

Office of Rural Affairs

**TxCDBG
Environmental
Training
Workshop
2015**

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TxCDBG Organization

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The screenshot shows the HUD Exchange website interface. The main heading is "Environmental Review". Below it, there is a welcome message and a detailed description of the environmental review process. The page is organized into several sections: "Orientation to Environmental Reviews", "Related Federal Environmental Laws and Authorities", "View Resources", and "Environmental Review News & Announcements". On the right side, there are additional links for "Join a Mailing List", "Environmental Review Records", and "Featured Topics".

From HUD Website

Please use this to include the Worksheets in the website. There is helpful information and even information that may help you eliminate unnecessary work. For example some questions on these worksheets provide absolute questions that will stop further review of an item. Examples to follow:

The Region VI Guidebook Cont.

Example

An airport layout plan (showing clear zones) can be maintained in the central file and updated as needed. Statutory Checklists in individual ERRs can refer to the layout plan in the central file rather than providing copies of the plan in each ERR for individual projects or programs. The central data files may likewise include **maps, letters or documents relating to endangered species, sole source aquifers, wetlands, wild and scenic rivers, comprehensive plans, etc.**

Overview

- As of the new Implementation Manual and with changes as directed by HUD. 10/27/15
- Process of reviewing a project and it's potential on the Human Environment (i.e. everything)
- CDBG projects are required to undergo an environmental review (ER)
- Analysis includes:
 - ✓ How the project affects the environment
 - ✓ How the environment can affect the project, site and end users
- ER must be performed before funds are obligated
- Documentation of the ER must be maintained in the environmental review record (ERR) at the Locality
- **ERR must be available for public review**

Timing of the Review

Environmental Review **must** be performed before committing or spending funds on any HUD funded activity to include:

- Acquisition
- Rehabilitation
- Construction
- Contracting or committing to any of these actions
- TDA uses the date of the resolution as the earliest date it is known that HUD funds will be used.

24CFR58.30(b): The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

Environmental Review - 9 Step Process

- Step 1 – Project Description
- Step 2 – Determine Level of Review
- Step 3 – Complete Checklists and **worksheets**
- Step 4 – Publish Notice of Intent to Request Release of Funds, and FONSI if applicable (Local Comment period)
- Step 5 – Prepare RROF and Certifications
- Step 6 – Submit Clearance to TDA
- Step 7 – State Objection Period (15 days)
- Step 8 – State's Post-Release Review
- Step 9 – Re-Evaluation of the Environmental Determination

Step 1 - Project Description

Project Description must:

- Be complete and clear
- Capture maximum possible scope
- Provide location specific information
- Geographical boundaries
- Existing conditions of the site
- What will be on site when project is completed
- How project will be accomplished
- The Environmental Project Description will be more detailed than the Performance Statement.

Step 2 - Determine Level of Review

- Determine the most appropriate level of review using the Compliance Guidebook, identify activities that fall under the review levels.
- All forms should be completed and signed with complete project activities including locations, work to be done and addresses or cross streets identified as necessary.
- Who can sign forms: The CEO of the Responsible Entity or the person authorized to represent the entity in Federal Court.
- Word Based Documents: Most all of them are word based but don't alter the form itself.
- DON'T ASSUME A FULL EA

Levels of Environmental Review

Environmental Assessment

EXEMPT 24CFR58.34

This is the easiest of them all

- (a) Except for the applicable requirements of §58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in §58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:
 - (1) Environmental and other studies, resource identification and the development of plans and strategies;
 - (2) Information and financial services;
 - (3) Administrative and management activities;
 - (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
 - (5) Inspections and testing of properties for hazards or defects;

EXEMPT Cont.

- (6) Purchase of insurance;
- (7) Purchase of tools;
- (8) Engineering or design costs;
- (9) Technical assistance and training;
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
- (12) Any of the categorical exclusions listed in §58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in §58.5.

Categorically Excluded §58.35(b)

- (1) Tenant-based rental assistance;
- (2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
- (3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
- (4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
- (5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy downs, and similar activities that result in the transfer of title.
- (6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
- (7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under §58.47.

Categorically Excluded §58.35(a)

- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;
 - (ii) In the case of multifamily residential buildings:
 - (A) Unit density is not changed more than 20 percent;
 - (B) The project does not involve changes in land use from residential to non-residential; and
 - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
 - (A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
 - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

Categorically Excluded §58.35(a) Cont.

- (4)(i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
 - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- (5) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- (6) Combinations of the above activities.
- CAN CONVERT TO EXEMPT §58.34(a)(12)
- Statutory Checklist and Worksheets.

Full Environmental Assessment

If the project is not CE/ Exempt then the next step is the Full Environmental Assessment.

- 24CFR58.40:
 - (a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.
 - (b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.
 - (c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in §58.5 and §58.6.
 - (d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

Full Environmental Assessment Cont.

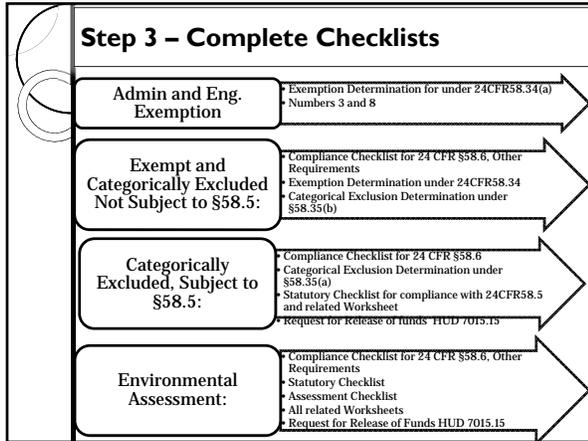
e) Discuss the need for the proposal, appropriate alternatives where the proposal involves unresolved conflicts concerning alternative uses of available resources, the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

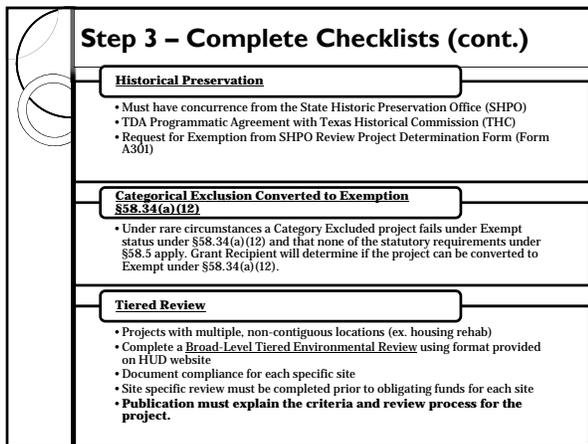
f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §58.5 and §58.6.

(g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:

- (1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in significant impact on the quality of the human environment. The responsible entity may then proceed to §58.43.
- (2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

Environmental Analysis (Part §58)			
Exempt	CENST	CEST	EA
<ul style="list-style-type: none"> • §58.6 • §58.34 	<ul style="list-style-type: none"> • §58.6 • §58.35(b) 	<ul style="list-style-type: none"> • §58.6 • §58.35(a) • §58.5 	<ul style="list-style-type: none"> • §58.6 • §58.5 • §58.36 • §58.40





Step 4 – Publish Notice of Intent to Request Release of Funds (RROF) and FONSI, if applicable

RROF must be published at least once in a newspaper of general circulation in

Notice must be sent to:	Notice must include (§58.43)
<ul style="list-style-type: none"> Local news media; Individuals and groups known to be interest in its activities; and Appropriate Local, State and Federal agencies and TDA Regional Office of the Environmental Protection Agency* 	<ul style="list-style-type: none"> TxCDBG Contract Number Description of the project Detailed description of the project location(s); Start and End dates period to accept public comments (Ending date cannot be on a date when the Entity's office is closed)

*If Grant Recipient makes a Finding of No Significant Impact (FONSI), the FONSI notice must be prepared and distributed in accordance with §58.43 and §58.45. The FONSI notice and Public Comment Notice may be combined by adding to the above publication

Step 4 – Publish Notice of Intent to Request Release of Funds (RROF) and FONSI, if applicable (cont.)

Type of Notice	Level of Review	Length of Comment Period
Notice of Intent to Request for Release of Funds (NOI-RROF)	CEST, EA	7 days when published OR 10 days when only mailing and posting*
Notice of FONSI	EA Only	15 days when published OR 18 days when mailing and posting*
Concurrent or Combined Notices	EA Only	15 days when published OR 18 days when mailing and posting*

Public Comment Periods CANNOT end on a day that the City/ County Officers are not open.

Step 5 – Prepare RROF and Certifications

After the public comment period has expired and all comments, if any, are resolved, the Grant Recipient's Certifying Officer (mayor or county judge) shall complete the Request for Release of Funds and Certification form, HUD form 7015.15, found on the HUD Environmental website.

The RROF must be **printed on both sides** and one original copy must be submitted to TDA.

The RROF is a federal form and must not be altered in any way.

Because the Certification form certifies that the dates of the comment periods have expired, the Request form SHALL not be signed prior to the **day after the end of the public comment period**.

The Certifying Officer must sign two copies of the RROF. One must be placed in the Environmental review Record. The other originally signed RROF must be submitted to TDA.

A Request for Release of Funds is not required for the following Exempt and Categorically Excluded, Not Subject to §58.5

Step 6 – Submit Clearance Documentation To TDA

<p>EXEMPT PROJECTS UNDER 24 CFR §58.34(a) AND CatEx Subject To 58.5:</p>	<p>CATEGORICAL EXCLUSION §58.35(a)</p>
<ul style="list-style-type: none"> • Categorical Exclusion Not Subject to and Exempt under 58.34 (A303) • Letter from the Entity Stating intent to declare exemption. 	<ul style="list-style-type: none"> • Letter from Grant Recipient supporting the Categorical Exclusion level of review. • Categorical Exclusion Determination §58.35(a)(A303) • Publications for NOI/RROF(A305) • Request for Release of Funds (Scanned and then mail an original) two sided One page.

Step 6 – Submit Clearance Documentation To TDA (cont.)

<p>FULL ENVIRONMENTAL ASSESSMENT (EA)</p>	<p>ADDITIONAL REQUIREMENTS FOR EACH LEVEL OF REVIEW</p>
<ul style="list-style-type: none"> • Letter from Entity • Request for Release of Funds scanned (One original to be mailed) two sided single document. • Publication with affidavit, scanned full print page, scanned and then send tear sheet with the original RROF. 	<ul style="list-style-type: none"> • EXEMPTION DETERMINATION UNDER 24CFR34(a)(10): The entity must review the project and ensure that it is not: <ul style="list-style-type: none"> • <i>located in a floodplain, a known critical habitat for endangered species, an historic property, or a known hazardous site (see HUD Memo 12-11-12).</i>

Step 7 – State Objection Period and Release of Funds

TDA Receives scanned copy of RROF and other required documents.

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TDA Environmental Officer begins the 15-day State Objection Period.¹

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If no objections are received after 15 days, and originally signed RROF has been received by TDA, TDA will provide clearance letter, an Authorization to Use Grant Funds.

This is not an indication that TDA has reviewed and approved the entire Environmental Review record for the project.
CE / Exempt projects do not require an Objection Period BUT WILL receive a clearance.

Step 8 – State’s Post-Release Review

Following the Authorization to Use Grant Funds, TDA could conduct a post-release monitoring review in accordance with 24 CFR 58.18. Review may occur at any time after the release of funds and prior to the closeout of the grant contract. TDA will request either:

- Complete Statutory Checklist and Assessment Checklist (if applicable) referencing verifiable supporting documentation; or
- Complete Environmental Review Record.

Significant violations of federal requirements may result in disallowed costs and/or requirement to pay grant funds in whole or part if funds have been obligated based on an RROF found to be invalid.

Environmental Review Process - Abbreviated

Administrative and Engineer Exemption on or before the date of the Resolution to apply for funds.

Review of the project description: What is there now? What will be there in the future? How will this be accomplished?

Create a project description: What will be done and where SPECIFICALLY.

Determine the level of review: Exempt > CE(b) > CE(a) > EA

Prepare the Environmental Review Record(ERR): 58.38 *ERR Documents*. The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. The ERR shall also contain verifiable source documents

Sign and complete all necessary paperwork and forms. ALL FORMS MUST BE SIGNED BY THE CEO or person taking responsibility for representing the entity in court.

Submit required documentation to TDA for approval and clearance.

Revisiting the Review

Major reasons for revisiting a review:

- Record mitigation measures
- Changes in project scope
- Re-evaluate the project
- Adding another source of funding - leads to change in the project?
- Change in conditions
- See §58.47
- Use of another agency’s work

Other Laws and Authorities

The following slides are specific to Environmental Reviews that require compliance with §58.5.

- Categorically Excluded (§58.35(a)) Subject to §58.5
- Full Environmental Assessment or the "Full EA"
- Failure to provide verifiable proof of completion of this process will likely result in delaying the contract and/or the loss of funding.
- PHOTOS, PHOTOS, PHOTOS!!!!

Requirements Under §58.5



Airport Hazard



Air Quality



Coastal Regions



Coastal Zone Management



Endangered Species



Farmland Protection

Requirements Under §58.5 (cont.)



Historical Preservation



Site Contamination



Wetlands



Explosive Flammable Facilities



Floodplain Management

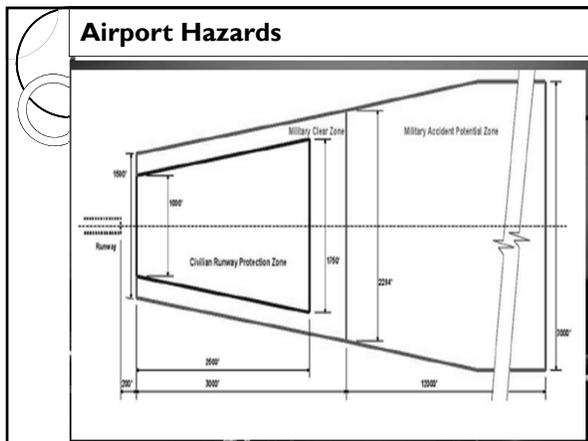


Wild Scenic Rivers



Airport Hazards

- 24CFR51, §58.5
- To prevent **incompatible development** around civil airports and military airfields
- Will the project involve the acquisition or sale of an existing property that will be frequently used or occupied by people?
- Civilian Runway Protection Zone: 2500 Feet.
- Military Clear zone 3000 ft, Protection Zone is 15000 feet.



Airport Hazards: HUD Guidance Worksheet

Airport Hazards (CEST and EA)

General policy	Legislation	Regulation
It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields.		24 CFR Part 51 Subpart D

References
<https://www.hudexchange.info/environmental-review/airport-hazards>

- To ensure compatible land use development, you must determine your site's proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?
 - No → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within the applicable distances to a military or civilian airport.
 - Yes → Continue to Question 2.
- Is your project located within a Runway Potential Zone/Clear Zone (RPZ/CZ) or Accident Potential Zone (APZ)?
 - Yes, project is in an APZ → Continue to Question 3.
 - Yes, project is in an RPZ/CZ → Project cannot proceed at this location.
 - No, project is not within an APZ or RPZ/CZ → Based on the response, the review is in compliance with this section. Continue to the Worksheet Summary below. Provide a map showing that the site is not within either zone.

Airport Hazards: Sample ERR Documentation

Runway Clear Zone, APZ:

- Notice that the RE understands
- Information from the Airport Administrator
- DOD information showing compatible use
- Maps showing distance from runways
- Maps showing distance to closest airport if not in a CZ or APZ
- Photos of the area

Airport Hazards
