

NSP RENTAL HOUSING PRODUCTION PROVISIONS

There are three important things to remember about NSP assisted Rental Housing:

- Rents are **strictly** controlled
- Tenants must be very low-income (50% of Area Median Income adjusted for family size as determined by HUD).
- Both occupancy and rents must be maintained and monitored for a minimum affordability period of 5 to 30 years depending upon the amount of NSP funds provided per unit and the amortization of the NSP loan. Actual project affordability may exceed 30 years.

Both the rent and income targeting requirements are enforced by deed restrictions and specific remedies for breach of the provisions.

A. ELIGIBLE PROPERTY TYPES

- Properties must be vacant, foreclosed properties
- The maximum purchase price of the foreclosed property must be at or below 99% of the current (within 60 days of the offer) appraised value, taking into account the as-is condition
- The maximum cost funded with NSP funds for the acquisition, rehabilitation, demolition and/or rebuilding of a single family property cannot exceed \$200,000, and for multi-family properties the HOME underwriting guidelines and per unit subsidies apply.
- Property must be located in Campbell, Fremont, Laramie, Natrona, Sweetwater or Uinta Counties.

B. INITIAL RENTS

Every unit is subject to rent controls designed to make sure that rents are affordable to very low-income households. The maximum NSP RENTS includes rent **from all sources** and is limited to no more than the LOW HOME RENTS. The Low Home Rents are shown in the Affordable Housing Allocation Plan Current Year Summary Attachment "C" Item "2".

The maximum allowable NSP RENTS must be reduced if the tenant pays for utilities. Utility adjustments are made in accordance with the utility allowances prepared by the local Public Housing Authority. Utility adjustments proposed by owners/developers for specific projects must be approved by WCDA.

Maximum monthly rents and utility allowances must be recalculated annually by the owner. They are reviewed and approved by WCDA. Rent increases may be permitted, but tenants must be given at least 30 days written notice before increases are implemented. Any increases are also subject to other provisions of the lease agreements and subject to written approval by WCDA.

C. OCCUPANCY OF NSP ASSISTED RENTAL UNITS

100% of the units assisted with NSP Funds for rental housing must be used to assist households who have annual incomes that are 50% or less of the area median income.

Owners of rental housing funded with NSP funds are required to have a written occupancy policy in place prior to the occupancy of any of the units. This policy should outline who is eligible for the units and be consistent with Fair Housing Laws. The HOME regulations list a number of prohibited lease provisions and some required lease provisions with which owners should become familiar. These same provisions are required for NSP projects. WCDA has a Suggested Occupancy Policy and a list of these provisions that owners can adapt for their project.

D. AFFORDABILITY PERIOD

NSP assisted **Rental** units are rent controlled for varying lengths of time depending upon the average amount of NSP funds invested per unit:

<u>PER UNIT HOME \$</u>	<u>MINIMUM AFFORDABILITY PERIOD</u>
<\$15,000/unit	5 years
\$15,000 - \$40,000	10 years
>\$40,000	15 years

The affordability period is the greater of the term of the loan and the term stated above. The Affordability Period for Projects with no amortizing loan will be 30 years.

E. DETERMINING THE INITIAL INCOME ELIGIBILITY OF HOME TENANTS

The income of each tenant must be determined initially as defined under the Section 8 Housing Assistance Payments programs in 24 CFR Part 5.609

F. ANNUAL RECERTIFICATION OF INCOME

The annual incomes of tenants must be re-certified each year during the period of affordability. The income of each tenant must be determined as defined under the Section 8 Housing Assistance Payments programs in 24 CFR Part 5.609

G. INCREASES IN TENANT INCOME

Tenants occupying NSP assisted units whose annual incomes exceed 80% of median (that is, they are no longer low-income) may stay in their NSP assisted apartments. Over income tenants (those who no longer qualify as low income) in NSP assisted units must pay no less than 30% of their adjusted monthly income for rent and utilities. Adjusted income is calculated according to the rules for the Section 8 Program. In general, adjustments are made by deducting from the annual income certain allowances.

WCDA will review the owner's recertification of tenant income annually. WCDA will review rent and utility allowances annually. WCDA will perform on-site inspection for compliance with Section 8 Housing Quality Standards:

- Annually for projects with more than 25 units.
- Once every two years for projects containing 5 - 25 units
- Once every three years for projects containing 1-4 units.

WCDA will review the owner's compliance with Written Agreements annually.

H. ELIGIBLE ACTIVITIES FOR RENTAL HOUSING PRODUCTION

The following activities are eligible for rental housing production with NSP funds:

1. ACQUISITION - Acquisition of an eligible property as described in Section "A" is eligible as part of a rental housing project.
2. REHABILITATION – to bring property to set quality standards.
 - a. Rehabilitation of existing structures to permit or continue affordability as described in Sections "B" and "C".
 - b. Conversion of an existing structure from an alternative use to affordable, residential housing is an eligible activity and is considered rehabilitation.
 - c. Reconstruction is defined as the rebuilding, on the same lot, of housing standing on a site at the time of project commitment. The number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased.

I. MAXIMUM FUNDING

1. There is a \$1,000,000 NSP funding limit. The limit applies to the amount of NSP funding any applicant, developer, or owner may receive regardless of the number of applications submitted or properties financed under the ReOpp program, Land Banking Program or Demolition for Housing. THIS LIMIT APPLIES TO THE MAXIMUM AMOUNT OF FUNDING COMMITTED TO PROJECTS NOT YET COMPLETED.
2. The maximum NSP funding for any one project will not exceed the purchase price plus rehabilitation costs and closing costs or \$1,000,000, whichever is less.

J. TYPE OF FUNDING

1. All funds will be in the form of amortized loans, deferred loans or a combination thereof. No NSP funds will be in the form of a grant.
2. Monthly repayment amounts will be determined by taking the maximum rent (adjusted for utility allowances) minus \$300.00 operating expense allowance for single family properties and for multi-family properties the HOME underwriting guidelines apply. The amount of the amortized loan, deferred loan, and interest rate will be determined by WCDA to coincide with Monthly Repayment Amount. The term of the loan and the affordability period will be 30 years. However, if the loan is paid in full

prior to the end of the 30 year term then the loan is subject to an acceleration clause which includes a higher interest rate, which may be up to 10%, and the repayment in full of the amortized and deferred portions of the loan according to the acceleration clause will terminate any restrictions imposed under the ReOpp Agreement.

K. LIMITATIONS AND REQUIREMENTS

1. A Quarterly Progress Report must be filed with the WCDA outlining progress toward completion. These reports must be received by the 1st day of March, June, September, and December, until project completion reports have been submitted.
2. All projects must comply with and conform in all respects to the requirements of existing law, have been duly filed with and have been approved by all governmental and municipal authorities having jurisdiction there over, and the Plans and Specifications must be in compliance with all requirements and restrictions of all applicable zoning, environmental, building, fire, health and other governmental ordinances, rules and regulations and the requirements of the appropriate board of fire underwriters or other similar body acting in and for the locality in which the Premises is located. Further, the Plans and Specifications must comply with:
 - a) the applicable edition of the International Building Code and National Electric Code; and
the local code adopted by the presiding jurisdiction; and
the Minimum Property Standards [MPS] in 24 CFR 200.925 or 200.926..
 - b) If this is a newly constructed housing project it must meet the current edition of the Model Energy Code Published by the Council of American Building Officials
 - c) The Plan and Specifications must also meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing meets the housing quality standards in 24 CFR 982.401
 - d) the accessibility requirement at 24 CFR part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, it also meets the design and construction requirement at 24 CFR 100.205, which implements Title III of the Americans with Disabilities Act of 1990 and the Fair Housing Act (42 U.S.C. 3601-3619)

Once the project is completed and placed in service the architect (if utilized) and the developer must sign a certification and acknowledgement that the project meets or exceeds all specifications, and they have read and understand consequences of violating these minimums. (See Current Year Summary Attachment “B”)

1. All projects must submit proof project will not be located in a 100-year flood plain.
2. When underwriting a project, the Debt coverage ratio, using rent at the committed amount, must be between 1.20 and 1.25 for foreclosable debt plus NSP loans.
3. When underwriting a project, the vacancy rate shall be 7%.
4. Operating Reserves to be equal to four months of projected operating expenses, plus debt service payments, and annual reserve payments.
5. Minimum replacement Reserves must equal \$300.00 per unit annually.
6. Preference must be given to individuals and families on the public housing waiting lists, and projects must commit to limiting the gross rent accepted from all sources to not exceed the maximum as presented in the application.
7. Projects must submit Financial Statements to WCDA by March 31 of each year during the compliance period. (Audited if available)
8. All projects submitted with an interest rate, for the permanent financing, above the market rate will be underwritten at the average market rate.
9. Rents committed to as a percentage of Area Median Income will be used in the Restrictive Covenants Agreement and cash flow analysis.
10. There may be no more than a 5% differential between rent and income levels.
11. The Utility Allowance source may not change from what is disclosed in the original Application throughout the compliance period without prior written permission from WCDA. (The project will be re-underwritten to verify it still meets the Allocation Plan requirements and if additional restrictions would be required.) The Utility Allowance Sources allowed are:
 - Local Public Housing Authority Estimate
 - HUD Utility Schedule Model
 - Utility Company Estimate
 - Energy Consumption Model as defined in §1.42-10 by a properly licensed engineer

Sub-metering is NOT allowed.
12. Rental projects will be monitored for compliance by WCDA or its Authorized Delegate, Spectrum Enterprises. A Manual, including submission requirements and forms is located on their web site at <http://www.spectrumlihtc.com/>, or you may obtain a copy by contacting them at 207-767-8000. Failure to provide information, and in the format as required in the Manual, will be considered non-compliance. It is important to note that an owner's representative must be present during all times during the inspection, preferably a maintenance staff person familiar with the building systems and an administrative person familiar to the residents. WCDA and SPECTRUM policy forbids any inspector going into any unit or part thereof unaccompanied. Monitoring time at each property is limited and we request that you help monitors in maintaining their

schedule. Failure to provide assistance will result in a failed unit or a re-inspection billed to the owner. Units where admittance is not possible for any reason will be failed and/or subject to re-inspection at the owner's expense. Any unit issue corrected before the inspector leaves the property will be cleared. If an owner chooses to have a re-inspection done the owner will be responsible for any additional fees and/or costs associated with the re-inspection.

13. Projects must be prepared to provide WCDA, within 30 days of notification of funding, the exact legal description of property and other information necessary to conduct an Environmental Review.
14. The owner/applicant must secure appropriate title prior to funding. Appropriate title includes Fee Simple Title.
15. Extended Title Insurance must be provided including lien, survey and easement coverage, coverage for rights, interests or claims not shown of public record, and a foundation endorsement.
16. The Title Company will act as disbursement agent for all construction funds.
17. No NSP funds will be disbursed until firm commitments are received from all funding sources.
18. WCDA will determine the NSP repayment terms in accordance with the Allocation Plan limits and restrictions when the NSP documents are prepared for closing after the first mortgage rate and term have been set (if applicable).
19. Project located in entitlement cities, Cheyenne and Casper, must provide a current (no older than 6 months) signed letter of consistency with the Consolidated Plan from the applicable Jurisdiction.
20. Maximum rents for NSP units are outlined in each project's NSP Agreement. These limits do not automatically change when HUD Income Limits change. Increases must be approved in writing by WCDA. Requests for increases will be reviewed no more than once a year.

L. OTHER FEDERAL REQUIREMENTS – the following other federal requirements apply to all NSP projects.

1. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
2. Fair Housing Act, Title VI of the Civil Rights Act of 1964
3. Lead Safe Housing Rule
4. HUD Environmental Review process