**

August, 2011

Table of Contents

Purpose and Applicability 4

Definitions 4

Key Terms of NSP Financing..... 5

 Funding as Grants or Loans..... 5

 Approval and Funding of Demolition Costs 5

 NSP Expenditures 5

 General Contractor Fee Allowed 5

 Allowed Sales Fee or Commission and Marketing Costs 5

 Repayment of Net Proceeds of Sale 6

Selection of Developers 6

 Solicitation through RFQ 6

 Developer Approval and Developer Agreement 7

Requirements for Properties Already Acquired by Developer8

 Eligible Properties 8

 Use of NSP Funds for Development Costs 9

 DHCD Approval of Property Contributions of Developer Owned Properties 9

 Properties with Primary Structures Requiring Demolition11

Requirements for Property To Be Acquired by Developer 11

 Eligible Properties 11

 Acquisition Objectives for Serving Households at or Below 50% of AMI 12

 Property Investigations 13

 DHCD Approval of Property Acquisitions by Developer 14

 Properties with Primary Structures Requiring Demolition 16

 Purchase Offers..... 16

 Environmental Review 16

 Closings by Developer..... 17

Relocation of Occupants and Tenant Protections 17

Rehabilitation, New Construction and Reconstruction 18

 General Responsibilities..... 18

 Plans and Specifications 18

 Cost Estimates..... 19

 Bid Packages..... 20

 Bid Solicitation 20

 Contract Awards and Contracts 20

 Construction Monitoring Inspections 20

 Construction Draws..... 21

 Change Orders 21

 Punch List, Final Inspection and Final Draw 21

Funding of Construction Work and Soft Costs 21

Marketing and Sales of NSP Homes..... 22

 Responsibility for Marketing and Sales..... 22

 Marketing Plan and Budget 22

DHCD NSP Single-Family Development Manual August 2011

Homebuyer Application and Prequalification 23
 Evidence of Employment, Residence, Income and Assets 23
 Credit Report..... 23
 Prequalification for First Mortgage Loan 23
 Certifying the Income Eligibility of Prospective Buyers 24
 Prequalifying HPAP Assistance 24
 Disclosures at Time of Application..... 24
 Notification of Approval or Denial 25
 Confidentiality of Client Data 25
Homebuyer Counseling and Education 25
 Referral to Counseling and Education Program 25
 Certificate of Completion..... 26
Waiting List 26
 Requirements for Waiting Lists..... 26
 Waiting List Procedures 26
Executing Sale Agreements with Buyers..... 26
 Requirement for Using Approved Sales Agreement Addendum..... 26
 Setting and Adjusting the Contract Price..... 27
 Disclosure Statement 27
Home Sale Closing Requirements 27
 Possible Adjustments in Price at Time of Sale 27
 Establishing Resale Controls 27
 Closing Responsibilities..... 27
Post-Purchase Counseling..... 28
 Developer Responsibility 28
 DHCD Responsibility..... 28
Management of Resale Controls 28
Reporting and Recordkeeping Requirements 28

Reference List of NSP Forms and Program Documents..... 29

I. Purpose and Applicability

The purpose of this Manual is to govern the implementation of Developers' single-family acquisition, rehabilitation and home sales programs being carried out under NSP Agreements with the D.C. Department of Housing and Community Development (DHCD). The Manual includes policies and procedures to be followed regarding eligible uses of NSP funds, property acquisitions, rehabilitation/construction, marketing, intakes/applications, counseling, sales, and recapture-resale control mechanisms.

The provisions of this manual are applicable in their entirety to NSP3-funded projects and applicable to NSP1 and NSP2 projects to the extent that the provisions do not contradict or exceed the requirements of previously executed agreements between developers and DHCD or previously-given and project-specific guidance from DHCD.

II. Definitions

Applicant: A person or persons who have applied to Developer for approval of an NSP home purchase and Homeowner Financial Assistance.

Contributed Properties: Properties owned or subject to site control by an Applicant whose proposal is approved. Properties may not be contributed if the Applicant acquired them with intent to use federal funds but did not complete an environmental review before acquisition. Properties subject to site control may not be contributed unless the option or purchase agreement is contingent upon environmental clearance and—only if foreclosed upon—contingent upon an appraisal indicating that the sales price is at least 1% below appraised value.

DHCD: D.C. Department of Housing and Community Development

Developer: An NSP developer subject to an NSP Agreement .

NSP: The Department of Housing and Urban Development (HUD)'s Neighborhood Stabilization Program, established by the Housing and Economic Recovery Act of 2008 to stabilize neighborhoods whose viability has been and continues to be damaged by the economic effects of properties that have been foreclosed upon and abandoned. Additional funding for an "NSP2" program was authorized by Title XII of Division A of the American Recovery and Reinvestment Act of 2009. For more information, see the NSP website:

<http://hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/> and also www.hudnsphelp.info.

The provisions of this Manual apply to NSP1, NSP2, and NSP3 programs.

NSP Agreement: A loan, grant or other agreement entered into by DHCD and Developer for the purpose of funding and carrying out NSP-eligible activities on one or more NSP-eligible properties.

NSP Buyer: The buyer of an NSP Home.

NSP Property: A property that is acquired, rehabilitated, newly constructed or reconstructed pursuant to Developer's agreement with DHCD.

NSP Home: A completed NSP property that is being sold to an owner-occupant.

NSP Program Budget: The budget attached to an NSP Agreement showing projected development costs and funding for Developer's entire NSP program in the aggregate.

Project Funding: Any and all governmental and private funds, including Developer's cash, used to pay for the costs to carry out the acquisition and/or redevelopment of a single NSP-assisted property.

Project Budget: A budget for all acquisition, rehab/construction and soft costs for a particular home that Developer must submit to DHCD prior to committing to purchase any property for use in the NSP program.

III. Key Terms of NSP Financing

Developer's expenditures for program delivery will be governed as follows:

A. Funding as Grants or Loans

NSP funding provided to Developers in general will take the form of grants. Under special circumstances DHCD may provide funding as a secured loan to Developer.

B. Approval and Funding of Demolition Costs

Primary structures on properties acquired or contributed may not be demolished unless they are: 1) declared as blighted in a written notice provided by DHCD or 2) determined not to be economically feasible to rehabilitate to a condition in which the home is marketable to NSP Buyers. Unless otherwise agreed to in writing, Developer must fund the cost of demolition (if any) out of the NSP funding that is made available in the NSP Agreement, the developer's own funds, or sales proceeds. Demolition costs will be eligible NSP costs only if allowed in the Developer Agreement.

C. NSP Expenditures

Developer must receive written approval by DHCD of a property-specific Project Budget prior to any expenditure.

D. General Contractor Fee Allowed

If a developer is also acting as a general contractor, this must be approved by DHCD and any additional fee over and above the developer fee, if any, will be negotiated with DHCD.

E. Allowed Sales Fee or Commission and Marketing Costs

Developer may pay no more than 6 % of the sale price as a commission to a licensed third-party real estate broker or may earn an additional fee in the same amount if

Developer sells the home without a broker's assistance. Additionally, Developer may expend NSP funds for marketing costs such as advertisement, flyers, and buyer education on NSP resale restrictions, as identified in an approved project budget. If marketing is funded for multiple NSP homes, the costs of such marketing must be allocated to each home.

F. Repayment of Net Proceeds of Sale

Upon sale of an NSP-funded home, Developer will transmit the net proceeds of sale to DHCD. Net Proceeds of sale are defined as follows:

1. The sale price of the home;
2. (Minus) the amount of any non-NSP development financing;
3. (Minus) Developer costs of sale as documented by the settlement statement, including but not limited to real estate broker fees and seller-paid closing costs;
4. (Minus) The current fair market value of any real property contributed by Developer (e.g. a lot or a home), in accordance with Section V. below.
5. (Plus) Any reimbursements to Developer of costs previously paid or reimbursed with NSP funds, such as pro-rated taxes, insurance and assessments.

IV. Selection of Developers

DHCD will issue and publicize a Request for Qualifications (RFQ) seeking qualified Developers to develop single family properties using NSP funds. NSP funding awards will be made in the following priority order:

Priority #1: Developers to contribute qualified single family properties which they already own or for which they currently have site control and redevelop them using NSP funds, subject to the NSP Program rules;

Priority #2: Developers are prepared to acquire qualified single family properties using NSP funds and redevelop them using NSP funds, subject to NSP Program rules. These would be future acquisitions that the Developer has the capacity to identify and develop.

A. Solicitation through RFQ:

DHCD will solicit Developer qualifications through a competitive RFQ. The RFQ will outline the:

- a. Program requirements including geographic target areas and sales to qualified low income homebuyers;
- b. Submission requirements including developer qualifications, experience in affordable housing development, current capacity, and financial statements;
- c. Selection criteria to be applied by DHCD in evaluating responses; and

- d. Regulatory monitoring requirements that will be applied, including but not limited to long-term affordability, Section 3, DC Affirmative Action Program and First Source Agreements will be clearly noted.

Given the strict timelines for expenditure of NSP funds, priority will be given to proven Developers with ready capacity to proceed quickly into the development process.

B. Developer Approval and Developer Agreement:

After review and selection of Developer(s), DHCD will issue a selection letter to approved developer(s), indicating the amount of NSP funds to be allocated, and forward a draft Developer Agreement to be executed. This Agreement will include all conditions to be applied to the NSP activities of the Developer, and once executed, it will provide funding assurances to allow the Developer to proceed to identify properties, seek private construction financing, and take other steps to prepare for an expeditious NSP development process.

For Developers contributing property already acquired, the DHCD review will include analysis of the property based on information submitted as noted below in section V.C., and DHCD's selection letter will indicate the amount of NSP funds approved and what property value is eligible for reimbursement from sales proceeds. See section V.A. below.

SUMMARY OF PROCEDURES FOR PROPERTY ACQUISITIONS IN THE NSP PROGRAM

The chart that follows provides a summary of the procedures for property acquisition that are described in sections of the manual that follow.

“X” indicates a required step in the process.

Steps Required	Property Already Owned	Property Under Contract	Property To Be Identified in future
Selection of Developer thru RFQ	X	X	X
Property meets NSP criteria for target areas, vacant or foreclosed status as defined in VI.A. below	X	X	X
Developer investigation of property as defined in VI.C. below	See eligibility criteria	X	X
DHCD Approval required prior to acquisition based on package		X	X
DHCD Approval required for contribution of property	X		
Purchase Contract conforms to NSP requirements, Seller Notice of Voluntary Acquisition		X	X
Environmental review completed by DHCD prior to funds commitment	X	X	X
Environmental review completed by DHCD prior to acquisition		X	X

V. Requirements for Properties Already Acquired by Developer

Property previously acquired by a Developer but not yet rehabbed or constructed can be included in the NSP program under certain conditions.

A. Eligible Properties

1. If no Environmental Review was completed prior to acquisition, Developer must certify there was no intent to use federal funds at the time of acquisition.
2. All other NSP property eligibility criteria apply, as listed in VI.A. below.
3. Such previously owned properties may only be included in the NSP program if specified in an executed Developer Agreement with DHCD.

4. Properties whose low cost enables them to be designated for future occupancy by households at or below 50% of AMI may receive priority, as DHCD must meet the affordability objectives laid out in section VI.B. below.

B. Use of NSP Funds for Development Costs

1. Restrictions on use of NSP funds apply. The current market value of the property may only be recouped by the Developer out of sales proceeds, if available, not with NSP funds.
2. Any prior predevelopment costs may only be reimbursed out of sales proceeds. Predevelopment costs and construction costs incurred after the Environmental Review can be paid with NSP funds.
3. If Developer proposes to be reimbursed for the property contribution from the sale proceeds of the redeveloped property, Developer must obtain an independent full appraisal of the property's market value at Developer's cost and transmit it to DHCD. If DHCD deems the appraisal acceptable, Developer may include the appraised value in the Project Budget and be funded for that cost when the home is sold, to the extent that proceeds of sale are available. DHCD at its sole discretion may obtain another appraisal at its cost and determine a reasonable value for the contribution of the property.

C. DHCD Approval of Property Contributions of Developer-Owned Properties

Following are the RFQ information submissions and other steps to be followed prior to DHCD approval for Developer Property Contributions to the program.

1. Submit a detailed rehab work write-up and cost estimate, or new construction plans, material specifications and cost estimate. New construction cost estimates may be based on the plans for one of Developer's standard new home products, which may be substituted later with other plans with DHCD's written approval. Rehab estimates will include a 10- 15% contingency line item, and new construction a 5% contingency line item.

2. Submit the proposed sales price for the NSP Home.

The maximum price the Developer can set as asking price for NSP homes is the least of:

- a. The after-construction/ rehab market value, defined as that appraised value after rehab/construction, based on the original appraisal submitted to DHCD for underwriting;

- b. Total development costs, including all acquisition, rehabilitation/construction and soft costs including the developer fee and any costs of marketing [b. applies in case of foreclosed properties only];
- c. The “affordable price” for each home, taken from DHCD’s current “Affordable Home Price Schedule,” with price levels that address the mix of Area Median Income (AMI) levels as outlined in the RFQ.

To clearly define the “affordable prices” at various AMI levels, DHCD will periodically issue a schedule of maximum sales prices (“Affordable Home Price Schedule”) calculated to be affordable and based on current AMI levels, interest rates and other factors affecting affordable monthly payments.

- 3. Submit a development description and Project Budget in the spreadsheet form provided, indicating the sources and uses of development financing and expected sources and uses of funds at the future home sale closing. DHCD may approve or disapprove of the proposed home price based on program goals and an analysis of the Project Budget.
- 4. Submit an appraisal indicating the as-is and after-rehab property value. For foreclosed properties, a full URA compliant appraisal is required that indicates that the actual purchase price was at least 1% below appraised value. The appraisal may not be more than 60 days old at the time that the purchase agreement is executed.

For non-foreclosed properties, the developer must submit an appraisal indicating that the purchase price is reasonable, and the purchase price must not exceed the as-is appraised value. All appraisals must be by an independent, licensed HUD-approved appraiser with a current valid license. See the link: <https://entp.hud.gov/idapp/html/appr1.cfm>

- 5. Submit evidence that the property is foreclosed, abandoned or vacant.
- 6. Submit a Developer letter certifying there was no intent to use federal funds at the time of acquisition.
- 7. An Environmental Review (ER) must be completed by DHCD before any NSP funds can be committed. DHCD is responsible for completing Tier 1 environmental assessments of NSP target areas and Tier 2 site-specific environmental review, based on site information supplied by the Developer on DHCD’s ER checklist.

When DHCD has given written approval or denial of the ER, inform the Developer. **If the ER is denied, abandon the transaction.**

D. Properties with Primary Structures Requiring Demolition

Written permission of DHCD must be obtained before Developer can proceed with NSP funds where the primary structure is blighted or beyond economically feasible repair and therefore requires demolition. "Blighted" is defined as [PADD definition.] Deteriorated accessory buildings that may require demolition must be included in the work write-up and cost. Upon DHCD approval of project work write-ups or plans and specifications, these accessory buildings may be demolished.

VI. Requirements for Property To Be Acquired by Developer (under site control or not yet identified)

PADD Properties: Most of the following Section VI. procedures also apply to Developer purchase of PADD (Property Acquisition and Disposition Division) properties for redevelopment using NSP funds. The process differs in that verification of NSP property eligibility and URA compliance for the acquisition are already completed by DHCD, and the acquisition closing does not involve a drawdown of NSP funds.

A. Eligible Properties

Eligible properties must meet the following criteria:

1. Must be located in an NSP Target Area(s) indicated in the RFP or NSP Agreement.
2. Must be unoccupied and have no personal possessions on site. If Developer discovers that a property is occupied or has personal possessions on site, Developer must immediately abandon the investigation and inform the seller that the property will not be considered for purchase.
3. Must have no substantial adverse environmental factors as determined by an environmental review. See Section G below;
4. Must have only one-to-four dwelling units on site unless, DHCD gives advance approval in writing.
5. Must otherwise be suitable locations for marketing and resale of homes to income-qualified homebuyers. Positive factors to be considered are low crime rates, well-rated neighborhood schools, lack of adverse environmental factors as determined by an environmental review, and a reasonable percentage of homeowners in the immediate vicinity and recent sales to owner-occupants.

6. Must be in one or more of the following NSP property categories and only as indicated in the NSP Agreement. For example, Developer may not acquire a vacant or blighted property unless the Agreement allows acquisitions in that category;

a) Foreclosed: The property is at least 60 days delinquent on its mortgage and the owner has been notified; or the property owner is 90 days or more delinquent on tax payments; or under state or local law, foreclosure proceedings have been initiated or completed; or foreclosure proceedings have been completed and title has been transferred to an intermediary aggregator or servicer that is not DHCD, the developer, or end user.

b) 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, or a code enforcement inspection has determined that the property is not habitable and the owner has taken no corrective actions within 90 days of notification of the deficiencies

c) Vacant: The NSP program does not define the term vacant, but this manual defines a vacant property as one that has been unoccupied for at least 90 days and has no bona fide tenant with rights of occupancy.

d) Blighted: A structure is blighted and qualifies for demolition with NSP funds when it exhibits interior and/or exterior signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare. To be considered blighted under the terms of any NSP Agreement, DHCD or the D.C. Department of Consumer and Regulatory Affairs must declare the structure blighted according to D.C. code standards.

7. Must be acquired with a valid deed free and clear of all encumbrances. Purchases with any other form of deed or with any lien, deed restriction, land lease or other encumbrance must be approved in writing by DHCD prior to Developer making an offer.

B. Acquisition Objectives for Serving Households at or Below 50% of Area Median Income (AMI)

The NSP program requires that DHCD spend at least 25% of its NSP award on developing homes and rental units that are reserved for households at or below 50% of AMI. DHCD,

in turn, has given quotas for such units to some of its NSP Developers that may be smaller or larger than 25% of the funding allocation to the Developer. Developer's quota, if any, is stated in Developer's NSP Agreement. Because it is crucial that DHCD meet the overall requirement, Developer must designate specific properties being acquired as restricted to future occupancy by households at or below 50% of AMI. Further, Developer must give priority to acquiring homes for households at or below 50% of AMI as stated in the NSP Agreement. Per recently approved legislation, NSP-qualified vacant properties are now eligible to satisfy the 25% set-aside requirement through redevelopment, in addition to rehabilitation of foreclosed and abandoned properties. See HUD's policy alert memo at:

http://www.hudnsphelp.info/media/resources/NSPPolicyAlert_LH25Amendment_7-23-10.pdf.

C. Property Investigations

Developer is responsible for property investigations and will recoup the costs of investigations through a developer fee, if such fee is indicated in the NSP Agreement, or from the proceeds of sale. Developer will identify potential properties for acquisition by researching public records, obtaining proprietary data about recent and pending foreclosures, contracting with real estate brokers and/or other effective methods.

Prior to making an offer or, if already under contract, prior to submitting a property to DHCD for approval, Developer will complete the following tasks:

1. Inspect the site conditions and structures and complete a preliminary rehab/construction cost estimate in format that is acceptable to the DHCD;
2. Complete a Project Budget that includes all proposed NSP-funded expenses for acquisition, site work, rehab/construction, holding costs, marketing/sales costs, closing costs, developer fee, and other soft costs;
3. Obtain an independent appraisal or opinion indicating the as-is market value of the property to determine the cost-reasonableness of the asking price or proposed offer price. Broker opinion and electronic appraisals are acceptable for the purpose of making offers. This preliminary appraisal is a good practice but not required by NSP rules;
4. As an alternative to the informal appraisal above, obtain a full URA-compliant appraisal if the property is foreclosed upon and Developer plans to execute a sales agreement on the property within 60 days; however if the sale is not completed, Developer may not be reimbursed with NSP funds (see Section D(8) below for more details on requirements for full appraisals;

5. Verify and document in a property file that the property is vacant and has no personal possessions onsite. Documentation should include a signed and dated inspection report, photos, and notes from interviews with neighbors (if available) indicating the approximate last date of occupancy. If information from neighbors is not available, documentation should include data from a utility company or the Post Office indicating the date of terminating service. The seller must complete a form stating that the property meets all requirements of the URA. See Section VII. below regarding relocation requirements and protections for tenants in occupied properties;

6. If, despite following DHCD's policy to purchase only vacant properties, it later becomes known that the property is legally occupied, Developer must send occupants who may be displaced a "General Informational Notice" (GIN) as required by the Uniform Relocation Act (URA). See *NSP Single Family Reference Documents* for form. A GIN informs such persons that in the event they are displaced by this project they may be eligible for relocation assistance and payments under the URA (and/or in some cases section 104(d) relocation assistance). GINs should be provided to property occupants early in the property acquisition process and prior to making an offer. The Developer must complete a relocation plan approved by DHCD and is liable for any and all relocation costs [DHCD staff will coordinate as necessary with the District's Housing Regulation Administration (HRA) in circumstances in which HRA's review and approval of compliance with rent regulations is required] ;

7. Comply with federal Recovery Act protections for bona-fide tenants of residential properties foreclosed upon on or after February 17, 2009. These requirements directly affect initial successors in interest (ISII) who take title to the property through foreclosure (including lenders and others who purchase property at foreclosure sales). If Developer or DHCD knows that the ISII did not comply with the NSP tenant protections and vacated the property contrary to Recovery Act requirements, abandon the transaction or find an alternative source of funds. NSP funds cannot be used for such properties.

D. DHCD Approval of Property Acquisitions by Developer

Developer will follow these procedures in order to obtain DHCD's approval prior to acquiring properties for this program.

Transmit electronically a property information package to DHCD that includes the following;

1. A detailed rehab work write-up and cost estimate, or new construction plans, material specifications and cost estimate. New construction cost estimates may be based on the plans for one of Developer's standard new home

products, which may be substituted later with other plans with DHCD's written approval. Rehab estimates will include a 10-15% contingency line item, and new construction a 5% contingency line item.

2. The proposed sales price for the NSP Home.
The maximum price the Developer can set as asking price for each NSP home is the lowest of the following three amounts:
 - a. The after-construction/ rehab market value, defined as that appraised value after rehab/construction, based on the original appraisal submitted to DHCD for underwriting;
 - b. Total development costs, including all acquisition, rehabilitation/construction and soft costs including the developer fee and any costs of marketing [b. applies in case of foreclosed properties only];
 - c. The "affordable price" for each home, taken from DHCD's current "Affordable Home Price Schedule," with price levels which address the mix of AMI levels as outlined in the RFQ.

To clearly define the "affordable prices" at various AMI levels, DHCD will periodically issue a schedule of maximum sales prices ("Affordable Home Price Schedule") calculated to be affordable and based on current AMI levels, interest rates and other factors affecting affordable monthly payments.

3. A development description and Project Budget in the spreadsheet form provided, indicating the sources and uses of development financing and expected sources and uses of funds at the future home sale closing. DHCD may approve or disapprove of the proposed home price based on program goals and an analysis of the Project Budget.
4. An appraisal indicating the as-is and after-rehab property value. For foreclosed properties, a full URA compliant appraisal is required that indicates that the actual purchase price was at least 1% below appraised value. The appraisal may not be more than 60 days old at the time that the purchase agreement is executed.

For non-foreclosed properties, the developer must submit a full appraisal indicating that the purchase price does not exceed the as-is appraised value. All appraisals must be by an independent, licensed appraiser.

5. A complete copy of the draft or executed Purchase Agreement with the NSP-required conditional purchase agreement addendum. In the case of a property under contract where this Addendum has not been executed, Developer must obtain Seller approval of this addendum. See *NSP Single Family Reference Documents* for language, which makes the offer conditional

upon an approved environmental review and (for a foreclosed property) the contract price being at least 1% less than market value as indicated by an appraisal to be obtained by Developer. If the agreement calls for Developer to pay for taxes or other liens or assessments in arrears, those amounts must be added to the contract price for purposes of calculating the discount from market value.

6. A copy of the Notice of Voluntary Acquisition that will be transmitted to the seller. See *NSP Single Family Reference Documents* for an example of this form
7. Evidence that the property is foreclosed, abandoned or vacant.

E. Properties with Primary Structures Requiring Demolition

Written advance permission of DHCD must be obtained before offers may be made on properties on which the primary structure is blighted or beyond economically feasible repair and therefore requires demolition. "Blighted" is determined by DHCD or DCRA declaration. Deteriorated accessory buildings that may require demolition must be included in the work write-up and cost. Upon DHCD approval of project work write-ups or plans and specifications, these accessory buildings may be demolished.

F. Purchase Offers

For Properties not under contract, Developer will manage purchase offers as follows:

1. Obtain written approval via email or hard copy from DHCD before presenting the offer. See *NSP Single Family Reference Documents* for the approval form.
2. Transmit signed Notice of Voluntary Acquisition to seller.
3. Execute and transmit purchase agreement to seller with the required addendum.

For properties already under contract, Developer will transmit signed Notice of Voluntary Acquisition to seller, as well as execute required purchase addendum.

G. Environmental Review

Environmental Review must be completed by DHCD before any NSP funds can be committed. DHCD is responsible for completing Tier 1 environmental assessments of NSP target areas and Tier 2 site-specific environmental review, based on site information supplied by the Developer. See *NSP Single Family Reference Documents* for ER information checklist.

When DHCD has given written approval or denial of the ER, inform the Seller. If the ER is denied, abandon the transaction. **Approval must be obtained before closing the purchase of the property.**

H. Closings by Developer

The following procedures will be followed for closings on properties acquired by Developer:

1. Obtain a title policy binder for the property.
2. Complete legal review and approval of the closing documents.
3. Prepare an Acquisition Draw Request for DHCD using Form 306A and transmit to DHCD along with an electronic copy of the property appraisal.
4. When the funding amount has been determined by DHCD as reasonable, allowable and allocable and applicable documentation has been submitted, DHCD and Developer will schedule the closing and a funding disbursement. Local funds will be used to fund the acquisition, and then NSP funds will be used to reimburse this amount.
5. Confirm that DHCD has wired or otherwise paid the required funds into an escrow account for the closing;
6. If applicable, execute a promissory note and mortgage deed (or deed of trust) in favor of DHCD for the amount of the loan.
7. An affordability Covenant will be recorded on the property restricting the sale of the property to low income households with incomes at or below a specified percentage of Area Median Income. See Section XV., Home Sale Closing Requirements.

When the closing is completed, assure that DHCD receives copies of the deed and settlement sheet. If DHCD has agreed in advance to a purchase, subject to Developer's payment for liens or other encumbrances, copies of all documents justifying those payments must be transmitted as well. DHCD staff will review this documentation to verify compliance with NSP and local requirements.

VII. Relocation of Occupants and Tenant Protections

Federal Uniform Relocation Act requirements must be followed in the event that Developer acquires an occupied property—either inadvertently or with the advance permission of DHCD. In such events, Developer will be required to conduct a survey of occupant(s), create a relocation plan, provide a relocation notice and—if the occupant is qualified—give financial assistance in accordance with URA and HUD rules. In addition, Developer must observe all

requirements of federal laws protecting tenants who reside in properties foreclosed on or after Feb. 17, 2009, including without exception allowing a bona fide tenant to remain in residence for the term of the lease or 90 days, whichever is longer. Developer should review HUD's Planning and Budgeting Relocation Costs publication if considering this. It is available at: <http://www.hud.gov/offices/cpd/library/relocation/publications/1045.pdf>. DHCD staff will coordinate as necessary with the District's Housing Regulation Administration (HRA) in circumstances in which HRA's review and approval of compliance with rent regulations is required

VIII. Rehabilitation, New Construction and Reconstruction

A. General Responsibilities

Respective responsibilities of Developer and DHCD are as follows:

1. Developer shall be responsible for preparing plans and specifications (or work write-ups) that conform to program rehab/construction standards, estimating rehab/construction costs, managing contract awards, and managing the construction process. Developer assumes all risks of cost overruns in excess of the construction and contingency budget line item in the previously approved Project Budget, unless DHCD approves a revised Project Budget.

2. Compliance: Developer shall be responsible for complying with all applicable Federal and District regulatory requirements pertaining to design and construction. These may include Section 3 hiring/contracting requirements; accessibility requirements of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973; HUD Lead-safe housing rules; D.C. First Source Employment; Affirmative Action Program for CBE contracting; DC Apprenticeship Council registration. (Davis Bacon wage rates are not applicable to single family housing.) These are further explained in the DCHD "Neighborhood Stabilization Program Reference Guidebook."

3. DHCD is responsible for approval of project, providing and interpreting Rehab/Construction Standards; approving plans, specifications and estimates for projects; monitoring the work; and approving draw requests.

B. Plans and Specifications

Developer is responsible for completing plans and specifications (or work write-ups) which conform to DHCD's "Property Acquisition and Disposition Division Residential Design and Performance Standards," which include compliance with Green Communities criteria.

(See <http://www.greencommunitiesonline.org/tools/criteria/index.asp>)

Plans/specifications and work write-ups will include the following:

1. General requirements for which the builder is responsible (permits, fees, mobilization, site utilities, site security, builder's risk insurance, homebuyer warranty, etc.);
2. Site plans, if new structures, fencing, landscaping or other site improvements are being provided;
3. Working drawings and materials specifications, for any new construction or substantial rehabilitation;
4. Rehab work write-ups that show quantity, size, and materials specification for each work write-up item to enable Developer to create accurate cost estimates.
5. For structures built before 1978, the plans and specifications must address remediation of any lead paint or other environmental hazards. See the DHCD's Rehab/Construction Standards for required methods of inspection, testing and abatement.

C. Cost Estimates

Developer is responsible for producing cost estimates including builder overhead and profit in a form approved by DHCD, as follows:

1. Rehab cost estimates will be completed in a line-item, work write-up format with one work item per line unless an alternative form of estimate is approved in writing by DHCD;
2. Cost estimates for construction of new structures and substantial rehabilitation will be based on take-offs from the working drawings of the quantities of materials and labor required or compilations of costs for similar and recently-built or renovated structures;
3. Site improvement cost estimates will be completed for each improvement and based on take-offs of quantities of materials and labor required;
4. Construction work must be competitively bid at the General Contractor level, or if Developer is the GC then competitive bidding will be used to select subcontractors. The cost estimate will be used to determine the cost reasonableness of bids;
5. Work to be completed by Developer acting as general contractor. The cost estimate for each NSP project must be reviewed by DHCD to determine cost-reasonableness and approved by DHCD. When approved, the cost estimate becomes a schedule of values which is used by DHCD's construction inspector to

determine the value of work completed for the purpose of approving draw requests.

D. Bid Packages

Developer will prepare bid packages with the following components for all work being performed by third-party firms (GC's or subcontractors):

1. A request for proposals narrative that includes a general description of the processes for bidding, awards, construction monitoring, lien waivers, and construction draws. The narrative will state that retainage equal to 10% of the contract amount will be held back until the punch list is completed. The narrative will include the method of submitting proposals, a due date, and criteria for selection;

2. Plans and specifications (or work write-up) including general requirements, site plans, materials specifications;

3. A form for describing the bidder's experience and licenses;

4. Evidence of required insurance;

5. A price proposal form;

6. Requirements for complying with Section 3, minority and women's business enterprise provisions, lead hazard abatement and other requirements related to federal funding.

E. Bid Solicitation

Bid packages must be sent to at least three qualified contractors, and bids must be received from at least two such contractors.

F. Contract Awards and Contracts

Contracts will be awarded by Developer based on the selection criteria. Copies of all proposals received and the executed contract will be submitted to DHCD electronically prior to the first draw.

G. Construction Monitoring Inspections

The DHCD's and Developer's roles and responsibilities are as follows:

1. Developer is responsible for monitoring the quality, completeness and conformity to specifications of all work performed by third party contractors, and--if Developer is also the general contractor--all work performed by Developer's personnel or subcontractors;

2. DHCD must assign a representative to accompany Developer's representative in construction meetings, construction draw inspections, and the punch list inspection. DHCD may approve draw requests or deny all or a portion of a draw request for cause.

H. Construction Draws

Construction draw requests will be presented to DHCD on a monthly basis on the DHCD Form 306A, along with lien waivers and any other required attachments. Construction draw requests may include requests for reimbursement of soft costs in the approved Project Budget, up to the aggregate total amount of the line item budget amounts for construction and soft costs. See Section IX below for additional requirements for draws of NSP funds. DHCD is responsible for reviewing, approving and processing draw requests in a timely manner.

I. Change Orders

Developer may approve change orders up to a combined amount equal to the rehab/construction contingency budget line item. Developer is responsible for all construction costs exceeding the contingency budget amount, unless DHCD at its sole discretion approves a revised construction budget and Project Budget and reviews and approves a change order for additional scope of work and costs in excess of the total construction budget.

J. Punch List, Final Inspection and Final Draw

Developer's and DHCD's representatives must jointly approve the punch list during or immediately after the punch list inspection and approve the clearing of punch list items after subsequent inspection(s). All punch list items reasonably required by DHCD must be included. Upon satisfactory completion of the punch list items, and all applicable paperwork, DHCD will issue a notice of final completion to Developer—see the form in *NSP Single Family Reference Documents*. The final draw will include the payment of any remaining eligible construction costs, construction retainage, applicable soft costs and the portion of the developer fee payable upon completion of construction.

IX. Funding of Construction Work and Soft Costs

NSP funds are available for funding the construction work and soft costs that are indicated in the Project Budget, up to the NSP funding amounts stated in the Project Budget. Developer is responsible for obtaining other funding indicated in the Project Budget and any additional funding required in the event that costs exceed the total amount of the Project Budget. Developer will follow these procedures with draws of NSP funds:

Construction costs will be funded by DHCD as follows:

1. If all construction work is carried out by a general contractor or multiple contractors, contractor(s) will prepare a draw request or invoice which indicates a 10% retainage. The aggregate retainage amount for a contractor will be included in

contractor's final draw request or invoice, which will be presented to DHCD after final completion of the project;

2. If Developer is also acting as general contractor, Developer will follow any special requirements in the NSP Agreement for charging general contractor fees and non-subcontracted construction costs, as well as processing draws. In addition, there will be a 10% retainage for all general contractor and subcontractor costs for each draw, including a retainage on any general contractor fee. The aggregate retainage amount for the general contractor and subcontractors will be included in contractor's final draw request or invoice, which will be presented to DHCD once the punch list has been completed.

3. Requests for NSP funding of soft costs must be accompanied by invoices or other documents from subcontractors or other third parties indicating payment of eligible rehab/construction and soft costs as indicated by the line items in the Project Budget.

4. Developer fees will not be paid from NSP or other DHCD funds. Developer will be paid the developer fee from private loan sources and/or the proceeds of the sale after the sale has closed.

5. The Developer Fee is calculated as a fixed dollar amount in the approved Project Budget.

X. Marketing and Sales of NSP Homes

A. Responsibility for Marketing and Sales

Developer is fully responsible for marketing NSP homes and selling them to qualified buyers. If an NSP home does not sell in a timely manner and this results in cost overruns that cannot be paid out of contingency funds, Developer will be responsible for paying the additional costs unless, at the sole discretion of DHCD and for good cause, the Project Budget is revised to provide additional NSP funding.

B. Marketing Plan and Budget

Prior to marketing the first completed home, Developer must obtain written approval from DHCD for a program marketing plan and budget. The marketing plan must comply with the federal Fair Housing Act and Equal Opportunity rules (for more information see the DHCD "Neighborhood Stabilization Program Reference Guidebook.") The marketing plan will include the following elements:

1. Methods of affirmative outreach to residents of target areas;

2. Other means of advertising homes for sale, including such means as Multiple Listing Service, advertising, flyers, etc.; printed materials and advertisement must include equal opportunity language;
3. Approved language for use in flyers, advertising and listings regarding income qualifications of buyers;
4. Method and timing of prequalifying prospective buyers, in terms of NSP income eligibility and eligibility for mortgage financing;
5. Policy for managing a waiting list of potential buyers;
6. Sample disclosure statements to be given and explained to buyers prior to signing purchase agreements and at closing (see *NSP Single Family Reference Documents* for a recommended sample);
7. Sample form of purchase contract addendum containing NSP requirements
8. Provisions for establishing and adjusting sale prices that reflect the provisions of Section XIV. of this Manual.
9. A marketing budget (see *NSP Single Family Reference Documents*).

XI. Homebuyer Application and Prequalification

Developer is responsible for the following tasks, except for paragraph E. below. Developer must keep documents on file and transmit copies to DHCD prior to entering into a home sales contract with a Buyer.

A. Evidence of Employment, Residence, Income and Assets

Developer will require Applicants to bring this evidence to the intake and application interview in order to make an initial determination of eligibility.

B. Credit Report

During the intake interview, Developer will obtain, with the Applicant's written permission, a credit report that includes a credit score. Developer will review the report with Applicant and explain any positive or negative data with regard to qualifying for purchase of an NSP home.

C. Prequalification for First Mortgage Loan

Developer will determine whether buyer appears to be qualified to obtain a first mortgage loan, based on the Buyer and co-buyer's income, employment history, credit

scores and other factors. An Applicant with a FICO score (or equivalent) less than 580 (consistent with HPAP minimum) will be rejected unless Developer believes that the Applicant can bring up the score in time to qualify for a first mortgage loan to purchase one of Developer's homes. Developer will determine if the Applicant has sufficient income to obtain a first mortgage loan in the minimum amount necessary to purchase an NSP Home from Developer. An Applicant whose application fails to meet these prequalification standards will be given a written notice of denial as described in subsection H, below.

D. Certifying the Income Eligibility of Prospective Buyers

If a Developer is approved by DHCD to perform HUD-standard income certifications (as required to demonstrate eligibility for NSP), Developer will use the methods described in the *NSP Single Family Reference Documents* to verify and certify the income-eligibility of prospective buyers. Required documentation (copies of driver's licenses, paystubs, etc.) will be kept in Developer's files. For an approved buyer, at the time of contract execution a copy of the certification and accompanying documents will be sent to DHCD's Portfolio Management Division for approval (for purchase of non-PADD properties). The income certification may be no more than six months old at the time that the buyer and Developer enter into a purchase agreement. If older, the buyer must be recertified. An Applicant whose application fails to meet the NSP eligibility requirements will be given a written notice of denial as described in subsection G below.

E. Prequalifying HPAP Assistance

Some buyers may require assistance from the Home Purchase Assistance Program (HPAP) in order to afford the purchase price of the NSP Home. In such cases, 20-30 days before a prospective buyer may execute a sales agreement for an NSP-assisted property, the buyer must complete a separate application for an HPAP loan through the Greater Washington Urban League, and a Letter of Eligibility must be obtained. Since qualification for HPAP loans is separately administered, it is in the interest of all concerned for developers and other agencies to use the same income eligibility and mortgage pre-qualification standards, and share information and documentation so that the same tasks are not duplicated.

F. Disclosures at Time of Application

Unless an Applicant is disqualified during the intake interview, he or she will be given hard copies of preliminary disclosure documents that provide the following:

1. An explanation of the NSP program in general terms and its benefits to buyers and the community.
2. A good faith estimate of the general locations and price ranges of NSP Homes that may be available for Buyers to purchase, and a good faith estimate of typical buyer-paid closing costs.

3. The NSP application approval criteria.
4. Waiting list policies.
5. The requirement for attending pre-purchase counseling (if approved).
6. Applicant's household size and estimate of monthly income, with a statement that the income amount must be verified prior to the Applicant being approved for purchase of an NSP Home.
7. A general description of an NSP buyer's obligations for repayment of any NSP lien and resale controls on NSP homes.

During the intake interview or subsequent face-to-face meeting, a representative of the developer will review these disclosures with the Applicant and be available to answer questions about them. No application will be approved unless disclosures have been made as required. See *NSP Single Family Reference Documents* for a sample NSP Disclosure Statement.

G. Notification of Approval or Denial

Upon completion of the tasks described above, Developer will inform buyers in writing of their eligibility or ineligibility to purchase an NSP home, conditional upon completion of homebuyer education and training, signing a purchase agreement for an NSP home, obtaining first mortgage financing, obtaining an HPAP loan if needed, and providing the required minimum down payment amount. See *NSP Single Family Reference Documents* for sample forms for Application Approval and Application Denial.

H. Confidentiality of Client Data

Developer will observe all Privacy Act requirements and keep client data in locked file cabinets or password-protected electronic files.

XII. Homebuyer Counseling and Education

A. Referral to Counseling and Education Program

Upon notification of approval of an application for assistance, buyers will be referred to a DHCD-approved and HUD-approved program that offers at least eight hours of pre-purchase counseling and education. If buyers have already completed such a program, Developer must determine if the program meets DHCD and NSP requirements and must verify completion by obtaining and filing a certificate of completion. If the pre-purchase counseling and education does not meet requirements, buyers will have to complete training delivered by a HUD-approved counselor.

B. Certificate of Completion

Upon successful completion of a counseling and education program, buyers will receive a certificate of completion. No buyers will be allowed to sign a sales agreement for an NSP home unless the completion of counseling and education has been verified by Developer and a copy filed in Developer's records and transmitted to DHCD for its files.

XIII. Waiting List

A. Requirements for Waiting Lists

Developer must establish and maintain a waiting list of all prospective homebuyers who are approved for assistance. DHCD may waive this requirement at its sole discretion if Developer demonstrates conclusively that a waiting list serves no purpose, because the number of homes available for sale exceeds the number of qualified buyers.

B. Waiting List Procedures

Developers will follow these procedures.

1. Priority for selecting a completed home will be determined by the date that a client's application for assistance was approved (that is, the client with the earlier date of approval shall have priority for selection.)

2. As a home or group of homes becomes available for sale, the home(s) will be offered first to the client with the highest priority, and if not selected, then to the client with the second highest priority, etc.

3. Homes will be offered to a client only if the prices are affordable to the client as determined by the program underwriting analysis embedded in the application for assistance.

4. Each client will have three opportunities to reject a home or groups of homes offered and maintain his or her priority. After a third rejection, a client's priority will fall to the bottom of the waiting list.

XIV. Executing Sale Agreements with Buyers

A. Requirement for Using Approved Sales Agreement Addendum

In order to ensure NSP requirements are met, Developer will include with its standard sales agreement an Addendum approved by DHCD. See *NSP Single Family Reference Documents* for sample Addendum. The sale of the home will be conditional upon the

Buyer obtaining: a) a first deed of trust loan from a conventional or government-insured lender for a fixed-rate, 30-year home purchase loan, and b) if required for affordability, an HPAP loan as a second trust loan.

B. Setting and Adjusting the Contract Price

In executing a home sales agreement, Developer may not agree to a contract price that is less than the amount defined in the DHCD approval, without the written consent of DHCD. One instance in which DHCD may consider reducing the price is if the buyer's lender's appraisal is lower than the price previously set in accordance with this Manual.

C. Disclosure Statement

Prior to executing a sales agreement, Developer again will provide the NSP Buyer with an NSP disclosure statement. The statement will reiterate the requirement for Buyer to attend pre-purchase counseling, describe obligations for repayment of subsidies, resale controls on homes sold, and owner-occupancy requirement.

XV. Home Sale Closing Requirements

A. Possible Adjustments in Price at Time of Sale

Prior to closing any sale of a property, after actual total development cost is calculated as described above, and the first mortgage lender's appraisal has been received by Developer, the sale price must be reduced to the lesser of the following two amounts if less than the contract price: 1) the actual total development costs, or 2) the amount of the first mortgage lender's appraisal.

B. Establishing Resale Controls

Resale controls to ensure long term affordability in compliance with NSP rules will be imposed by the DHCD on the Developer and subsequent homebuyers for a 15 year term (or lesser period if less than \$40,000 in NSP subsidy was utilized for the home) following the date of initial occupancy of the first assisted homebuyer. The resale controls will be enforced through recording of a "Declaration of Covenants and Affordability/Restrictive Covenant" at the time of transfer of the property from the DHCD to the Developer, as a condition of the transfer. The covenant will be in a form determined by the DHCD, with one form utilized for PADD properties and another for other Developer properties. At the time of Closing on the sale of the home to an NSP Buyer, a modified Covenant may be recorded (for PADD property) or the Buyer will sign an Acknowledgement of the initial Covenant, which will also be recorded.

C. Closing Responsibilities

In addition to having the responsibilities described above, Developer will retain a closing agent and an attorney for Developer's own legal review of closing documents. Developer's attorney will have the final responsibility for review of closing documents on behalf of Developer, while ensuring compliance with DHCD's requirements.

XVI. Post-Purchase Counseling

A. Developer Responsibility

Developer is responsible for notifying Buyers of the availability and advisability of using post purchase counseling if they are unable to make a first mortgage payment on time. This notification will be included in the purchase contract addendum and language of disclosure documents provided at the closing of the home sale. The information will stress the importance of seeking help before or immediately after a late payment might occur and include the name or names, address(es) and phone number(s) of DHCD-approved counseling agencies.

B. DHCD Responsibility

DHCD is responsible for identifying counseling agencies that can be reasonably expected to provide reliable post-purchase counseling at low cost or no cost due to current or anticipated public or private funding for that purpose.

XVII. Management of Resale Controls

DHCD will be solely responsible for enforcing the provisions of restrictive covenants regarding resale controls for the purpose of maintaining long-term affordability, in accordance with all applicable Affordable Dwelling Unit laws of the District.

XVIII. Reporting and Recordkeeping Requirements

Accounting for Expenditures

Developer will account for total NSP expenditures per home by means of assigning an accounting code for NSP-funded or reimbursed expenses for each property and another accounting code, if applicable, for non-NSP funded expenditures (if any). At the time of the sale of an NSP-assisted home, Developer will provide DHCD with a complete accounting of NSP expenditures for that home and non-NSP expenditures, if any. The separate accounting of NSP and other funds used is required for establishing the maximum allowed sales price and will provide necessary financial data on NSP-funded expenditures in the event of a HUD audit of program activities.

NSP Single Family Program Reference Documents

- a. GIN relocation notice – N/A for vacant (HUD Std.)
- b. “Notice of Voluntary Acquisition” to seller
- c. Form of Purchase Contract/addendum complying with NSP requirements
- d. Environmental Review documents needed from Developer – from DHCD
- e. DHCD approval of a Developer’s offer of purchase
- f. Notice of Final Completion from DHCD to Developer
- g. DHCD Schedule of Affordable Sales Prices by AMI level (from DHCD)
- h. Sample Marketing budget
- i. Methods for verifying and certifying applicant income
- j. Sample Disclosure Statement for buyer applicants (re NSP restrictions)
- k. Sample NSP Buyer Sales contract addendum
- l. Form for buyer application approval or denial
- m. Declaration of Covenants