

**Section 9 - Neighborhood Stabilization Program 2
Policy and Procedure
(NSP 2)**



MODESTO
CALIFORNIA



City Of Modesto
Neighborhood Stabilization Program (NSP2)
Policies and Procedures

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CHAPTER 1.0: INTRODUCTION

1.1 Introduction

In early February 2010, the City of Modesto received a \$25 million grant award under the American Recovery and Investment Act of 2009 (ARRA). This grant award recognized the significant impact of the housing crisis on both the nation and local communities such as Modesto. The grant will be utilized to reduce the number of foreclosed and/or abandoned properties within the City. There are four primary activities associated with the grant award.

- The first activity utilizes \$10.5 million to purchase and rehabilitate 100 foreclosed/abandoned properties from targeted census tracts within the community. Properties purchased through this program will be resold or rented to individuals and families at or below 120% of the area median income.
- The second major activity has \$6 million dedicated to the purchase/rehab of 40 foreclosed and/or abandoned residential properties to house emancipated foster and homeless youth between the ages of 18-28. As proposed, the Housing Authority will purchase and rehabilitate foreclosed and/or abandoned properties which will be managed by the Housing Authority, which will partner with other agencies to provide permanent supportive housing and supportive services to individuals and families. Of the \$6 million total, \$4.75 million will serve those populations at or 50% of the area median income with 25% serving those populations at or below 80% of the area median income.
- Under the third activity, the City of Modesto has collaborated with the Stanislaus Community Assistance Project (SCAP) to provide \$6 million in funding for the development, acquisition and rehabilitation of 35 foreclosed and/or abandoned homes to house individuals with special needs such as mental health issues, chronic disabilities, HIV/AIDS, prison re-entry candidates, and income-eligible seniors. Of the \$6 million total, \$1.5 million will be used to provide housing for individuals and families at or below 50% of the area median income.
- The fourth activity is the 25% set-aside funds to be used by the Housing Authority of Stanislaus County, SCAP and other non-profits for the purchase and rehabilitation of properties for individuals and families at or below 50% of the area median income. In general, the City will use the NSP2 grant to buy and repair foreclosed and/or abandoned residential properties.

This Policy and Procedures Manual provides an overview of the City's policies and procedures as they pertain to NSP2 and step-by-step guidance on the implementation of NSP2 projects.

This Manual is not intended to be a substitute for NSP2 regulations, but as a supplement to them. It is not exhaustive regarding all considerations affecting the use of NSP2 funds. While careful consideration and due care has been used in developing the Manual, it is not a replacement for consultation with HUD NSP2 specialists to ensure correct interpretation of policies and regulations.

The City of Modesto reserves the right to implement additional policies as needed.

1.2 Purpose of the Neighborhood Stabilization Program

The primary purpose of NSP2 is to provide funding which can be utilized to acquire and rehabilitate foreclosed properties that might otherwise become sources of abandonment and blight within our community.

Through an approved pool of non-profit and for-profit developers, the City of Modesto' NSP2 program provides loans to purchase foreclosed or abandoned homes and to rehabilitate, resell, or rent homes to income-eligible participants in order to stabilize neighborhoods and stem the decline of house values in neighboring homes. The City of Modesto has designed its programs into four main areas: Acquisition and Rehabilitation; Housing Assistance to Emancipated Foster and Homeless Youth; Special Needs Housing; and the 25% Set-Aside.

1.3 General Requirements of NSP2

1.3.1 Allocation of Funds

Administration: NSP2 funds committed to City of Modesto will be allocated in accordance with the City's Grant Application and Award. In addition, the City may spend up to ten percent (10%) of its NSP2 allocation and 10% of any program income for administrative and planning expenses.

25% Set-Aside: NSP2 requires that not less than twenty-five percent (25%) of the total NSP2 funds allocated to the City be utilized to provide permanent housing for households with incomes at or below fifty percent (50%) of the AMI. The City of Modesto will allocate these funds to the Housing Authority of the County of Stanislaus and SCAP for the purchase and rehabilitation of properties for individuals and families.

Timeliness: The City is required to ensure that 50% of all NSP2 funding is spent within 18 months and that all remaining funds be spent within 36 months following the execution of the NSP2 grant agreement with HUD, which occurred in February 2010. Therefore, the City of Modesto reserves the right to award funds to projects that are "ready to go" and to further adjust contracted amounts based upon actual performance and progress to spend the funds within the initial 18 months of the grant agreement.

1.3.2 Eligible Applicants

NSP2 funding will be made available city-wide to non-profit organizations, for-profit organizations, developers, and City-designated Community Housing Development Organizations ("CHDOs").

Eligible applicants are entities responsible for the NSP2 application, project development, project implementation, and accountability for use of all NSP2 funds. The eligible applicants must adhere to required compliance and monitoring of all NSP2 activities for the full applicable affordability period. The City of Modesto will allocate NSP2 funds to the approved eligible applicants as outlined in the NSP2 Program Agreement.

1.3.3 Eligible Activities

For purposes of implementing the NSP2, an abandoned property is defined as one in which all of the following conditions apply:

- Mortgage or tax foreclosure proceedings have been initiated for that property,
- No mortgage or tax payment have been made for the property owner for at least ninety (90) days, and
- The property has been vacant for at least ninety (90) days.

For purposes of implementing NSP2, a foreclosed property is defined as a property that, under state or local law, has completed the mortgage or tax foreclosure process and is currently owned by the lender or mortgagee. A foreclosure is not considered complete until after the property title has been transferred from the former owner under a foreclosure proceeding or transfer in lieu of foreclosure.

The following are the eligible activities under the City of Modesto NSP2:

NSP2-Eligible Uses	Correlated Eligible Activities From the CDBG Entitlement Regulations
(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared equity loans for low- and moderate-income home buyers	As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206. Also, the eligible activities listed below to the extent financing mechanisms are used to carry them out.
(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties	<ul style="list-style-type: none"> • 24 CFR 570.201 (a) Acquisition;(b) Disposition; (i) Relocation , and (n) Direct homeownership assistance (as modified below); • 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity

The activities undertaken by the City of Modesto under the NSP2 program meet the NSP2 National Objective of providing assistance to “low-, moderate-, and middle-income households” (abbreviated as LMMH). For the purposes of NSP2/CDBG only, an activity may meet the Housing and Economic Recovery Act (HERA) low- and moderate income national objective if the assisted activity:

- Provides or improves permanent residential structures that will be occupied by a household whose income is at or below 120 percent of area median income (abbreviated as LMMH);
- Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of area median income (LMMA);
- Creates or retains jobs for persons whose household incomes are at or below 120 percent of median income (LMMJ); or

- Serves a limited clientele whose incomes are at or below 120 percent of area median income (LMMC).

1.4 City of Modesto Responsibilities

The City of Modesto, as a HUD grantee, has oversight and implementation responsibility for all NSP2 activities:

- Providing financial mechanisms to housing developer partners to purchase foreclosed properties from REO lenders and servicers;
- Providing funds to housing developer partners to rehabilitate acquired properties;
- Providing financial assistance to qualified homebuyers to acquire and rehabilitate foreclosed properties.

The City is also responsible for meeting the NSP2 requirement that not less than 25% of the City's NSP2 funds, approximately \$6+ million, be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

To assure success, the City of Modesto is committed to effective management practices. These include: 1) supporting cooperative, problem-solving relationships; 2) working toward continuous improvement in regulatory compliance and timely program performance; 3) maintaining open and frequent communications among all participants; and, 4) focusing on preventing problems, rather than fixing them later.

1.5 Summary of Principal Regulations Governing NSP2/CDBG Administrative Systems

Title XII of Division A of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5, approved February 17, 2009)) (Recovery Act) and Sections 2301-2304 of the Housing and Economic Recovery Act of 2008 (Public Law 110-289 (July 30, 2008)) (HERA).

The program established pursuant to Section 2301-2304 of HERA is known as the "Neighborhood Stabilization Program" or "NSP". The term "NSP2" refers to the second appropriation of NSP funds provided under the Recovery Act. Unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title XII is commonly referred to as the Neighborhood Stabilization Program (NSP2). The key regulations that form the basic administrative requirements of the NSP2/CDBG entitlement programs are summarized here to acquaint the City with the sources of the various standards described in the Operations Manual.

Regulations are developed in response to, or in fulfillment of, Federal statutes that govern the CDBG Entitlement program, both those specific to the NSP2 and CDBG programs and those addressing other "cross-cutting" Federal laws or policies that apply to these programs (e.g., National Environmental Policy Act, Americans with Disabilities Act, Davis-Bacon Act).

The basic program regulations governing management and financial systems for the CDBG programs are contained in 24 CFR Part 570, Subparts J and K. They are applicable both to grantees and subrecipients in the public and private sectors:

- Subpart J (24 CFR 570.500–570.513) addresses general responsibilities for grant administration, including the applicability of uniform administrative requirements,

provisions of Subrecipient Agreements, program income, use of real property, record keeping and reporting, and closeout procedures.

- Subpart K (24 CFR 570.600–570.613) deals with other program requirements of the CDBG program, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors; uniform administrative requirements and cost principles; and conflicts of interest.

In addition to the basic regulations of the CDBG program contained in 24 CFR Part 570, there are three other categories of requirements that affect the administrative systems and procedures subrecipients must have in place to receive support:

- Federal regulations governing administrative and audit requirements for grants and cooperative agreements (governmental subrecipients) for which HUD has oversight responsibilities.
- Administrative circulars from the Office of Management and Budget (OMB) and Department of the Treasury governing cost principles, administrative systems, fiscal procedures, and audit requirements for grantees and subrecipients.
- Executive Orders from the Office of the President implementing various equal employment opportunity and environmental policies.

The applicability of these administrative requirements depends upon the public or private status of the organization receiving funds. For subrecipients that are private, non-profit organizations, the key regulations defining administrative requirements are:

- 24 CFR Part 84 “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations” 2: These regulations implement OMB Circular A-110 and specify standards relative to cash depositories, bonding and insurance, retention and custodial requirements for records, financial management systems, monitoring and reporting on performance, property management, and procurement.
- OMB Circular A-122 “Cost Principles for Non-profit Organizations”: A publication of OMB, this document establishes principles for determining costs that are allowed to be charged to Federal grants, contracts, and other agreements with non-profit organizations (except educational institutions). The principles are designed to ensure that the Federal Government will bear its fair share of costs except where restricted or prohibited by law.
- OMB Circular A-133 “Audits of States, Local Governments and Non-profit Organizations”: This circular defines audit requirements for both governments and non-profits receiving Federal funds. The document addresses mandated frequency and scope of audits; allow ability of audit costs, and the process of auditor selection. The above referenced sections of Title 24 regulations and OMB circulars may be accessed at the HUD Web site at <http://www.hudclips.org/cgi/index.cgi>.

1.6 Acquisition of Properties Using NSP2 Funds

1.6.1 Acquisition, Sales Contracts, and Obligations

The City of Modesto must have executed sales contract for specific properties for funds to be considered obligated. Options or other non-binding instruments are not acceptable.

1.6.2 Appraisals and Discount Requirements

Properties acquired using NSP2 funds shall be appraised in conformity with the appraisal requirements of the Uniform Relocation Act (URA) at 49 CFR 24.103 by a licensed appraiser within sixty (60) days prior to an offer to purchase the property. Further guidance may be found at:

http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/docs/appraisal_guidance.doc.

The market appraised value of properties is established based on a review of available data and shall be made by a person knowledgeable of and with experience in property valuation that the City determines is qualified to make the valuation.

NSP2 requires that properties acquired using NSP2 program funding be purchased **at a discount of at least 1% below the current market appraised value of the home or property**. The City of Modesto will require documentation to ensure the discount requirement is met including the address, appraised value, purchase offer amount, and discount amount for each property.

The discount value calculation may take into account the likely carrying costs of the mortgagee if it were to NOT sell the property to the applicant. Carrying costs may include: taxes, insurance, maintenance, marketing, overhead and interest.

1.6.3 Voluntary Transactions and Tenants

ALL NSP2-assisted property acquisitions must be voluntary acquisitions. Taking of property through eminent domain proceedings is NOT permitted. The Uniform Relocation Act requires that notices are provided to property owners even those considered to be voluntary transactions. The notices can be found at: <http://www.hud.gov/offices/cpd/library/relocation/NSP2/index.cfm>. URA and Section 104(d) and 5305(a)(11) of Title I of the Housing and Community Development Act of 1974, as amended, and the implementing regulations at 24 CFR Part 570.496(a) (the Barney Frank Amendment) govern the permanent displacement as well the temporary relocation of tenants in properties funded by NSP2.

For more information, refer to <http://www.hud.gov/offices/cpd/library/relocation/NSP2/index.cfm>. In addition, ARRA includes additional provisions protecting the rights of property owners and “bona fide” tenants.

1.6.4 Tenant Rights and Protections

The following requirements apply to any foreclosed upon dwelling or residential real property that was acquired by the initial successor in interest pursuant to the foreclosure after February 17, 2009 and was occupied by a *bona fide* tenant at the time of foreclosure.

The initial successor in interest in a foreclosed upon dwelling or residential real property shall provide a notice to vacate to any *bona fide* tenant at least 90 days before the effective date of such notice. The initial successor in interest shall assume such interest subject to the rights of any *bona fide* tenant, as of the date of such notice of foreclosure:

- (i) under any *bona fide* lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90-day notice under this paragraph; or
- (ii) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90-day notice under this paragraph, except that nothing in this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

In the case of any qualified foreclosed housing in which a recipient of assistance under Section 8 of the United States Housing Act of 1937 (42 U.S.C 1437f) (the "Section 8 Program") resides at the time of foreclosure, the initial successor in interest shall be subject to the lease and to the housing assistance payments contract for the occupied unit. Vacating the property prior to sale shall not constitute good cause for termination of the tenancy unless the property is unmarketable while occupied or unless the owner or subsequent purchaser desires the unit for personal or family use.

If a public housing agency is unable to make payments under the contract to the immediate successor in interest after foreclosure, due to (A) an action or inaction by the successor in interest, including the rejection of payments or the failure of the successor to maintain the unit in compliance with the Section 8 Program or (B) an inability to identify the successor, the agency may use funds that would have been used to pay the rental amount on behalf of the family to 1) pay for utilities that are the responsibility of the owner under the lease or applicable law, after taking reasonable steps to notify the owner that it intends to make payments to a utility provider in lieu of payments to the owner, except prior notification shall not be required in any case in which the unit will be or has been rendered uninhabitable due to the termination or threat of termination of service, in which case the public housing agency shall notify the owner within a reasonable time after making such payment; or 2) for the family's reasonable moving costs, including security deposit costs.

A lease or tenancy shall be considered *bona fide* only if: (i) the mortgagor under the contract is not the tenant; (ii) the lease or tenancy was the result of an arm's length transaction; and (iii) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

The City of Modesto will maintain documentation of its efforts to ensure that the initial successor in interest in a foreclosed upon dwelling or residential real property has complied with the requirements under Sections K.2.a. and K.2.b.

If the City of Modesto determines that the initial successor in interest in such property failed to comply with such requirements, the City may not use NSP2 funds to finance the acquisition of such property unless it assumes the obligations of the initial successor in interest specified in Section K.2.a. and K.2.b. If the City of Modesto elects to assume such obligations, it must provide the relocation assistance required pursuant to 24 CFR 570.606 to tenants displaced as a result of

an activity assisted with NSP2 funds and maintain records in sufficient detail to demonstrate compliance with the provisions of that section.

The recipient of any grant or loan made from NSP2 funds may not refuse to lease a dwelling unit in housing with such loan or grant to a participant under the Section 8 Program because of the status of the prospective tenant as such a participant.

This section shall not preempt any Federal, State or local law that provides more protections for tenants.

1.6.5 Energy Efficiency

To the extent feasible, the City of Modesto will strongly encourage grantees to incorporate modern, green building, and energy-efficiency improvements in all NSP2 activities to provide for long-term affordability and increased sustainability and attractiveness of housing and neighborhoods.

CHAPTER 2.0: CITY OF MODESTO NSP2 ACTIVITIES

2.1 Acquisition and Rehabilitation - \$10,500,000

2.1.1 Summary

The acquisition and rehabilitation activity will benefit individuals and families whose incomes do not exceed 120 percent of Median Area Household Income (MAI), adjusted for family size. The City of Modesto will partner with developers through a Request for Qualifications (RFQ) to acquire and rehabilitate an estimated 100 foreclosed and/or vacant residential properties in order to resell or rent properties to persons that are at or below 120% of the area median income (AMI). This program will allow for additional affordable rental/homeownership housing in the target area census tracts within the City.

This activity can be carried out within the approved greatest need area and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202.

2.1.2 Activity Purpose

Acquisition and rehabilitation of foreclosed or abandoned properties located in areas of “greatest needs” as defined by HUD:

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

Abandoned: Under HUD regulations “a home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days and the property has been vacant for at least 90 days.”

2.1.3 Eligible Properties

- Existing single-family, duplex or condominiums;
- Properties built prior to 1978 may be subject to lead based paint requirements;
- Units must be acquired at 1% below market-appraised value;
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.1.4 Income Limits

The income limit is 120% of the Median Area Household Income, adjusted for family size. These limits are adjusted annually. In FY 2010, the income limits for 120% of HUD Area Median Income are:

1 person household	2 person household	3 person household	4 person household	5 person household	6 person household	7 person household	8 person household
\$50,000	\$57,100	\$64,250	\$71,400	\$77,100	\$82,000	\$88,550	\$94,250

2.1.5 Affordability Covenants

HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The affordability period for this activity is 25 years.

2.1.6 Property Requirements

- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Properties are purchased by for-profit and non-profit developers who have been qualified by a review sub-committee of the Citizens' Housing & Community Development Committee (CH&CDC).
- Properties purchased under the program must meet NSP2 definitions for foreclosed or abandoned residential properties.
- Property acquisition price may not exceed 150% of the area median sales price per (DataQuick) and preference will be given to those properties at or below 100% of the area median sales price.
- Regulations established to rehab the homes must meet Public Housing Standards or local codes whichever is greater, cap set at \$100,000 for rehabilitation.

Note: Exceptions to the \$100,000 rehab cap are reviewed on a case-by-case basis and are approved based on the recommendation of the review sub-committee of the CH&CDC and the City of Modesto NSP Development Team.

- If the units become rental units, a management plan has to be in place to ensure appropriate maintenance and adherence to regulations.

2.1.7 Procurement

- Issue Request for Qualifications on March 15, 2010, to establish list of qualified developers that are either for-profit or non-profit and experienced in housing. Must meet RFQ requirements including City of Modesto insurance requirements.
- Issue Request for Qualifications on March 15, 2010, to establish list of qualified appraisers. Must meet the following requirements:
 - Fee appraiser must be state licensed or FIRREA certified
 - Use procurement to select contracted appraisers

2.1.8 Timelines:

- Must complete a minimum of one hundred (100) units;
- Spend 50% of the \$25,000,000 in funding by February 11, 2012;
- Spend 100% of all funds by February 11, 2013;
- To meet the 50% requirement, \$10,500,000 will need to be spent by February 11, 2012.

2.1.9 Monitoring

- Please Refer to Section 4.14 for complete monitoring policies and procedures

2.1.10 Loan Terms for For-Profit Organizations (Rental Properties Only)

- The City of Modesto adopted the recapture option based on HOME regulations so that the remaining funding is repaid when the property is sold.
- If the equity gain is in excess of \$50,000, utilize an equity share clause to have 10% due back to the City minus the initial amount that the developer contributed.
- Defer first five years of the loan. In year six, 3% interest begins only on the acquisition proportion of the loan, which will be amortized for 35 years of a 40-year loan.
- Defer the rehabilitation proportion of the loan for 15 years. In year 16, 3% interest begins only on the rehabilitation proportion of the loan which will be amortized for 24 years to conclude at the same time the acquisition proportion of the loan is due.
- Reasonable closing cost will be included in the loan.
- For-Profit organizations are required to leverage 20% of the total loan amount.
- At the sole discretion of the City, in the event the affordability covenant is fulfilled at the end of the twenty five-year term, the rehabilitation portion of the loan will be forgiven if the property is sold to a qualifying low-income household.

2.1.11 Loan Terms for Non-Profit Organizations (Rental Properties Only)

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% interest for the first 5 years and 3% interest for years 6 on.
- Affordability period based on amount borrowed based on HOME regulations.
- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
- Reasonable closing cost will be included in the loan.

2.1.12 Homeownership (Resale Properties Only)

- New appraisal is required after rehabilitation work by developer is complete.
- Upon second escrow closing, developer is eligible for developer fee.
- For all properties except properties located in census tracts within the Airport Revitalization Strategy Area, the developer fee is:
 - \$10,000 per property, **or**
 - \$15,000 per property if property is determined to meet the “blight” definition per Federal regulation and as determined through and acceptable third-party home inspection summary report.
- For Airport Neighborhood properties, the developer fee is:
 - \$15,000 per property, **or**
 - \$20,000 per property if property is determined to meet the HUD “blight” definition and as determined through an acceptable third-party home inspection summary report.
- Developer Fee procedure:
 - Step 1 – Determine location of Property (Airport vs. Scattered).
 - Step 2 – Once the second appraisal is received by City staff to signify completion of rehabilitation and to set the sales price, the total rehabilitation amount is measured as a percentage of the initial appraised value to determine if the property is “potentially blighted”. If the percentage of rehab value vs. initial appraisal is greater than the average at the time of sale then the property is deemed “potentially blighted”.
 - Step 3 – The rehabilitation staff assigned to a specified property states their opinion of the property at the time of purchase in regards to the property being deemed “potentially blighted”.

- Step 4 – If the actual rehabilitation amount (final) for the property is greater than the average of actual rehabilitation for all completed properties at that time the property is deemed “potentially blighted”.
- Step 5 – If the property meets any two of the three criteria outlined in steps 2-4 the developer will receive the higher Developer Fee allocation for their property location upon the sale of the property to a qualified home buyer.
- The obligations of the developer towards the acquisition and the rehabilitation loans are released when transferred (either fully or partially) to the new buyer at the close of escrow.
- Closing costs, new appraisal costs, and developer fees are considered program costs and are not included in either of the developer loans.

BLIGHTED STRUCTURE: A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.

2.1.13 Qualifying Households (Resale Properties Only)

- Homebuyers will meet criteria similar to that established for the City’s Homebuyer’s Assistance Program, which includes these homebuyer requirements:
 - Must be at or below 120% of the area median income
 - Must reside in or work within the City limits of Modesto
- Home being purchased must have been purchased and rehabilitated using the City’s NSP2 funds.
- Must have a minimum FICO credit score of 620.
- Must complete 8 hours of homebuyer counseling through a HUD-approved counseling agency.
- Must commit 1% of the purchase price.
- Homebuyers will have a new loan based on the value established in the second appraisal but not to exceed the total investment in the property (acquisition plus rehabilitation).
- Maximum 30-year loan period (available in 5-year increments).
- Monthly payment may not exceed 30% of qualifying income and total debt to income ratio cannot exceed 43% per FHA standards.
- Homebuyers are “qualified” for homes up to a certain value as established by their qualifying income.

2.1.14 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline

- Preliminary Title report
- Home Inspection Report
- Pest Inspection Report including Pest Report Clearance
- Lead Base Paint Report (when applicable)
- Property Appraisal
- Payable Commissions Report
- Natural Hazard Reports (when applicable)

2.1.15 City of Modesto Prepared Loan Documents

- Deed of Trust
- Promissory Note (Purchase)
- Promissory Note (REHAB)
- Regulatory Agreement
- Loan Agreement

2.1.16 Rehabilitation Requirements and Procedures

The City of Modesto provides all approved NSP2 Developers with the “Developer’s Toolbox” (a CD containing copies of all pertinent NSP2 information needed to effectively participate in the program which include copies of all rehabilitation codes, compliance manuals, and additional technical assistance resources/materials).

All of the programs utilizing rehabilitation funding will have to adhere to current Housing Rehabilitation Policies.

- **Contractor Requirements:**

All general contractors working on all NSP2-funded developments must have an active license issued by the California Contractor’s Licensing Board (CSLB) as applicable and meet all requirements of contractors in the state of California. Contractors may not “share” a license. That is, the City of Modesto will not allow one contractor to work from another contractor’s license. All City of Modesto NSP2-funded projects must have a general contractor that is properly licensed by the California State Contractor’s Licensing Board. Any questions regarding licensing issues and a list of licensed contractors may be directed to the State Licensing Board at the following address:

Contractors State License Board
 9821 Business Park Drive
 Sacramento, CA 95827
 Phone (800) 321-CSLB

Any contractor or subcontractor who has been debarred by any entity or had a contractor license suspended by any entity within the previous twelve (12) months will be prohibited from participating in the NSP2. All general contractors working on all NSP2-funded developments must obtain one of the following: (1) a payment and performance bond; or (2) an Irrevocable Letter of Credit in the amount of the construction contract.

Note: The City of Modesto has complete discretion to permit and approve any and all processes in connection with the construction/improvement of the property. (Section 54 of the Loan Agreement)

Note: Per guidance from HUD, construction contracts for individual rehabilitation projects for \$100,000 or less are not required to obtain a payment and performance bond or an irrevocable letter of credit.

- **Construction Requirements:**

- Construction Standards: All NSP Rehabilitation Projects are required to adhere to the State of California Code of Regulations Title 24, Part 11 “California Green Building Standards Code” as outlined by the California Building Standards Commission.
(http://www.documents.dgs.ca.gov/bsc/CALGreen/2010_CA_Green_Bldg.pdf)

Note: These standards are effective as of January 1, 2011

- Energy Efficiency Standards: All NSP Rehabilitation Projects are required to adhere to the State of California Code of Regulations Title 24, Part 6 “2008 Building Energy Efficiency Standards for Residential and Non-Residential Buildings” as outlined by the California Energy Commission.
(http://www.documents.dgs.ca.gov/bsc/CALGreen/2010_CA_Green_Bldg.pdf)

Note: These standards are effective as of January 1, 2010. Any updates are noted in the “2008 Building Energy Efficiency Standards – Compliance Manual” effective 2Q-2010. (<http://www.energy.ca.gov/2008publications/CEC-400-2008-016/CEC-400-2008-016-CMF-REV1.PDF>)

- **CA SB 183 Compliance: Effective July 1 2011,** the Carbon Monoxide Prevention Act of 2010 (SB 183) Mandates that all single family dwellings with fossil-fuel burning appliances, fireplace, or attached garage that are designated for human occupancy must have installed a Carbon Monoxide Detector.
- Initial Renovator Certification Compliance: All parties involved in the Rehabilitation Portion of NSP2 (developer, general contractor/project supervisor, and city staff) must attend and complete the EPA/HUD Model Renovator Training Course (also referred to as Initial Renovator Training Course) and Provide the City of Modesto with a copy of the Certificate of Completion with a valid EPA Accreditation # to be placed in the developer’s Master File.

* For Additional Lead-Based Paint information refer to Section 4.5 or

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=f07a90b05d8e4481e1f462a217a2b789&rgn=div5&view=text&n ode=40:30.0.1.1.13&idno=40#40:30.0.1.1.13.3>

- **Rehabilitation Procedures:**

- Prior to starting the rehabilitation process on a NSP2 property, the Developer and General Contractor (GC) or Project Supervisor (PS) must meet with designated City rehabilitation staff at the designated property to go over the following items:
 - a. Proposed Scope of Work
 - b. 3rd Party Home Inspection
 - c. Preliminary Rehabilitation Budget

- d. All necessary permits have been pulled/identified
 - e. Complete Property Walk-through
- Once these items have been deemed satisfactory, the Preliminary Inspection Authorization Form is signed by both City rehabilitation staff and the approved Developer representative signifying that the walk-through is complete and the property is ready to begin rehabilitation.
 - Hiring of Subcontractors and General Laborers: NSP2 Developers are encouraged to hire locally within the City of Modesto. A preference is placed on using labor from the City of Modesto first, Stanislaus County second.
- * For additional information refer to Section 4.6: Labor Standards and Section 4.3: Section 3 Compliance.
- During the rehabilitation of the property, City of Modesto rehabilitation staff will perform random walk-through of the properties to ensure that they are being completed in a timely manner.
 - Developers are encouraged to provide the City of Modesto with reimbursement invoices on a regular basis. Once an invoice is received it results in a mandatory inspection by City of Modesto rehabilitation staff of the property for which the items are being billed. This inspection is meant to ensure that the items being called out for reimbursement have in fact been utilized and installed.
- * For more information on Fund Reimbursement refer to Section **3.4 Funding Disbursement**.
- Once rehabilitation is complete the Developer is required to arrange for two separate inspections and must submit a final invoice to the City of Modesto for reimbursement of all outstanding funds associated with that property.
 - First, Building Inspection must evaluate the property and ensure that all items were properly permitted and are complete.
 - Second, City rehabilitation staff meets with the designated Developer representative and performs a final walk-through of the property. When City staff has completed the walk-through and is satisfied with the finished product, the “Final Inspection Property Release Form” is signed by both City staff and the Developer representative signifying that both parties agree that rehabilitation is complete and the property is released to the Developer for occupancy.
 - Note: If City staff does not find the final walk-through to be sufficient they may recommend that additional improvements to be made in order to meet all safety requirements or ensure that the property is fully up to code. If this occurs they will require an additional walk-through before signing the final release.
 - Once the Final Invoice is submitted and reimbursement is required rehabilitation funds will be held back by the City according to the terms in the Loan Agreement with funds to be disbursed to borrower, contractor/supplier for work completed as documented by progress inspections.

* For complete reimbursement procedures refer to section **3.4 Funding Disbursement**

2.1 Emancipated Foster and Homeless Youth - \$6,000,000

2.2.1 Summary

This activity is dedicated to the purchase/rehab of 40 foreclosed and/or abandoned residential properties to provide housing and supportive services for emancipated foster and homeless youth between the ages of 18-28. The Housing Authority of Stanislaus County will purchase and rehabilitate the foreclosed and/or abandoned properties which will be managed by the Housing Authority, which will partner with other agencies to provide permanent supportive housing and supportive services to individuals and families. Of the \$6 million, \$4.75 million will serve those populations at or 50% of the area median income with 25% serving those populations at or below 80% of the area median income.

This activity can be carried out in those areas of greatest need and will be subject to ensuring compliance with CDBG regulation 24 CFR 570.202.

2.2.2 Purpose

Acquisition and rehabilitation of foreclosed or abandoned properties in the target area census tracts within the City.

2.2.3 Eligible Properties

- Existing single-family, duplex or condominiums.
- Properties built prior to 1978, may be subject to Lead Base Paint requirements.
- Units must be acquired at 1% below market-appraised value.
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.2.4 Income Limits

The income limit is 50% of the area median income with 25% serving those populations at or below 80% of the area median income.

2.2.5 Affordability Covenants

HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The affordability period for this activity is 25 years.

2.2.6 Property Requirements

- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Management plan has to be in place to ensure maintenance and adhere to all regulations.

2.2.7 Monitoring

- Please Refer to Section 4.14 for complete monitoring policies and procedures

2.2.8 Loan Terms

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% interest for the first 5 years and 3% interest for years 6 on.
- Affordability period based on amount borrowed based on HOME regulations.
- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
- Reasonable closing cost will be included in the loan.

2.2.9 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline
- Preliminary Title report
- Home Inspection Report
- Pest Inspection Report
- Lead Base Paint Report (when applicable)
- Property Appraisal
- Payable Commissions Report
- Natural Hazard Reports (when applicable)

2.2.10 City of Modesto Prepared Loan Documents

- Deed of Trust
- Promissory Note (Purchase)
- Promissory Note (REHAB)
- Regulatory Agreement
- Loan Agreement

2.2.11 Rehabilitation Requirements

* Please refer to Section 2.1.16.

2.3 Special Needs Program - \$6,000,000

2.3.1 Summary

The City of Modesto has partnered with the Stanislaus Community Assistance Project (SCAP) to provide \$6 million in funding for the development, acquisition and rehabilitation of 35 foreclosed and/or abandoned homes to house individuals with special needs such as mental health issues, chronic disabilities, HIV/AIDS, prison re-entry candidate, and income-eligible seniors. Of the \$6 million, \$1.5 million will be used to provide housing for individuals and families at or below 50% of the area median income.

2.3.2 Activity Purpose

recommended 15% developer contingency. Once a project exceeds the 10% threshold a Project Change Order Explanation form is filled out by City staff. This form contains a detailed budget breakdown of all individual categorized budget items that exceed 50% of their initial allocation. This document includes a detailed description of all rehabilitation staff requests that may have caused an increase in cost. Each overage/invoice is evaluated on a case-by-case basis.

- Once both signatures are acquired, City staff prepares a check request which is verified by the Deputy Director or a designated signee and processes the request with Accounts Payable. A copy of the original request along with a copy of the invoice and back-up information is kept in the working file for the specified property.
- Once the check is released, the City of Modesto requires a designated representative of the Developer to be present and sign the NSP Check-Log as verification that they have received the check in person.
- Final Invoice Procedures: Once the property has completed rehabilitation retained funds will be released within thirty (30) days after the final inspection is approved and upon City's receipt of all completion documentation (utilizing the process outlined above).

For all activities, the following project completion documentation will be required prior to City's Final release of funds:

- Certification of release of liens (If deemed necessary by the City of Modesto based on either developer or contractor performance).
- Hazard insurance
- Certificate of Occupancy issued by local jurisdiction, if applicable
- Fully Executed Final Inspection Property Release Form.

For homebuyer activities, the following completion documentation will be required prior to City's final release of funds:

- Certification in release of liens
- Hazard Insurance
- Certification of Occupancy issued by local jurisdiction, if applicable, and
- Fully Executed Final Inspection Property Release Form

If any NSP2-funded project has an available balance after acquisition and rehabilitation is completed, the City of Modesto will de-obligate those funds and reallocate such balance of NSP2 funds to other eligible activities according to City's adopted NSP2 allocation process. The City of Modesto must ensure that all NSP2 funds are obligated within 18 months after the execution of the grant agreement (date of City's agreement with HUD or by September 20, 2010).

CHAPTER 4:0: OTHER FEDERAL REQUIREMENTS

NSP2 awardees and funded projects must adhere to all applicable other Federal requirements as outlined in 24 CFR part 570, HERA, ARRA, and NSP2 guidance from HUD. Key requirements are summarized below.

4.1 Equal Opportunity and Fair Housing

The state shall not exclude any organization or individual from participation under any program funded in whole or in part by NSP2 funds on the grounds of age, disability, race, creed, color, national origin, familial status, religion, or sex.

The following federal requirements as set forth in 24 CFR 5.105(a), Nondiscrimination and Equal Opportunity, are applicable to NSP2 projects:

Federal Requirements	
Fair Housing Act 24 CFR 100	Executive Order 11246, as amended (Equal Employment Opportunity Programs) 41 CFR 60
Executive Order 11063, as amended (Equal Opportunity in Housing) 24 CFR 107	Section 3 of the Housing and Urban Development Act of 1968 24 CFR 135
Title VI of the Civil Rights Act of 1964 (Nondiscrimination in Federal Programs) 24 CFR 1	Executive Order 11625, as amended (Minority Business Enterprises)
Age Discrimination Act of 1975 24 CFR 146	Executive Order 12432, as amended (Minority Business Enterprises)
Section 504 of the Rehabilitation Act of 1973 24 CFR 8	Executive Order 12138, as amended (Women's Business Enterprise) ²

In addition to the above requirements, all NSP2 participants must ensure that their Equal Opportunity and Fair Housing policies related to activities funded by NSP2 are consistent with the current Consolidated Plan adopted by their jurisdiction or the State Consolidated Plan.

4.2 Affirmative Marketing

Any entity applying for NSP2 funds must adopt affirmative marketing procedures and requirements for all NSP2-assisted housing and submit the affirmative marketing plan with the NSP2 application. The affirmative marketing plan and requirements for NSP2-assisted housing must be approved by the City of Modesto prior to any NSP2 funds being committed to a development.

Affirmative marketing requirements and procedures must include ALL of the following:

- Methods for informing the public, owners, and potential tenants about fair housing laws and the policies of the local program;
- A description of what owners and/or the program administrator will do to affirmatively market housing assisted with NSP2 funds A description of what owners and/or the program administrator will do to inform persons not likely to apply for housing without special outreach;

3.4 Funding Disbursement

The following processes will apply:

- Prior to the disbursement of NSP2 funds for the payment of developer submitted invoices the following conditions must be met:
- Required environmental review process must be satisfactorily completed.
- Project closing documents consisting of a Loan Agreements, Deed of Trust Regulatory Agreements, and Promissory Notes must be fully executed and reflect a project completion date acceptable to the City of Modesto and the recipient of the NSP2 funds (Approved Developer). The NSP2 Loan Agreements will outline the payment of the NSP2 funds, (e.g., how the funds will be disbursed, i.e., prorate share, etc.). The NSP2 Agreements must contain provisions for the timing of NSP2 fund disbursement.
- City staff must complete all Disaster Recovery Grant Reporting (DRGR) system set up procedures for this specific project/property.
- Developer must have all insurance current and active.
- Developer must have a completed and valid W-9 IRS form provided to the City of Modesto Accounts Payable Division to establish an active Vendor Code allowing for the issuance of checks payable to the Developing Agency.

Invoice Submittal & Reimbursement:

- Invoices are submitted to City of Modesto NSP Development Team for processing, with staff from the Accounts Payable Division copied for timeline purposes.
- Once the NSP Development Team receives the invoices and begins the verification process. All invoiced items pertaining to the rehabilitation of an NSP property must be reviewed by an administrative staff of City of Modesto NSP Development Team and a rehabilitation staff. This process consists of two steps:
 - Administrative staff: All invoice items will be cross-checked against provided back-up information for accuracy of dollar amounts and consistency with initial developer established property budget.
 - Rehabilitation staff: All invoice items are cross-checked against provided back-up information and the property is inspected to ensure that invoiced items have been properly installed and are accounted for on the property.
- **Note:** All progress payments will be issued for work complete-to-date. No requests or payment(s) will be approved for work not completed. No requests will be approved for payment for any work completed that was not a part of the original contract or an approved by the City of Modesto Change Order. Change orders should be requested only for unforeseen problems and/or emergencies, not for upgrades.
- **Note:** City staff has set an internal budget adjustment of 10% for all properties undergoing rehabilitation to accommodate any unforeseen items not covered by the

Solicitations must clearly explain all requirements that the bidder must fulfill in order for his or her bid to be evaluated. Solicitations for goods and services must be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms.
- Requiring unnecessary experience and excessive bonding.
- Specifying only “brand name” products instead of allowing “an equal” product.
- Noncompetitive pricing practices between firms or affiliated companies.
- Noncompetitive awards to consultants on retainer contracts.

PLEASE NOTE: There is one exception to this. HUD is strongly encouraging grantees to use a Green Communities Standard for housing rehabilitation. Due to the newness of the field and the lack of knowledge among contractors and others about “green” systems and components, rehabilitation specifications will identify specific products that have been tested and certified as “green”.

3.3 Use of Local Businesses; Contracting with Small, Minority, and/or Women-Owned Businesses

Federal regulations, both CDBG and non-CDBG, make it very clear that subrecipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically,

- A subrecipient must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in its CDBG-financed activities (24 CFR 85.36(e) or 84.44(b)). The efforts which a subrecipient should make include:
 - Incorporating such businesses in solicitation lists whenever they are potential sources.
 - Ensuring that such businesses are solicited when identified as potential sources.
 - Dividing procurement requirements, when economically feasible, to permit maximum participation of such businesses.
 - Requiring prime contractors, when subcontracts are let, to take affirmative steps to select such firms.
- In conformance with the requirements of *Section 3 of the Housing and Community Development Act of 1968*, to the greatest extent feasible, subrecipients must award contracts for work to be performed to eligible *business concerns located in or owned by residents of the target area* to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of governmental assistance for housing (see 24 CFR 570.607(b)).

Subrecipients should note, however, that the desire to award contracts to local firms is *not* a legitimate excuse for avoiding an open and competitive procurement process.

Acquisition and rehabilitation of foreclosed or abandoned properties in the target area census tracts within the City.

2.3.3 Eligible Properties

- Existing single-family, duplexes or condominiums.
- Properties built prior to 1978, may be subject to lead-based paint requirements.
- Units must be acquired at 1% below market-appraised value.
- All units must be appraised in accordance to URA appraisal standards at 24.103.

2.3.4 Income Limits

The income limit is 120% of Median Area Household Income, adjusted for family size; \$1.5 million will need to be used to provide housing for individuals and families at or below 50% of the area median income.

2.3.5 Affordability Covenants

HOME regulations will be followed in determining all affordability covenants per 24 CFR 92.252 (e)(f). The Affordability Period for this activity is 25 years.

2.3.6 Property Requirements

- Property must meet applicable local codes, standards, and ordinances (at a minimum HQS).
- Management plan has to be in place to ensure maintenance and adhere to all regulations.

2.3.7 Monitoring

- Please Refer to Section 4.14 for complete monitoring policies and procedures

2.3.8 Loan Terms

- Recapture clause to have the remaining balance paid upon sale of the property if the affordability covenant is not met with 0% for the first 5 years and 3% interest for years 6 on.
- Affordability period based on amount borrowed based on HOME regulations.
- No payments due, if affordability period is met, the loan is turned into a grant and forgiven.
- Reasonable closing cost will be included in the loan.

2.3.9 Loan Documentation Requirements

- Developer Purchase Agreement
- Rehabilitation Budget and Timeline
- Preliminary Title report
- Home Inspection Report
- Pest Inspection Report
- Lead Base Paint Report (when applicable)
- Property Appraisal
- Payable Commissions Report
- Natural Hazard Reports (when applicable)

2.3.10 City of Modesto Prepared Loan Documents

- Deed of Trust
- Promissory Note (Purchase)
- Promissory Note (REHAB)
- Regulatory Agreement
- Loan Agreement

2.3.11 Rehabilitation Requirements

* Please refer to Section 2.1.16.

CHAPTER 3.0: PROCUREMENT AND CONTRACTING

3.1 Introduction

The Department of Housing and Urban Development (HUD) has established that procurement requirements for the National Stabilization Program (NSP2) will follow Community Development Block Grant (CDBG) requirements. CDBG procurement requirements are outlined in 24 CFR 84.40-48.

Local governments and subrecipient entities are required to adhere to all applicable procurement requirements in the selection and award of contracts for goods and services. Therefore, all solicitation of bids for goods and services to be paid with NSP2 funds must be conducted openly and competitively.

3.2 General Procurement Provisions

The standards and procedures for procurement are intended to ensure that supplies, equipment, construction and other services acquired in whole or in part with Federal funds are:

- Obtained as efficiently and economically as possible.
- Procured in a manner that provides, to the maximum extent practical, open and free competition.

plain and ensure the feasibility of the proposed plan. The City of Modesto is willing to consider the proposed remedy and must approve the proposal in writing prior to approval of any NSP2 allocation. The community must be currently participating in the National Flood Insurance Program, and flood insurance must be obtained and maintained on the NSP2-assisted property for the full period of affordability.

4.7 Lead-Based Paint Requirements

The Lead-Based Paint Regulations described in 24 CFR Part 35 require that lead hazard evaluation and reduction activities be carried out for all developments constructed before 1978 and receiving NSP2 assistance. Applications for rehabilitation funds for existing buildings constructed prior to 1978 must include a lead hazard evaluation, by appropriate lead-certified personnel. The application must also include detailed lead hazard reduction plan, in accordance with the regulations, and separately identify within the rehabilitation budget, the costs associated with reduction of lead hazards in accordance with the regulation and guidelines. All NSP2 fund allocations will be contingent upon the applicant agreeing to complete lead hazard reduction, evidenced by a clearance report performed by appropriate lead-certified personnel. In a development where NSP2 funds will be used on only a portion of the units, the lead-based paint requirements apply to ALL units and common areas in the development.

4.8 Labor Standards

Davis-Bacon wage compliance and other federal laws and regulations pertaining to labor standards apply to all construction and rehabilitation contracts that are financed in whole or in part with NSP2 funds for residential property consisting of eight (8) or more NSP2-assisted units. Davis-Bacon and related laws include the following:

- Davis-Bacon and Related Acts (40 USC 276a-276a-7)
- Contract Work Hours and Safety Standards Act (40 USC 327-333)
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 276c)
- Fair Labor Standards Act of 1938, as amended (29 USC 201, et seq.)

The construction bids and contract for any NSP2-assisted activity must contain the applicable wage provisions and labor standards. Davis-Bacon does not apply to projects using solely volunteer labor or to sweat equity projects. The City of Modesto will monitor all developments subject to Davis-Bacon requirements to ensure compliance with all applicable regulations.

4.9 Debarment and Suspension

The City of Modesto will require participants in lower-tier transactions covered by 24 CFR 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction. Any participant that remains on a debarred or suspended condition shall be prohibited from participation in the City of Modesto NSP2 as long as they are classified in this manner.

4.10 Relocation

NSP2 funds are intended ONLY for use in purchasing/improving properties that have been abandoned and foreclosed. As such, most properties are expected to be vacant at the time of appraisal and offer to acquire. Should there be residents in any foreclosed property considered for NSP2 assistance, potential awardees must follow the residential anti-displacement and relocation

- Maintenance of records to document actions taken to affirmatively market NSP2-assisted units and to assess marketing effectiveness;
- A description of how efforts will be assessed and what corrective actions will be taken when requirements are not met.

4.3 Section 3

Section 3 requires that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low income persons, particularly those who are recipients of government assistance for housing, in addition to business concerns owned/operated by low-income persons.

* For a complete overview of Section 3 policies and procedures please refer to the City of Modesto Section 3 Compliance Guide, or visit the HUD Section 3 website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/section3/section3

4.4 Minority and Women-Owned Businesses

Executive Orders 11625, 12432, and 12138 require that participating jurisdictions and local programs must prescribe procedures acceptable to HUD for a minority outreach program to ensure the inclusion, to the greatest extent possible, of minorities and women entities owned by minorities and women in all contracts. Local programs must also develop acceptable policies and procedures if their application is approved by the City of Modesto.

* For more information refer to Section 3.3

4.5 Environmental Review

In implementing NSP2, the environmental effects of each activity must be assessed in accordance with the provisions of the National Environment Policy Act of 1969 and HUD's regulations at 24 CFR Part 58.

The City of Modesto, as the NSP2 grantee, will be responsible for carrying out environmental reviews for approved projects/programs. The City must request the release of funds (RROF) from HUD for any developments carried out by other types of entities. The City reserves the right to require a Phase I Environmental Study as part of the environmental review process.

Applicants/awardees of NSP2 funds may NOT execute contracts for purchase of properties that may be funded with NSP2 until receiving written authorization from the City of Modesto to do so.

4.6 Flood Plains/Wetlands

NSP2 funds may generally not be invested in housing located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards. The City of Modesto discourages developments located in special flood hazard areas but, in some instances and with written permission from the City, houses located in a flood plain may be assisted. It is the responsibility of the applicant to evaluate any remedies to remove any properties from the flood

plans in effect and outlined in the State's approved Consolidated Plan and all applicable Uniform Relocation Assistance and Real Property Acquisition Act (URA) of 1970 provisions. Applicable regulations can be found at 49 CFR Part 24.

4.11 Audit

The City of Modesto requires that non-profit recipients expending more than \$500,000 in Federal awards in a given fiscal year have an audit conducted in accordance with Generally Accepted Accounting Principles (GAAP) and the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

4.12 Reporting Requirements

The City of Modesto is required to submit quarterly performance reports to HUD no later than thirty (30) days following the end of each quarter, beginning 30 days after the completion of the first full calendar quarter after grant award (i.e., August 1, 2009) and continuing until all funds are expended and the program is closed out. Accordingly, all NSP2 awardees will be required to submit during the projects process documentation to demonstrate their performance information to the City of Modesto by established deadlines conducive for the City to meet its reporting requirements. The required information will include, but not be limited to, the following:

- Project name
- Project activity
- Project location
- NSP2 Eligible use
- CDBG national objective
- Budgeted funds
- Expended funds
- Funding source
- Total amount of any non-NSP2 funds
- Numbers of properties and housing units assisted
- Beginning and ending dates of activities
- Numbers of low, moderate, and middle-income persons or households benefiting
- Demographic data for households benefiting

To collect the data elements and to meet its reporting requirements, the City of Modesto will use the online DRGR system to report on its NSP2 funds to HUD. When it submits the report to HUD, the City of Modesto will post a copy of the NSP2 DRGR report on the City's website for the public to review.

4.13 Program Income (24 CFR 570.503(a), (b)(3) and (7), and 570.504)

- The term "program income" means any gross income received by the subrecipient that was directly generated from the use of NSP2 or CDBG funds (24 CFR 570.500(a)). This includes, but is not limited to:
 - Proceeds from the sale or long-term lease of real property purchased or improved with CDBG funds.
 - Proceeds from the disposition of equipment purchased with CDBG funds.

- Gross income from the use or rental of property acquired by the grantee or subrecipient with CDBG funds, less the costs incidental to the generation of such income.
 - Gross income from the use or rental of property owned by the grantee or subrecipient that was constructed or improved with CDBG funds, less any costs incidental to the generation of such income.
 - Payments of principal and interest on loans made using CDBG funds.
 - Proceeds from the sale of loans made with CDBG funds.
 - Proceeds from the sale of obligations secured by loans made with CDBG funds.
 - Interest earned on program income, pending the disposition of such program income.
 - Funds collected through special assessments made against properties owned and occupied by households not of low- and moderate-income, where such assessments are used to recover part or the entire CDBG portion of a public improvement.
- Program income does not include (except for funds in lump-sum drawdown accounts), the interest earned on cash advances from the grantee or funds held in a revolving loan fund account. Such interest must be returned to the grantee for remittance to HUD.
 -
 - When income is generated by an activity that is only partially assisted with CDBG funds, the income must be prorated to reflect the percentage of CDBG funds used to determine the portion that is program income.
 -
 - The written agreement between the subrecipient and the grantee will specify whether any program income received by the subrecipient is to be returned to the grantee or retained by the subrecipient for use in carrying out CDBG activities.
 -
 - If the program income is to be retained by the subrecipient, the written agreement will also specify what CDBG-eligible activities the subrecipient may undertake with the program income.
 - The receipt and expenditure of program income must be recorded by the subrecipient as part of its records of financial transactions.
 -
 - When a subrecipient retains program income, such income must be used for any authorized activity before drawing down additional grant funds from the grantee, except in the case of a revolving fund. In the case of program income in a revolving fund, the subrecipient must use the program income for the activity for which the revolving fund was established, before drawing down additional grant funds for that activity.
 -
 - At the expiration of the Subrecipient Agreement, any program income on hand or subsequently received by the subrecipient must be returned to the grantee.

4.14 Monitoring

During the period of affordability, the City of Modesto will perform annual on-site compliance and monitoring inspections of all single-family and multi-family developments utilizing NSP2 funds to determine compliance with the applicable regulations and requirements outlined in this manual and NSP2 regulations.

- This monitoring will consist of the following:
 - All participating NSP Developers
 - All NSP Rental Properties
 - All NSP Re-Sale Properties

- Developers will be notified of their monitoring date and time through a formal letter no less than 2 weeks prior to the date of monitoring. The letter contains information notifying the developer as to which program is being monitored, which properties are being reviewed, and the type of monitoring being conducted.
 - Type of monitoring is dependent on which program component is being monitored by City of Modesto Staff. Types of monitoring are as follows:
 - “Windshield” Inspection - Upon sale of the property to a qualified buyer, notification of annual inspection and guarantee of general property upkeep is agreed to by the buyer for the life of the affordability covenant.
 - A “Windshield” inspection is done annually to ensure that the exterior of the home is adequately maintained and that the property does not become blight to the neighborhood. This 10 point visual inspection is done by a City of Modesto housing inspector.
 - Upon completion, any egregious concerns are turned over to the Neighborhood Preservation Unit and the property will be served with a Notice of Violation.
 - Physical Monitoring - Every property shall be physically inspected by city staff on an annual basis for property damage, code violations, and maintenance issues and concerns (primarily Rental Properties).
 - The Developer/Property management firm informs the current tenant of the time and date of the city inspection.
 - A City of Modesto housing inspector does a full 145 point walkthrough of the facility and grounds. For multi-unit properties HOME guidelines are followed and 20% of the units are reviews (rounded up).
 - The property is given a Pass/Fail/Concern check on all 145 points of the inspection. Once completed, the inspector determines if any of the deficiencies are severe enough for a FAIL result on the property as a whole or if the item is a “Concern” to reinsert at the next monitoring.
 - A carbon copy of the inspectors report is given to the accompanying staff member or developer representative. If the items that are discovered are easily remedied, and the developer says that they will fix the items immediately, a 2 week period of time will be allowed before an unresolved finding is recorded.
 - Developer File Monitoring:
 - Developers are expected to annually provide to City Staff a completed “Rental Housing Project Compliance Report” (City of Modesto Monitoring Form 2-A) prior to staff conducting a monitoring session. Form 2-A is a program summary containing all pertinent data for the monitoring and serves as a starting point for data verification.
 - Developer monitoring will be conducted at the developer’s place of business or at the City of Modesto (optional).
 - Monitoring Form 1-A: Developer Compliance (File Monitoring), is a checklist utilized by the City of Modesto to verify developer specific information and documentation dealing with:
 - Program Compliance
 - Rental Compliance

