

# CDBG Crosscutting Issues: Environmental Review



Date  
Trainer



Prepared by Abt Associates for the U.S. Department of Housing and Urban Development



# Purpose of the Workshop

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## To Ensure That Every Participant:

- Is familiar with the applicable Federal regulations
- Understands the HUD regulations and procedures

# Training Norms

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- Cell phones off or to vibrate
- Step out to answer (if essential)
- No smoking
- Questions on topic please

# Entitlement versus State CDBG Program

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## Entities Assuming Environmental Review Responsibilities (Responsible Entity) (24 CFR Part 58)

### CDBG Entitlements

- Unit of local government assumes Part 58
- HUD approves RROF/C

### State CDBG

- State assumes Part 58
- HUD approves RROF/C

### State Recipients (Small Cities) CDBG

- State recipients assume Part 58
- State approves RROF/C

# Why Are Environmental Reviews Important?

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- They ensure a quality project by:
  - Assuring a safe, decent and sanitary environment for people occupying or residing there
  - Taking impacts on the environment into account
  - Ensuring the project site is suitable for the activity being proposed
- They prevent time delays and cost overruns that might otherwise occur because of unknown environmental conditions

# HUD-Assisted Project

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- Part 58 applies:
  - On the date the responsible entity (RE) receives a proposal or application for federal assistance
  - At the time the recipient makes an initial indication of approval to use CDBG assistance

# Governing Regulations

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- 40 CFR 1500-1508, Council on Environmental Quality's regulations implementing the National Environmental Policy Act (NEPA)
- 24 CFR Part 58 (Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities)  
Points to NEPA and other applicable regulations and sections of Federal laws and authorities (Section 58.5)
- 24 CFR Part 51 (Environmental Criteria and Standards)
- 24 CFR Part 55 (Floodplain Management)
- 24 CFR Part 35 (Lead Based Paint Rule)  
Go to <http://www.hud.gov/offices/lead/training/index.cfm> for more info on LBP training
- 36 CFR Part 800 (Protection of Historic Properties)

# Levels of Environmental Review

	Exempt	Categorically Excluded, not subject to 58.5	Categorically Excluded, subject to 58.5	Environmental Assessment	Environmental Impact Statement
<b>Regulatory Citations</b>	<b>24 CFR Part 58.34</b>	<b>24 CFR Part 58.35(b)</b>	<b>24 CFR Part 58.35(a)</b>	<b>24 CFR Part 58.36</b>	<b>24 CFR Part 58.37</b>
<b>Examples</b>	Administration, Project Planning, Environmental Studies, and Engineering Design	Supportive services, such as health care, housing services, etc., and assistance in accessing local, state and Federal government benefits  Economic development activities, including equipment purchase, operating expenses and similar costs not associated with construction or expansion of existing operations  Tenant-based rental assistance	Acquisition, repair, improvements, reconstruction or rehab; facilities have same use w/out changes in size or capacity > 20%  Rehab of residential buildings (<= 4 units), when density is not increased beyond four units, land use is not changed, and footprint of the building is not increased in floodplain or wetland  Projects to remove barriers restricting mobility & accessibility to elderly and handicapped persons	New construction, or land acquisition for housing or economic development  Converting a property to another use (e.g. commercial to residential, commercial to public facility, etc.)  Rehab that exceeds the thresholds for categorical exclusion	Projects having a regional and/or long-term impact, e.g., construction of a power plant or landfill  Will pose significant or potentially significant impacts on unique resources, e.g., endangered species, unique landforms, etc. Effects are highly uncertain or involve unique or unknown risks.  High controversial for scientific or engineering reasons

# Environmental Review Process

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Top Five Methods for Managing the Environmental Review Process in the CDBG Program

...or How to Ensure that Funds are Not Obligated Prior to Completion of the Environmental Review

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

1. Understand the process for Environmental Review BEFORE proposing a project
  - Responsible Entity/Recipient
  - Certifying Officer
  - Limitations on activities prior to environmental clearance
  - Assess the need for project aggregation
  - When re-evaluation of environmental findings becomes necessary

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

1. Understand the process for Environmental Review BEFORE proposing a project

- Responsible Entity/Recipient

Assumes responsibility for environmental review, decision making, and action according to NEPA and Part 58

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

1. Understand the process for Environmental Review BEFORE proposing a project
  - Certifying Officer
    - Chief elected official of the responsible entity (RE),  
or
    - Other official that has the authority to consent on behalf of the chief elected official to federal court jurisdiction and bind the RE to satisfy any judgment about the environmental record.

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

1. Understand the process for Environmental Review BEFORE proposing a project
  - Limitations on activities prior to environmental clearance
    - Neither the recipient nor project participants may commit HUD funds
    - Neither the recipient nor project participants may commit non-HUD funds that would have an *adverse environmental impact or limit the choice of reasonable alternatives*

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

1. Understand the process for Environmental Review BEFORE proposing a project

- Assess the need for project aggregation

Group together and evaluate as a single project *related actions/activities*, regardless of whether HUD funds will be used in whole or in part

# What are *Related Activities*?

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- Automatically trigger other actions
- Cannot or will not proceed unless other actions are taken beforehand or at the same time
- Are mutually dependent parts of a larger activity/action

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

1. Understand the process for Environmental Review BEFORE proposing a project
  - When re-evaluation of environmental findings becomes necessary
    - The recipient proposes substantial changes in the nature and scope of the project, including adding new activities
    - New circumstances/conditions occur that may have an impact
    - The recipient proposes a new alternative not previously considered

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

2. Understand the types of environmental issues that could delay a project
  - Examine compliance issues related to Federal laws and authorities (§ 58.5) for their potential relevance to a project
  - Examine environmental factors related to the human environment (i.e., natural resources, social, economic), according to NEPA

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

3. Understand when activities may be considered Exempt or Categorically Excluded
  - Activities that are exempt from the requirements of NEPA and the Federal laws listed in §58.5
  - Activities that are Categorically Excluded from the requirements of NEPA, but may be subject to the Federal laws in § 58.5

# Levels of Environmental Review

	<b>Exempt</b>	<b>Categorically Excluded, not subject to 58.5</b>	<b>Categorically Excluded, subject to 58.5</b>		
<b>Regulatory Citations</b>	<b>24 CFR Part 58.34</b>	<b>24 CFR Part 58.35(b)</b>	<b>24 CFR Part 58.35(a)</b>		
<b>Examples</b>	Administration, Project Planning, Environmental Studies, and Engineering Design	Supportive services, such as health care, housing services, etc., and assistance in accessing local, state and Federal government benefits  Economic development activities, including equipment purchase, operating expenses and similar costs not associated with construction or expansion of existing operations  Tenant-based rental assistance	Acquisition, repair, improvements, reconstruction or rehab; facilities have same use w/out changes in size or capacity > 20%  Rehab of residential buildings (<= 4 units), when density is not increased beyond four units, land use is not changed, and footprint of the building is not increased in floodplain or wetland  Projects to remove barriers restricting mobility & accessibility to elderly and handicapped persons		

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

4. Understand what procedures must be followed
  - Exempt Activities or Categorically Excluded Activities Not Subject to § 58.5
  - Categorically Excluded Activities Subject to § 58.5
  - Environmental Assessment (NEPA and § 58.5)
  - Environmental Impact Statement (NEPA and § 58.5)

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

4. Understand what procedures must be followed
  - Exempt Activities or Categorically Excluded Activities Not Subject to § 58.5
    - Written determination of Exemption or Categorically Excluded Not Subject to § 58.5
    - Determine compliance with § 58.6 (“Other requirements”)

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

4. Understand what procedures must be followed
  - Categorically Excluded Activities Subject to § 58.5
    - Complete Statutory Worksheet
    - If converts to exempt, stop here
    - If doesn't convert, issue a public notice and then:
      - \* Submit Request for Release of Funds and Certification (RROF/C) to HUD/State
      - \* HUD/state approval
    - Implement conditions and mitigation measures

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

4. Understand what procedures must be followed
  - Environmental Assessment (NEPA and § 58.5)
    - Complete Environmental Assessment (use HUD recommended format or equivalent)
    - Make finding of no significant impact (FONSI) or finding of significant impact (FOSI)
    - Issue public notices and then:
      - \* Submit Request for Release of Funds and Certification (RROF/C) to HUD/State
      - \* HUD/state approval
    - Implement conditions and mitigation measures

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

4. Understand what procedures must be followed
  - Environmental Impact Statement (NEPA and § 58.5)
    - Use format and public notification process in 40 CFR 1500-1508
    - Can take 1-1/2 to 2 years to complete

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

5. Understand the Release of Funds process
  - Notice of Intent to Request Release of Funds (NOI-RROF)
  - FONSI Notice (EA only)
  - Disseminate notices to: known interested persons, EPA Regional Office, HUD, local media, and appropriate Federal, state, local agencies
  - Request for Release of Funds and Certification (HUD form 7015.15)
  - HUD/state approval

# Environmental Review Process

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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

5. Understand the Release of Funds process
  - Notice of Intent to Request Release of Funds (NOI-RROF)
    - Minimum 7 calendar days to publish; 10 calendar days to post/mail

*Note: This notice is issued for categorical exclusions that do not convert to exempt and for EAs*

# Environmental Review Process

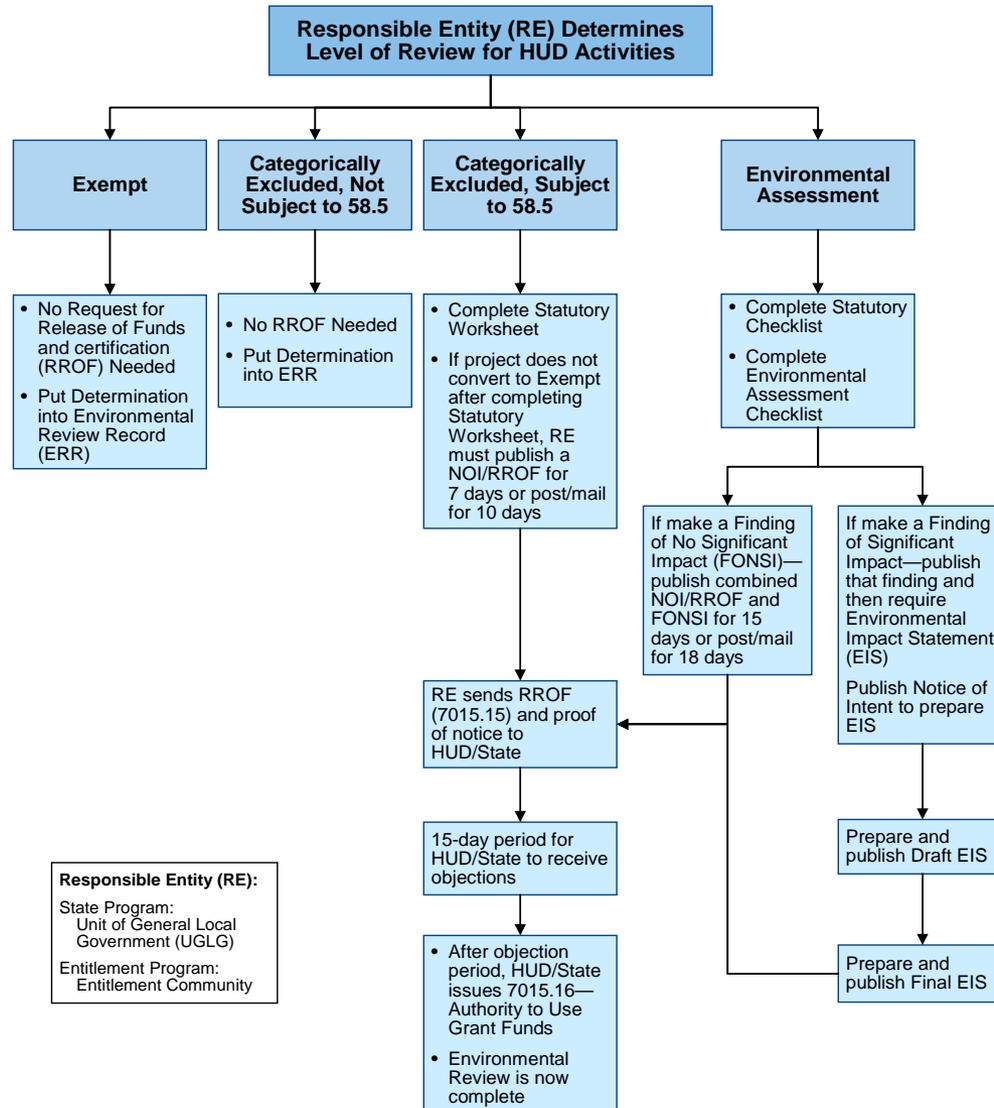
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## Top Five Methods for Managing the Environmental Review Process in the CDBG Program

### 5. Understand the Release of Funds process

- FONSI Notice
  - Issued after completion of the EA and finding of no significant impact (FONSI) determination
  - Minimum 15 calendar days if published; 18 calendar days if posted/mailed
  - May be published or posted/mailed concurrently with the NOI-RROF notice

# Conducting the Review



# File Documentation

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- Describe the project and the activities
- Evaluate effects of the project/activities on the human environment
- Document compliance with applicable statutes and authorities
- Include verifiable source documents and relevant base data used
- Record the written determinations and other review findings
- Include public notices (FONSI, NOI-RROF) and RROF
- Include HUD/state approvals

# Helpful Documents

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- Environmental Review Guide for CDBG Programs (Green Book)
- Assessment Tools for Environmental Compliance
- Suggested Format for Exemption
- Categorical Exclusion Suggested Format for Activities Not Subject to 24 CFR 58.5
- Categorical Exclusion Suggested Format for Activities Subject to 24 CFR 58.5 (Statutory Worksheet & Instructions)

## Helpful Documents (cont.)

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- Suggested Format for Environmental Assessment
- Protocol for Threshold Review for Proposed Activities
- Sample Notice of Intent to Request Release of Funds
- Sample Combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds
- Sample Floodplain and Wetland Notices
- Sample Disclosure for Target Housing Sales

# Case Study

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**“Conducting an Environmental Review”**

# Discussion Questions

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1. List three activities that are “exempt” from the NEPA requirements.
2. What are “categorically excluded” activities?
3. Under what circumstances is a public comment period required?
4. How long after the Request for Release of Funds is published can the grantee begin spending funds?
5. Describe the documents that must be in the Environmental Review Record.