

Information Relay Service at 800-877-8339.

Dated: July 9, 2010.

**David H. Stevens,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2010-17326 Filed 7-14-10; 8:45 am]

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5410-N-01]

### Federal Housing Administration (FHA) First Look Sales Method for Grantees, Nonprofit Organizations, and Subrecipients Under the Neighborhood Stabilization Programs (NSP)

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice outlines the process by which governmental entities, nonprofit organizations, and subrecipients participating in the Neighborhood Stabilization Program (NSP) (eligible NSP purchasers) are provided a preference to acquire FHA real estate-owned (REO) properties under FHA's temporary NSP First Look Sales Method. Eligible NSP purchasers may acquire such REO properties for any of the eligible uses under the NSP, including rental or homeownership. Today's notice also outlines how REO property sales under the FHA First Look Sales Method will be facilitated to ensure that NSP and FHA requirements are met, and to ensure that compliance with these requirements does not impede or otherwise disqualify eligible NSP purchasers from successfully participating in the FHA First Look Sales Method.

While there are currently two separate NSP programs (NSP1 and NSP2) created under their own respective authorizing legislation, for purposes of this notice the term "NSP" shall be used to refer in general to all current or future NSP programs, as well as to their respective eligible program participants.

**DATES:** The FHA First Look Sales Method announced in this notice shall be in effect from the date of publication of this notice through May 31, 2013.

**FOR FURTHER INFORMATION CONTACT:** Vance T. Morris, Director, Office of Single Family Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9172, Washington, DC 20410; telephone number 202-708-1672 (this is not a toll-free number). Persons

with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Neighborhood Stabilization Program (NSP)

Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110-289, approved July 30, 2008) (HERA) appropriated \$3.92 billion for emergency assistance for the redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as the Neighborhood Stabilization Program (NSP). HERA authorizes the Secretary to specify alternative requirements to any provision under Title I of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 *et seq.*) (HCD Act), except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint), in accordance with the terms of section 2301 of HERA and for the sole purpose of expediting the use of grant funds.

On October 6, 2008 (73 FR 58330), HUD published a notice in the **Federal Register** advising the public of the allocation formula and allocation amounts, the list of grantees, alternative requirements, and waivers granted. On June 19, 2009 (74 FR 29223), HUD published a second notice in the **Federal Register** advising the public of substantive revisions to the October 6, 2008, notice, primarily as a result of changes to NSP authorized under the American Recovery and Reinvestment Act (Pub. L. 111-005, approved February 17, 2009) (Recovery Act).

Title XII of Division A of the Recovery Act also appropriated additional funding under NSP. On May 4, 2009, HUD posted on its website the Notice of Funding Availability (NOFA) for the Neighborhood Stabilization Program 2 (NSP2) under the Recovery Act. HUD announced the posting of the NSP2 NOFA through a **Federal Register** notice published on May 7, 2009 (74 FR 21377). The NSP2 NOFA announced the availability of approximately \$1.93 billion in competitive grants authorized under the Recovery Act. Following issuance of the NSP2 NOFA, HUD made some revisions.

A notice posted on June 11, 2009 clarified, among other things, how applicants were to meet the geographic targeting requirements. A second notice posted on November 9, 2009, revised the NSP2 NOFA to: (1) Correct an inconsistency in the NSP2 NOFA regarding when the lead member of a consortium must enter into consortium funding agreements with consortium members; and (2) extend the deadline for submission of such agreements to January 29, 2010. A third notice posted on January 21, 2010, specified the NSP2 NOFA deadline date for submission of consortium funding agreements. Additional notices posted by HUD on April 2, 2010, revise the definitions of "foreclosed" and "abandoned" for the purposes of the NSP programs. Notices of the changes listed above were published in the **Federal Register** on June 17, 2009 (74 FR 28715), November 16, 2009 (74 FR 58973), January 27, 2010, (75 FR 4410), and April 9, 2010 (75 FR 18228), and are available on HUD's Web site at: <http://www.hud.gov/nspta>.

##### B. FHA Temporary First Look Sales Method for Eligible NSP Purchasers

The purpose of the FHA real estate-owned (REO) property disposition program is to dispose of properties in a manner that expands homeownership opportunities, strengthens neighborhoods and communities, and ensures a maximum return to the mortgage insurance funds. HUD's regulations for the program are codified at 24 CFR part 291 (entitled "Disposition of HUD-Acquired Single Family Property"). Under the part 291 regulations, HUD has considerable flexibility in determining appropriate methods of sale for REO properties. Section 291.90 provides that "HUD may, in its discretion, on a case-by-case basis or as a regular course of business, choose from among" several sales methods identified in the regulations. Further, § 291.90(e) provides that "HUD may select any other methods of sale, as determined by the Secretary."

Consistent with the goals of both NSP, to aid in the redevelopment of abandoned and foreclosed homes, and of HUD's REO sales program, to expand homeownership opportunities and strengthen communities, this notice announces a temporary REO sales method under the authority conferred by § 291.90(e). Through the FHA First Look Sales Method described in this notice, HUD will afford eligible NSP purchasers with a preference ("First Look") to acquire FHA REO properties that are available for purchase within NSP areas. Eligible NSP purchasers may

acquire such REO properties with the assistance of NSP funds for any eligible uses under the NSP, including rental or homeownership.

The NSP designated areas referred to within this notice shall include those areas termed "areas of greatest need" under NSP1, "target geographies" under NSP2, and those areas to be given other future NSP area designations.

### C. Eligible NSP Purchasers

Governmental entities, nonprofit organizations, and subrecipients that have received a HUD-issued Name and Address Identification Number (NAID) are eligible to participate in the First Look Sales Method, and are referred to throughout this notice as "eligible NSP purchasers." For-profit organizations are not eligible to participate in the FHA First Look Sales Method. **Note:** Each FHA REO property purchased by an eligible NSP purchaser under the First Look sales method must be purchased, at least in part, with the assistance of NSP funds.

## II. Procedures and Requirements for Eligible NSP Purchaser Participation in FHA First Look Sales Method

### A. Eligible NSP Purchaser Application for Electronic Systems Access

Eligible NSP purchasers (NSP grantees, nonprofit organizations, and subrecipients) seeking to acquire FHA REO properties through the FHA First Look Sales Method are not required to complete an approval process as required of other entities seeking to purchase REO properties under the FHA direct sales program. However, entities acquiring FHA REO properties must have identifying information entered into HUD Single Family Asset Management System (SAMS). Therefore, eligible NSP purchasers interested in acquiring FHA REO properties through the FHA First Look Sales Method must first submit a completed and signed Payee Name and Address Form, SAMS 1111, to the applicable FHA Homeownership Center (HOC), along with supporting documentation described below.

Using the information provided under the completed SAMS form, HUD will create and assign a unique Name and Address Identification Number (NAID) for each entity involved in direct business with HUD. This form is available online at: <http://www.hud.gov/offices/adm/hudclips/forms/files/1111sams.pdf>; instructions are provided on page 2 of the SAMS form identifying the required documentation to be attached to the SAMS 1111 submission in order to successfully obtain a NAID.

**Note:** If an eligible NSP purchaser is an entity or organization to which HUD has already assigned a NAID, it is still necessary for the entity or organization to complete this step in order for their current NAID number to be coded for the FHA First Look Sales Method. In either case, applicants are directed to read the SAMS 1111 instructions to ensure that their NAID application package is submitted with the required information and supporting documentation.

Once an eligible NSP purchaser has submitted its SAMS/NAID paperwork to the appropriate HOC, and once these forms have been processed and approved, HUD shall generate a NAID number that must be used by the eligible NSP purchaser to electronically submit an offer to purchase any given FHA REO property available for purchase during the FHA First Look purchase period described below under Section E, *Exercising Purchase Preference*. Information about the eligible NSP purchaser's NAID number shall be provided to the eligible NSP purchaser by HUD's Office of Community Planning and Development (CPD) and its NSP contractor.

State or local government NSP participants, whether HUD direct grant recipients or subawardee/subrecipient partners to another grant recipient entity, shall submit the following documents as part of their NSP NAID application package:

- A completed form SAMS 1111 and supporting documentation as specified under the SAMS 1111 instructions;
- A letter from either the chief elected official or by the director of the local government agency managing the community's NSP funds verifying that it is an NSP recipient or subawardee/subrecipient and identifying the government official or staff person or persons who has or have been granted signatory authority to purchase any FHA REO properties with the assistance of a grantee's NSP funds.

- In each case where the state or local government entity is a direct HUD recipient of NSP funds, the letter shall also identify the state or local government's NSP grant award number.

- In each case where a state or local government entity is a direct HUD NSP recipient, the letter shall also identify any and all organizations and entities (state/county/local government and/or nonprofit organization(s)) that are subawardees/subrecipients under the state or local government's NSP grant, including all pertinent contact information for each (names, titles, addresses, telephone and fax numbers, email addresses).

- In each case where a state or local government entity is an NSP subawardee/subrecipient, the letter shall identify the direct HUD NSP grant recipient with which the state or local government NAID applicant has partnered, including all pertinent contact information for the direct recipient partner (name, title, address, telephone and fax numbers, and email address), and the direct HUD NSP grant recipient's grant award number.

Nonprofit NSP participants, whether direct HUD grant recipients or subawardee/subrecipient partners to another grant recipient entity, shall submit the following documents as part of their NSP NAID application package:

- A completed form SAMS 1111, and supporting documentation as specified under the SAMS 1111 instructions;
- The most current version of the nonprofit's approved bylaws, or equivalent legal document, identifying which elected nonprofit board officials and/or nonprofit staff have signatory authority to execute the purchase of real property on behalf of the nonprofit organization and with the nonprofit organization's financial resources; and
- A letter from the Executive Director and/or the nonprofit Board President/Chair (or equivalent) certifying that the nonprofit is an NSP recipient or subawardee/subrecipient and identifying the board official(s) and/or nonprofit staff person(s) who have signatory authority to execute the purchase of any FHA REO properties assisted with the nonprofit's NSP funds. In each case where the nonprofit organization is a direct HUD recipient of NSP grant funds, the letter shall also identify the nonprofit's NSP grant number.

- In each case where a nonprofit organization is a direct HUD NSP recipient, the letter shall also identify any and all organizations and entities (state/county/local government and/or nonprofit organization(s)) that are subawardee/subrecipients under the nonprofit's NSP grant, including all pertinent contact information for each such subrecipient (names, titles, addresses, telephone and fax numbers, email addresses).

- In each case where a nonprofit entity is an NSP subrecipient/subawardee, the letter shall identify the direct HUD NSP grant recipient with which the nonprofit NAID applicant has partnered, including all pertinent contact information for the direct recipient partner (name, title, address, telephone and fax numbers, email address), and the direct HUD NSP grant recipient's grant award number.

*B. Submission of NAID Application Documentation*

Eligible NSP purchasers shall submit the documentation described in Section II.A of this notice to the appropriate HOC below, for review and approval. Each application submitted by mail must be enclosed in an envelope marked: "ATTENTION—NSP NAID PROCESSING."

*Atlanta HOC:* U.S. Dept. of HUD,  
Atlanta Homeownership Center, 40  
Marietta Street, Atlanta, GA 30303–  
2806

*Denver HOC:* U.S. Dept. of HUD, Denver  
Homeownership Center, 1670  
Broadway, Denver, CO 80202–4801

*Philadelphia HOC:* U.S. Dept. of HUD,  
Philadelphia Homeownership Center,  
The Wanamaker Building, 100 Penn  
Square East, Philadelphia, PA 19107–  
3389

*Santa Ana HOC:* U.S. Department of  
Housing & Urban Development, Santa  
Ana Homeownership Center, Santa  
Ana Federal Building, 34 Civic Center  
Plaza, Room 7015, Santa Ana, CA  
92701–4003

Applications for NSP NAID numbers may also be submitted to the appropriate HOC via email. All required NAID application documents, including those requiring official signatures, must be converted into Portable Document Format (.PDF) files and emailed to the appropriate HOC. The subject line for each such email submission must read, "ATTENTION—NSP NAID PROCESSING."

The following email addresses have been established for each respective HOC for the express purpose of receiving NSP NAID application submissions:

- Denver: *NSP-NAIDDENHOC@hud.gov*;
- Philadelphia: *NSP-NAIDPHIHOC@hud.gov*;
- Atlanta: *NSP-NAIDATLHOC@hud.gov*;
- Santa Ana: *NSP-NAIDSAHOC@hud.gov*.

Information regarding which HOC has jurisdiction over FHA REO sales in a particular state is available online at <http://www.hud.gov/offices/hsg/sfh/hoc/hsgdocs.cfm>.

Additional information about FHA programs and policies is available through FHA's toll-free telephone number (800–CALL–FHA/800–225–5342, and TDD: 877–833–2483). Information may also be provided by contacting FHA by email at [info@fhaoutreach.com](mailto:info@fhaoutreach.com).

*C. Duration of FHA First Look Periods: Consideration and Purchase*

FHA REO properties that become available for purchase within an NSP-designated area shall be designated as First Look properties. HUD CPD and its NSP data mapping contractor will make information available to eligible NSP purchasers about FHA REO properties located within NSP-designated areas on a daily basis, per the receipt of electronic boundary files for each NSP designated area, as described under Section D, below. The period between conveyance to FHA and the completion of the property appraisal shall constitute the First Look consideration period, lasting up to 12 business days on average. Once an NSP First Look property has been appraised, the eligible NSP purchaser will be notified that the property has an appraised sales value and that the First Look purchase period has commenced. From this point the eligible NSP purchaser shall have two (2) business days to submit an offer to the appropriate FHA Management and Marketing (M&M) contractor to purchase the property. Information about each contractor and related contract submission process instructions shall also be provided to eligible NSP purchasers separate from this notice.

The duration of the entire First Look period may be a total of 14 days on average. Each such First Look property shall remain available for purchase under the First Look Sales Method until an eligible NSP purchaser submits an offer to purchase the property (in whole or in part with the assistance of NSP funds), or through the expiration of the 2-day purchase period, whichever comes first. In the event that no eligible NSP purchaser exercises its preference to purchase an FHA REO property with the assistance of NSP funds during the 2-day First Look purchase period, the M&M contractor shall proceed to market the property according to the applicable disposition procedures under 24 CFR part 291.

*D. Submission of Electronic Boundary Files of NSP Designated Areas*

Notification of the availability of FHA REO properties will be made available to NSP grantees where the property location is within the boundary of the NSP grantees' designated area and for those NSP grantees that have applied for and received a HUD-issued NAID. NSP grantees are required to submit an amendment to HUD if the designated area changes. In addition, the grantee needs to provide HUD with an updated jurisdictional boundary file. Submission

instructions for NSP boundary files and guidance on the approved formats are available at <http://hudnsphelp.info/index.cfm?do=NSP1info> and <http://www.huduser.org/portal/nsp1/nsp.html>.

*E. Exercising Purchase Preference*

Information about the availability of each FHA REO property that is available for purchase within a designated NSP area shall be made available to eligible NSP purchasers through the CPD NSP contractor immediately after the property is conveyed to FHA. Each such FHA REO property shall subsequently be appraised and made available for purchase by an eligible NSP purchaser under the First Look Sales Method for a period of two (2) business days. Before submitting an offer to purchase an FHA REO property through the FHA First Look Sales Method, and with the assistance of NSP funds, eligible NSP purchasers must confirm that the property is within the boundaries of the NSP designated area as it was accepted by CPD, regardless of any possible errors or generalizations made to the representation of that designated area in the boundary file or made by HUD when determining that an FHA REO property is within a designated area. After confirmation, eligible NSP purchasers should use the NAID to submit offers to purchase.

In those cases where the boundaries of any two or more NSP areas overlap, and where multiple eligible NSP purchasers wish to exercise their preference to purchase an FHA REO property that is located in two or more such NSP designated areas, the right to purchase the property shall be granted to the eligible NSP purchaser that first submits an offer to purchase the property in question. FHA REO properties within an FHA-approved Asset Control Area shall not be available for purchase under the First Look Sales Method.

*F. Discounted Sales Price*

For each FHA REO property acquired by an eligible NSP purchaser through the FHA First Look Sales Method, and with the assistance of NSP funds, FHA, through its applicable M&M contractor, shall sell the property to the eligible NSP purchaser at a discounted purchase price of 10 percent below the appraised property value, less any applicable costs, including commissions. In all cases, the minimum discounted purchase price of each FHA REO First Look property purchased by an eligible NSP purchaser (in whole or in part with NSP funds) shall be one percent off of the appraised property value; in no case shall the discounted purchase price

exceed 99% of the appraised property value. The sales price of each FHA REO property is based upon the appraised value of the property. Upon request, the date of the FHA appraisal will be made available to the NSP purchaser by the M&M contractor.

#### G. Uniform Relocation Act

Acquisitions financed with NSP grant funds are subject to the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (URA) and its implementing regulations at 49 CFR part 24, and the requirements set forth in the NSP notice published in the **Federal Register** on October 6, 2008. Since eligible NSP purchasers do not have the power to condemn FHA REO property, acquisitions through the FHA First Look Sales Method may fall under the voluntary acquisition exclusion at 49 CFR 24.101(b)(3). That provision exempts certain governmental acquisitions from the URA acquisition policies without the written disclosures ordinarily provided to private sellers.

#### H. Tenant Protection Requirements Under PTFA and ARRA

There are two separate laws concerning tenants in foreclosed properties: the Protecting Tenants at Foreclosure Act (PTFA), which is part of the Helping Families Save Their Homes Act of 2009 (Pub. L. 111-22, approved May 20, 2009), and the Recovery Act. On June 24, 2009 (74 FR 30106), FHA issued a notice on PTFA directed to entities and individuals that participate in HUD programs or with whom HUD interacts in its programs (for example, approved mortgagees and approved nonprofit organizations). The responsibility for meeting the new tenant protection requirements applies to all successors in interest of residential property, regardless of whether a federally related mortgage is present. The immediate successors in interest of residential property, which is being foreclosed, bear direct responsibility for meeting the requirements of PTFA. The PTFA protections are self-executing and became effective on May 20, 2009.

The Recovery Act includes separate tenant protection requirements. In order to use NSP funds to acquire foreclosed residential property, the eligible NSP purchaser must perform due diligence to ensure that the initial successor in interest to the foreclosed property complied with tenant protection requirements specified in the Recovery Act (or make a determination that such tenant protection requirements are inapplicable), and the grantee must keep adequate documentation of tenant

protection compliance or inapplicability. Eligible NSP purchasers are required to document compliance with the tenant protection provisions of the Recovery Act, as follows:

[T]he grantee shall 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 in accordance with Appendix 1, Section K. Acquisition and relocation under section K.2.a. and K.2.b. of the May 4, 2009 NSP2 NOFA. If the grantee determines that the initial successor in interest in such property failed to comply with such requirements, it may not use NSP 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 a grantee 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 NSP funds and maintain records in sufficient detail to demonstrate compliance with the provisions of that section.

For each proposed acquisition of an FHA REO property with NSP grant funds, the FHA Mortgagee Compliance Manager (MCM)<sup>1</sup> will provide the eligible NSP purchasers with information regarding when each property acquired by FHA REO was determined to be vacant and the date that the Notice of Foreclosure was issued. Such information may include whether only the former mortgagor currently occupies and/or occupied the property at the time of the notice of foreclosure, copies of the tenant lease, information on the occupants, and/or any notices to vacate that the foreclosure attorney who works for the mortgagees may have on file. Based upon the information provided, it will be the responsibility of the eligible NSP purchaser to determine whether the initial successor in interest of a particular foreclosed property was in compliance with the Recovery Act and whether the property was eligible for acquisition with NSP grant funds.

#### I. Contract Contingency Terms

Properties acquired with NSP funds are subject to a number of other federal requirements cited under HUD's regulations before the sale can be executed and the funds can be expended. These requirements include, but are not limited to: Environmental review, including historic preservation and other related laws under 24 CFR part 50 or part 58, as applicable; the lead-based paint hazard abatement

requirements under 24 CFR part 35; payment of prevailing wages determined under the Davis-Bacon Act of 1931, as appropriate; and the URA. The acquisition and ultimate disposition of these properties must also comply with applicable federal civil rights laws, including, but not limited to, Title VI of the Civil Rights Act of 1964 and its implementing regulations at 24 CFR part 1; the Fair Housing Act, as amended, and its implementing regulations at 24 CFR part 100; Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR part 8; and the Architectural Barriers Act of 1968.

Eligible NSP purchasers shall be permitted to submit, and FHA M&M vendors shall accept, sales contracts for the purchase of FHA REO properties with the assistance of NSP funds under the FHA First Look Sales Method that include contingency clauses pertaining to the successful completion of the environmental review process, the lead paint inspection, and other requirements, as applicable under the NSP. Contingency clauses concerning the environmental review process must meet the provisions of the NSP Guidance on Conditional Purchase Agreements found at [http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/cond\\_purchase\\_agreement.pdf](http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/cond_purchase_agreement.pdf).

Each eligible NSP purchaser is expected to close on the purchase of each FHA REO property within the same time frames that apply to non-NSP purchasers under FHA requirements. As such, when scheduling the settlement date, the M&M contractor shall provide the maximum time allowable under applicable FHA requirements to ensure that the eligible NSP purchaser is provided with the time necessary to document compliance with all applicable NSP requirements. This includes the approval by the M&M contractor of any request submitted by an eligible NSP purchaser to extend the settlement deadline, per the procedures and guidelines provided under Property Disposition Handbook One to Four Family Properties (Handbook 4310.5 REV-2) (<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4310.5/index.cfm>). Approval of settlement deadline extension requests are typically premised upon the fact that a purchaser is experiencing extenuating circumstances beyond its control and which have a direct impact upon its ability to go to settlement at the initially agreed-upon deadline. For eligible NSP purchasers these extenuating circumstances may pertain, but may not

<sup>1</sup>Michaelson, Connor & Boul, which is referred to at <http://www.hud.gov/offices/hsg/sfh/nsc/mcm.cfm>.

be limited to, the successful completion of various NSP requirements, as described above. Any such request for the extension of the settlement deadline on the part of the eligible NSP purchaser, and subsequent decision on the part of the M&M contractor, must be made in writing.

**Note:** Prior to signing any sales contract, the HUD Office of Single Family Housing will first complete its environmental review responsibilities pursuant to 24 CFR part 50, including its responsibility to provide notice of site contamination following a search of agency files pursuant to section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or "Superfund", 42 U.S.C. 9620(h)), and will incorporate any resulting conditions in the sales contract. Any remediation of site contamination required pursuant to section 120(h) shall be performed prior to property transfer. Also as a condition of sale, the purchaser of any FHA owned property located in a special flood hazard area and where flood insurance is available through the National Flood Hazard Insurance Program will be required to obtain flood insurance.

In the event that an FHA REO property for which an eligible NSP purchaser has submitted a contingent sales contract that does not meet the standards and requirements under 24 CFR part 35 and/or 24 CFR part 50 or part 58, or any other applicable statutes, regulations, or requirements, or if the NSP purchaser cannot successfully complete the various environmental review and other federal requirement reviews under the NSP program before the expiration of the required FHA deadline; or if the purchase of the property does not otherwise meet the eligible NSP purchaser's cost feasibility or other affordable housing program requirements, the sales contract shall be terminated at no cost to the eligible NSP purchaser. In addition, all obligations of the eligible NSP purchaser under the contract shall be extinguished.

#### *J. FHA 90-Day Anti-Frequent Re-Sale Waiver*

On January 15, 2010, FHA issued a waiver of regulations under 24 CFR 203.37a(b)(2), "Re-sales occurring 90 days or less following acquisition." The waiver is effective February 1, 2010, through January 31, 2011, unless otherwise extended or withdrawn. On May 21, 2010 (75 FR 38632), HUD published a notice in the **Federal Register** announcing this waiver and seeking comments from industry, potential purchasers, and other

interested members of the public on the conditions which must be met for the waiver to be provided. Comments will be taken into consideration in determining whether any modifications should be made to the waiver eligibility conditions. Under this waiver, FHA REO properties can be acquired by a purchaser and resold by the same purchaser to a homebuyer who has been approved to acquire the property with an FHA insured mortgage less than 90 days after the initial acquisition. The full text of the anti-frequent re-sale waiver is available online: <http://www.hud.gov/offices/hsg/sfh/currentwaiver.pdf>. Additional guidance on compliance with the terms of this waiver is forthcoming from the Department.

#### *K. Affordability Requirements*

FHA REO properties acquired with NSP funds through the FHA First Look Sales Method must meet the NSP affordability requirements, and shall otherwise be considered to be the monitoring responsibility of CPD. As required by statute and regulation, eligible NSP purchasers shall maintain all documentation of compliance with NSP Program affordability requirements for each FHA REO property acquisition assisted, in whole or in part, with NSP funds, and shall make such documentation available for review, upon request of FHA staff and/or (consistent with state and local laws regarding privacy and obligations for confidentiality) FHA M&M III contractors.

#### *L. Paperwork Reduction Act*

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Numbers 2502–0306 and 2502–0540. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

#### *M. Environmental Impact*

A Finding of No Significant Impact (FONSI) with respect to the environment has been made for this notice in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between 8 a.m. and 5 p.m. weekdays in

the Regulation Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the FONSI must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number).

Dated: July 9, 2010.

**David H. Stevens,**

*Assistant Secretary for Housing–Federal Housing Commissioner.*

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## **DEPARTMENT OF THE INTERIOR**

### **Fish and Wildlife Service**

**[FWS–R8–ES–2010–N139; 1112–0000–81440–F2**

### **Endangered and Threatened Wildlife and Plants; Permit, San Bernardino County, CA**

**AGENCY:** U.S. Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from CJR General Partnership (applicant) for an incidental take permit under the Endangered Species Act of 1973, as amended (Act). We are considering issuing a permit that would authorize the applicant's take of the federally threatened desert tortoise (*Gopherus agassizii*) and State threatened Mohave ground squirrel (*Xerospermophilus mohavensis*) incidental to otherwise lawful activities that would result in the permanent loss of 120 acres of habitat for the species near Oro Grande in San Bernardino County California. We invite comments from the public on the application, which includes the AgCon Habitat Conservation Plan (HCP) that fully describes the proposed project and measures the applicant will undertake to minimize and mitigate anticipated take of the species. We also invite comments on our preliminary determination that the HCP qualifies as a "low-effect" plan, which is eligible for a categorical exclusion under the National Environmental Policy Act (NEPA) of 1969, as amended. We explain the basis for this determination in our draft Environmental Action Statement and associated Low-Effect Screening Form, both of which are also available for review.