

## **SECTION E - ENVIRONMENTAL REVIEW**

### **1. CHECKLIST**

- **The Environmental Review Record is a public document. A complete file must be kept.**
- **Compliance is mandatory - All grantees receiving HUD funds must comply.**
- **Funds may not be committed for a HUD project until an environmental release letter is received from the State. Expenses incurred prior to receiving the release will not be reimbursed.**
- **Grantees bear all legal responsibility for environmental compliance.**

### **2. OVERVIEW**

#### **HUD ENVIRONMENTAL REVIEW REGULATIONS - (24 CFR PART 58)**

The environmental review process required by the CDBG program is regulated by the Federal Code of Regulations at 24 CFR Part 58. Other HUD programs covered by these regulations include include: Section 8, Homeless Programs, Indian Housing, ESG, HOPWA and HOME projects.

CDBG grantees must comply with **24 CFR PART 58** by completing the following **THREE** steps:

1. Complete the Description of Proposed Action (DPA) form and appropriate checklist and submit to the state CDBG office for review. (Grantees doing housing rehab will only complete a housing rehab checklist.)
2. Publish any required public notices and submit documentation to the State, if applicable.
3. Obtain a letter of Environmental Release for all activities associated with this grant.

There are **TWO groups of laws, policies and regulations** you must address to comply with 24 CFR Part 58:

- 1) **NEPA – National Environmental Policy Act of 1969** (40CFR Parts 1500-1508) This document establishes national policy, goals and procedures for protecting, restoring and enhancing environmental quality.
- 2) **Related Federal Laws and Authorities** (24 CFR 58.5). These laws include: HUD Environmental Criteria and Standards (24 CFR Part 51 (B) (C) (D) - Noise, Thermal and Explosive Hazards, and Airport Clear Zones
  1. Toxic Chemicals and Radioactive Material – CERCLIS (HUD notice 79-33)
  2. Historic properties
  3. Floodplain management and wetland protection
  4. Coastal area protection and management
  5. Sole source aquifers
  6. Endangered species
  7. Wild and scenic rivers
  8. Air quality
  9. Farmland protection
  10. Environmental Justice (Executive Order 12898)
  11. Environmental Standards (24 CFR Part 51)
    - I. Noise
    - II. Hazardous Substances (above ground storage tanks)
    - III. Airport Clear Zones

**STATE RESPONSIBILITIES** - The State Office will:

- Develop monitoring and enforcement procedures of environmental reviews.
- Receive public notices, requests for release of funds and certifications, public comments, and the documents of related actions for the release of environmental grant conditions.

**GRANTEE RESPONSIBILITIES** – The Grantee will:

- **Designate an Environmental Certifying Officer (ECO) – THIS IS USUALLY ONLY REQUIRED FOR ENVIRONMENTAL ASSESSMENT (EA) PROJECTS\*.** This person will sign the DPA form and checklist and also complete the Request for Release of Funds. This person will represent the grantee in any court proceeding. By default, this person is the chief elected official or another employee may be designated by resolution. See Exhibit E-2 for a sample resolution. The preferred ECO is the chief elected officer of the city, town or county in which the project is located. Other positions within the city/county may be designated, if preferred.
- **Prepare an Environmental Review Record (ERR).** This is a written record of the environmental process. It must be available for public review. It will include all documentation related to environmental concerns. The file should include:
  - Designation of the Environmental Certifying Officer (ECO) (if required)
  - Description of Proposed Action (DPA) – always required
  - Environmental Checklist – (for CAT X or EA projects) with supporting documents – (narrative explanation, memos, maps, correspondence or other resources)
  - Public notices (if required)
  - Request for Release of Funds & Certification (if required)
  - The **Environmental Release Letter** from the State – ALWAYS required

**3. GETTING STARTED**

- ✓ Begin by turning to the 2<sup>nd</sup> green tab in handbook marked “Environmental Forms”. Using Form E-1, determine which project category the HUD project falls under. There are 4 to choose from.
  - ◆ **58.34-EXEMPT**
  - ◆ **58.35 (a) -CATEGORICALLY EXCLUDED**
  - ◆ **58.35 (b) – CATEGORICALLY EXCLUDED (Not subject to 58.5)**
  - ◆ **58.36/ 58.40 ENVIRONMENTAL ASSESSMENT**
- ✓ Choose a project type from the far left column of the E-1 form and determine which of the 4 project categories it falls under. From here you will know what kind of environmental review you will be completing.
- ✓ Complete the DPA Form – Exhibit E-3

**4. COMPLETING THE ENVIRONMENTAL REVIEW CHECKLIST (if applicable)**

- Read the CHECKLIST INSTRUCTIONS on page 5 of Environmental Forms Section
- Review the blank and sample checklists that begin on page 7 of Environmental Forms Section
- Narrative/Comments must be included on form or on a separate page.
- Checklist and Instructions for the “Categorically Excluded” review begin on page 7
- Checklist and Instructions for the “Environmental Assessment” review begin on page 21.
- Housing Rehab Checklist and Instructions begin on page 30 of the Forms Section.
- Most of the resources needed to complete the checklists are in this Handbook – Attachments A- L

**5. WHEN TO PUBLISH A PUBLIC NOTICE FOR THE ENVIRONMENTAL REVIEW**

- **Exempt projects** – no publication is required
- **Categorically Excluded 58.35 (b) Projects** – no publication is required unless the project is located in a Special Flood Hazard Area (SFHA) or Airport Clear Zone. (Runway Protection Zone)
- **Categorically Excluded 58.35 (a) Projects** – no publication is required unless one of the environmental criteria on the checklist is triggered and requires mitigation. Must publish a “Notice of Intent to Request Release of Funds” (NOI-RROF) Page 33 of Forms Section
- **Environmental Assessment Projects** – A publication is ALWAYS required. Must publish a “Finding of No Significant Impact” – (FONSI/NOI-RROF) Page 34 of Forms Section

**6. EXTRA HELP AND GUIDANCE**

Grantees should call the State Environmental Review Officer (Cheryl Brown) with any questions or problems with this review process. Section L is the “Who to Contact” list of persons and offices that will provide guidance as well.

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