

CDBG Environmental Review

Case Study

“Conducting an Environmental Review”

The Town of Bristol has had a successful CDBG program for many years. As a grantee receiving State CDBG funding, the town established the Department of Housing and Community Development (DHCD). DHCD staff are active in the community, and partner with numerous nonprofit organizations in implementing various parts of its CDBG program.

Among the projects proposed recently is a project to establish housing for developmentally disabled individuals. Bristol Housing Partnership (BHP) is the nonprofit subgrantee heading up this housing project and its proposal included a plan to find an existing building to rehabilitate to house six individuals. The BHP proposal indicated that it would also provide services and training for the residents.

Once the project was approved, BHP identified an existing building, a large house, to purchase and rehabilitate. There were no known environmental issues associated with the existing building or site, so DHCD anticipated that the project would be completed in a timely manner. However, BHP was unable to purchase the building when the owner sold it to a private condominium developer for a much higher price.

BHP had to regroup and look for another property. This took some time, but eventually, BHP found an alternate property. This new property, a former commercial space that once contained a dry cleaner, would require extensive rehabilitation, but BHP liked the location and the potential.

The Environmental Specialist for the unit of general local government was assigned to complete the environmental review for the project. DHCD likes to avoid delays and provide guidance to subgrantees on the environmental review process.

1. When can BHP purchase the property for this project? Can BHP use nonfederal funds to purchase the property prior to completion of the environmental review?
2. What is the level of review for the first property – rehabilitating an existing house?
3. What is the level of review for the alternate property?
4. Are there any environmental issues with the alternate property that might delay the Environmental Review?
5. What is the content of the environmental review record (ERR) for the alternate property?
6. What must the grantee do before committing or expending funds?

Answer Key – Environmental Review

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1. When can BHP purchase the property for this project? Can BHP use nonfederal funds to purchase the property prior to completion of the environmental review?

Once BHP submitted its application to DHCD for CDBG assistance for the project, neither BHP nor any participants in the development process may commit or expend HUD funds, nor any non-HUD funds on activities that would have an adverse environmental impact, or limit the choice of reasonable alternatives until the State approves the Request for Release of Funds. BHP can only acquire the property after an Environmental Review is complete and State approves the Request for Release of Funds.

BHP cannot use nonfederal funds to purchase the property prior to completion of the Environmental Review. See 24 CFR 58.22

2. What is the level of review for the first property – rehabilitating an existing house?

The level of review for the first property may be Categorically Excluded, but subject to the related laws and authorities in §58.5 because the land use did not change. However, if the amount of rehabilitation does not meet the criteria defined in 24 CFR 58.35(a)(3), then a full Environmental Assessment may be required.

3. What is the level of review for the alternate property?

The alternate property would require a full Environmental Assessment.

4. Are there any environmental issues with the alternate property that might delay the Environmental Review?

The new site, which previously housed a dry cleaner, will complicate the project because the site may be contaminated. HUD's policy is that all properties that are proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants, or the intended use of the property [sec. 58.5(i)(2)]. Although Part 58 does not require preparation of an ASTM Phase I Environmental Site Assessment, if the RE cannot establish through other means that the site is not affected by contamination, then a Phase I will need to be conducted and testing may be required to determine whether the site is contaminated.

5. What is the content of the environmental review record (ERR) for the alternate property?

See HUD recommended format for the Environmental Assessment

Contents of Environmental Review File:

The Environmental Review Record must contain all of the environmental review documents, public notices and written determination or environmental findings as part of evidence of the review, decision making and actions pertaining to the project. The file will be available for public review. The file must:

- Describe the project and the activities that are part of the project
- Evaluate the effects of the project or the activities on the human environment
- Document compliance with applicable statutes and authorities
- Record the written determinations
- Other verifiable source documents and relevant base data used or cited in Environmental Assessments, Environmental Impact Statements or other project review documents. The documents may be incorporated by reference.

6. What must the grantee do before committing or expending funds?

Notices/Request

- Publish combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds (minimum 15 calendar days)
- Respond to comments, if received.
- Send Request for Release of Funds and Certification (form 7015.15) and proof of Notice to State
- Must wait 15 days for public objection period to elapse
- State issues Authority to Use Grant Funds (form 7015.16), or equivalent authorization.

Note: All of these documents must be placed in the Environmental Review File.