



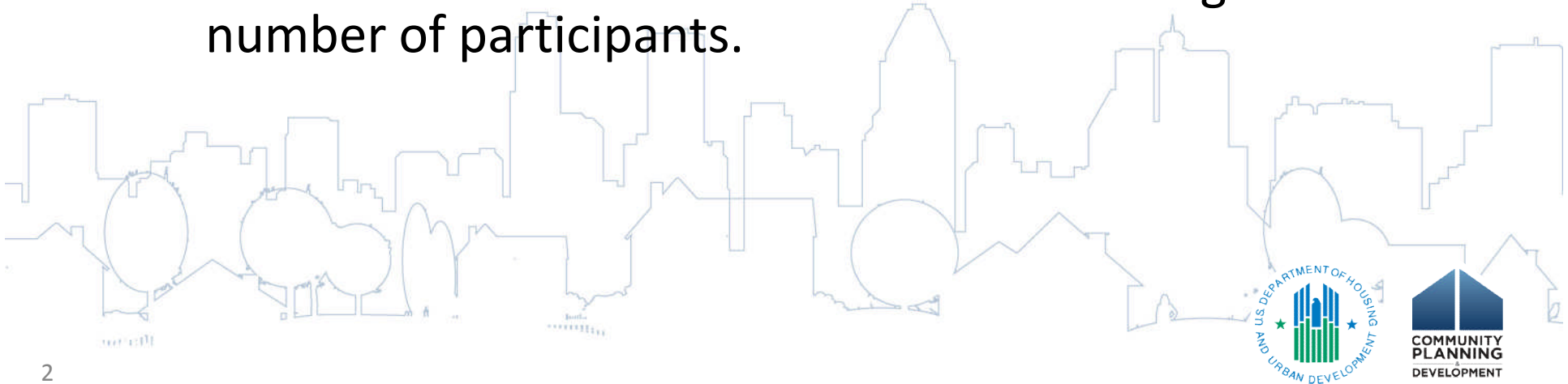
Basics of a Part 58 Review

Office of Environment and Energy
Department of Housing and Urban Development



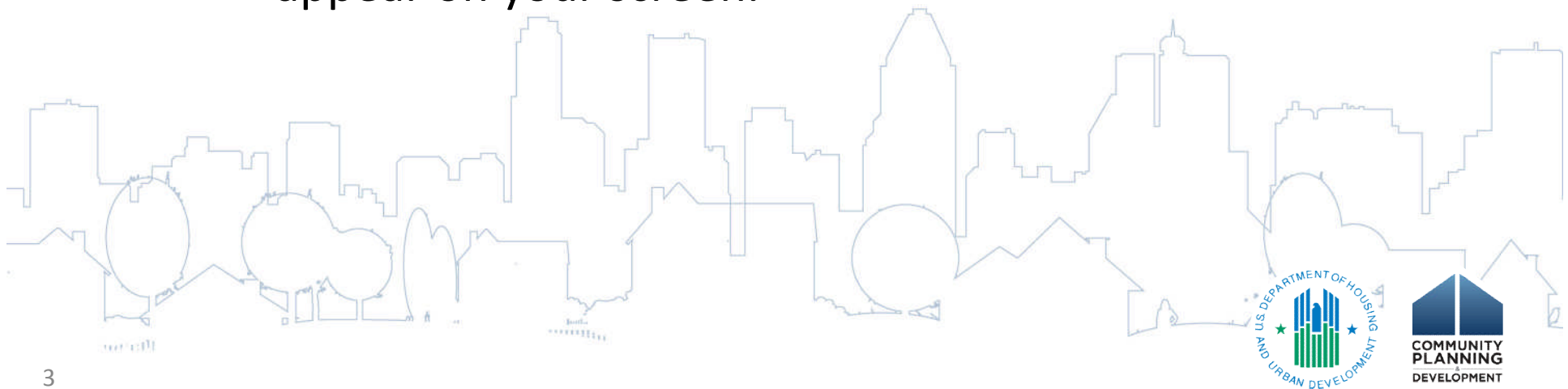
Webinar Format

- Presentation will last approximately 90 minutes.
- Recording of webinar will be posted on HUD's [Office of Environment and Energy Website](#) within a month.
- Audience members are muted due to the high number of participants.



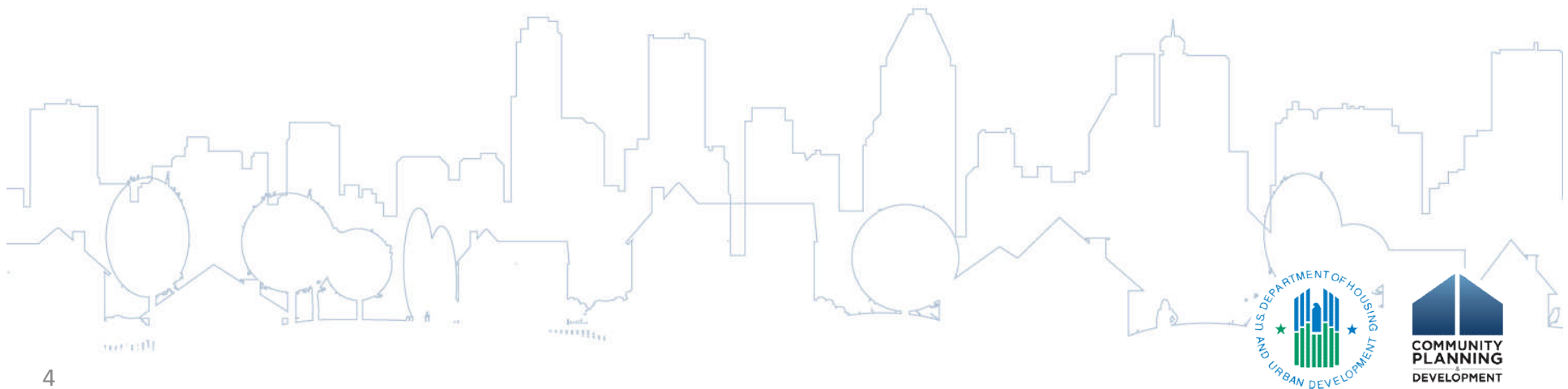
Audio Issues During the Webinar

- For audio, please use the following phone number: 866-893-1635, or listen through your computer.
- If you have technical difficulty with the audio or video portions of this webcast, try:
 - Logging off, then logging in again
 - Requesting help through the Q &A box that will appear on your screen.



How to Submit Questions

Type your questions in the Q & A box that will appear on your screen during the presentation. Technical questions will be addressed right away; content questions will be answered after the presentation.



Introduction



Kathryn Au
Elizabeth Zepeda
Lauren McNamara



Objectives

- To wrap your head around part 58 environmental reviews (familiarize with terms, forms, requirements)
- To feel comfortable getting started with an environmental review for a project
- To become aware of resources available to help completing an environmental review
- Know where to look for more training on environmental reviews



What Is an Environmental Review ?

Analysis of the impact of a project on the surrounding environment and vice versa.



The Objective

To document that our HUD funded projects are not harming the environment and that the environment is not impacting our projects

To provide decent, safe, and sanitary housing

(Don't commit funds before you do it.)



National Environmental Policy Act of 1969



- Requires Federal agencies to consider the environmental impact of proposed actions early on in the planning and decision making process
- A process designed to encourage public participation
- Requires that documents be available to the public



HUD's Environmental Regulations

24 CFR Part 50 -- HUD Review Requirements

- Environmental review requirements for HUD staff

24 CFR Part 51 -- Manmade Hazards

- » Noise
- » Explosives and Thermal
- » Runway Clear Zones



24 CFR Part 55 -- Floodplains & Wetlands

24 CFR Part 58 -- Local Government Review

- Unit of Local Government accepts HUD responsibility

Take a look!

<http://www.gpo.gov/fdsys/pkg/CFR-2004-title24-vol1/content-detail.html>



Part 58: Responsible Entities

Responsible Entity (RE) assumes federal responsibilities

- RE = a unit of general local government, tribe or State

Responsible Entity Certifying Officer

- Evaluates the environmental review
- Is responsible for scope and content
- Makes environmental finding
- Goes to court in a lawsuit



HUD Responsibilities under Part 58

Receives the form from the RE certifying that the Environmental Review is complete

Accepts public comments when a public comment period applies for HUD

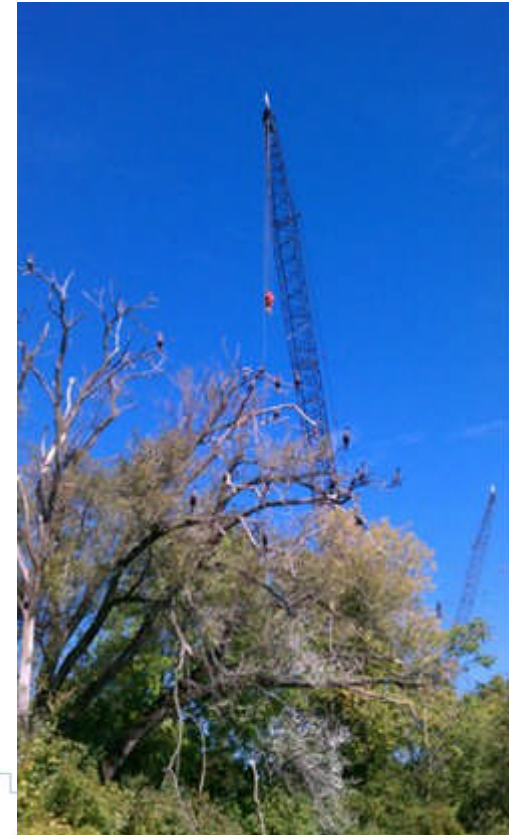
Completes a form to authorize the release of funds

Monitor REs for environmental compliance

Provide technical assistance

Find your local Field Environmental Officer!

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/contact/localcontacts



When does Part 58 apply?

Part 58

Most CPD programs & Public Housing Programs

Exceptions

- NSP2 Non-Profit Grants
- Neighborhood Initiative Grants
- Rural Housing Grants

Part 50

- Program's legislation doesn't allow Local Governments (LG) to assume authority
- Projects where City **refuses** to accept responsibility (and is not direct recipient)
- HUD determines LG does not have capacity

The Environmental Review Process

Define the project

Determine level of review

Perform the environmental review

Finalize review

Expend project funds

Post-review considerations

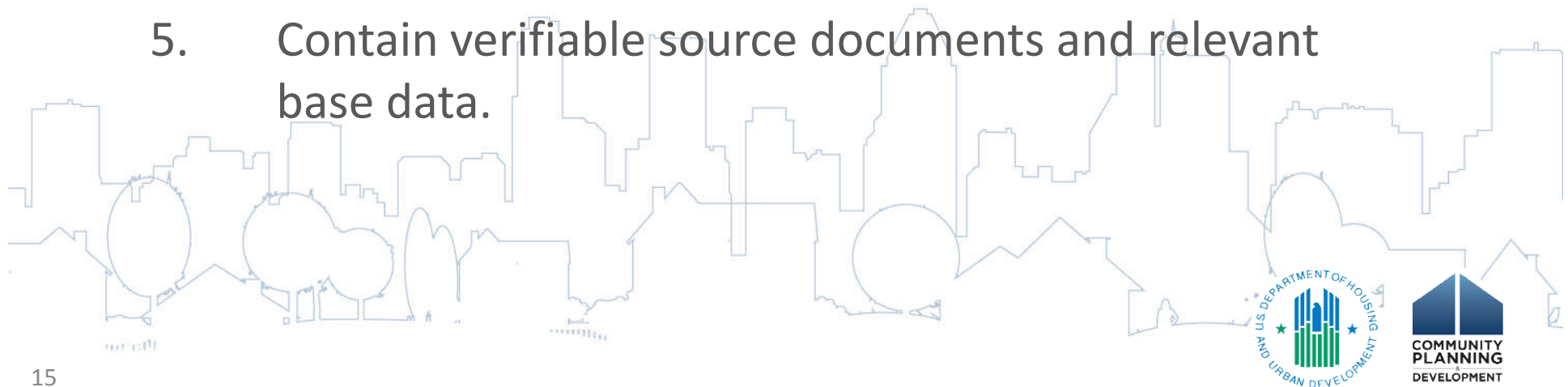
Maintain Environmental Review Record (ERR)



Environmental Review Record (ERR)

The ERR shall:

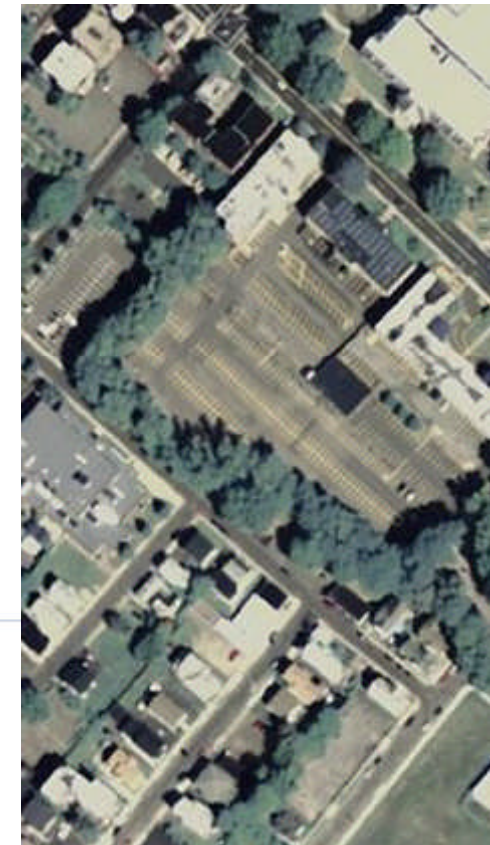
1. Describe all activities that are part of the project
2. Evaluate effects of project on human environment
3. Document compliance with applicable authorities, particularly 58.5 and 58.6.
4. Record determinations and findings.
5. Contain verifiable source documents and relevant base data.



Documentation in the ERR

Document how determinations were made – including but not limited to:

- Maps (including the location of the project)
- Letters of correspondence, approvals or required permits
- 8-step process for floodplain and wetland management
- Phase I and Phase II ESA reports
- Pictures of the site and future renderings



Project Description

- Capture the maximum anticipated scope of the proposal
- Include all contemplated actions that are a composite part of the project



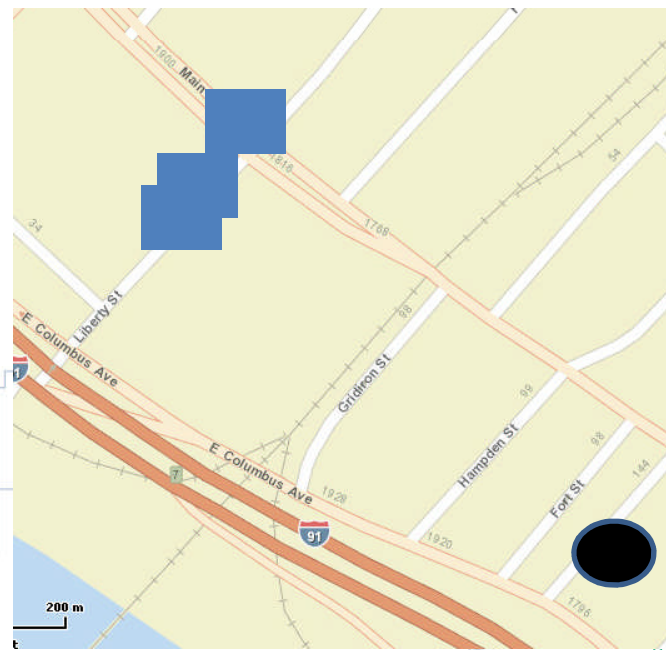
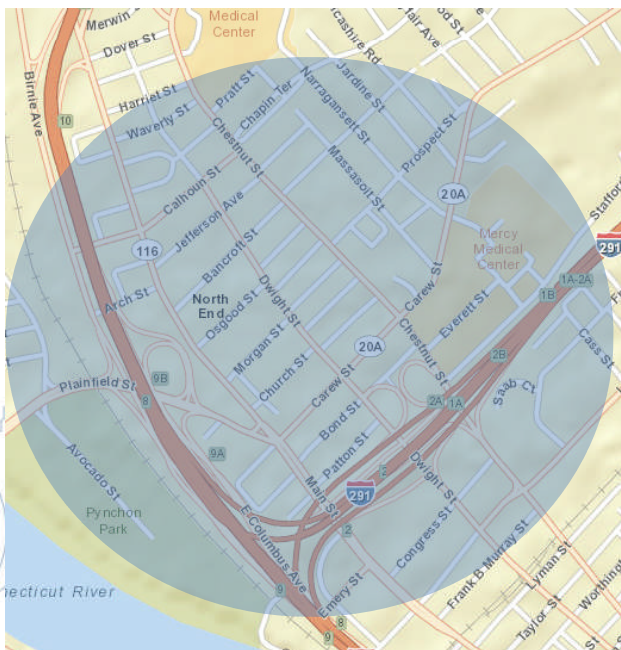
- Project aggregation (58.32)
- Sensitive information



Writing a Project Description

Which is better?

- a) “The affected units occur in the North End neighborhood.”
- b) “The project will affect the units at 1816 Main St., 165 Worthington St., and 46-48 Liberty St.”



Writing a Project Description

Which is better?

- a) “This project will upgrade the HVAC systems and weatherize the windows for single family units.”
- b) “The project will modernize single family units.”



Level of Review



Environmental Impact
Statement



Environmental
Assessment



Categorically Excluded
Subject to 58.5



Categorically Excluded
Not Subject to 58.5



Exempt



Exempt Activities



Listed in 24 CFR 58.34(a):

- Environmental, planning & design costs
- Information & financial services
- Administrative & management activities
- Public services (no physical impact)
- Inspections
- Purchase of tools & insurance
- Technical assistance & training
- Payment of principal and interest
- Temporary assistance for disaster or imminent threats



Categorically Excluded Not Subject to 58.5 (CENST) Activities

Determine level of review

Listed in 24 CFR 58.35(b):

- Tenant-based rental assistance
- Supportive Services (healthcare, housing placement)
- Operating costs (utilities, supplies)
- Economic development costs (non-construction)
- Pre-development costs
- Maintenance
- Supplemental Assistance



Categorically Excluded Subject to 58.5 (CEST) Activities

Determine level of review

Listed in 24 CFR 58.35(a): Narrowly defined activities with physical impacts

- Acquisition, leasing, or disposition of vacant land or existing buildings with no change in land use
- Acquisition or leasing of public facilities with no change in land use
- Removal of barriers that restrict mobility and accessibility to elderly and handicapped



CEST Activities Continued

Rehabilitation, Repair, and Improvements

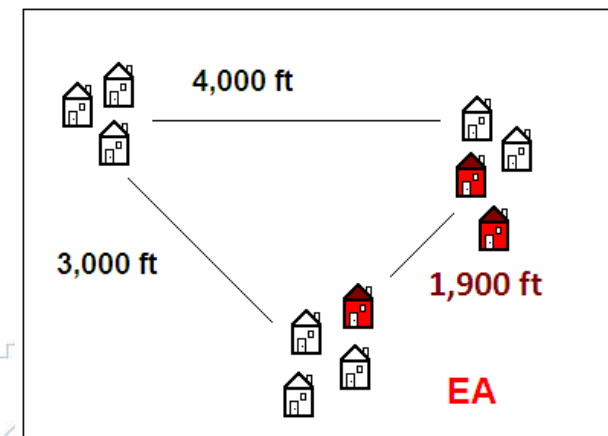
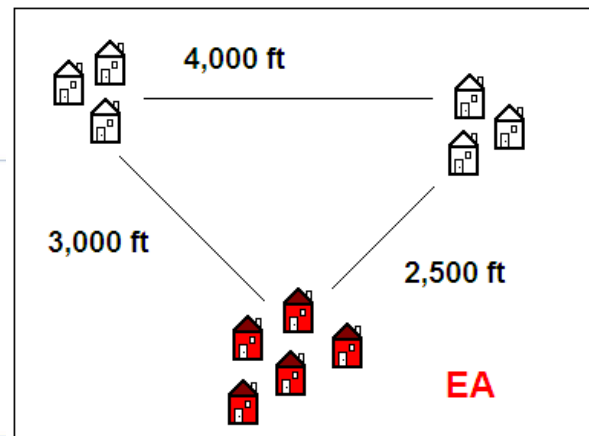
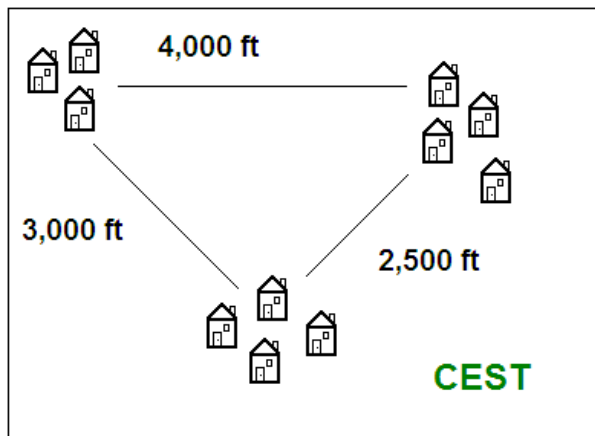
- Public facilities and non-residential buildings: no change in land use, change in size or capacity < 20%
- Multifamily residential: no change in land use, change in size or capacity < 20%, cost of rehab < 75% of cost of replacement after rehab
- Single family residential: no change in land use, density < 4 units, footprint not in floodplain or wetland



CEST Activities Continued

New Construction, Reconstruction, & Demolition

- *Individual action*: single family residential only
 - Maximum of 4 units, OR
 - *Scattered site*: 5+ units on sites 2,000+ ft apart, with no more than 4 units per site



Environmental Assessment (EA)

The default level of review

- Major rehabilitation
- Most new construction, reconstruction, or demolition
- Any change in land use
- Whenever no exclusion applies

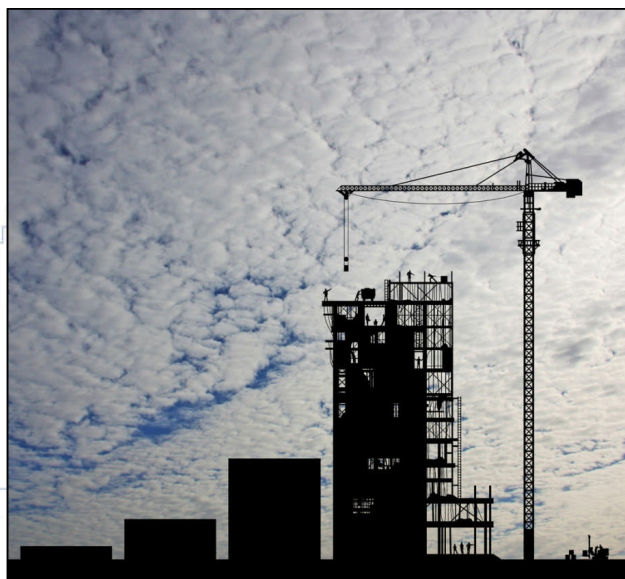


Environmental Impact Statement (EIS)

Listed in 24 CFR 58.37:

- Finding of significant impacts (FOSI)
- Projects affecting 2,500+ units or beds

Recommended format: see CEQ regulations at 40 CFR 1502.10



Quiz: Choose the Level of Review

1. Construction of a 4-unit apartment building

❖ Answer: CEST (24 CFR 58.35(a)(4)(i))



Quiz: Choose the Level of Review

2. Demolition and reconstruction of a 5-unit apartment building

❖ Answer: EA



Quiz: Choose the Level of Review

3. Replacement of an office building's plumbing system

❖ Answer: CEST (58.35(a)(3)(iii))



Quiz: Choose the Level of Review

4. Office operating costs

❖ Answer: CENST (58.35(b)(3))



Quiz: Choose the Level of Review

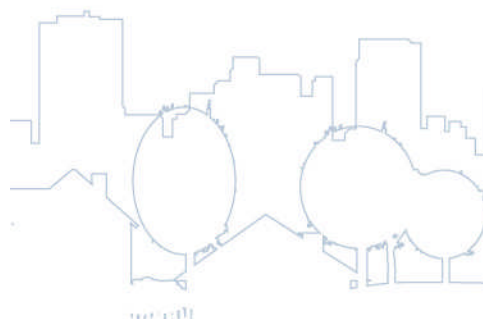
5. Buying an apartment building with the intent to perform minor repairs and rent out individual apartments
- ❖ Answer: CEST (58.35(a)(3)(ii), 58.35(a)(5), 58.35(a)(6))



Quiz: Choose the Level of Review

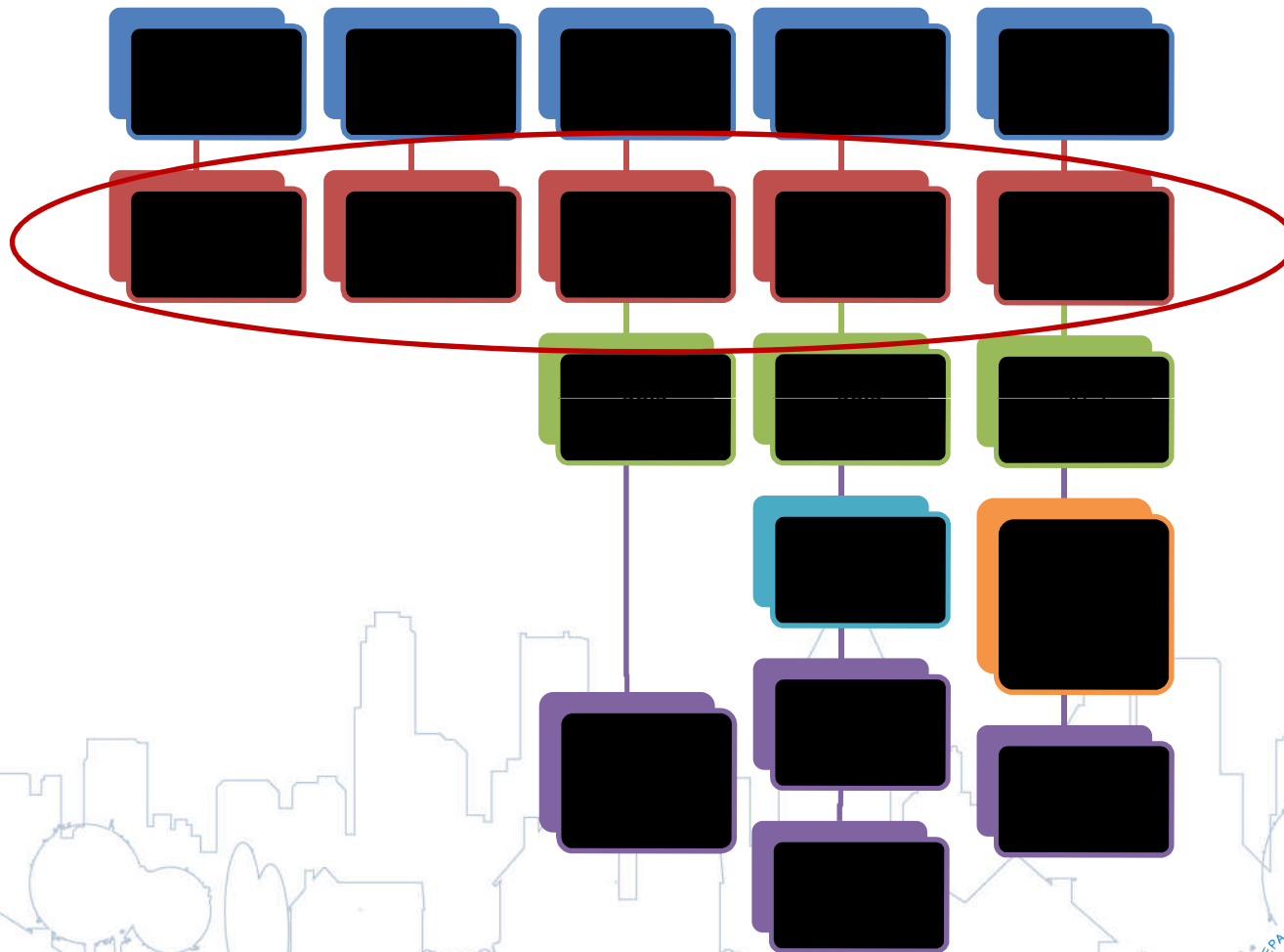
6. Selling an office building to a developer who plans to demolish the building

❖ Answer: EA



Perform the environmental review

So, what's required?



Perform the environmental review

58.6 Applies to ALL Projects!!!

Requirements in 24 CFR 58.6:

- National Flood Insurance Program
- Coastal Barrier Resources Act
- Airport Runway Clear Zones



Perform the environmental review

Phew, that wasn't too bad. What next?



24 CFR 58.5: The fun stuff

a.k.a. the “Statutory Checklist”

- Clean Air Act
- Coastal Zone Management Act
- Contamination and Toxic Substances
- Endangered Species Act
- E.O. 12898 on Environmental Justice
- Explosive and Flammable Hazards
- Farmlands Protection Policy Act
- E.O. 11988 on Floodplain Management
- National Historic Preservation Act
- Noise Abatement Regulation
- Sole Source Aquifers
- E. O. 11990 on Wetlands
- Wild and Scenic Rivers Act

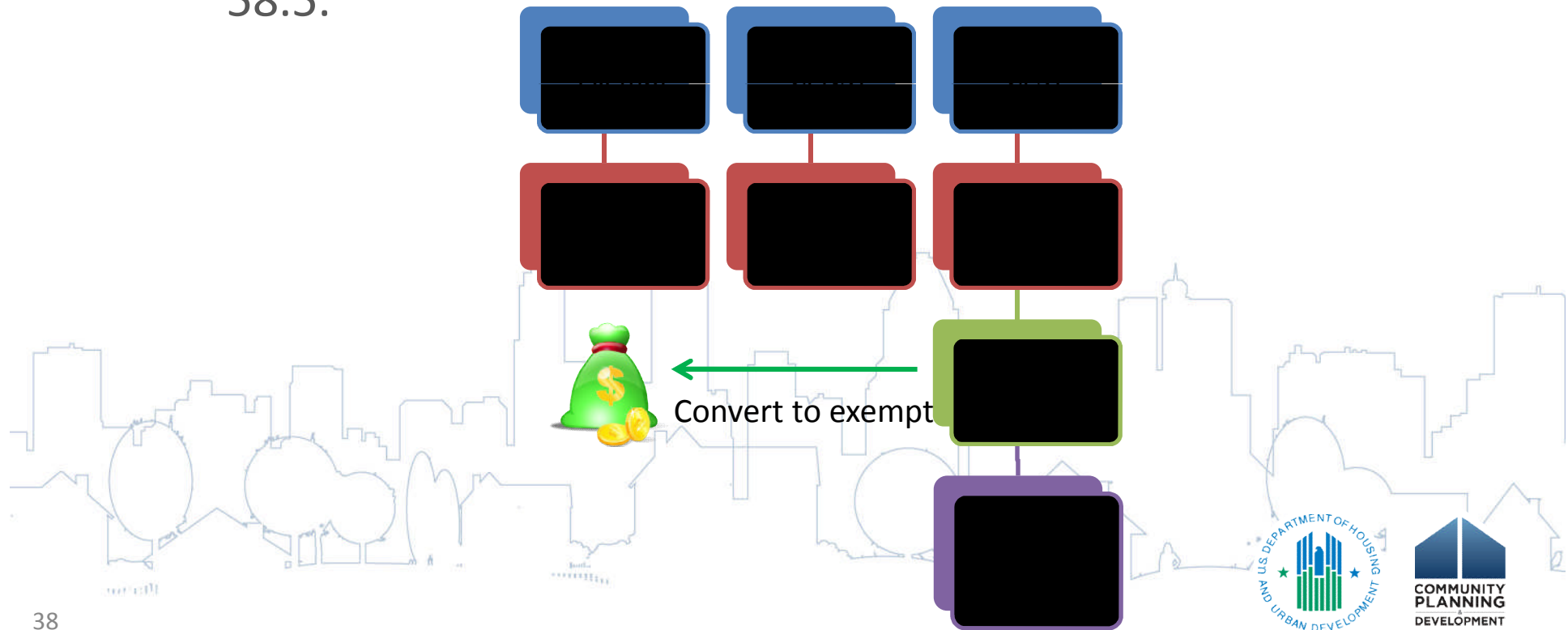


Conversion to Exempt

Perform the environmental review

Determine level of review

58.34(a)(12): CEST projects can *convert* to exempt if there are no circumstances which require compliance with any other Federal laws and authorities cited in 58.5.



Perform the environmental review

What else is required?



Perform the environmental review

Environmental Assessment

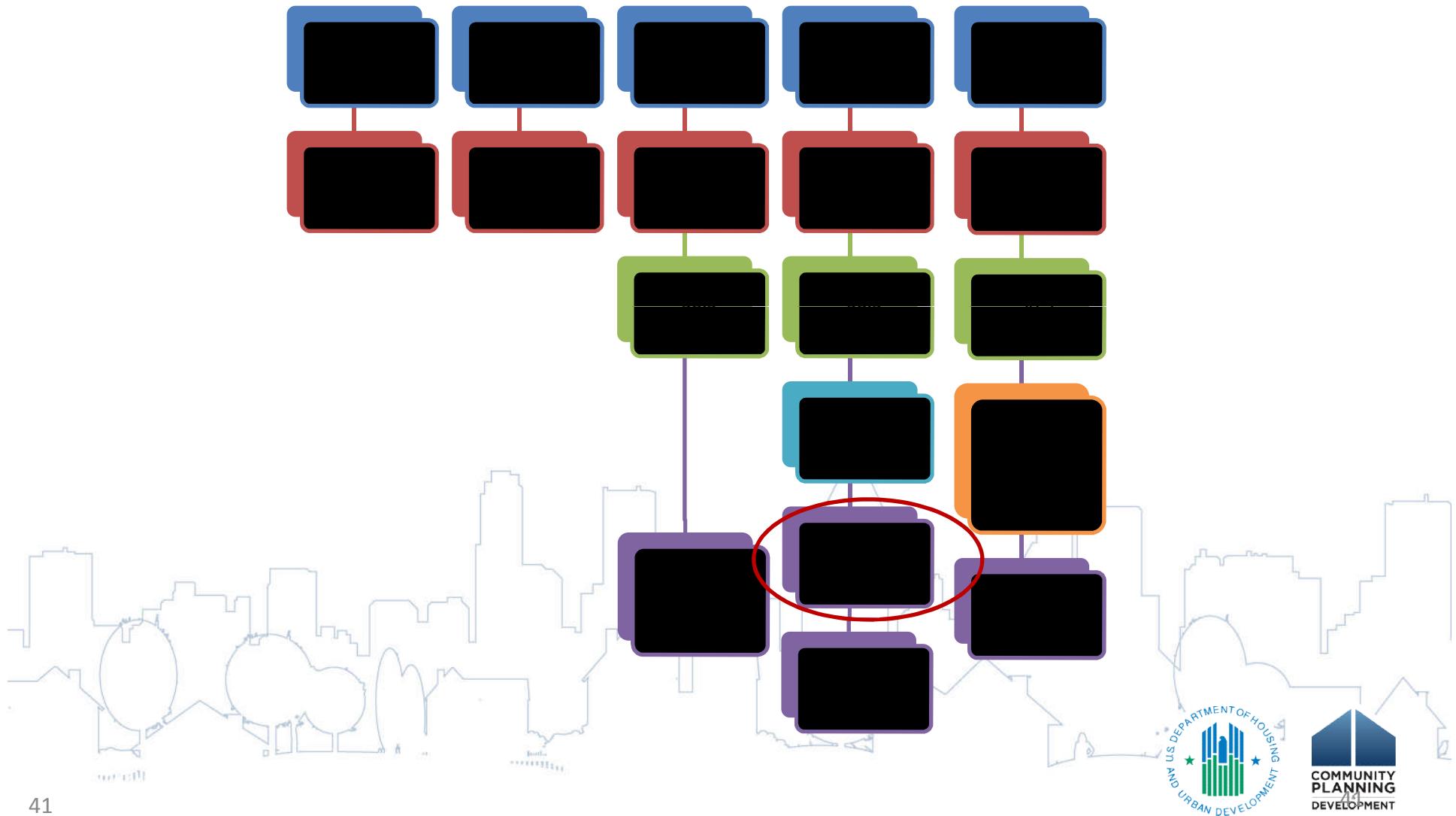
- NEPA analysis
- Additional considerations



Perform the environmental review

Finalize review

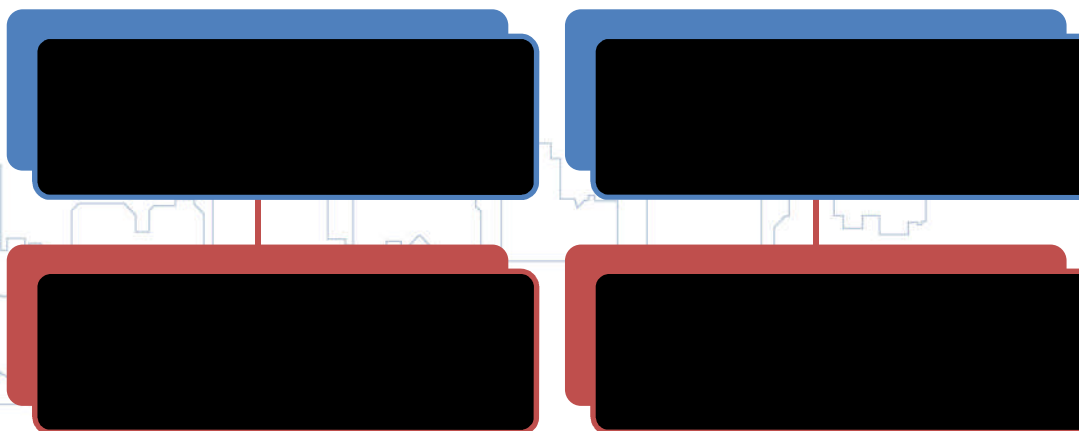
The other special thing about EAs...



Finding of [No] Significant Impact

Is there a significant impact?

- Poses threats to health or safety
- Regional rather than local impact
- Long-term rather than short-term impacts
- Impact on unique resources
- Violation of Federal, state, tribal environmental laws
- Highly controversial



I'm in compliance! What now?



Notice of Intent to Request Release of Funds

Inform the public of your intent to submit a Request of Release of Funds (HUD form 7015.15) for this project.
Do so by publishing or posting.

Type of Notice	Length of Comment Period
Notice of FONSI	15 days when published Or 18 days when mailing and posting
Notice of Intent to Request for Release of Funds (NOI-RROF)	7 days when published Or 10 days when only mailing and posting
Concurrent or combined notices	15 days when published Or 18 days when mailing and posting

Request for Release of Funds (RROF, 7015.15)

Request for Release of Funds and Certification

U.S. Department of Housing
and Urban Development
Office of Community Planning
and Development



OMB No. 2506-0087
(exp. 10/31/2014)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
11. Program Activity/Project Description	



Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

Date signed

X

Address of Certifying Officer

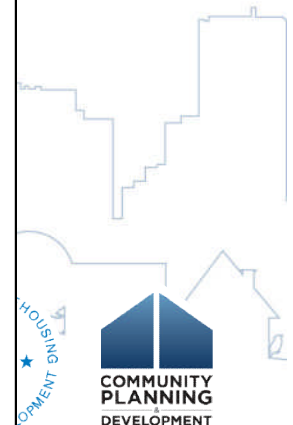
Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

Finalize review



Now that the RROF's at HUD...

The RROF may be disapproved (58.75) if any of the following conditions apply:

- HUD has knowledge that the RE did not properly conduct the environmental review.
- HUD finds inaccuracies in the Certification or RROF.
- HUD receives valid public objections attesting to the inaccuracy or non-compliance of the environmental review.

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

CMB No. 2506-0087
(exp. 10/31/2014)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (reference)
4. DMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	
9. Program Activity/Project Name(s)		10. Location (Street address, city, county, State)
11. Program Activity/Project Description		

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following:

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity/Project(s), I, the undersigned official of the responsible entity, certify that:

- The responsible entity has fully complied with all requirements for environmental review, documentation and action pertaining to the project(s) named above.
- The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.3, and other agency or project with the substance in 24 CFR 58.3 and applicable laws and local laws.
- The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and in implementing regulations 10 CFR 801, including coordination with the State Historic Preservation Officer, Federal Historic Preservation Officer, and the public.
- After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that for the proposed (a) ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.
- The responsible entity has documented and published in the manner prescribed by 24 CFR 58.43 and 18.11 a notice to the public as required with 24 CFR 58.18 and as required by the standard copy request or evidence of posting and mailing procedure. The date for all statutory and regulatory time periods for review, comment or other action are as contained in the procedures and requirements of 24 CFR 58.44.
- In accordance with 24 CFR 58.7(b), the responsible entity will allow the recipient (if different from the responsible entity) of the special environmental conditions that must be followed in carrying out the project.

As the duly designated authorized official of the responsible entity, I also certify that:

- I am authorized to act on behalf of the responsible entity to execute the terms of Federal official order for the National Environmental Policy Act of 1969 and will govern the use of the funds in the 24 CFR 58.3 of 24 CFR 58.43 and 18.11 as required by the provisions of the laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
- I am authorized to act on behalf of the responsible entity, for the purposes of the Federal laws for the reimbursement of all these responsibilities, as set forth in the following table of the responsible entity:

Signature of Authorized Official of the Responsible Entity	Title of Authorized Official
Signature of Responsible Entity	Title of Responsible Entity

Part 3. To be completed when the Recipient is not the Responsible Entity:

The recipient requests the release of funds for the program and activities described in Part 1 and agrees to abide by the special environmental procedures and requirements of the environmental review, and to allow the responsible entity of the project (designated in the scope of the project or any change in environmental conditions as evidenced with 24 CFR 58.7(b)).

Signature of Authorized Official of the Recipient	Title of Authorized Official
---	------------------------------

See the form here!

<http://portal.hud.gov/huudoc/7015.15.pdf>



Finalize review

Expend project funds

Authority to Use Grant Funds (AUGF)

If there are no objections raised regarding the project or the Certification and RROF, then HUD approves the release of funds by filling out form 7015.16.

Authority to Use Grant Funds

U.S. Department of Housing
and Urban Development
Office of Community Planning
and Development

To: (name & address of Grant Recipient & name & title of Chief Executive Officer)

Copy To: (name & address of SubRe

We received your Request for Release of Funds and Certification, form HUD-7015.15 on

See the form here!

<http://www.hud.gov/offices/adm/hudclips/forms/files/7015-16.pdf>



Authority to Use Grant Funds

U.S. Department of Housing
and Urban Development
Office of Community Planning
and Development

To: (name & address of Grant Recipient & name & title of Chief Executive Officer)

Copy To: (name & address of SubRecipient)

We received your Request for Release of Funds and Certification, form HUD-7015.15 on

Your Request was for HUD/State Identification Number

All objections, if received, have been considered. And the minimum waiting period has transpired.
You are hereby authorized to use funds provided to you under the above HUD/State Identification Number.
File this form for proper record keeping, audit, and inspection purposes.

Typed Name of Authorizing Officer

Signature of Authorizing Officer

Date (mm/dd/yyyy)

Title of Authorizing Officer

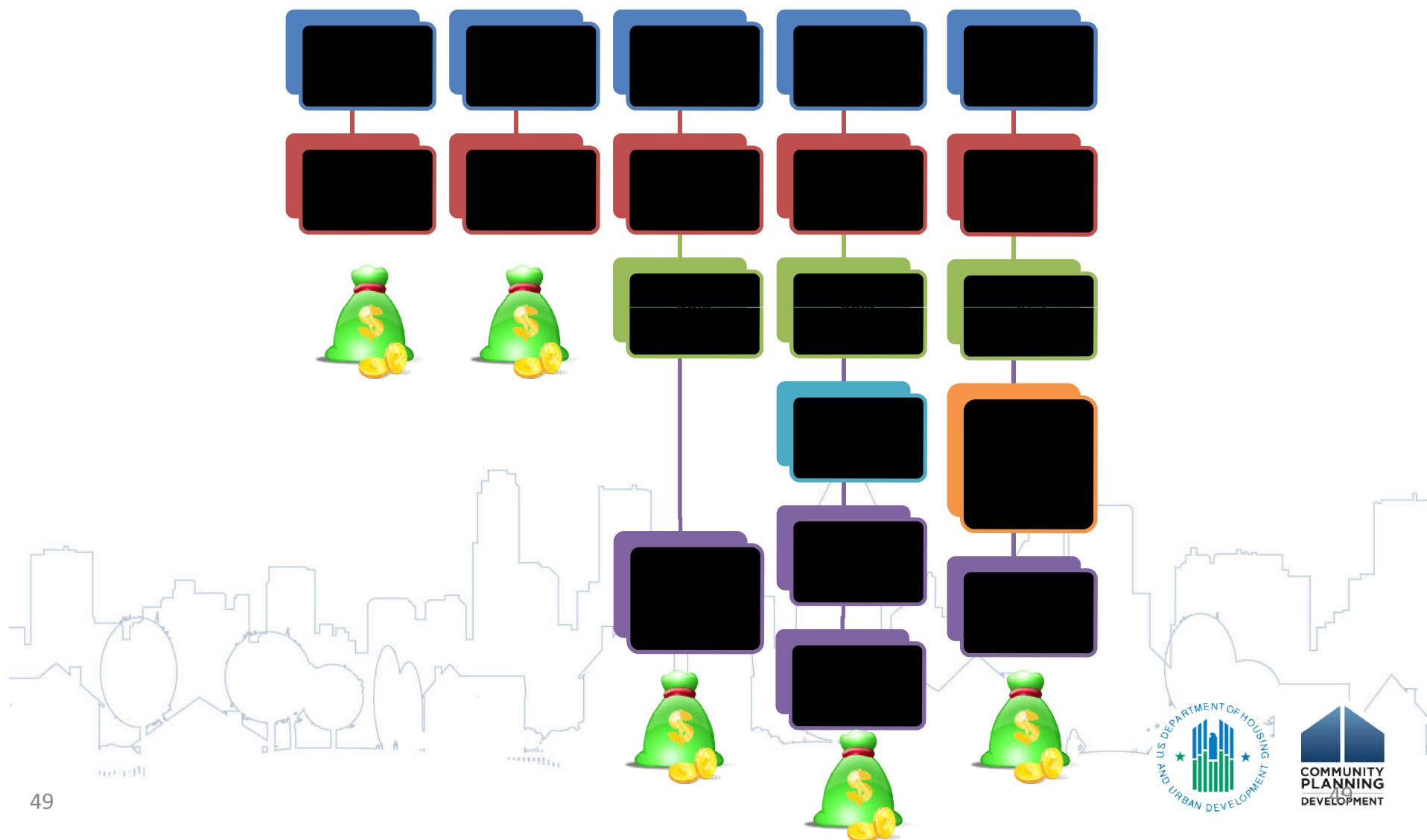
X

Previous editions are obsolete.

form HUD-7015.16 (2/94)
ref. Handbook 6513.01

Expend project funds

Say that again?



It's not over yet!!!

Mitigation and Monitoring

- If mitigation measures were required in any of the portion of the environmental review, make sure they are implemented.
- HUD staff may periodically monitor Responsible Entities for environmental compliance on completed projects.



Expend project funds

Post-review

Re-evaluation of Project Changes (58.47)



RE must re-evaluate environmental findings when:

- Change in nature or extent of project,
- New environmental circumstances or conditions
- Selection of alternative not in original finding

If FONSI is reaffirmed, no new FONSI is required – **MUST UPDATE ERR**

If original findings no longer valid, prepare a new review at a higher level of review.

Take-Away Messages

An Environmental Review (ER) is an analysis of the impacts of both the project on the environment and the environment on the project.

Under Part 58 the Responsible Entity Certifying Officer becomes the “responsible Federal Official” for NEPA responsibilities.

Funds cannot be committed, obligated, or expended prior to the completion of the environmental review.

The RE must create an environmental review record with verifiable resources and documented findings for each project.

The goal of the process is to improve projects or ensure that projects do not adversely affect human health and safety or the environment.

Common Deficiencies

Failure to aggregate
interdependent
activities in single ERR

ERR lacks traceable
source documentation

Project funds are
committed before
submitting RROF or
obtaining AUGF

Failure to address HUD
environmental
standards – noise,
airports, explosives,
toxics

Failure to consult with
appropriate agencies

Just to throw a quick curveball...tiering!



Resources

- **24 CFR Part 58** – http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title24/24cfr58_main_02.tpl
- **HUD's Environmental Website** – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/
- **Local Environmental Field Officer Contacts** – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/contact/localcontacts
- **Past Environmental Webinars** – http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/training

Resources

- **HUD's Assessment Tools for Environmental Compliance –**
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/atec
- **HUD's resources library –**
http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/library



Questions

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