24 CFR Part 50
Environmental Review Training for NSP2 Nonprofit Grantees
Purpose of Training

- Give an overview of environmental review process, including tools
- Identify HUD and Grantees’ responsibility
- Identify TA Providers’ role
- Process for submitting environmental review records
Course Materials

- NSP2 Environmental Review (ER) Guide
- NSP2 Flowchart
- TA Provider contacts and distribution of work
- HUD Contacts- Regional and Field Environmental Officers
- TA Request form
- Suggested HUD environmental review formats
Who Will Use NSP2 ER Guide?

- NSP2 Grantees
- HUD staff
  - Regional and Field Environmental Officers’ contact list
- NSP2 Technical Assistance (TA) Providers
Purpose Of ER Guide

• Provide detailed instructions to grantees on:
  – Completing necessary steps in environmental review process
  – Acquiring required environmental compliance documentation
  – HUD suggested formats for documenting environmental findings
  – Available technical assistance
Some projects require compliance with National Environmental Policy Act (NEPA)
  – NSP2 ER Guide (pages 41 - 46)

Most projects only require compliance with NEPA related Federal laws and authorities
  – NSP2 ER Guide (pages 21 - 41)
Major Relevant Laws and Authorities (50.4)

- Sole Source Aquifers
- Endangered Species Act
- Wild and Scenic Rivers Act
- Clean Air Act
- Farmland Protection Policy Act

- National Historic Preservation Act
  - Historic structures and archaeological sites
- Clean Water Act
  - Wetlands
- Coastal Zone Management Act
Relevant Executive Orders & Environmental Standards

- 24 CFR Part 50.4 (cont)
  - EO 11988, Floodplain Management
  - EO 11990, Protection of Wetlands
  - EO 12898, Environmental Justice
  - Noise Abatement and Control (24 CFR Part 51, Subpart B)
  - Siting near Explosive or Flammable Operations (24 CFR Part 51, Subpart C)
  - Airport Clear Zones (24 CFR Part 51, Subpart D)
  - Toxic Substances and Radioactive Materials [sec. 58.5(i)(2)]
Other Requirements (50.4)

- Flood Disaster Protection Act
  - Flood insurance coverage

- Coastal Barrier Resource Act

- Runway Clear Zone or Clear Zone (24 CFR Part 51, Subpart D)
  - Disclosure statement

- Compliance requirements are discussed in guide (Page 46)
HUD Responsibilities

- Has responsibility for scope and compliance findings of environmental review record (ERR)
- Decides upon mitigation and conditions for project approval
  - May even recommend modification of projects to minimize environmental impacts
- NOTE: this differs from responsibilities under 24 CFR Part 58
Grantee Responsibilities

• Prior to receiving HUD approval, grantee may not:

  – Acquire, repair, rehabilitate, convert, demolish, or lease properties or undertake construction

  – Commit *non-HUD funds* to project activities that would:
    • Have adverse environmental impact, or
    • Limit choice of project alternatives

  – Otherwise may lose the NSP2 project funds
HUD Policy on Conditional Contracts

– Applicable only to existing single family homes (1-4 dwelling units).

– Grantees or their partners may enter into a conditional purchase contract prior to approval of the environmental review by HUD

  • See Appendix 1 of NSP2 ER Guide for appropriate contract language
HUD Policy on Conditional Contracts

• Any deposit using NSP funds or other funds must be refunded if conditions aren’t met
  – If non-refundable, only a nominal amount may be used for the deposit ($1000 or less)

• Transfer of title may not occur until HUD approves the environmental review and determines the site is acceptable for housing
Grantee Responsibilities (cont)

- Supplies HUD with all available, relevant information necessary for HUD to perform environmental review for each property
  - Grantee facilitates environmental compliance and assists with gathering information
  - Grantee is not legally liable for the ERR findings

- Carries out any mitigation and/or conditions associated with approval of project
TA Providers Role

- Gives grantees guidance, suggestions and expert advice related to preparation of ERRs
  - Cannot actually prepare the ERR for the grantee or resolve compliance issues
- Reviews project ERRs before grantees submit them to HUD for approval
Part 50 Environmental Review Process

Evaluate in single review *all related actions/activities*, regardless of whether HUD funds will be used in whole or in part. Related actions/activities:

- Automatically trigger other actions,
- Cannot or will not proceed unless other actions are taken beforehand or at same time, and/or
- Are mutually dependent parts of larger activity/action
• Determine appropriate level of review:
  – For example: categorically excluded or environmental assessment (EA)
  – See Exhibit 3 in NSP2 ER Guide
Part 50 Environmental Review Process (cont)

• Make a written record documenting compliance findings - Environmental Review Record (ERR)
  – Use HUD suggested formats (Appendix 2 though 5, also available online)

• Grantee submits unsigned ERR to HUD
  – Document compliance decisions and findings (Pages 21-46)

  – HUD provides grantee with written approval to commit and expend project funds (See Appendix 7 of NSP 2 ER Guide)
Accepted Compliance Documentation Resources

• Source documentation must be:
  – Credible, traceable and supportive of compliance findings
  – Current information and relevant to project

• See Exhibit 2 in NSP2 ER Guide
Overview: Levels of Environmental Review

• Three levels of review:
  – Categorically Excluded not Subject to §50.4
    • Neither NEPA nor related Federal laws and authorities apply
  – Categorically Excluded Subject to §50.4
    • Only related Federal laws and authorities apply
  – Environmental Assessment (EA)
    • NEPA and Federal laws/authorities apply
Types of activities include, for example:

- Environmental studies, development of plans or strategies, administrative and management services
- Down payment assistance, closing costs, principal or interest buy downs & similar activities for existing or new dwelling units under construction
- Must include transfer of title
- See NSP2 ER Guide for complete list
ERR for Categorical Exclusions
NOT Subject to 50.4

• Grantee completes suggested HUD format at Appendix 2
  – Indicate the amount of funding next to the appropriate activity and include a copy of the budget as source documentation

• Grantee documents compliance with applicable §50.4 regulations (Appendix 2) and submits it to HUD:
  – Floodplain
  – Coastal resources
  – Runway clear zones disclosure
Categorically Excluded
Subject to § 50.4

• Type of activities include, for example:
  – Rehabilitation/Renovation of single family (1-4 units) and multifamily (5 or more units) residential buildings
  – Construction of single family (1-4) residential dwelling units
  – Acquisition or disposition of buildings that will be retained for the same use
  – See Pages 12-13 of NSP 2 ER Guide on these project categories and the related criteria
ERR for Categorically Excluded Subject to 50.20

- Grantee completes suggested HUD format at Appendix 3 (Part A of form 4128)
  - NSP2 ER Guide (Compliance Documentation Required, pages 21 thru 41)
  - Also see Exhibit 3 on ERR

- Grantee documents compliance with applicable §50.4 regulations (See Appendix 10) and submits it to HUD:
  - Floodplain insurance, coastal resources, clear zone/runway clear zone disclosure
Environmental Assessment

- Activities that must comply with NEPA and related Federal laws and authorities (§50.4)
  - New construction
  - Major rehabilitation activities
    - See “Terms and Definitions in guide
  - Land acquisition for housing development
  - Conversion of one type of land use to another - e.g., non-residential to residential
• Grantee completes suggested HUD format at Appendix 4 (Also see Exhibit 3 on ERR)

• Grantee’s documentation supports environmental findings (See Exhibit 2 in guide)
  
  • NSP2 ER Guide (*Compliance Documentation Required*, pages 21 thru 46)

• Grantee documents compliance with applicable §50.4 regulations (See Appendix 10):
  
  • Flood insurance, coastal resources, runway clear zones disclosure
Streamlining the Review Process - Tiered Reviews

- Helps achieve both compliance and speed
  - Tiered reviews do not require up-front identification of assisted properties

- Can be used for either:
  - *Categorically excluded* activities
  - Activities that require *environmental assessment*
A tiered environmental review is a two-step process:

- Tier 1: Target Area Assessment
- Tier 2: Site Specific Project Review

NSP2 ER Guide, Pages 16 - 20
Tier 1 - Target Area Assessment

- Focuses on targeted geographic area.
  - Geographic boundaries are clearly defined -- scope of environmental conditions under consideration is evident (e.g., census tract, neighborhood, etc.)

- Analyzes environmental impacts related to proposed activities that might occur on typical site
Tier 1 - Target Area Assessment (cont)

- All compliance requirements satisfactorily resolved in this first level (i.e., findings of no impact or impacts requiring mitigation), are excluded from any additional examination or consideration in Tier 2.

- HUD approves Tier 1 environmental review and also Tier 2 (Site Specific) format to be used.
Tier 2 - Site Specific Project Review

- Focuses only on environmental compliance requirements that couldn’t be resolved in Tier 1
- Tier 1 review provided written standards to be used during this Tier 2 process for determining if site is acceptable
Tier 2 - Site Specific Project Review (cont)

• Tier 2 must be completed for each specific project site and receive HUD approval *before* funds are committed or spent
Purposes of NSP2 Environmental TA

• Purposes are:
  – Describe clear process and requirements for doing environmental reviews
  – Answer nonprofit NSP2 grantee questions on doing environmental review
  – Help to ensure that environmental review info sent to HUD is complete and prepared according to the NSP2 ER Guide
Purposes of NSP2
Environmental TA (cont)

• This TA is not (cont):
  – Available for public agencies under Part 58
  – Substitute for having qualified environmental staff/subs

• Use the TA to:
  – Get any technical questions answered
  – Help to ensure that your submission to HUD is complete and prepared according to the NSP2 ER Guide
  – Help you to organize & compile your local ERR
Purposes of NSP2 Environmental TA (cont)

• This TA is not:
  – Outsourced/contracted assistance to do environmental review itself
  • TA can assist with review of completeness but grantee itself must collect all data, fill out all forms etc
  • ERR & submission to HUD remains responsibility of grantee
  • Grantee remains responsible for timeliness, accuracy, completeness of documents/ERR
NSP2 TA Review Process

- All grantees must submit a request to HUD to assign an On-Call TA provider (See NSP2 Nonprofit TA Process Flowchart)
  - Request is related to a specific project ERR
    - Need advice and guidance, or
    - Need ERR to be checked for compliance and completeness
      - ERR is ready to go to HUD for approval
      - See *NSP2 Nonprofit Environmental Review TA Specific Fields*
NSP2 Environmental Review Process (cont)

• HUD assigns grantee’s review request to TA Provider
  – Project is assigned a TA assistance number to be used for tracking it through the entire review process

• TA Reviewer contacts grantee
  – Determines grantee’s need
  – Provides instructions for submitting project ERR for review
NSP2 Environmental Review Process (cont)

• Records must be submitted to TA Provider
  – Review begins when entire project ERR is received

• Submit in electronic format, including maps, photos, special studies, etc.

• TA provider will not fill in any missing elements – will inform grantee of missing items to be submitted
NSP2 Environmental Review Process (cont)

- TA Reviewer provides comments and recommendations to grantee
  - Generally by e-mail
  - Perhaps by phone for simple follow-up items
  - TA provider not responsible for content, accuracy, or information supplied by grantee in the environmental review record (ERR) submitted to HUD
NSP2 Environmental Review Process (cont)

- Grantee amends the ERR based on comments and recommendations from TA Provider
- Grantee contacts HUD environmental staff person, who has jurisdiction where the project is located, to ask how the ERR should be submitted
  - The ERR must be in electronic format, including maps, photos, special studies, etc.
ERRs submitted to HUD must be identified by:

- Grant number
- Grantee’s name
- Who prepared the ERR
- Project location
- A brief project description
- Date ERR is being submitted to HUD
- For Tier 2 reviews, the date HUD approved the Tier 1 ERR
NSP2 Environmental Review Process (cont)

- HUD approves ERR
  - HUD is responsible for maintaining a copies of all ERRs
  - Grantee must also maintain copy of ERR
  - TA provider not responsible for keeping ERR

- Grantee proceeds to commit and expend project funds
Upon receiving the ERR, HUD determines:

- Project may proceed as proposed
- Project may proceed, but only according to conditions specified by HUD in its letter to grantee
- Grantee must submit additional information (specified by HUD), and provide for additional mitigation measures as required
• HUD determines: (cont)
  – Project is not approved because impacts cannot be resolved
  – Information provided is insufficient to make determination (HUD will identify what is needed)

• HUD will generally inform grantee of it’s decision via e-mail
NSP2 Environmental Review Process (cont)

- HUD may return package to both TA Provider and grantee for grantee rework of material
  - Grantee MUST make another TA review request for TA to have corrections reviewed by TA Provider before grantee resubmitting ERR to HUD for approval

- Enter the tracking number already assigned to the project ERR
NSP2 Environmental Review Process (cont)

• HUD approves ERR
  – HUD is responsible for maintaining a copies of all ERRs
  – Grantee must also maintain copy of ERR
  – TA provider not responsible for keeping ERR

• Grantee proceeds to commit and expend project funds
Items of Note

• Both Tier 1 (target area) and subsequent Tier 2 (site specific) reviews must also receive review and comment from TA Provider

• Lead-based paint is addressed by Community Development Block Grant rules (24 CFR 570) and is not part of environmental review process
Items of Note (cont)

- Site Contamination- Phase I Environmental Site Assessment
  - If over one year old, it must be redone
  - If it’s over 180 days, the information must be updated
  - Not the same thing as a NEPA EA
How to Expedite the ERR

• Hire your own environmental person, could be staff or a consultant
  – Should be involved early in project planning and interact with project manager regarding data needs and possible mitigation actions
  – Don’t wait. Get started right away
  – Know your TA Provider and HUD REO/FEO
  – The ERR must be in electronic format, including maps, photos, special studies, etc.
  – Read and re-read the NSP2 ER Guide
Wrap-Up

• Check NSP TA website regularly for updates
  – NSP2 ER Guide
  – Forms
  – FAQ’s
  – Can submit questions to NSP TA web page too
Wrap-Up (cont)

• Be certain requested compliance documentation is provided
  – Current and relevant
  – Review shaded text boxes in guide *(Compliance Documentation Required)*

• Follow up on TA Provider’s comments and recommendations and amend ERR
Give us your Feedback

- Answer 6 short questions
- Link: http://www.surveymonkey.com/s/NSP2ER