

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
Community Planning and Development  
WASHINGTON, D.C. 20410-7000

Special Attention of:

**NOTICE** CPD-01-11

Field CPD Division Directors  
Field Environmental Officers  
HOME Participating Jurisdictions and Partners

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Cross References: 24 CFR Part 58  
Supersedes CPD 94-18

**Subject:** Environmental Review and the HOME Investment Partnerships Program

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## I. INTRODUCTION

### A. Purpose

The purpose of this notice is to provide guidance on the environmental review process required under the HOME rule. Additionally, this notice explains the responsibilities of HUD staff, HOME participating jurisdictions, state recipients, subrecipients, and third parties including property owners, contractors and developer partners, both public and private entities, in performing their environmental review responsibilities in accordance with 24 CFR Part §58. Several documents referred to in this Notice may only be accessible through the Internet.

### B. Policy

It is the policy of the U.S. Department of Housing and Urban Development (HUD) to reject proposals that have significant adverse environmental impacts and to encourage the modification of projects in order to enhance environmental quality and minimize environmental harm.

The National Environmental Policy Act (NEPA) and "other Federal laws and authorities" require that an environmental review be conducted for all Federally assisted actions (except those exempted under 24 CFR Part 58). The reviews should be viewed as a planning tool used by the participating Jurisdiction to determine (1) whether its proposed actions will have an impact on the environment, or (2) whether the environment will have an impact on the proposed action.

The value of the environmental review is to inform the proponent of a Federally assisted action: (1) of the existence of negative impacts on a site, (2) of means to mitigate negative impacts, (3) of alternatives to the project if needed, and (4) when all other options fall that rejection of the proposed action may be the most prudent action to take. The environmental review is a means of providing decision makers with sufficient information on which to base wise choices.

Completion of the *environmental review process* is mandatory **before** taking a physical action on a site, or making a commitment or expenditure of HUD or non-HUD funds for property acquisition, rehabilitation, conversion, lease, repair or construction activities. "Non-HUD funds" means any other Federal, state, local, private, or other funds. Further, participating jurisdictions, insular areas, state recipients, and subrecipients, may not commit HOME funds until HUD or the state has approved the Request for Release of Funds and related certification (RROF) unless the activity has been determined exempt in accordance with 24 CFR §58.34 and §58.35(b). Contractors, owners and developers (including Community Housing Development Organizations) may not commit or expend funds on HOME projects until the participating jurisdiction or state recipient has completed the environmental review process as defined below in Sections II and III.

Responsible entities (participating jurisdictions, state recipients or insular areas) shall begin the environmental review process at the earliest possible time so that potential conflicts between program procedures and environmental requirements are identified at an early stage. **The environmental review process should commence as soon as a proposed site is identified.**

This notice supersedes CPD Notice 94-18 and addresses new issues based on program experience under the previous notice. Moreover, this notice reflects changes in legislation and regulations since 1993, when the original Notice 93-16 was issued.

Address any questions regarding this notice to the CPD Division of the appropriate HUD Field Office.

### **C. Authority**

- (1) Section 288 of Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA) as amended (42 U.S.C.12838) for the HOME Program.
- (2) 24 CFR Part 92-HOME Investment Partnerships Program
- (3) 24 CFR Part 58 --- Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

### **D. Background**

(1) Participating jurisdictions (states and units of general local government) use HOME funds to carry out multi-year housing strategies through acquisition, rehabilitation, new construction, and tenant-based rental assistance. Participating Jurisdictions may provide assistance in the form of loans, advances, equity investments, interest subsidies and other forms of investment that HUD approves. Participating jurisdictions may designate a subrecipient to administer all or a portion of the participating jurisdiction's HOME funds.

The HOME regulation ( 92.352) requires that the environmental effects of each activity carried out with HOME funds be assessed in accordance with the provisions of 24 CFR Part 58- "Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities," (hereafter Part 58). Part 58 is available on the HUD Website <http://www.hud.gov/cpd/envregul.html>.

(2) Section 92.352 reads:

"(a) General. The environmental effects of each activity carried out with HOME funds must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58.

(b) Responsibility for review. (1) The Jurisdiction (e.g., the participating jurisdiction or state recipient) or insular area [**herein referred to as the Responsible Entity or RE**] must assume responsibility for environmental review, decision-making and action for each activity that it carries out with HOME funds, in accordance with the requirements imposed on a recipient under 24 CFR part 58. **No funds may be committed to a HOME activity or project before the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR Part 58.**

(2) A state participating jurisdiction must also assume responsibility for approval of requests for release of HOME funds submitted by its state recipients.

(3) HUD will perform the environmental review, in accordance with 24 CFR part 50, for a competitively awarded application for HOME funds submitted to HUD by an entity that is not a jurisdiction."

## **II. DEFINITIONS**

The uniform terminology provided in regulations of the Council on Environmental Quality at 40 CFR Part 1508 and the definitions provided in HUD environmental procedures at 24 CFR 58.2 take precedence for purposes of compliance with NEPA and other related Federal laws and authorities cited in §§58.5 and 58.6.

**Activity** - An action that a responsible entity puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.

**Aggregation** - The grouping together and evaluating as a single project of all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

**Commitment** - For purposes of the environmental review process, commitment means the expenditure of private or public funds, or a legally binding agreement by any of the following parties: participating jurisdictions, insular areas, State recipients, subrecipients, contractors, or owners/developers (including a CHDO), to expend funds for a specific project, for project activities such as property acquisition, construction, conversion, demolition, movement, rehabilitation, or repair or the provision of tenant-based rental assistance. HOME funds may not be used to reimburse a non-governmental entity for project-related costs incurred after the entity has submitted an application for HOME funds and before approval by HUD (or the state in the case of state recipients) of the Request for Release of Funds and Certification, except for activities that are exempt or are excluded and not subject to the laws in §58.5 and for certain relocation costs. A conditional HOME commitment of funds (as defined below) does not constitute a commitment for the purposes of the environmental review process.

**Community Housing Development Organization (CHDO)** - A non-profit entity, as further described in §92.2, whose primary purpose is to own, sponsor or develop housing assisted through the HOME Program. The environmental review responsibilities of Part 58 may not be delegated to a CHDO.

**Compliance Determination** - is an environmental review for complying with the applicable requirements of "other Federal laws and authorities" listed in §§58.5 and 58.6. Compliance determinations are documented on Statutory Checklist formats. Activities that require compliance with any of the Federal laws and authorities also require the publishing of a Notice of Intent to Request Release of Funds and submittal of a Request for Release of Funds and Certification form (HUD-7015.15) to HUD or the state.

**Conditional HOME commitment** - Any contractual agreement signed prior to the completion of the environmental review process between the participating jurisdiction, insular area or state recipient, and a state recipient, subrecipient, contractor, owner or developer, to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance; or an executed written agreement reserving a specific amount of funds to a community housing development organization or nonprofit entity. Any such agreement must be conditional in nature so as not to provide the state recipient, subrecipient, contractor, owner or developer, legal claim to any amount of HOME funds to be used for the specific project or site until the environmental review process is satisfactorily completed. Such an agreement must explicitly provide that the agreement to provide funds to the project is conditioned on the responsible entity's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

**Contractor** - An entity contracted by the participating jurisdiction to provide goods and services in accordance with a written agreement (the contract). The contractor cannot assume the RE's responsibilities for environmental review, decision making and action under §92.352.

**Environmental assessment** - A concise public document required under the National Environmental Policy Act regulations, for which a Federal agency (or an entity authorized to assume HUD's environmental review responsibilities) is responsible that provides sufficient evidence and analysis to determine whether to prepare an environmental impact statement or a finding of no significant impact (FONSI). The assessment is made in accordance with §58.40. It must examine existing conditions of the site and surrounding area; identify, analyze and evaluate all impacts; recommend feasible ways to mitigate or eliminate adverse environmental impacts; examine alternatives to the project (including the alternative of no action); and complete a compliance determination of applicable authorities cited in §§58.5 and 58.6. An Environmental Assessment format is used to document the conclusions of an environmental assessment. See Attachment D for location of sample Environmental Assessment format.

**Environmental clearance** - The completion of the environmental review process and documentation of compliance with Part §58.

**Environmental review** - The appropriate level of environmental analysis for a project or activity. This may include a Compliance Determination, Environmental Assessment, or Environmental Impact Statement.

**Environmental review process** - The completion of all procedural steps of an environmental review. This includes conducting and documenting an environmental review, making an environmental determination, publishing required public notices, submission of a Request for Release of Funds and Certification form, and receipt of an Authority to Use Grant Funds form from HUD (or the state).

**Environmental Review Record (ERR)** - A written record of environmental reviews related to a HOME assisted project, undertaken by the responsible entity. The ERR shall contain all environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project as specified in §58.38. The document shall be maintained by the participating jurisdiction and made available to the public. See §58.38.

**Individual action on a one to four family dwelling** - An individual decision regarding the acquisition, construction, demolition, leasing, moving, or rehabilitation, of a one to four family residential building. An environmental assessment and finding of no significant impact under NEPA is not required for such activities unless an extraordinary circumstance as defined in § 58.2(a)(3) occurs. Compliance with other applicable Federal environmental laws and authorities listed in §58.5 and §58.6 is required for all individual actions on a one to four family dwelling.

**Major rehabilitation** - Rehabilitation work that: changes unit density by more than 20 percent; changes land use from nonresidential to residential; or whose estimated cost is 75 percent or greater of the total estimated cost of replacement after rehabilitation. Major rehabilitation of a one-to-four family dwelling may require a Compliance Determination review. Projects involving five or more units may require an environmental assessment and Compliance Determination. See §58.35(a)(3) for further explanation.

**Minor rehabilitation and repair** - Rehabilitation work (i) whose estimated cost is less than 75 percent of the total cost of replacement after rehabilitation; (ii) that does not involve changes in land use from nonresidential to residential; and (iii) where unit density is not increased by more than 20 percent. Minor rehabilitation which meets the "individual action on a one-to-four family dwelling" definition requires only a Compliance Determination review. See §58.35(a)(3) for further explanation.

**Participating jurisdiction (PJ)** - A unit of general local government (UGLG) or state designated by HUD to receive HOME assistance in accordance with §92.105. The PJ is responsible for ensuring that HOME assistance is expended in accordance with program regulations (24 CFR Part 92). The PJ (UGLG or state) becomes the *responsible entity* responsible for completing the

environmental review process in accordance with Part 58, except that states that fund state recipients must require the state recipients to assume the environmental review responsibilities. This means that the state recipient then becomes the responsible entity.

The responsible entity must submit its Request for Release of Funds and Certification to HUD, except that state recipients must submit their Request for Release of Funds and Certification to the state.

**Project** - "An activity, or a group of integrally related activities, designed by the recipient [participating jurisdiction, insular area or state recipient] to accomplish, in whole or in part, a specific objective" (§58.2(a)(4)). In the context of the HOME Program, this means a site or sites, inclusive of any buildings that are under common ownership, management, and financing that will be assisted with HOME funds as a single undertaking (§92.2). The scope of the environmental review process must include both the HOME funded and non-Federally funded portions of the project.

**Recipient** - The term "recipient" found in 24 CFR Part 58 means the participating jurisdiction, insular area, or state recipient for purposes of the HOME Program.

**Reconstruction** - The rebuilding, on the same lot, of housing standing on a site at the time of project commitment. The number of housing units on the lot may not be decreased or increased as part of a reconstruction project, but the number of rooms per unit may be increased or decreased. Reconstruction also includes replacing an existing substandard unit of manufactured housing with a new or standard unit of manufactured housing. Reconstruction is considered major rehabilitation for purposes of the HOME Program. Projects involving one-to-four units of family dwellings require a Compliance Determination review. Projects involving five or more units require an environmental assessment if the units are located within 2000 feet of each other.

**Release of Funds (ROF)** - The issuance of the "Authority to Use Funds" form or equivalent letter by HUD or the state for activities which require the participating jurisdiction, insular area or state recipient to submit a Request for Release of Funds and Certification form to HUD or the state. This action completes the environmental clearance process.

**Responsible entity** - A participating jurisdiction, a state recipient, or an insular area responsible for conducting environmental reviews.

**Source/documentation** - Information/data such as studies, correspondence, maps, interviews, plans, and observations used as a basis to make an environmental determination. The type of source/documentation is cited in the environmental review.

**State recipient** - A unit of general local government that receives HOME funds from a State PJ. The state recipient must assume the responsibility for environmental review.

**Statutory checklist format** - An outline format used to document the compliance determination related to the other Federal laws and authorities in §§58.5 and 58.6.

**Subrecipient** - A public agency or nonprofit organization selected by the participating jurisdiction to administer all or a portion of the participating jurisdiction's HOME program. A public agency or nonprofit that receives HOME funds solely as a developer or owner of housing is not a subrecipient. Under Part 58, the responsibility to conduct environmental reviews and make determinations cannot be assumed by a subrecipient. The subrecipient, however, may assist the participating jurisdiction in gathering information used in completing the environmental review process.

**Unit of general local government (UGLG)** - The political jurisdiction such as a city, town, county, parish, village, or other general purpose political subdivision of a state or a consortium of such political subdivisions recognized by HUD in accordance with §92.101; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the Jurisdiction with regard to the provisions of Part 92.

### **III. LIMITATIONS ON ACTIONS PENDING CLEARANCE.**

**No funds may be committed by a participating jurisdiction (responsible entity) to a HOME project before the completion of the environmental review process**, except as authorized by 24 CFR §58.22. Completion of the environmental review process includes:

- (1) completing the appropriate level of environmental review,
- (2) publishing required public notices (when applicable),
- (3) submitting a Request for Release of Funds and Certification form (HUD-7015.15) to HUD (or the state), when applicable,
- (4) approval of the request for release of funds and related certification by HUD (or the state), when applicable. This is accomplished with a HUD form 7015.16 - Authority to Use Grant Funds or equivalent letter.

In addition, the participating jurisdiction shall take the necessary steps to assure that its third party partners refrain from undertaking any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives until HUD (or the state, for HOME grants awarded by the state to state recipients) has issued an approval of the Request for Release of Funds and Certification for the project.

There are, however, three exceptions to the limitation on actions pending environmental clearance. These are:

- (1) Activities **exempt** under 24 CFR §58.34, or not subject to the related laws and authorities in accordance with §58.35(b). This includes conducting environmental reviews.

- (2) The purchase of a real estate **option** subject to the conditions stated in §58.22(b) regarding environmental acceptability and nominal price. It is permissible to purchase a real estate option on a property that is designated for the construction or rehabilitation of a unit with HOME funding prior to the completion of an environmental review, provided the option agreement stipulates that the purchase of the property is subject to a determination by the RE on the desirability of the property for the project as a result of the completion of the environmental review. The cost of the option must also be a nominal portion of the purchase price.
- (3) Funds for **relocation** assistance may be committed provided that the assistance is required by 24 CFR Part 42.

#### IV. COMMITMENT OF HOME ASSISTANCE

The standard for what constitutes a commitment of HOME funds for the environmental review process is different from HOME fund commitment and the CHDO reservation deadlines. Participating jurisdictions may enter into a *conditional HOME commitment*, as defined in Section II above, to satisfy the commitment and reservation deadlines without violating the environmental review requirements. PJs should note that the conditional HOME commitment must explicitly state that the agreement to provide funds to the project is conditioned on the responsible entity's determination to proceed with, modify or cancel the project based on the results of the subsequent environmental review.

- A. **HOME Commitment and CHDO reservation deadlines.** HOME legislation and regulations 24 CFR 92-500(d) state that HUD will reduce or recapture (de-obligate) HOME funds if they are not reserved for a community housing development organization (CHDO) or committed by a participating jurisdiction pursuant to a written agreement within 24 months. HOME commitment and CHDO reservation documentation includes written agreements, which provide for the *conditional HOME commitment* of funds. Specific guidance on commitments, reservations and expenditures is provided in Notice CPD xx-xx "Commitment, CHDO Reservation and Expenditure Requirements for the HOME, program," as may be updated.
- B. **Environmental requirements.** PJs, insular areas, state recipients, subrecipients, contractors, owners, and developers shall not undertake any activities that would adversely impact or limit the choice of reasonable alternatives for a project until it has been environmentally cleared. To achieve this end., PJs, insular areas, state recipients, subrecipients, contractors, owners and developers **must not** expend public or private funds (HUD, other Federal, or non-Federal funds) or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. Using any portion of Federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before completing the environmental review process requires the denial of **any** Federal funds for that

project. However, REs may provide a conditional commitment of HOME funds for a specific project, pending environmental clearance, *provided* the conditional commitment meets the criteria of "Conditional Commitment of Funds," found in paragraph C, below.

- C. Conditional Commitment of Funds.** Responsible entities may enter into an agreement for the conditional commitment of HOME funds for a specific project prior to the completion of the environmental review process. The RE must ensure that any such agreement does not provide the state recipient, subrecipient or contractor any legal claim to any amount of HOME funds to be used for the specific project or site unless and until the site has received environmental clearance. Note: HOME funds that are conditionally committed can be included when determining whether the commitment and CHDO reservation requirements of 24 CFR 92.500 (d) have been met. The following language is acceptable in an otherwise appropriately drafted agreement:

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by [the participating jurisdiction, insular area or state recipient] of a release of funds from the U.S. Department of Housing and Urban Development [or the State of.....] under 24 CFR Part §58. The parties further agree that the provision of any funds to the project is conditioned on the [participating jurisdiction, insular area or state recipient's] determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

The agreement must also contain a provision prohibiting the state recipient, subrecipient or contractor from undertaking or committing any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the agreement. The agreement should not contain provisions requiring the execution of a construction contract unless the provision requires prior completion of the environmental clearance and advice from the PJ, insular area or state recipient to proceed with the project and/or proceed with execution of the contract. Provisions such as specific work descriptions and plans or specifications should not be included in a conditional HOME commitment. Participating jurisdictions, insular areas and state recipients are encouraged to keep any conditional HOME commitments short and, if necessary, include more detailed provisions relating to project execution in an unexecuted attachment to avoid the appearance of permission or encouragement to begin undertaking choice-limiting actions.

## **V. RESPONSIBILITIES**

### **A. HUD Field Office CPD Director**

The CPD Director is the HUD Authorizing Officer who approves the participating jurisdiction's "Request for the Release of Funds and Certification" (RROF/C) form HUD-7015.15 that certifies compliance with Federal environmental laws and authorities. The form used to convey approval is the "Authority to Use Grant Funds" form HUD-7015.16, or equivalent letter. The CPD Director may disapprove the RROF/C if one or more of the permissible bases for objection apply in accordance with §58.75, or if HUD has knowledge that the responsible entity has not complied with the items in §58.75 or that the RROF and certification are inaccurate, in accordance with §58.72.

Upon expiration of the 15 calendar day comment period, the CPD Director shall approve the RROF/C with an "Authority to Use Grant Funds" form (HUD-7015.16), unless there is a basis for disapproval.

### **B. HOME Participating Jurisdictions -- state governments**

State governments shall become the Responsible Entity that assumes HUD environmental responsibilities in accordance with 24 CFR §58.2(a)(7) when they directly fund HOME projects (including through CHDOS). State governments will submit their Request for Release of Funds and Certification to HUD.

State governments shall become responsible for the administration of 24 CFR Part 58 "Subpart H - Release of Funds for Particular Projects" for all grants made by the state to a state recipient.

The RE shall **not** acquire, demolish, move, rehabilitate, convert, lease, repair or construct property, or commit or expend HUD or non-Federal funds for HOME program activities with respect to any eligible property, until the environmental review process has been completed.

### **C. HOME Participating Jurisdictions - local governments, and state recipients**

Participating Jurisdictions that are local governments (units of general local government) that receive HOME funds directly from HUD, as well as state recipients (units of general local government) that receive HOME funds from state governments, are a Responsible Entity that assumes HUD environmental responsibilities in accordance with 24 CFR §58.2(a)(7).

Units of general local government that receive funds directly from HUD submit their Request for Release of Funds and Certification to HUD. State recipients submit their Request for Release of Funds and Certification to the state government.

The RE shall **not** acquire, demolish, move, rehabilitate, convert, lease, repair or construct property, or commit or expend HUD or non-Federal funds for HOME activities with respect to any eligible property, until the environmental review process has been completed.

**D. Non-governmental Entities**

The authority to become a Responsible Entity and make environmental determinations may not be delegated to non-governmental entities such as subrecipients, contractors, owners and developers. Non-governmental entities can, however, assist the PJ or state recipient in completing the environmental review by:

- (a) supplying the PJ or state recipient with all relevant information needed to perform an environmental review, or
- (b) carrying out mitigating measures required by the PJ or state recipient, or selecting an alternate property for assistance.

Non-governmental entities **must refrain** from undertaking activities that would have an adverse environmental impact or would otherwise limit the choice of reasonable alternatives until HUD (or the state for HOME grants awarded by the state to state recipients) has issued an approval of the "Authority to Use Grant Funds" form (HUD-7015.16), or equivalent letter. Such activities include acquiring, rehabilitating, converting, leasing, repairing or constructing property, or committing or expending HUD or non-Federal funds for HOME program activities with respect to any eligible property. [NOTE: for activities that are exempt or excluded and not subject to the laws in §58.5 and certain relocation costs do not require the issuance of an "Authority to Use Grant Funds" form (HUD-7015.16).]

HOME funds may not be used to reimburse a non-governmental entity for project-related costs incurred after the entity has submitted an application for HOME funds and before approval by HUD (or the state in the case of state recipients) of the Request for Release of Funds and Certification except for activities that are exempt or are excluded and not subject to the laws in §58.5 and for certain relocation costs. A non-governmental entity (subrecipients, contractors, owners and developers) must not take actions that would have an adverse impact or limit the choice of reasonable alternatives on projects after it applies for HOME funds.

**VI. DETERMINING THE LEVEL OF ENVIRONMENTAL REVIEW**

The RE should initiate the environmental review process as soon as the activity is identified in order to avoid delaying its implementation. Environmental reviews can even be completed before the HOME Investment Partnership Agreement between HUD and the PJ is signed.

The first step of the environmental review process is to determine what level of review is required. The RE should consult §§58.34, 58.35, 58.36 and 58.37 to determine the level of review applicable to each proposed activity. There are six possible levels of review that can be initiated.

**A. Exempt activities** (24 CFR §58.34(a)(1)-(11)). Activities that generally have no physical impact on the environment. Exempt activities include the following:

- (1) Environmental and other studies;
- (2) Information and financial services;
- (3) Administrative and management activities;
- (4) Inspections and testing of properties for hazards or defects;
- (5) Purchase of insurance,
- (6) Engineering or design costs;
- (7) 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.

The RE is not required to undertake a NEPA level review (environmental assessment) or document that the activities comply with other Federal laws and authorities found at §58.5. Additionally, there is no requirement that public notices be published, or that a Request for Release of Funds and Certification be submitted to HUD (or the state in the case of state recipients). The RE must document its determination that the activity is exempt, and place the document into the Environmental Review Record.

*Example: A HOME PJ hires an architectural firm to design HOME-assisted new construction townhouses. This use of HOME funds is exempt under §58.34(a)(8).*

**B. Categorical exclusions not subject to §58.5 authorities.** (24 CFR 58.35(b))

HUD has determined that certain categorically excluded activities would not alter any conditions that would require an environmental review or compliance determination under Federal laws and authorities cited in §58.5. Examples of activities that are categorical exclusions not subject to §58.5 include the following:

- (1) Tenant-based rental assistance.

- (2) 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. **Warning:** homebuyer assistance for units not already under construction must be treated as a categorical exclusion **requiring** compliance with the authorities cited in §58.5.
- (3) 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 that do not have a physical impact.

***Example:*** An RE uses portion of its annual HOME allocation to provide tenant-based rental assistance to income-eligible families. The HOME funds are used to pay the security deposits and subsidize the market-based rents so that families receiving assistance pay no more than 30 percent of their monthly incomes on rent. The term of assistance is for two years subject to renewal. Such use of funds is categorically excluded from the requirements of NEPA [§58.35(h)(1)], and the requirements of §58.5, as this activity is not subject to any of the statutes cited under this section. A Compliance Documentation review is not conducted.

These activities are treated like exempt activities. The RE is not required to undertake a NEPA level review or document that the activities comply with other Federal laws and authorities found at §58.5. Additionally, no public notices are published, and a Request for Release of Funds and Certification is not submitted to HUD (or the state in the case of state recipients). The RE must document its determination that the activity is a categorical exclusion not subject to §58.5 authorities, and place the document into the Environmental Review Record.

**C. Categorical exclusions subject to 58.5.** (24 CFR 58.35(a))

A category of actions that do not individually or cumulatively have a significant effect on the human environment. Categorically excluded activities typically replace or improve existing facilities or structures, i.e., they retain the original usage of a structure or facility; do not increase the size or unit density of the structure or facility being improved by more than 20 percent; do not change land uses (commercial to residential); and in the case of rehabilitation, the cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Examples of categorically excluded activities are as follows:

- (1) minor rehabilitation of an existing property (multifamily or single family);
- (2) an individual action, such as new construction, major rehabilitation, moving or demolition, on a one-to-four family dwelling. *[New construction or major rehabilitation of five or more units located within 2,000 feet of each other undertaken as a single action (e.g., a subdivision), is **not** categorically excluded.]*

***Example:*** A multifamily building rehabilitated under the HOME program at a cost of \$450,000. The rehabilitation conducted did not involve a change of land use or change unit density by more than 20 percent. The replacement cost of the structure as determined by the insurance company providing coverage is \$1,500,000. The project therefore, is categorically excluded from NEPA as the amount of the rehabilitation work is only 30 percent of the replacement cost [ $\$450,000 \div \$1,500,000 = 30\%$ ]. The level of rehabilitation work allowed before the 75% maximum level is reached is \$1,125,000 [or  $\$1,500,000 \times .75$ ]. A Compliance Determination review is completed and a RROF is submitted to HUD (or the state) to receive HOME funding. On the other hand, if the total rehabilitation costs had exceeded 75 percent of the total estimated cost of replacement after rehabilitation, or if the rehabilitation had involved a change in land use or a change in unit density of more than 20 percent, the RE would then have had to complete a full Environmental Assessment in order to satisfy NEPA.

Categorically excluded activities require the completion of a "compliance determination" review using a "statutory checklist format." This format lists ten Federal laws and authorities found in §58.5. The proposed activity is reviewed to determine whether it complies with the requirements of the Federal laws and authorities. If the proposed activity triggers any of the Federal law and authority reviews, e.g., E.O. 11988, "Floodplain Management," the specific review must be completed before the "compliance determination" can be considered finished. The RE must then:

- (1) publish all notices related to the specific Federal law and authority review;
- (2) publish a Notice of Intent to Request Release of Funds.
- (3) submit a Request for Release of Funds and Certification to HUD or the state (in the case of a state recipient).
- (4) wait to receive a HUD-7015.16 form, "Authority to Use Grant Funds" or equivalent letter from HUD or the state.

Activities or projects that are determined to be categorical exclusions must also comply with the provisions of §58.6.

**D. Categorically excluded activities converted to exempt activities (24 CFR 58.34(a)(12))**

Activities that are listed in §58.35(a)(1)-(6) as categorical exclusions may be converted into exempt activities under the following conditions:

- (1) The RE completes a compliance determination under the Federal laws and authorities cited in §58.5 for the proposed activity.

- (2) The RE concludes that no circumstances exist where any of the Federal laws and authorities require compliance with its own review procedures.
- (3) The RE documents its conclusions on the compliance review form (statutory checklist format) and places it in the Environmental Review Record. No public notices are published and no Request for Release of Funds and Certification is submitted to HUD or the state (in the case of state recipients).

The RE documents that the activity did not trigger compliance with any Federal laws and authorities and, consequently, the activity was converted into an exempt activity. All documents will be placed in the Environmental Review Record.

**E. Environmental assessment (EA)** (24 CFR §58.36) Activities which cannot be determined to be exempt under §58.34 or categorically excluded from NEPA under §58.35, or which involve a categorical exclusion with "extraordinary circumstances" under §58.2(a)(3), require that a full Environmental Assessment be conducted. While an EA addresses the same issues as those found in a Compliance Determination review, it also includes the following analysis:

- (1) determines existing conditions;
- (2) identifies, analyzes and evaluates all potential environmental impacts;
- (3) examines and recommends feasible ways to eliminate or minimize adverse environmental impacts;
- (4) examines alternatives to the project-
- (5) includes a compliance determination for all other Federal laws and authorities cited in §58.5 and §58.6.
- (6) leads to an RE's Finding of No Significant Impact (FONSI), or a Finding of Significant Impact, thereby requiring the execution of an Environmental Impact Statement (EIS).

An EA, using an Environmental Assessment Format, is normally required for five or more units only if the sites are 2,000 feet apart or less and/or there are more than four units on a site. This includes:

- (1) new construction of five or more residential units;
- (2) major rehabilitation and reconstruction of five or more residential units;
- (3) conversion of non-residential land use to residential land use;

- (4) acquisition of vacant land for development when five or more units are involved.

Upon completion of the environmental assessment, the RE will make either a **Finding of No Significant Impact (FONSI)**, or a **Finding of Significant Impact (FOSI)** determination. In the event that a FONSI is made, the RE will do all of the following:

- (1) publish or disseminate a Notice of Finding of No Significant Impact in accordance with §58.43 and §58.45;
- (2) publish or disseminate a Notice of Intent to Request Release of Funds;
- (3) submit to HUD or the State (for State recipients) a "Request for Release of Funds and Certification" form (HUD-7015.15).
- (4) wait to receive an "Authority to Use Grant Funds" form (HUD-7015.16) or equivalent approval letter from HUD or the State (for State recipients) before initiating work or committing funds.

In the event that a FOSI is made, the RE must adopt or initiate an Environmental Impact Statement (EIS) in accordance with Subparts F and G of Part §58.

Activities or projects that require an Environmental Assessment must also comply with the provisions of §58.6.

***Example:*** A housing developer borrows \$2,000,000 in HOME funds to acquire a single parcel of 10 acres of land and construct 30 units of rental housing. Such a project is neither exempt nor categorically excluded from NEPA.. The size of the project exceeds the thresholds of categorically excluded activities under §58.35(a)(4). Additionally, the proposed use of HOME funds for the project is not composed entirely of "soft costs" associated with exempt activities listed in §58.34. Consequently, the RE must perform an Environmental Assessment in accordance with §58.36, as detailed at §58.40, before committing funds.

#### **F. Environmental Impact Statement (EIS) (24 CFR 58.37)**

An environmental impact statement is a complex analysis required for proposed activities that would have a significant impact on the human environment in accordance with section 102(2)(C) of the National Environmental Policy Act. EIS thresholds stated at §58.37(a) and (b)(2) include:

- (1) projects determined by a previously written environmental assessment, to have a potentially significant impact on the human environment;
- (2) projects involving 2,500 or more units being: removed, demolished, converted, rehabilitated, constructed.

The RE must prepare an Environmental Impact Statement (EIS) for projects where a Finding of Significant Impact (FOSI) has been determined in the EA. Preparation of an EIS requires the RE to:

- (1) publish a Notice of Intent to prepare an Environmental Impact Statement (NOI/EIS) in accordance with §58.55;
- (2) determine whether or not to hold a scoping meeting in accordance with §58.56;
- (3) designate a lead agency when appropriate in accordance with §58.57;
- (4) determine whether or not to hold public hearings in accordance with §58.59 and 40 CFR 1506.6; and
- (5) prepare and file an EIS in accordance with §58.60.

If, on the basis of an EA, an RE determines that the thresholds in §58.37(b) are the sole reason for the EIS, a Finding of No Significant Impact (FONSI) may be prepared pursuant to 40 CFR 1501.4. The FONSI must be available to the public for 30 days before the RE makes a final determination whether to prepare an EIS. The RE must use the EIS format recommended by the Council on Environmental Quality regulations at 40 CFR 1502.10.

Activities or projects that require an Environmental Impact Statement must also comply with the provisions of §58.6.

**G. Other requirements (24 CFR 58.6)**

In addition to the duties under the laws and authorities specified in §58.5, the responsible entity must comply with the following requirements:

- (1) Federal assistance for acquisition and construction purposes. **other than under the state-administered HOME Program**, may not be used in an area identified as having special flood hazards, (i.e., floodplain), where the community is not participating in the National Flood Insurance Program.
- (2) Where a community is participating in the National Flood Insurance Program, flood insurance must be obtained on properties located in a 100-year floodplain, as a condition of the approval of financial assistance to the property owner for acquisition and construction purposes, **except under the state-administered HOME Program**.
- (3) HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources system.

- (4) Buyers receiving Federal assistance to purchase a property in a runway clear zone or military clear zone shall be advised in writing of the hazard of its location and the possibility that their property may be acquired by the airport operator. The buyer must sign an acknowledgment of receipt of this information.

## **VII. OUTSTANDING AND RELATED ISSUES**

### **A. Aggregation: Combining project activities for the environmental review process**

The RE must group together and evaluate as a single project all individual activities which are related on a geographic basis (i.e. site specific) or a functional basis (i.e. activity specific), are logical parts of a larger project, are funded by several Federal programs, or are partly funded with non-Federal resources. The purpose of aggregation is to reduce the number of individual reviews by analyzing the impacts of the "entire" proposed activity.

Examples of such circumstances include:

1. Multiple years of HOME funding.
2. Funds from other HUD programs (e.g., the Community Development Block Grant and the Supportive Housing Programs).
3. Other Federal (non -HUD) program funds,
4. Other non-Federal sources (e.g., State, local, nonprofit or private companies).

The environmental review must (a) state whether or not the proposed activity will receive multiple year funding, and (b) assess the impacts of activities funded from all other sources (Federal and non-Federal) which are used in HOME-assisted projects. The review would address all aspects of the project, not just those assisted with Federal funds. Additionally, the applicable public notice(s) shall identify the source of all other funds. Separate Request for Release of Funds and Certification forms (HUD-7015.15) should be completed for each source of HUD funds (e.g., HOME, CDBG, SNAPS).

### **B. Reevaluations (24 CFR 58.47)**

After completion of the original environmental review process, circumstances may require that the original review be reevaluated. This will be occur when:

- (1) substantial changes to the nature, magnitude, or extent of the project are proposed,
- (2) new activities not anticipated in the original review are proposed,
- (3) new circumstances and environmental conditions that may affect the project or have a bearing on its impact are discovered during the implementation of the project, or

- (4) the selection of an alternative not in the original finding is proposed.

If the original findings are still valid, the RE must affirm the original findings and update the Environmental Review Record with its re-evaluation. A statement addressing the above four points will suffice as documentation that a re-evaluation has been conducted. A new FONSI notice is not required.

If the RE determines that the original findings are no longer valid, it must prepare a new Environmental Assessment (or an EIS if its evaluation indicates potentially significant impacts). A new FONSI notice must be published/disseminated and be submitted to HUD (or the State) or disseminated in accordance with §58.43.

### **C. Projects in progress**

There are two circumstances in which HOME-funded projects receive funding **after** construction has started without violating environmental requirements. These circumstances are as follows:

- (1) Projects started with Federal funds. An approved HOME-funded project may receive additional Federal funds after the original Request for Release of Funds and Certification form (HUD-7015.15) [where required] had been approved by HUD (or the state), but before the project itself is completed. In such case, the RE may be required to initiate a reevaluation of the original environmental determination in accordance with §58.47 (see Section B above). Generally, approval of supplemental assistance to cover minor shortfalls in funding and to help complete a project previously approved under this part is excluded from the environmental review requirements of NEPA and the §58.5 authorities, if approval is made by the same responsible entity.
- (2) Projects started with non-Federal funds. PJs, State recipients, subrecipients, contractors, owners, developers (including CHDOs) who had committed or expended **non-Federal funds including permanent financing**, to begin the development of an affordable housing project before the RE obtains an Authority to Use Grant Funds form (HUD-7015.16) by HUD (or the state) may be reimbursed with HOME funds for such expenditures only when the following conditions are met:
  - (a) The contractors, owners and developers started the project without the intention of using Federal assistance (e.g., as evidenced by other anticipated funding, the original project budget, etc.);
  - (b) The RE informs the state recipient, subrecipient, contractor, owner or developer that all work on the project must cease and/or the RE itself ceases all work on the project once an application for HOME funds is made. No work or other choice limiting actions may occur after that date. Work may

recommence upon receipt of form HUD-7015.16 from HUD (or the state). REs may not obligate funds to projects unless the PJ or state recipient first determines that the result of the environmental review is satisfactory and HUD (or the state) has issued a form HUD-7015.16.

*Example: A nonprofit housing developer uses its own funds to acquire land to construct four single family affordable housing units. Under normal circumstances this project could be sustained by using local funds, and the nonprofit had no intention of using HOME funds to assist any part of it. However, unanticipated cost overruns occur related to site preparation work causing the project to go over budget. The developer decides to seek HOME funds from an RE. To do so, the developer must stop work on the project, and provide information requested by the RE regarding the project site to aid in the production of the environmental review. Work on the project may recommence only after completion of the environmental review process.*

**D. Emergencies (24 CFR 58.33)**

When an emergency, disaster or imminent threat to health and safety is declared, the combined Notice of FONSI and the Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the Request for Release of Funds and Certification form to HUD (or the state). The combined FONSI Notice and NOI/RROF shall state that the funds are needed immediately due to a Presidentially declared disaster and that the comment periods have been combined. Any comments made by the public, other organizations or agencies are to be sent to both HUD (or the state) and the RE.

**E. Program income and match**

Environmental reviews must be conducted for activities funded by program income. Environmental reviews are not required for activities supported by HOME match contribution requirements unless they are part of the project also receiving HOME funds.

## STEPS TO CONDUCTING AN ENVIRONMENTAL REVIEW

1. Determine what level of review is required:
  - Exempt
  - Categorical Exclusions Not Subject to §58.5
  - Categorical exclusions
  - Categorical exclusions converted to exempt
  - Environmental assessment
  - Environmental Impact Statement
2. Initiate contacts with outside sources, e.g. State Historic Preservation Officer.
3. Collect data.
4. Complete applicable review format, i.e. Statutory Checklist or Environmental Assessment.
5. Make environmental determination, i.e. compliance with Federal laws and authorities, **or** finding of no significant impact, **or** finding of significant impact.
6. Publish or disseminate public notices when applicable.
7. Submit Request for Release of Funds and Certification form to HUD (or the state).
8. Wait for receipt of Authority to Use Grant Funds form from HUD (or the state).
9. Start project - commit funds.

### Environmental Determinations for HOME-funded Undertakings

Action	Exempt	Categorically Excluded Not Subject To §58.5	Categorically Excluded Subject To §58.5	Environmental Assessment
Acquisition of existing structure and land			<b>X(1),(4),(5)</b>	
Acquisition of vacant land for future development			<b>X(1),(4)</b>	<b>X(2)</b>
Administrative costs/planning	<b>X</b>			
CHDO operating expenses	<b>X</b>	<b>X</b>		
Closing costs for homebuyers on existing units or units under construction		<b>X</b>		
Construction (new)			<b>X(1),(4)</b>	<b>X(2)</b>
Conversion of building use (change in land use)			<b>X(1),(4)</b>	<b>X</b>
Down payment assistance to homebuyers for existing units or units under construction		<b>X</b>		
Elder cottage housing opportunities - purchase			<b>X(1),(4),(5)</b>	
Elder cottage housing opportunities - rehab			<b>X(1)(3),(4)</b>	
Inspections and testing of properties	<b>X</b>			
Major rehabilitation			<b>X(1),(4)</b>	<b>X</b>
Manufactured housing - purchase			<b>X(1)(4),(5)</b>	<b>X(2)</b>
Manufactured housing - rehabilitation			<b>X(1)(3),(4)</b>	<b>X(2)</b>
Minor rehabilitation			<b>X(1),(3),(4)</b>	
Predevelopment costs (§58.35(b)(6))		<b>X</b>		
Reconstruction			<b>X(1),(3),(4)</b>	<b>X(2)</b>
Tenant-based rental assistance/security deposits		<b>X</b>		

- 1 Can be converted into an exempt activity if none of the laws and authorities listed in §58.5 require further compliance.
- 2 For projects involving five or more residential units that **are** 2000 feet apart or less and/or have more than four units on one site.
- 3 Provided that the activity meets the criteria of 24 CFR 58.35(a)(3).
- 4 Provided that the activity meets the criteria of 24 CFR 58.35(a)(4).
- 5 Provided that the activity meets the criteria of 24 CFR 58.35(a)(5)

**Sample Environmental Notices  
&  
Instructions for Computing  
Environmental Notice Waiting Periods**

**SAMPLE SEPARATE FONSI NOTICE**  
**NOTICE OF FINDING OF NO SIGNIFICANT**  
**IMPACT ON THE ENVIRONMENT**

\*Date \_\_\_\_\_:

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(Name, Address, Zip Code and Telephone Number of the Responsible Entity)

**TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:**

The above-named (city) (county) (State of....) proposes to request the U. S. Department of Housing and Urban Development (or State of .... ) to release Federal funds under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 for the following project:

---

(Project Title or Name)

---

(Purpose or Nature of the Project)

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(Location-City, County, State of project)

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(Estimated Cost of Project)

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment and, accordingly, the above-named (city) (county)(state of) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969.

(If applicable) The following negative impacts have been identified, as well as the means to mitigate their effect:

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(Set forth reasons for decision)

An Environmental Review Record respecting this project which has been made by the above-named (city) (county) (state of....) documents the environmental review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at the above address and is available for public examination and copying, upon request, at Room \_\_\_\_\_, between the hours of \_\_\_\_\_ and \_\_\_\_\_.

(if applicable) No further environmental review of such project is proposed to be conducted, prior to the request for release of Federal funds.

All interested agencies, groups and persons disagreeing with this decision are invited to submit written comments for consideration by the (city) (county) (state of ... ) to the (office of the undersigned) (other specified place). Such written comments should be received at (the address specified) on or before (\*\*date). All such comments so received will be considered and the (city) (county) (state of....) will not request the release of Federal funds or take any administrative action on this project prior to the date specified in the preceding sentence.

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(Name and Address of the Chief Executive Officer or Responsible Entity)

\*Insert date of first publication. or if no publication, date of mailing and posting.  
\*\*not less than 15 days after the date of publication or 18 days after mailing and posting.

**SAMPLE SEPARATE NOI/RROF**  
**NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

Date \_\_\_\_\_

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(Name, Address, Zip Code and Telephone Number of Responsible Entity)

**TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS:**

---

(Project Title or Name)

---

(Purpose or Nature of Project)

---

(Location-City, County, State of Project)

---

(Estimated Cost of Project)

An Environmental Review Record respecting this project has been made by the above-named (City) (County) (State of ... ) which documents the environmental review of the project. This Environmental Review Record is on file at the above address and is available for public examination and copying, upon request.

(Name of Responsible Entity) will undertake the project described above with **HOME Investment Partnerships Program** funds from the U.S. Department of Housing and Urban Development (HUD), under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990. (Name of responsible entity) is certifying to HUD (or the state of ... ) that (Name of the responsible entity) and chief executive officer or other officer of the (city)(county)(state) approved by HUD, in his/her official capacity as (Name of office), consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental review, decision making, and action; and that these responsibilities have been satisfied for this project. The legal effect of the certification is that upon its approval, (Name of responsible entity) may use the HOME Investment Partnerships Program funds, and HUD will have satisfied its responsibilities under the National Environmental Policy Act of 1969 and related laws and authorities. HUD (or the state of ... ) will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases: (a) That the certification was not in fact executed by the chief executive officer or other officer of the responsible entity approved by

HUD (or the state of ... ); or (b) that the responsible entity's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process. Objections must be prepared and submitted in accordance with the required procedure (24 CFR Part 58), and may be addressed to HUD at (complete HUD office address) (or the state of..... at (complete state office address)). Objections to the release of funds on bases other than those stated above will not be considered by HUD (or the state of .... ). All objections must be received by HUD (or the state) within 15 days from the time HUD (or the state of ... ) receives the (responsible entity's) request for the release of funds and certification.

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(Name and Address of Chief Executive Officer of the Responsible Entity)

# SAMPLE COMBINED NOTICE

\* Date: \_\_\_\_\_

## NOTICE TO PUBLIC OF A FINDING OF NO SIGNIFICANT IMPACT ON THE ENVIRONMENT

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(Name of Responsible Entity)

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(Address, Zip Code and Telephone Number of Responsible Entity)

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(Name of Chief Executive Officer of Responsible Entity)

### TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS

The above-named (city) (county) (state of.....) proposes to request the U.S. Department of Housing and Urban Development (HUD) (or the State of.....) to release Federal funds under the **HOME Investment Partnerships Program** (Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990) for the following project:

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(Project Title or Name)

---

(Nature of Project)

---

(Location-City, County, State of Project)

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(Estimated Cost of Project)

This activity (will) (win not) be undertaken over multiple years.

It has been determined that such request for release of funds will not constitute an action significantly effecting the quality of the human environment and, accordingly, the above-named (City) (County) (State of....) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969.

(If applicable) The following negative impacts have been identified, as well as the means to mitigate their effect:

An Environmental Review Record pertaining to this project has been made by the above-named (City) (County) (State of.....) which documents the environmental review of the project and more fully sets forth the reasons why such statement is not required. This Environmental

Review Record is on file at the above address and is available for public examination and copying, upon request, in Room \_\_\_\_\_, between the hours of \_\_\_\_\_ and \_\_\_\_\_.

(if applicable) No further environmental review of such project is proposed to be conducted, prior to the request for release of funds.

All interested agencies, groups and persons disagreeing with this Finding of No Significant Impact decision are invited to submit written comments for consideration by the (city) (county) (state of....) to the (office of the undersigned) (other specified place). All such written comments so received at (the address specified) on or before (\*\*date) will be considered and the (city) (county) (state of....) will not request the release of Federal funds or take any administrative action pertaining to this project prior to the date specified in the preceding sentence.

### **NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS**

#### **TO ALL INTERESTED AGENCIES, GROUPS AND PERSONS**

On or about (\*\*date) the (city) (county) (state of....) will request the U.S. Department of Housing and Urban Development (or the state of ... ) to release Federal funds for the project described above. The (city) (county) (state of....) is certifying to HUD (or the state of ... ) that the (city) (county) (state of ... ) and the chief executive officer or other officer of the (city)(county)(state) approved by HUD, in his/her official capacity as (Name of office held), consent to accept the jurisdiction of the Federal courts if all action is brought to enforce responsibilities in relation to environmental reviews, decision making, and action; and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval, (name of Responsible Entity) may use the HOME Investment Partnership Program funds, and HUD will have satisfied its responsibilities under the National Environmental Policy Act of 1969 and related laws and authorities. HUD (or the state ) will accept an objection to its approval of the release of funds and acceptance of the certification only if it is on one of the following bases: (a) That the certification was not in fact executed by the chief executive officer or other officer of the responsible entity approved by HUD-, or (b) that the responsible entity's Environmental Review Record for the project indicates omission of a required decision, finding or step applicable to the project in the environmental review process. Objections to the Release of Funds must be prepared and submitted in accordance with the required procedure (24 CFR Part 58) and may be addressed to HUD at (complete HUD office address) (or the state of ... at (complete state office address)) Objections on bases other than those stated above will not be considered by HUD (of the state of ... ). All objections must be received by HUD (or the state of....) within 15 days from the time HUD (or the state of ....) receives the Responsible Entity's request for release of funds and certification, or within the time period specified, whatever is later.

\* Insert date of first publication, or if no publication, date of mailing and posting.

\*\* Not less than 15 days after the date of the publication or 18 days after the mailing and posting.

\*\*\*The day after the deadline of comments to the community found at \*\*date.

## **COMPUTING TIME REQUIREMENTS FOR COMBINED OR CONCURRENT NOTICES**

### **Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request Release of Funds (NOI/RROF) (24 CFR 58.21 and 58.45)**

1. Date of notice and date of newspaper publication:  

Monday, April 13
2. Time period for receipt of public comments:  

12:01 A.M. Tuesday, April 14 to 12:00 A.M. (midnight) Tuesday, April 28
2. Deadline date for receipt of public comments indicated in the notice(s):  

Tuesday, April 28
4. Earliest date for PJ's/state recipient's submittal of Request for Release of Funds and Certification (HUD Form 7015.15) to HUD (or the State):  

Wednesday, April 29
5. Earliest date of receipt by HUD (or the state) of the PJ's state recipient's Request for Release of Funds and Certification:  

Wednesday, April 29
6. Statutory 15-day waiting period for HUD approval or disapproval decision:  

12:01 A.M. Thursday, April 30 to 12:00 A.M. (midnight) Thursday, May 14
7. Deadline date for receipt by HUD (or the state) of objections to the PJ's/state recipient's Request for Release of Funds and Certification:  

Thursday, May 14
8. Earliest possible date for HUD (or the state's) notification of approval or disapproval. The Authority to Use Grant Funds form (HUD-7015.16) is used to convey approval:  

Friday, May 15

## **ELECTRONIC RESOURCES**

### **Environmental Procedures:**

For HUD procedures implementing the National Environmental Policy Act, regulations of the Council on Environmental Quality and related laws and authorities, see current edition of 24 CFR part 58:

<http://www.frwebgate1.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=3552616309+55+0+0&WAIAction=retrieve>

### **HUD Environmental Internet Page:**

For policies, rules, links, tools, contacts, and training manual for HUD staff, see:

<http://www.hud.gov/cpd/cpdenvir.html>

### **HUD Environmental Notices, Forms, and Checksheets:**

For latest edition of fillable forms and check sheets, see: HUDClips: <http://www.hudclips.org>

For form "HUD-7015.15--Request for the Release of Funds and Certification," select "forms" and select "HUD-7" to search the list that includes 7015.15 or enter HUD-7015.15 in the search box on the forms page. The form when filled or unfilled cannot be saved, but can be printed either as a blank form or as one filled out.

For "Statutory Checklist" and "Environmental Assessment Checklist" as fillable forms in Excel, enter the name of the checklist into the search box and select. The checklist can be saved or printed either as a blank, or partially or completely filled form.

For environmental notices, see: <http://www.hudclips.org>.

### **Environmental review:**

The following electronic resources are the primary sources of information for making a determination, whenever any of the following questions need to be answered in the course of preparing environmental reviews.

#### **1) Is the property located within designated coastal barrier resources?**

For HUD policy, see §58.6(c). For coastal barrier resources designated by the Fish and Wildlife Service of the Department of Interior, see either <http://www.fws.gov/cep/cbrtable.html> or the

flood insurance rate maps issued by the Federal Emergency Management Agency at <http://msc.fema.gov/MSC/q3flooda.htm>.

**2) Is the property contaminated by toxic chemicals or radioactive materials?**

For HUD policy, see §58.5(i). For maps created by marrying HUD's Community 2020™ software to EPA databases for site-specific information about all Superfund and brownfields sites, see: <http://www.hud.gov/emaps/>.

For information on toxic releases, CERCLIS, RCRIS, landview mapping, etc., maintained by the Right-To-Know Network, see: <http://www.rtk.net/rtkdata.html>.

**3) Is the property located within a flood hazard area or designated wetland?**

For HUD policy, see §58.5(b) and §58.6(a). For special flood hazard areas, see flood insurance rate maps issued by the Federal Emergency Management Agency: <http://www.fema.gov/msc/>. For HUD floodplain management procedures, see current edition of 24 CFR Part 55:

<http://www.frwebgate3.access.gpo.gov/cgi-bin/waisgate.cgi?WAISdocID=3657625287+20+0+0&WAIAction=retrieve>

For designated wetlands, see the National Wetlands Inventory maps issued by the Fish and Wildlife Service, Department of Interior <http://wetlands.fws.gov/>. For HUD policy, see Executive Order 11990, Protection of Wetlands.

For related and other hazards, see: <http://www.esri.com/hazards/makemap.html>.

**4) Is the property in a location requiring flood insurance?**

For HUD policy, see §58.6(a) and (b). For flood insurance rate maps issued by the Federal Emergency Management Agency, see: <http://www.fema.gov/msc>. For a community's status in the National Flood Insurance Program and dates of the current flood insurance rate maps, see <http://www.fema.gov/fema/csb.htm>.

**5) Is the property located within an airport runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield?**

See local airport operator for runway protection zone information. For HUD policy see, §58.6(d) and 24 CFR part 51, Subpart D at <http://www.frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi>.

**6) Is the property listed on, or eligible for listing on, the National Register of Historic Places; located within, or adjacent to, a historic district; or is a property whose area of potential effect includes a historic district or property?**

For HUD policy, see §58.5(a). For the listing maintained by the National Parks Service, Department of Interior, which holds information on every property listed in or determined eligible for the National Register of Historic Places, see: <http://www.cr.nps.gov/nr/research/nris.html>. For regulations of the Advisory Council on Historic Preservation, see: <http://www.achp.gov/regs.html>. [NOTICE: A historic preservation review must be conducted by the State Historic Preservation Officer for all properties not previously determined to be eligible for or listed on the National Register of Historic Places.]

**7) Is the property located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature?**

See local operator of the hazardous industrial operations regarding type and volume of fuels and chemicals of an explosive or flammable nature. For HUD policy and for determining acceptable separation distance, see §5 8.5(i) and 24 CFR part 51, Subpart C: <http://www.frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi>.

**8) Is the site noise-impacted?**

For determining noise levels and acceptable noise control, first identify high noise generators and level of noise impact. For HUD policy and for determining acceptable noise levels, see §58.5(i) and 24 CFR part 51, Subpart B: <http://www.frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi>.

**9) Is the project consistent with state's coastal zone management?**

For HUD policy, see §58.5(c). For general information on any state's coastal zone management program, see: <http://www.ocrm.nos.noaa.gov/czm/> maintained by the National Oceanic and Atmospheric Administration, Department of Commerce.

**10) Does the project affect a sole source aquifer?**

For HUD policy, see §58.5(d). For sole source aquifers designated by the Environmental Protection Agency, see: <http://www.epa.gov/ogwdw/swp/ssa.html>.

**11) Will the project affect an endangered species?**

For HUD policy, see §58.5(e). For the Federal list of endangered and threatened wildlife and plants maintained for each county by the Fish and Wildlife Service, Department of Interior, see: <http://endangered.fws.gov/wildlife.html>.

**12) Does the project affect listed wild and scenic rivers?**

For listed wild and scenic rivers, see National Park Service, Department of the Interior <http://www.nps.gov/rivers/wildriverslist.html>. For HUD policy, see §58.5(f).

**13) Does the project affect prime and unique farmland, or other farmland of statewide or local significance?**

For HUD policy, see §58.5(h). For county maps and information provided by the Natural Resources Conservation Service, Department of Agriculture, see: <http://www.nhq.nrcs.usda.gov/land/index/prime.html>.

**14) Is the project within a "non-attainment" or "maintenance" area and not in conformance with the State Implementation Plan (SIP) for clean air?**

For HUD policy, see §58.5(g). For maps created by marrying HUD's Community 2020™ software to databases maintained by the Environmental Protection Agency for site-specific information air pollution: see: <http://www.hud.gov/emaps/>. For information maintained by the Environmental Protection Agency relating to State Air Programs and Offices of Attorney General providing Air Enforcement activities and data compilations, see: <http://es.epa.gov/oeca/ore/aed/links/index.html>.

**15) Is the project located in a neighborhood where the proposed action is likely to raise environmental justice issues?**

For HUD policy, see §58.50). For information on environmental justice maintained by the Environmental Protection Agency, see: <http://www.epa.gov/oeca/oej/t6report.pdf>. For the Right-To-Know Network information, see: <http://www.rtk.net/rtkdata.html>.

**16) Is the project in compliance with the National Environmental Policy Act and implementing regulations of the Council on Environmental Quality?**

For regulations of the Council on Environmental Quality implementing the National Environmental Policy Act, see: <http://ceq.eh.doe.gov/nepa/nepanet.htm>.

**Other:**

For lead hazard abatement, see: <http://www.hud.gov/offices/lead/>.

For topographic maps and resource information maintained by the U.S. Geological Survey, see: <http://www.usgs.gov/>.

For air, water and land use issues, the U.S. EPA offers the "Window to My Environment" program presently available for sites in the mid-Atlantic region with eventual nationwide service, see: <http://www.ens.lycos.com/e-wire/>.