Texas Department of Housing and Community Affairs

<u>Texas Neighborhood Stabilization Program Three ("NSP3")</u>
<u>Notice of Funding Availability ("NOFA")</u>

1) Summary

The Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") announces the expected distribution and proposed use of at least $7,284,978 through the third round of the Neighborhood Stabilization Program ("NSP3"). This NSP3 funding is being allocated to the State of Texas by the U.S. Department of Housing and Urban Development ("HUD"). The amount available under this NOFA may vary over time based on additional funding allocations and as program income is received and re-offered. As additional funding is made available under this NOFA, it will be announced on the Department's website. The Department reserves the right to offer additional funds under the terms of a new or amended NOFA and to redirect uncommitted amounts under this NOFA to be offered under a superseding amendment to this NOFA or a new NOFA. The Neighborhood Stabilization Program "NSP", created under the Community Development Block Grant ("CDBG") Program, provided for funding to be awarded for the redevelopment of abandoned and foreclosed homes and residential properties and was initially authorized under Section 2301(b) of the Housing and Economic Recovery Act of 2008 ("HERA") (Pub. L 110-289, approved July 30, 2008). This allocation of funds is provided under Section 1497 of the Wall Street Reform and Consumer Protection Act of 2010 (Pub. L. 111-203, approved July 21, 2010) ("Dodd-Frank Act").

a) A Substantial Amendment ("Amendment") to the Department's CDBG Action Plan for FFY 2010 has been submitted by the State of Texas to the United States Department of Housing and Urban Development ("HUD"). This NSP3 NOFA will provide for the distribution of these funds.

b) The availability and use of these funds is subject to the Community Development Block Grant regulations (24 CFR Part 570), as applicable, the federal HOME Investment Partnerships Program (HOME) regulations (24 CFR Part 92), as applicable, and Chapter 2306, Texas Government Code. Other federal regulations may also apply such as, but not limited to, 24 CFR Part 58 for environmental requirements, 24 CFR Parts 84 and 85, as applicable, for such issues as procurement and conflict of interest, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) and implementing regulations at 24 CFR Part 135, relocation assistance provisions at 42 U.S.C §5304 (d) and 24 CFR Part 42, lead based paint procedures (24 CFR Part 35, subparts A, B, J, K, and R), and 24 CFR Parts 100-115 for fair housing. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules and program guidelines that govern the program.

c) NSP3 will be awarded independently of the Texas Neighborhood Stabilization Program Round One “NSP1”, Texas Neighborhood Stabilization Program Re-Allocation “NSP-R”, or Texas Neighborhood Stabilization Program Round One Program Income “NSP1-PI” awards. New applicants and current subgrantees in good standing that have met benchmarks in existing Texas NSP contracts are encouraged to apply for NSP3 funds. NSP3 funds may not be used to re-finance or replace Texas NSP1, Texas NSP-R, or NSP1-PI but may be used to complete Texas NSP1, Texas NSP-R, or Texas NSP1-PI projects in eligible target areas, if such projects are an eligible use under this NOFA.

d) The Department reserves the right to change the provisions of this NOFA based on updated HUD or other Federal Notices or changes in state law.

2) Allocation of Texas NSP3 Funds

TDHCA will coordinate activities in accordance with NSP guidelines, including the establishment of financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties, purchase and rehabilitation of homes and residential properties that have been abandoned or foreclosed, and the redevelopment of demolished or vacant properties. Households directly assisted with NSP funds must be income eligible and be at or below 120% of the Area Median Family Income (AMFI), as defined by HUD or as otherwise restricted by this NOFA. To the extent that a development assisted with NSP3 funds is also assisted by one or more other programs, the development may be required to meet additional requirements imposed by those other programs.

3) **Definitions**

a) As stipulated in the *Federal Register* Notices (**Dockets No. FR–5447–N–01, F-522-N-02, and FR-5321-N-03**) for NSP, there are certain terms used in HERA that are not used in the regular CDBG program. Certain terms may be used differently in HERA and in the Housing and Community Development Act of 1974, as amended. When in conflict, definitions published in the *Federal Register* (**Docket No. FR–5447–N–01, F-522-N-02, and FR-5321-N-03**) and any subsequent HUD or other Federal Errata Notice or changes in State law are controlling for Texas NSP.

b) The Department will use local code to determine the definition of a blighted structure except that moral blight is not eligible. If there is no local definition, blighted structure shall mean that a structure exhibits objectively determinable signs of deterioration sufficient to constitute, in the Department’s sole and reasonable judgment a likely threat to human health, safety, or the public welfare.

4) Limitations on Funds

a) In order to avoid allocating small amounts of funding that would likely have no meaningful impact on stabilizing neighborhoods, the minimum award amount to an eligible entity cannot be less than $500,000 in the initial application period and $30,000 thereafter.

b) Department-authorized pre-award costs for predevelopment activities, including but not limited to legal, architectural, engineering, appraisal, surveying, environmental, and market study fees, may, at the sole discretion of the Department, be reimbursed if incurred before the effective date of a Contract so long as the costs are in accordance with 24 CFR §§570.205 and 206 and 24 CFR Part 58 and the limitations herein.

c) Additional limitations as defined in HERA, Dodd-Frank, and HUD NSP Notices regarding purchases, rehabilitation, and sales of properties, will be strictly enforced.

d) The Department may adjust additional contract management benchmarks to ensure the proportionate use of funds to meet the federal mandates regarding serving households earning not more than 50% of AMFI, discounts on acquisitions and timely use of funds, and other requirements, as applicable.

5) Administrative and Activity Delivery/Soft Costs Limitations

a) Each applicant that is awarded NSP3 funds may also be eligible to receive funding for administrative costs. This term describes both administration and developer fees. Administration funds may be awarded to subrecipients only, and Developers may be awarded a developer fee only. No entity will receive both administration and developer fees. The award amount for the Administration or Developer Fee line item may be up to five percent (5%) of the contract amount for all activities. The Developer Fee must have a reasonable relationship to the value of the development services being performed and the development risks being assumed, and they may be reduced if, in the sole and reasonable judgment of the Department, such adjustments are necessary to prevent unduly enriching an entity. The administrator must use these funds in accordance with 24 CFR §§570.205 and 206, and Office of Management and Budget (OMB) Circulars A-87, A-122, A-102 and A-110, as applicable.

b) Administrative costs for projects may not be drawn until loan closing, and then only up to 10% of the total administrative award to address administrative efforts incurred up to that point. Additional administrative draws are allowed in proportion to the direct project funds drawn on the contract. Developer fee draws may be further limited by underwriting conditions applied to the project.

c) Activity Delivery costs are soft costs that are directly related to and incurred in carrying out activities for a specific housing unit or property. They are separate and distinct from general administrative costs, for which limits are stated herein. The Texas NSP limits Activity Delivery costs according to activity as specifically described in the program activity sections and as stated herein.

d) Eligible Activity Delivery costs must be reasonable and consistent with industry norms. Specific eligible activities include, but are not limited to:
   i.) preparation of work write-ups, work specifications, and cost estimates;
   ii.) architectural, engineering or professional services required to prepare plans, drawings or specifications directly attributable to a particular project;

iii.) inspections for lead-based paint, asbestos, termites or septic systems;
iv.) interim and final inspections by the construction inspector;
v.) financing fees, credit reports, title binders and insurance;
vi.) recordation fees, transaction taxes;
vii.) legal and accounting fees;
viii.) appraisal fees;
ix.) architectural and engineering fees, including specifications and job progress inspections;
x.) relocation costs;
xi.) site specific environmental reviews;
xii.) lead hazard evaluation and reduction costs; or
xiii.) Other soft costs that are demonstrably necessary to the production of an identified NSP-eligible housing unit and that are approved in writing by the Department before the costs are expended.

e) For all activities, Activity Delivery costs must be reasonable and consistent with industry norms and will be restricted to a percentage of the non-administrative NSP costs per housing unit or property. The related Activity Delivery costs maximum will be based on the activity in a range from 5% to no more than 20% of the non-administrative NSP costs (hard costs). Activity Delivery costs may not exceed the forgoing limits without prior written approval by the Department. Additionally, upon prior approval of the Department, further exceptions may be allowed in the case of Rehabilitation activities for lead-based paint hazard reduction, noise studies, and/or cost categories not identified in the Texas NSP3 NOFA.

f) For multi-family projects, Activity Delivery costs for specific properties that are not ultimately acquired by the subgrantee may be reimbursed, with the permission of the Department, only if the project has received a favorable underwriting report. All other projects may be reimbursed, with the permission of the Department. Permission will not be given, if the applicant is not in good standing with TDHCA or under any Texas NSP contract. For all projects, costs for projects that are not completed must be reasonable and consistent with industry norms, and may not exceed 50% of the maximum Activity Delivery amount established in the contract budget for the related eligible activity.

g) Subgrantees must certify and provide invoices or other documentation to support all costs, proving that the amount being reimbursed is for the actual amount of costs, including Administrative and Activity Delivery costs, and must provide documentation to support such costs.

h) Eligible Costs are limited to those listed in 24 CFR §570, Subpart C, or as otherwise identified in the *Federal Register* Notices, subsequent notices, or as otherwise limited by state law. No duplicate reimbursement of costs is allowed. Costs may only be reimbursed as either a project Activity Delivery cost or Administrative cost but not both. Additionally, costs may only be reimbursed once per occurrence when providing both acquisition and construction assistance to the same Project or Activity.

6) **Eligible and Prohibited Activities.**

a) The use of NSP3 grant funds must constitute an eligible use under the Dodd-Frank Act, and this NOFA. Most of the activities eligible in NSP represent a subset of the eligible activities under 42 U.S.C. §5305(a). The NSP eligible uses must be correlated with CDBG-eligible activities.

b) Prohibited activities include, but are not limited to:
i) The direct payment of delinquent taxes, fees, or charges on properties to be assisted with NSP3 funds;
ii) The payment of any cost that is not eligible under 24 CFR §§570.201- 570.206;
iii) Assistance to persons who owe payments identified by the Comptroller of Texas as relevant (including, but not limited to, child support, student loans, and delinquent taxes); or
iv) assistance to any household whose property is subject to tax liens and/or judgment liens in favor of the State of Texas.

c) No more than 10% of an award's non-administrative costs may be spent on demolition activities and non-blighted properties may not be demolished.

7) Eligible and Ineligible Applicants.

a) Eligible applicants for rental properties are nonprofit organizations as described in Section 501 (c)(3) or (c)(4) of the Internal Revenue Code. Eligible applicants for homebuyer properties are units of general local government (including public housing authorities), nonprofit organizations as described in Section 501(c)(3) or (c)(4) of the Internal Revenue Code, and Housing Finance Corporations authorized under the provisions of the Texas Housing Finance Corporation Act, Texas Government Code, Chapter 394.

b) Subgrantees under Texas NSP1, Texas NSP-R, and Texas NSP1-PI must have successfully met all contract milestones and thresholds as of the date of application and be in material compliance with their contracts in order to be eligible to apply under this NOFA.

c) The following violations will cause an Applicant and/or any Applications they have submitted to be ineligible:
   i) The Applicant is an Administrator of a previously funded Contract for which Department funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to application submission date; an exception may be made at the discretion of the Department if the deobligation was voluntary, part of project close-out or the remainder was completed on a subsequent Contract;
   ii) The Applicant has failed, (within the reasonable time allotted for response), to submit a response to provide an explanation, evidence of corrective action or a payment of disallowed costs or fees as a result of a monitoring review;
   iii) The Applicant is delinquent on any loan payment or fee due to the Department on the date of the Application submission;

iv) The Applicant has been or is barred, suspended, or terminated from procurement in a state or federal program or listed in the List of Parties Excluded from Federal Procurement or Non-Procurement Programs or has otherwise been debarred by HUD or the Department;

v) The Applicant has violated the State laws regarding ethics, including revolving door policy;

vi) The Applicant has been convicted of a state or federal felony crime involving fraud, bribery, theft, misrepresentation of material fact, misappropriation of funds, or other similar criminal offenses within fifteen years preceding the Application deadline;

vii) The Applicant at the time of Application submission is subject to the following for which proceedings have become final:

(a) an enforcement or disciplinary action under state or federal securities law or by the NASD;

(b) a federal tax lien; or

(c) is the subject of an active enforcement proceeding with any governmental entity.

viii) The submitted Application has excessive omissions of documentation to substantiate the Selection Criteria or is so unclear, disjointed, or incomplete, as determined by the Department, that a thorough review cannot reasonably be performed. If an Application is determined ineligible pursuant to this section, the Application will be terminated without the opportunity for corrections of administrative deficiencies.

ix) The Applicant or anyone that has controlling (51%) ownership interest in the development owner or developer that is active in the ownership or control of one or more other rent restricted rental housing properties in the state of Texas administered by the Department is in Material Noncompliance with the Land Use Restriction Agreement (LURA) (10 TAC §60.121); and

x) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.

8) Program Activities

a) General Requirements for all Activities

i) **Income Targeting:** All NSP3 activities must benefit Low, Moderate and Middle-income households as defined in the NSP Notice (≤ 120% of AMFI). All NSP funded rental activities must benefit households at less than or equal to 50% AMFI, unless prior approval is received from the Department.

ii) **Program Income:**

1. Subrecipients shall not retain any Program Income (as defined at 24 CFR §570.500(a)(1) but not including the exclusions found at 24 CFR §570.500(a)(4)) of any kind however derived, including the retention of Program Income to fund

other eligible Texas NSP activities. Any program income received from subrecipient activities utilizing Texas NSP3 funds must be returned to the Department within ten (10) business days. Revenue received by a private individual or other entity as a result of subrecipient activities involving NSP3 funds must also be returned to the Department within ten (10) business days. Unless otherwise stated herein the subrecipient shall comply with the requirements of 24 CFR §570.489(e) to account for program income, repayments, and recaptured funds.

2. Developers shall not retain any Program Income (as defined at 24 CFR §570.500(a)(1) but not including (iii) and (iv) or the exclusions found at 24 CFR §570.500(a)(4)) of any kind however derived, including the retention of Program Income to fund other eligible Texas NSP activities. Any program income received must be returned to the Department within ten (10) business days. Revenue received by a private individual or other entity as a result of developer activities involving NSP3 funds must also be returned to the Department within ten (10) business days. Unless otherwise stated herein, developers shall comply with the requirements of 24 CFR §570.489(e) to account for program income, repayments, and recaptured funds.

iii) **Appraisals:** The current market appraised value means the value of a foreclosed upon home or residential property that is established through an appraisal made in conformity with the appraisal requirements of the URA at 49 CFR Part 24.103. The appraisal must be completed or updated within sixty (60) days of a final offer made for the property by a subgrantee or individual homebuyer. However, if the anticipated value of the proposed acquisition is estimated at $25,000 or less, the current market appraised value of the property may be established by a valuation of the property that is based on a review of available data and is made by a person the grantee determines is qualified to make the valuation. Appraisers must follow the Uniform Appraisal Standards for Federal Land Acquisitions.

iv) **Discount:** All NSP3 assisted property acquisitions must attain the statutorily-required minimum 1% discount from the market appraised value, at the time of purchase. The discount is confirmed by an appraisal that meets NSP guidelines, as stated herein. Homebuyers purchasing foreclosed properties directly from the initial successor in interest must also attain the discount.

v) **Protecting Tenants at Foreclosure:** Subgrantee and homebuyer purchases of property from the initial successor in interest in a foreclosure will be subject to Protecting Tenants at Foreclosure Act of 2009 (Public Law 111-22, Title VII) and Recovery Act (Public Law 111-5) requirements.

vi) **Environmental Review:** Subgrantees must complete environmental review procedures and receive release of funds by TDHCA prior to purchase of any property or commencement of construction. In addition, before beginning construction the applicant will have: (i) received all requisite building permits and approvals of the

Plans, (ii) filed and/or recorded all requisite plats and other instruments and (iii) complied with all Legal Requirements and Environmental Laws required to be met prior to commencement of construction of the Improvements including, without limitation, all applicable restrictive covenants, zoning ordinances, subdivision and building codes, The Texas Asbestos Health Protection Rules, Texas Mold Assessment and Remediation Rules, the provisions of the Texas Windstorm insurance Association, Chapter 2210 of the Insurance Code for applicable coastal counties flood disaster laws, applicable health and environmental laws and regulations and all other ordinances, orders or requirements issued by any state, federal or municipal authorities having or claiming jurisdiction over the property.

vii) **Contingency:** All projects may include up to a 10% contingency for all rehabilitation or construction activities, except for the administrative amount.

viii) **Benchmarks:**

1. It is anticipated that successful initial applications for the Texas NSP3 will be submitted for consideration by the TDHCA Governing Board on June 30, 2011.
2. Initial subgrantees must complete acquisition of all properties by December 31, 2011, or in accordance with their award.
3. Initial subgrantees must expend all funds by November 30, 2012.
4. More specific benchmarks will be developed per property via contract. Benchmarks will be determined based on the activity to be completed.

ix) **Eligible and Ineligible Property:** Eligible property types for NSP3 assistance are limited to single-family homes and residential property (property intended for residential purposes, *i.e*. zoned residential or where there is no zoning, residential use is consistent with deed restrictions and any other limiting factors) including condominium units, apartment units, cooperative units in mutual housing projects and multifamily residential property. Further restrictions on property eligibility may apply according to the planned NSP activity. Blighted or vacant non-residential properties may be assisted with NSP3 funds, but only as part of a new construction, rehabilitation or reconstruction activity of single-family homes and residential property.

1. Manufactured Homes may be eligible for assistance if :
   (a) The unit complies with the Texas Manufactured Housing Standards Act under Chapter 1201 of the Texas Occupation Code;
   (b) The unit is permanently installed in accordance with the Texas Manufactured Housing Standards Act;
   (c) The unit is permanently attached to utilities; and
   (d) The ownership of the unit is recorded in the taxing authority of the county in which it is located.

x) **HOME previously-assisted property:** If NSP3 funds assist a property that was previously assisted with HOME funds, but on which the affordability restrictions were terminated through foreclosure or transfer in lieu of foreclosure pursuant to 24 CFR Part 92, the HOME affordability restrictions for the greater of the remaining period of HOME affordability or the affordability requirements of this NSP3 NOFA will apply.

xi) **Energy Standards** Gut rehabilitation, reconstruction or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation, reconstruction or new construction of mid-or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent. Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken. All projects must purchase Energy Star products. Water efficient toilets, showers, and faucets, such as those with the WaterSense label, must be installed.

xii) **Compliance and Monitoring** All properties will be monitored using the procedures outlined in the Texas Administrative Code Chapter 60. All owners will be required to file reports with the Department as outlined in Chapter 60. Rental properties will be required to pay the monitoring and compliance fees established by the Department from time to time, as assessed.

xiii) **Market Study** All applicants will be required to demonstrate that the proposed project meets a demonstrated community need, that occupants are reasonably likely to be available and that the type of housing proposed is financially feasible in the target area.

xiv) **Impact Score** All applicants must serve the minimum amount of household units identified for the census tract. The HUD data and mapping tool may be found on the HUD website, here: http://www.huduser.org/nspgis/nsp.html

b) **Financing Mechanisms**
Activity Type: NSP Eligible Use (A) Establish finance mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties.
CDBG Eligible Activities: 24 CFR §570.206 Activity delivery costs; Also, the eligible activities listed here to the extent financing mechanisms are used to carry them out: 24 CFR §570.201 (a) Acquisition, (b) Disposition, (n) Homeownership Assistance; 24 CFR §570.202 Rehabilitation.

TDHCA will make permanent mortgage financing and homebuyer assistance available to low, moderate, and middle income households purchasing foreclosed homes. Qualifying households will work with subgrantee entities to identify appropriate properties and complete eligibility requirements. Subgrantees may offer financing for properties they have rehabilitated or constructed with Texas NSP3 funds, or for properties that homebuyers locate.

This activity will provide affordable ownership and rental opportunities by providing financing mechanisms to a subgrantee or individual homebuyer to purchase or facilitate the purchase of foreclosed homes or residential property.

i) **Permanent Ownership Financing for Low-Income Households**

1. Qualified Households earning 50% or less AMFI based on household size may obtain Mortgage Financing from TDHCA to purchase a foreclosed single-family home or residential property. Mortgage loans will be fully-amortized over 30 years with a zero percent (0%) interest rate. Fully amortizing scheduled repayment will be as set forth in loan documents executed at loan closing. Closing costs may be financed, up to 100% of the combined loan to value. Qualified households may combine NSP3 permanent financing with homebuyer assistance from NSP1, NSP-R, NSP1-PI or other sources.
2. A minimum investment of no less than $500 will be required from all homebuyers receiving financing assistance through the Texas NSP3. Qualified households participating in an approved self-help housing program may be allowed to substitute "sweat equity" for the investment requirement.
3. All homebuyers accessing NSP3 permanent financing will be required to meet Texas NSP Homebuyer Financing Guidelines.
4. All properties assisted with NSP3 funds must meet Uniform Physical Condition Standards.

ii) **Down payment Assistance for Low and Moderate Income Households**

1. Households with income levels less than 120% of the AMFI based on household size will be eligible to access Texas NSP3 funds for down payment assistance, reasonable closing costs, principal reductions, and gap financing.
2. Assistance of up to $30,000 will be available to assist in qualifying for private mortgage financing. Homebuyer Assistance will be in the form of a 2^{nd} or 3^{rd} position lien, zero percent (0%) interest, deferred-payment forgivable loan, with the principal reducing every year that the homebuyers' occupy the home. A minimum investment of no less than $500 will be required from all homebuyers receiving permanent financing assistance through the Texas NSP3. Qualified households participating in an approved self-help housing program may be allowed to substitute "sweat equity" for the down payment requirement.
3. All properties assisted with NSP3 funds must meet Uniform Physical Condition Standards.

iii) **Affordability Period**: The Texas NSP3 has adopted the federal program standards for continued affordability at 24 CFR §92.254 as a minimum. The ability of TDHCA to enforce this requirement for the full affordability period will be secured with a recapture provision in the loan documents in form and substance satisfactory to TDHCA and its counsel.

Affordability Periods for Texas NSP3 Homebuyer Assistance

Homeownership Assistance Amount Per-Unit	**Minimum Period of Affordability in Years**
Under $15,000	5
Over $15,000	10
All permanently-financed ownership properties	30

iv) **Repayment:** The NSP3 homebuyer assistance and permanent financing loans are to be repaid if any of the following occurs before the end of the loan term: resale of the property; refinance of the first lien; repayment of first lien or if the unit ceases to be the assisted household's principal residence. The amount of recapture will be based upon the recapture provision at 24 CFR §92.254(a)(5)(ii). Recapture of the amount of the NSP investment is reduced on a *pro rata* share based on the time the homeowner has owned and occupied the unit measured against the required affordability period. The recapture amount is subject to available shared net proceeds in the event of sale or foreclosure of the housing unit.

v) **Restrictions:** The following loan requirements are imposed for all households receiving NSP3 financing:

1. No adjustable rate mortgage loans (ARMs) or interest rate buy-down loans are allowed;
2. All sources of financing may not exceed 100% combined loan to value;
3. No subprime Mortgage Loans are allowed;
4. Lenders must require the escrow of taxes and homeowners insurance;
5. Other than surveys and appraisals reimbursed to third-parties and fees allowed for the origination of single family mortgage revenue bond and mortgage credit certificate programs, fees charged by the lender in connection with mortgage loans may not exceed $2,500, and,
6. The debt to income ratio (back-end ratio), as defined in Fannie/Freddie conventional loan underwriting guidelines, may not exceed 45%.
7. Subgrantees must ensure that each NSP3-assisted homebuyer who receives conventional financing from a third party obtains a mortgage loan from a lender who agrees to comply with the bank regulators' guidance for non-traditional mortgages (see, Statement on subprime Mortgage Lending issued by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Department of the Treasury, and National Credit Union Administration). NSP-assisted homebuyers may not receive subprime mortgage loans. Compliance must be documented in the records maintained for each homebuyer.

8. Properties purchased with NSP3 assistance must be the household's primary residence within 30 days of closing the mortgage loan.
9. The Texas NSP will follow the Single Family Mortgage limits set under the February 2008 edition of Section 203(b) of the National Housing Act. Eligible entities may, with written approval of the Department, utilize as a mortgage limit the most recent 95% of Actual Median Sales for each county as promulgated by HUD. The current limit may be found on the HUD website: http://www.hud.gov/offices/cpd/affordablehousing/programs/home/limits/maxprice.cfm
10. NSP3 Homebuyer Financing is not available for investor purchases. The property financed must be the household's primary home.
11. The Texas Neighborhood Stabilization Program Homebuyer Financing Guidelines will apply for all NSP3 homebuyer transactions.

vi) **Homebuyer Counseling:** All NSP3-assisted homebuyers will be required to provide evidence of completion of at least 8 hours of homebuyer counseling from a HUD-approved housing counseling agency before obtaining a mortgage loan. Evidence must include documentation describing the level of homebuyer counseling, including post purchase counseling.

vi) **Rental (Single-family and Multifamily) Residential Property Financing:**

1. The acquisition of foreclosed, abandoned, or vacant properties by developers to create affordable rental opportunities may be funded through a permanent loan with the Department. Financing terms will be dependent on the level of affordability provided.
   (a) Single family homes leased to households at or below 50% of AMFI will be eligible for financing through a loan at zero (0%) interest, fully amortized over 30 years through the Department, for eligible units.
   (b) Single family homes leased to households at or below 30% of the Area Median Family Income will be eligible for zero percent (0%) interest, deferred forgivable financing of no more than $30,000 per unit. Any remaining amount over $30,000 per unit may be financed with a loan at zero percent (0%) interest, fully amortized over 30 years. The principal balance of the subordinate notes will be reduced proportionately every year that the home is occupied by an eligible household.
   (c) Multifamily units leased to households at or below 50% of AMFI will be eligible for financing, for a 30-year amortizing for 30 years loan, at an interest rate ranging from (0%) interest to (5% interest) to be determined by the Director of Real Estate Analysis.
   (d) Units leased to households at or below 30% of the AMFI in multi-family properties will be eligible for loan at zero (0%) interest, fully amortized over 30 years deferred-payment forgivable loan, through the Department, with the principal reducing every year that the unit is occupied by an eligible household. No more than fifty percent (50%) of the NSP3 permanently financed units in a project may receive deferred-forgivable financing.

(e) At least 20% of the units in an assisted multi-family development must be leased to households at or below 120% of the AMFI in order for any units to eligible for NSP3 permanent financing, regardless of affordability. Units leased to households over 50% of the AMFI are not eligible for permanent NSP3 financing.

2. Eligible property types are limited to single-family homes and residential property including condominium units, cooperative units in mutual housing projects and multifamily residential property.
3. For multi-family properties the maximum per-unit subsidy amount and subsidy layering allowable under the HOME Program using Section 221(d)3 limits as defined as 24 CFR §92.250 will apply. The TDHCA underwriting guidelines in 10 TAC §1.32 will be used, which set as a feasibility criterion a 1.15 debt coverage ratio minimum.
4. Properties will be restricted under a Land Use Restriction Agreement ("LURA"), or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, prohibit the discrimination of renters using Section 8 Housing Choice Vouchers or any other comparable voucher program, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.
5. The Texas NSP3 has adopted the federal program standards for continued affordability at 24 CFR §92.252 as a minimum. The ability of TDHCA to enforce this requirement for the full affordability period will be secured with a recapture provision in the loan documents in form and substance satisfactory to TDHCA and its counsel.
6. Minimum affordability period requirements will apply to all assisted units. The affordability period for NSP3 permanently financed affordable units will be a minimum of 30 years for both single and multi-family units.

Affordability Periods for Texas NSP3 Rental properties

Rental Housing Activity	Minimum Period of Affordability in Years
Rehabilitation or acquisition of existing housing per unit: Under $15,000	5
$15,000 to $40,000	10
Over $40,000	15
New construction or acquisition of newly constructed housing	20
Units with NSP Permanent financing	30

vii) **Activity Delivery Cost Limits:** Activity Delivery costs for all financing mechanisms will be limited to 10% of the NSP non-administrative costs per housing unit or property.

c) Purchase and Rehabilitation of Abandoned or Foreclosed Properties –
Activity Type: NSP Eligible Use (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.
CDBG Eligible Activities: 24 CFR §570.201(a) Acquisition, (b) Disposition; 24 CFR §570.202 Rehabilitation.

i) The acquisition and rehabilitation of foreclosed and abandoned single-family and multifamily residential properties by subgrantees will be funded through a loan with the Department. Initial awardees must sell or lease properties to eligible Low-to-Moderate, and Middle Income households within six (6) months of completion of rehabilitation or November 30, 2012, whichever is sooner. Later awardees must sell or lease six (6) months after completion of rehabilitation or November 30, 2013, whichever is sooner.
ii) A home or residential must meet the HUD definition of foreclosed or abandoned.
iii) Homes must be re-sold to eligible households at a price no higher than the cost to acquire and rehabilitate the property.
iv) Rehabilitated residential property must result in permanent housing.
v) Rehabilitation includes activities and related costs as described in 24 CFR §570.202(b), but limited to the improvement or modification of an existing residential property through an alteration, addition, or enhancement including the demolition of an existing residential property and the reconstruction (rebuilding of a structure on the same site in substantially the same manner) of residential property.

vi) Abandoned and foreclosed properties that have been purchased and rehabilitated, or reconstructed under this activity may be eligible for financing under the same terms and conditions described under Use A—Financing Mechanisms.

vii) Activity Delivery Cost Limits: Activity Delivery costs for acquisition-only activities will be limited to 15% of the NSP non-administrative costs per housing unit or property. Purchase and Rehabilitation and Rehabilitation only projects will be limited to 20% of the NSP non-administrative costs per housing unit or property.

d) **Redevelopment**

Activity Type: NSP eligible use (E) Redevelop Demolished or Vacant Properties
CDBG Eligible Activities: 24 CFR §570.201(a) Acquisition, (b) Disposition, (i) Relocation, (n) Homeownership Assistance (restricted)

i) Redevelopment of demolished or vacant properties will address areas of greatest need throughout the state, where vacant properties are contributing to declining land values. Eligible redevelopment activities include acquisition, rehabilitation and new construction of housing for eligible ownership or rental use as permanent housing.

ii) Subgrantee financing for acquisition and redevelopment activities will be made available in the form of a deferred-payable zero-interest loan. The loan will be due three years from the contract start date. All or a portion of the subgrantee loan may be converted to financing for eligible households under the same terms and conditions as Use A –Financing Mechanisms.

iii) Acquisition, rehabilitation and new construction of residential properties must result in permanent housing. Properties must be sold to eligible households at a price no higher than the cost to acquire and construct the home (some activity delivery costs associated with the sale of the property may be included).

iv) Demolition as part of redevelopment is an eligible project expense, but it is limited to 10% of the NSP non-administrative costs.

v) "Vacant properties" includes both vacant land and properties with vacant structures on the land; however, vacant land must be infill properties or previously developed. "Greenfield" sites may not be acquired under Eligible Use (E).

vi) Activity Delivery Cost Limits: Activity Delivery costs for Redevelopment will be limited to 20% of the NSP non-administrative costs per housing unit or property.

9) General Loan Requirements

a) **Multifamily Rental Development Loan Requirements.**

i) Award amounts are limited to available funding as limited in the application process and respective applicant pool. The minimum loan may not be less than $1,000 per NSP3 assisted unit. The Department's underwriting guidelines in 10 TAC §1.32 will be used, which set as a feasibility criterion a 1.15 debt coverage ratio minimum. Developments involving rehabilitation must establish that the rehabilitation will substantially improve the condition of the housing and the scope, specifications and costs must be outlined in a Property Condition Assessment pursuant to 10 TAC

§1.36. When NSP funds are used for a rehabilitation development the entire property must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a)(1) and as outlined herein.

ii) When the Department will be in a first lien position and funds are to be used for new construction, redevelopment and/or rehabilitation, assurance of completion of the development in the form of payment and performance bonds in the full amount of the construction contract is required. Such assurance of completion will run to the Department as obligee and must be documented prior to starting construction. The obligation must be from a surety acceptable to the Department in its sole and reasonable discretion.

iii) NSP3 Multifamily properties will be underwritten using the current year Real Estate Analysis Rules, except that if the Rules and the Federal or Texas NSP guidelines conflict, the provisions described in the HUD notice or described herein will govern.

iv) NSP3 funds can only be used for the operating reserve if a third-party lender requires that funds be allocated for operating reserves as a condition for approving their loan. The amount of operating reserves may exceed amounts provided for in TDHCA's Real Estate Analysis rules only with documentation acceptable to the Department of the third-party lender's reserve requirements. If no third-party lender requirement is imposed in the transaction, the Department may require the developer to defer a fee or a portion of the fee to make deposits to operating reserves until the end of the contract period. The Developer may not use NSP funds to pay for an on-going subsidy (or any other on-going project based rental assistance).

v) The Developer is required to establish a Reserve for Replacement consistent with 10 TAC §1.37.

vi) The Texas NSP will adopt the federal program standards for continued affordability for rental housing at 24 CFR 92.252(a), (c), (d), (e) and (f), and 92.254, however, multifamily housing units will also be required to adhere to a 30-year affordability period as defined in the Texas Government Code §2306.185, which outlines State of Texas long-term affordability requirements. Units targeting households earning 50% of AMFI must maintain income and rent restrictions for households at that level published by the Department. Units permanently financed with NSP3 funds will have a 30-year affordability period.

c) **Documents Supporting Mortgage Loans**

i) All mortgage Loans shall be evidenced by a mortgage or deed of trust note and by a mortgage that creates a lien payable to TDHCA on the housing development and on all real property that constitutes the site of or that relates to the housing development and such other documents as TDHCA may reasonably require. All documents must be in form and substance satisfactory to TDHCA and its counsel.

ii) For each Loan made for the development of housing with funds provided under the NSP3 program, the Department shall be provided with a mortgagee's title policy in the amount of the loan. The Department may not designate a specific title insurance company to provide the mortgagee title policy or require the borrower to provide the policy from a specific title insurance company. The borrower shall select the title insurance company to close the loan and to provide the mortgagee title policy. The title policy may not reflect any liens, charges, encumbrances, or other matters excepted from coverage that are not acceptable to TDHCA in its sole and reasonable judgment.

d) **Documents Supporting Homebuyer Assistance and Rehabilitation Loans**

i) The Subgrantee must ensure that required documents as listed on NSP property set-up forms, underwriting guidelines, or program manuals are timely submitted to the Department, in order to request that Loan documents be prepared for the Household.
ii) Additional documentation may be requested in order to complete the appropriate underwriting review.
iii) The Subgrantee will be responsible for timely coordination of all parties in order to meet closing deadlines. Continued late submission of required documents or lack of response to Department requests may result in de-obligation of NSP3 funds and termination of the Contract.
iv) All NSP3 homebuyer financing will be secured with documents approved by the Department.

10) Site and Construction/Development Restrictions

a) **Single Family Housing**

i) All housing that is constructed or rehabilitated with NSP3 funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In the absence of a local code for new construction or rehabilitation, the housing must meet the International Residential Code and the National Electrical Code, as applicable. In addition, housing that is rehabilitated with funds awarded under this NOFA must meet all applicable energy efficiency standards established by §2306.187 of the Texas Government Code, and energy standards as verified by RESCHECK.

ii) If a Texas NSP3 assisted single-family or duplex is newly constructed and reconstructed, the applicant must also ensure compliance with the universal design features in new construction, established by §2306.514 of the Texas Government Code, and as implemented by TDHCA.

iii) All NSP3 assisted properties must meet all applicable State and local housing quality standards and code requirements, which at a minimum must address Universal Physical Condition Standards (UPCS) or the housing quality standards (HQS) in 24 CFR §982.40, but only if HQS is required for another funding source. If there are no such standards or code requirements, the housing must meet Universal Physical

Condition Assessment guidelines, unless HQS is required for another fund source. When NSP3 funds are used for rehabilitation the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a)(1).

iv) All NSP3 assisted ownership units must pass inspection by a licensed Texas Real Estate Commission inspector prior to occupation.

b) **Multifamily Rental Housing**

i) Housing that is constructed, reconstructed or rehabilitated with NSP funds must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. When NSP funds are used for rehabilitation, the entire development must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1). In the absence of a local code for new construction, reconstruction, or rehabilitation, NSP-assisted new construction, reconstruction or rehabilitation must meet, as applicable, International Residential Code and the National Electrical Code. In addition, housing that is rehabilitated with funds awarded under this NOFA must meet all applicable energy efficiency standards established by §2306.187 of the Texas Government Code, and energy standards as verified by RESCHECK.

ii) Gut rehabilitation, reconstruction or new construction of residential buildings up to three stories must be designed to meet the standard for Energy Star Qualified New Homes. All gut rehabilitation, reconstruction or new construction of mid-or high-rise multifamily housing must be designed to meet American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 90.1-2004, Appendix G plus 20 percent. Other rehabilitation must meet these standards to the extent applicable to the rehabilitation work undertaken.

iii) Multifamily Housing must meet the accessibility requirements 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, must also meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C. 3601–3619) and the Fair Housing Act Design Manual produced by HUD. Additionally, pursuant to the current Qualified Allocation Plan as of the date of the application, 10 TAC §50.9(h)(4)(H), Developments involving New Construction (excluding New Construction of nonresidential buildings) where some Units are two-stories and are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit type (*i.e*. one bedroom, two bedroom, three bedroom) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level. A certification will be required after the Development is completed from an inspector, architect, or accessibility specialist. For rehabilitation developments, the scope, specifications and costs associated with complying with accessibility requirements must be identified in the Property Condition Assessment.

iv) A single-site development of over 16 units must have all the development amenities listed in 10 TAC §49.4(14) or as defined in the threshold requirements of the Qualified Allocation Plan, current as of the date of application. If a development is requesting a waiver of any threshold amenity the waiver request must be included in the application. Requests will be evaluated using the criteria outlined in 10 TAC§49.4(14).

v) All NSP3 assisted properties must meet all applicable State and local housing quality standards and code requirements, which at a minimum must address Universal Physical Condition Standards (UPCS) or the housing quality standards (HQS) in 24 CFR §982.40, but only if HQS is required for another funding source. If there are no such standards or code requirements, the housing must meet Universal Physical Condition Standards, unless HQS is required for another fund source. When NSP3 funds are used for rehabilitation the entire unit must be brought up to the applicable property standards, pursuant to 24 CFR §92.251(a) (1).

vi) The TDHCA Real Estate Analysis Rules current as of the date of the application, will apply, except that if the Rules and the Federal or Texas NSP guidelines conflict, the provisions described in the HUD notice or described herein will govern.

vii) Any Development proposing New Construction or Reconstruction and located within the one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site so that all finished ground floor elevations are at least one foot above the flood plain and parking and drive areas are no lower than six inches below the floodplain, subject to more stringent local requirements. If no FEMA Flood Insurance Rate Maps are available for the proposed Development, flood zone documentation must be provided from the local government with jurisdiction identifying the one-hundred (100) year floodplain. No buildings or roads that are part of a Development proposing Rehabilitation (excluding Reconstruction) with the exception of Developments with existing and ongoing federal funding assistance from HUD or TRDO-USDA, will be permitted in the one-hundred (100) year floodplain unless they already meet the requirements established in this subsection for New Construction, or if the Unit of General Local Government has undertaken mitigation efforts and can establish that the property is no longer within the one-hundred (100) year floodplain.

viii) All applications with multifamily housing units intended to serve persons with disabilities must adhere to the Department's Integrated Housing Rule at 10 TAC §1.15.

ix) Multifamily properties will be restricted under a Land Use Restriction Agreement ("LURA") or other such instrument as determined by the Department for these terms. Among other restrictions, the LURA may require the owner of the property to continue to accept subsidies which may be offered by the federal government, prohibit the owner from exercising an option to prepay a federally insured loan, impose tenant income-based occupancy and rental restrictions, or impose any of these and other restrictions as deemed necessary at the sole discretion of the Department in order to preserve the property as affordable housing on a case-by-case basis.

c) **Additional Requirements (Single and Multifamily Housing)**

i) NSP assisted new construction or rehabilitation will comply with federal lead-based paint requirements including lead screening in housing built before 1978 in accordance with 24 CFR §92.355 and 24 CFR Part 35, subparts A, B, J, K, M, and R. Lead-based paint requirements, for Multifamily properties, must be discussed in the Property Condition Assessment.

ii) As applicable, Davis-Bacon Labor Standards will apply, and for Multifamily Housing must be discussed in the Property Condition Assessment.

iii) Section 3: Recipients will be required to provide job opportunities to low-income residents and businesses, to the greatest extent possible. Reporting of efforts and results according to Department policy will be required of all subgrantees. A Section 3 Plan is required for all NSP3 properties.

iv) Affirmative Marketing. Recipients must adopt affirmative marketing policies and procedures in furtherance of Texas's commitment to non-discrimination and equal opportunity in housing. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, gender, religion, familial status or disability. Records should be maintained describing actions taken by the Administrator to affirmatively market units and assess the results of these actions. An Affirmative Marketing Plan is required for all NSP3 properties.

v) Texas NSP3 will require adherence to the guidelines set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (49 CFR Part 24) and 104(d) requirements set out in 24 CFR Part 42.

vi) All applicants must have Limited English Proficiency Policy that follows Executive Order 13166, as implemented by HUD.

vii) The NSP3 allocation from HUD includes a requirement that subgrantees, "shall, to the maximum extent feasible, provide for the hiring of employees who reside in the vicinity, of projects funded this section or contract with small business that are owned and operated by persons residing in the vicinity of such projects." For the purposes of administrating this requirement, HUD has adopted the Section 3 applicability thresholds for community development assistance at 24 CFR §135.3 (a)(3)(ii). The NSP3 local hiring requirement does not replace the responsibilities of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C §1701u), and implementing regulations at 24 CFR Part 135, except to the extent the obligations may be in direct conflict. Vicinity is defined as the census tract where the project is located. Small business means a business that meets the criteria set forth in section 3(a) of the Small Business Act. See 42 U.S.C. §5302(a)(23). All applicants will be required to have a vicinity preference plan

viii) All applicants must ensure compliance with the certifications required by HUD, as outlined in *Federal Register* Notice (**Docket No. FR–5447–N–01).**

11) **Selection Criteria and Priorities**

a) The State of Texas has established the priorities and scoring described below that will be used in the application review process. While the criteria are important to demonstrate a successful proposal, the scoring structure is also designed to ensure that the State complies with the requirements of the HUD Notice designed to prioritize areas of greatest need, meets applicable CDBG regulations, meets Department priorities and efficiently and effectively expends the funds.

b) All applications must contain the address of the target property.

c) All initial round applications must meet a minimum threshold total score of 38 points to be considered for funding. Applications considered for award after April 15, 2011, must meet a minimum score of 33 points. Should applications meeting this minimum score threshold exceed available funding, such eligible applications will be retained regardless of date of submission until such a time that funding is available in sufficient amounts to fund the applications or a subsequent Texas NSP NOFA covering NSP3 funds is released.

i) Maximum Total Score = 55 Points (initial application period) or 50 points:
1. Greatest Need (20 Points); Minimum Score 16 points.
2. Rental Property (10 Points) or (5 Points after Initial Application)
3. Prior experience with Texas NSP and TDHCA (Up to 5 Points)
4. Local at Risk Priorities (10 Points)
5. Low-Income Households (Up to 5 Points)
6. Low Poverty Area (1 Point)
7. Transit Area (1 Point)
8. Education Opportunities (1 Point)
9. Special Needs/Hard to Serve Populations (Up to 2 points)

ii) **Greatest Need (20 Points):** NSP3 activities must be completed in eligible census tracts, as determined by HUD under the Neighborhood Stabilization 3 NOFA. Applicants are required to provide evidence that activities will meet a Neighborhood Stabilization purpose, in a census tract with a threshold foreclosure needs score of 16 or more. The HUD data and mapping tool may be found on the HUD website http://www.huduser.org/NSP/NSP3.html the data sets for eligible census tracts are available at http://www.huduser.org/portal/datasets/NSP.html Printouts confirming the eligibility of each proposed census tract must be attached to the Application. These areas may change as the data is updated, and the target score will be determined as that which was in place as of the date of application.

iii) **Rental Properties (10 Points till April 15th, 5 points thereafter):** The NSP3 allocation included statutory language requiring the establishment of procedures to create preferences for the development of affordable rental housing for properties assisted with NSP3 funds. Texas NSP3 is demonstrating this preference through a points system.

iv) **Local At-Risk Priorities: (10 Points)** The identified cities listed in Table 1, as attached to this NOFA, are communities at risk of losing affordable units with existing or former funding through the Department. Eligible applications that are located and willing and able to commit to minimum unit, affordability term and amount of non-federal funds for each specified city, as identified in the chart in Addendum 1 will receive points under this scoring item. The Applicant must be willing to execute a Texas HOME LURA and be able to meet all of the conditions of the federal requirements of a HOME funded development in conjunction with the requirements of this NOFA. These areas may change as the data is updated, and the points will be determined as that which was in place as of the date of application.

v) **Previous Participation with Texas NSP and TDHCA funds (5 Total Points)**: An Applicant will receive two points for having prior State of Texas NSP experience and three points for experience with other TDHCA funds. The experience must have been completed with the same type of construction as the Application is proposing (single family, multifamily, new construction, rehabilitation, etc.) and have acquired their experience in connection with a development with at least 80% as many units as the Units in the development for which Application is being made. The experience will be documented as outlined in the most current QAP plan, as applicable.

vi) **Assistance to Low-Income Households at or Below 50% AMFI (5 Total Points):** In order to emphasize affordability for households at or below 50% of AMFI, the State will give up points to proposals that will serve households in this income category. Each household served in this income category will receive a point, up to five points.

vii) **Low Poverty Area (1 point):** The development is in a census tract that has no greater than 10% poverty threshold population according to the most recent census data as of the date of the application.

viii) **Transit District (1 point):** The development or unit is in a mixed-use residential and commercial area, located within a radius of one-quarter mile from an existing or proposed transit stop, designed to encourage pedestrian activities and maximize access to public transportation.

ix) **Educational Opportunities (1 point):** The development or unit will serve families with children (at least 70% of the Unit or units must have an eligible bedroom mix of two bedrooms or more) and is proposed to be located in an elementary school attendance zone that has an academic rating of "Exemplary" or "Recognized," or comparable rating if the rating system changes. An elementary attendance zone does not include magnet school or elementary schools with district-wide possibility of enrollment or no defined attendance zones. The date for consideration of the attendance zone is that in existence as of the received date of the application and the academic rating is the most current rating determined by the Texas Education Agency as of that same date.

x) **Special Needs or Hard to Serve Populations (1 point per category up to 2 points):** At least 51% of the NSP assisted unit or units are designed to serve, Elderly, Persons with Disabilities, Transitioning out of Homelessness, Victims of Domestic Violence, Veterans, Transitioning out of Foster Care, Prisoner Reentry, or Migrant Farmworkers.

xi) **Tiebreaker:** In the event that two or more Applications receive the same priority based upon the scoring and are both practicable and economically feasible, the Department will utilize the factors in this section, in the order they are presented, to determine which Development will receive a preference in consideration for an awarded of funds.
(1) Applications involving any Rehabilitation or Reconstruction of existing Units will win this first tier tie breaker over Applications involving solely New Construction or Adaptive Reuse.
(2) The Application with the least amount of Texas NSP funds per Texas NSP restricted unit will win this second tier tie breaker.

xii) **Department Priorities**: The Federal NSP3 NOFA contains a requirement that at least 25% of the awarded funds be spent on housing for households at or below AMFI. The Department will fund the highest scoring, complete application that meets this requirement even if other applications scored higher. This determination will be made in the sole discretion of the Department.

12) Review Process

a) Each applicant will be required to submit an application. The application can be found on the Department's website.

b) Each application will be assigned a "received date" based on the date and time it is physically received by the Department. Then each application will be reviewed on its own merits, as applicable. Applications received on or before 5:00 pm, Austin local time, on Friday, April 15, 2011, will be prioritized for funding based on department priorities, competitive scoring and the amount of funding available, currently at least $7,284,978. Applications will be reviewed for applicant and activity eligibility, and threshold criteria as described in this NOFA.

c) Eligible applications which meet minimum scoring criteria for funding consideration, but for which the amount of funding currently available is insufficient, will be retained by the Department until such a time that funding is available in sufficient amounts to fund the applications or a subsequent Texas NSP3 NOFA is released.

d) Applications for NSP3 received after April 15, 2011 will be retained until such a time that funding is available in sufficient amounts to fund the applications or a subsequent Texas NSP3 NOFA is released, but will be scored after initial funding is determined.

e) The Department will ensure review of materials required under the NOFA, Program Guide, and application and will issue a notice of any Administrative Deficiencies within ten (10) business days of the received date, if the application meets minimum threshold score criteria. Administrative deficiencies are omissions, inaccuracies or incomplete information on the application that can be readily corrected. Applications with Administrative Deficiencies not cured within a subsequent ten (10) business days will be terminated.

f) If a submitted Application fails to meet threshold score criteria, has an entire section of the application missing; has excessive omissions of documentation from the Selection Criteria or required documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, will be terminated without being processed as an Administrative Deficiency. To the extent that a review was able to be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant.

g) The Department may decline to consider any Application if the proposed activities do not, in the Department’s sole determination, represent a prudent use of the Department’s funds. The Department is not obligated to proceed with any action pertaining to any Applications that are received, and may decide it is in the Department’s best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.

h) All Applicants will be processed through the Department’s Application Evaluation System, and will include a previous award and past performance evaluation. Poor past performance may disqualify an Applicant for a funding recommendation or the recommendation may include conditions.

i) Funding recommendations of eligible Applicants will be presented to the Department’s Governing Board of Directors based on eligibility and limited by the total amount of funds available under this NOFA and the minimum award amount.

j) In accordance with §2306.082, Texas Government Code and 10 TAC §1.17, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC §1.17.

k) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

l) Each applicant will be required to demonstrate how their proposal addresses their local needs and how, if applicable, it coordinates with their community's consolidated plan

m) If the Department's loan(s) amount to more than 50% of the total development cost, except for developments also financed through the USDA-515 program, the Application MUST include:
   a. A letter from a third party CPA verifying the capacity of the owner or developer to provide at least 10% of the total development cost as a short term loan for development; and
   b. A letter from the developer's or owner's bank(s) confirming funds amounting to 10% of the total development cost are available; or
   c. Evidence of a line of credit or equivalent tool equal to at least 10% of the total development cost from a financial institution that is available for use during the proposed development activities.

13) Application Submission

a) All applications submitted under the initial round of this NOFA must be received on or before **5:00 p.m. Austin local time on April 15, 2011,** regardless of method of delivery for consideration in the initial competitive application award process. After that date, applications will be held until such a time that funding is available in sufficient amounts to fund the applications or until there is a subsequent NOFA.

b) The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. Questions regarding this NOFA should be addressed to:

Texas Department of Housing & Community Affairs
221 E. 11th Street
Austin, Texas 78701
Telephone: (512) 463-2179
E-mail: megan.sylvester@tdhca.state.tx.us

c) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.

d) Applicants must submit one complete printed copy of all Application materials and one complete scanned copy on a disc of the Application materials.

e) All Application forms will be available on the Department's website at www.tdhca.state.tx.us. Applications will be required to adhere to the threshold requirements in effect at the time of the Application submission. Applications must be on forms provided by the Department, and cannot be altered or modified and must be in final form before submitting them to the Department.

f) Applicants awarded funds will be required to map their target area using the HUD data and mapping tool: http://www.huduser.org/nspgis/nsp.html

g) **Application Workshop:** the Department will present an application workshop via webinar format on a date to be determined. The workshop will address information such as the Application preparation and submission requirements, evaluation criteria, state and federal program information, and environmental requirements. The Application workshop schedule and registration will be posted on the Department's website at www.tdhca.state.tx.us

h) **Audit Requirements:** An applicant is not eligible to apply for funds or any other assistance from the Department unless a past audit or Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application deadline for funds or other assistance per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified. Staff will not recommend applications for funding to the Department's Governing Board unless all unresolved audit findings, questions or disallowed costs are resolved per 10 TAC §1.3(c).

i) Applications must be sent via overnight delivery to:

Texas Department of Housing and Community Affairs
Attn: Neighborhood Stabilization Program
221 East 11th Street
Austin, TX 78701-2410

or via the U.S. Postal Service to:

Texas Department of Housing and Community Affairs
Attn: Neighborhood Stabilization Program
Post Office Box 13941
Austin, TX 78711-3941

NOTE: *This NOFA does not include the text of the various applicable regulatory provisions that may be important to the administration of the Neighborhood Stabilization Program. For proper completion of the application, the Department strongly encourages potential applicants to review all applicable State and Federal regulations.*