

COMMUNITY DEVELOPMENT BLOCK GRANT



2014 Environmental Review Workshop

09/29/2014

ERR Overview

Manual

- The new manual chapter and all forms will be online within one week.
- You are responsible for reading the manual and knowing the material that is not covered in this training
- If you have any question about the appropriate level of review, be in touch with your project representative and we will help you figure it out
 - We do not want you to complete more of a review than is required

ERR Overview

Rules and Regulations

- A project federally funded – in whole or in part – requires compliance with NEPA
- NEPA is a federal law and federal environmental policy
- 24 CFR Part 58.5 & 6 are the primary regulations for all ERRs

- Historic Preservation
- Floodplains & Wetlands
- Coastal Zones
- Aquifers
- Endangered Species
- Rivers
- Air
- Farmlands
- HUD Environmental Standards
- Environmental Justice

58.6 requirements are flood disaster protection, coastal barriers and airport clear zones

ERR Overview

General Guidelines

- The ER has to be completed PRIOR to the commitment of funds
- TNECD has to work to prevent choice-limiting actions
- Clause in the contract that says you cannot commit funds until the ER has been fully approved
- If a project location is changed, you have to do a new review – some of the materials from the old review may still be relevant, but a new one has to be done
- \$2500 can be charged for EAs only

ERR Overview

Steps

- Define the project
- Aggregate
- Consider alternatives
- Determine level of review
- Conduct review
- Publish or post
- RROF
- Receive ROF
- Commit funds and implement project

ERR Overview

Define the project

- Existing Conditions/Trends
- Character

- We must consider
 - All Activities
 - All Funding Sources
 - Timeframe
 - Location

ERR Overview

Aggregate

- Logically group activities for projects for the purpose of the environmental review
 - Geographic and/or functional
 - Look at all funding sources – can build off of RD and EPA ERRs for the same scope
 - Can be for multiple years (5)
 - Include all anticipated activities
- What TNECD needs
 - Letter from the CO stating that the previous ERR is valid, there are no adverse impacts, it is same scope and project area, and any addt'l details

ERR Overview

Consider alternatives

- Required for Environmental Assessments
- Identify reasonable alternatives including a no action alternative
- Describe benefits and adverse impacts of each alternative
- Identify the alternative selected and reasons
- Particularly important for Floodplain projects

ERR Overview

Determine level of review

- Environmental Impact Study
- Environmental Assessment
- Categorically Excluded Subject to 58.5
- Categorically Excluded Converted to Exempt
- Exempt
- Adoption of another Agency's EA

Review Process

Exempt

- Equipment – trucks, tools, ambulance, etc.
- A-16 – Certification of Exemption – Check #7
- Have to document floodplain (map), airport (map)
- These ERRs are due in 15 days!



Certification of Exemption for HUD funded projects

Determination of activities not subject to 24 CFR 58.34(a)

May be subject to provisions of 24 CFR 58.6, as applicable

A-16

Project Name: _____

Project Description: _____

Address: _____

Funding Source: CDBG HOME ESG HOPWA EDI Other _____

Funding Amount: _____

Grant Number: _____

If truck or equipment, check box #7.

If CE converting to Exempt, check box #12.

	1. Environmental and other studies, resource identification and the development of plans and strategies;
	2. Information and financial services;
	3. Administrative and management activities;
	4. Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
	5. Inspections and testing of properties for hazards or defects;
	6. Purchase of insurance;
	7. Purchase of tools;
	8. Engineering or design costs;
	9. Technical assistance and training;
	10. Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
	11. Payment of principal and interest on loans made or obligations guaranteed by HUD;
	12. Any of the categorical exclusions listed in Sec. 58.35(a) provided that there are no circumstances that require compliance with any other Federal laws and authorities cited in 24 CFR 58.5.

If your project falls into any of the above categories, you do not have to submit a Request for Release of Funds (RROF), and no further approval from HUD/ECD will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must still document in writing its compliance with and/or applicability of “other requirements” per 24CFR58.6 (included with this document).

By signing below the Responsible Entity certifies in writing that each activity or project is exempt and meets the conditions specified for such exemption under section 24 CFR 58.34(a). Please keep a copy of this determination in your project files.

Certifying Official Name & Title (please print): _____

Certifying Official Signature

Date

A-16

PROJECT NAME / DESCRIPTION: _____

Level of Environmental Review Determination (Select One):

Exempt per 24 CFR 58.34 or Categorically Excluded subject to statutes per § 58.35(a)

STATUTES AND REGULATIONS LISTED AT 24 CFR 58.6

FLOOD DISASTER PROTECTION ACT

1. Does the project involve acquisition, construction or rehabilitation of structures located in a FEMA-identified Special Flood Hazard?

No - Stop here and provide source documentation: FIRM map(s) # _____

This element is completed.

Yes - Continue To Question 2.

2. Is the community participating in the National Flood Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?

Yes - Flood Insurance under the National Flood Insurance Program must be obtained and maintained for the economic life of the project, in the amount of the total project cost. A copy of the flood insurance policy declaration must be kept on file.

No - **Federal assistance may not be used in the Special Flood Hazards Area unless the community is participating in the National Flood Insurance Program.**

COASTAL BARRIERS RESOURCES ACT

1. Is the project located in a coastal barrier resource area?

N/A - Tennessee does not have any coastal barrier resource areas.

No - Coastal counties must cite source documentation: _____

(This element is completed).

Yes - **Federal assistance may not be used in such an area.**

AIRPORT RUNWAY CLEAR ZONES AND CLEAR ZONES DISCLOSURES

1. Is the project located within 3,000 feet from the end of the runway at a civil airport? Is the project located within 2.5 miles from the end a runway at a military airfield?

No - Stop here and provide source documentation: Airport radius map _____

This element is completed.

Yes - Continue to Question 2.

2. Does the project involve the sale or acquisition of existing property within a Civil Airport's Runway Clear Zone or a Military Installation's Clear Zone?

No - Source Documentation: _____

(Project complies with 24 CFR 51.303[a][3]).

Yes - **A disclosure statement must be provided** to buyer and a copy of the signed disclosure must be maintained in this Environmental Review Record.

Prepared by (name and title, please print): _____

Signature: _____

Date: _____

Review Process

Categorically Excluded, Subject to 58.5

- Projects are not subject to NEPA requirements but are bound by other regulatory compliance
 - Includes Acquisition, Repair, Improvement, Reconstruction and Rehabilitation of public facilities retaining the same use and not increasing size and capacity by more than 20%
 - Examples: replace lines, repair sidewalks, repave streets
 - Individual action on up to four dwelling units on a site or more than 4 when at least 2,000 feet apart

Review Process

Categorically Excluded, Subject to 58.5

- Rehab work is always CES unless
 - There is an increase in the footprint
 - There is new construction
 - Capacity is increased by more than 20%
 - 20% bigger lines
 - 20% growth in number of customers anticipated
 - Etc.

Review Process

Categorically Excluded, Subject to 58.5

- Requirements
 - Project Area map
 - Statutory Worksheet (A-3) with documentation
 - SHPO, THPO and Tribal letters and responses
 - Floodplain notices, if necessary
 - Publications (NOI/RROF with 7/10-day comment period if not in floodplain)
 - Distribution list
 - RROF

Review Process

Categorically Excluded, Converted to Exempt

- When no compliance areas are triggered under 58.5 review
- Complete the A-3 with no additional compliance requirements and A-16 (check box #12)
- No RROF and no publications needed
- Submit a project area map

Review Process

Environmental Assessment

- Required for projects with new construction or substantial improvements
 - Examples: new building, new water storage tank, new water or sewer line, increasing capacity of system or public facility by more than 20%, changing land use, major rehabilitation

Review Process

Environmental Assessment

- Requirements
 - EA Narrative (A-2)
 - Grant data
 - Conditions for approval
 - Statement of need
 - Project description – WITH alternatives
 - Existing Conditions

- Project area map

Review Process

Environmental Assessment

- Requirements cont'd
 - Statutory Worksheet – A-3 – and documentation
 - SHPO, THPO, Tribal letters and responses
 - NEPA Checklist – A-6 – and documentation
 - Publications – Concurrent Notice with 15/18-day comment period for a project not in a floodplain

Review Process

Environmental Assessment

- Requirements cont'd
 - Distribution list
 - Flood insurance – if needed
 - RROF

Review Process

Completing the A-6

- There is a new document (A-7) that gives guidance on acceptable experts to contact and the needed documentation
- This is taken from the HUD Green Book
- Consult with ECD when a source is not available or you want to use a source that is not listed
- We will continue to update this information as it is discovered that more sources are needed and/or available

A-7

Category	Experts to Contact	Required documentation
Land Development		
Conformance w/ Comprehensive Plans and Zoning	local development district; local zoning review officer or administrator; local planning commission; regional planning agency	signed, dated memo/letter/email from individual who gave the consult including their review information
Compatibility and Urban Impact	local development district; local zoning review officer or administrator; local planning commission; regional planning agency	signed, dated memo/letter/email from individual who gave the consult including their review information
Slope	city-county engineer; project engineer; soils engineer; state/local highway dept. OR CSRR	signed, dated memo/letter/email addressing their review or a copy of the Custom Soils Resource Report

Review Process

Completing the A-6

- Remember that the NEPA checklist covers federal, state and local requirements
 - For example – there may be endangered species affected by the project that are not identified by the FWS

Review Process

Completing the A-3

- Include a project description that makes it clear if new construction or major rehabilitation is involved
- Use the A-4! Directions and thresholds are included
- Include the documentation required and use the guidance on language
- All maps must be titled and in color
- Include documentation in order of the form
- Remember that if the Status column for a CES project is all A's, that project can convert to exempt

Review Process

Completing the A-3

- Historic Preservation
 - SHPO, THPO and Tribal letters and responses
 - Contact the SHPO for all projects
 - Use A-20 – A-23 to determine need to contact THPOs and tribes – only contact those required
 - A-20 – List of how to contact tribes
 - A-21 – Spreadsheet of counties and tribes
 - A-22 – Sample tribal consult letter
 - A-23 – When to consult checklist
 - Some tribes want to be contacted any time SHPO is (even without soil disturbance)
 - If any studies are required, include those

A-20

<p>Quapaw Tribe of Oklahoma Everett Bandy, THPO P.O. Box 765 Quapaw, OK 74363-0765 Tel: 888.642.4724 Fax: 918.542.4694 Email: ebandy@quapawtribe.com</p>	<p>KY, MS, TN</p>	<p>THPO</p> <p>Initiate Section 106 consultation anytime you consult with SHPO.</p> <p>Email is okay.</p>
<p>Shawnee Tribe, OK Ron Sparkman, Chairman P.O. Box 189 Miami, OK 74354 Tel: 918-542-2441 Fax: 918.542.2922 rondede1@gmail.com</p> <p>Tribe Administrator Ms. Jody Hayes Tel: 918-542-2441 shawneetribe@shawnee-tribe.com</p>	<p>TN</p>	<p>Consult only on new construction and projects with soil disturbance.</p> <p><u>Prefers request to consult via email.</u></p>

A-21

TN County	Absentee Shawnee	Alabama- Quassarte	Catawba	Cherokee	Chickasaw	Chocoma
	THPO		THPO			T
			Monroe Co. only			SI Co
Anderson				X		
Bedford		X		X	X	
Benton					X	
Bledsoe		X		X		
Blount				X		
Bradley		X		X		

A-23

If a project includes any of the types of activities below, invite tribes to consult:

Significant ground disturbance (digging)

Examples: new sewer lines, utility lines (above and below ground), foundations, footings, grading, access roads

New construction in undeveloped natural areas

Examples: industrial-scale energy facilities, transmission lines, pipelines, or new recreational facilities, in undeveloped natural areas like mountaintops, canyons, islands, forests, native grasslands, etc., and housing, commercial, and industrial facilities in such areas

Incongruent visual changes

Examples: construction of a focal point that is out of character with the surrounding natural area, impairment of the vista or viewshed from an observation point in the natural landscape, or impairment of the recognized historic scenic qualities of an area

Incongruent audible changes

Examples: increase in noise levels above an acceptable standard in areas known for their quiet, contemplative experience

Review Process

Completing the A-3

- Floodplain
 - Print a FIRM and note project location
 - If in a floodplain, complete the 8-Step Process and document with the A-5
 - Cannot convert to exempt if in a floodplain
 - Work in a floodplain **CAN** be incidental to the floodplain, but it is hard to document
 - If this may be the case, contact your project rep for assistance in documentation
 - Critical actions cannot be in 500-year FP – contact TNECD about this

A-5

STEP 2 – Involve the public in the decision-making process.**Publish the Early Notice and Public Review.**

The Early Notice and Public Review is a notice of the proposal to consider an action in a floodplain/wetland. The Notice must be published in the non-legal section of the newspaper of widest circulation. A minimum 15-day comment period begins the day after publication. Indicate if comments were received. If the RE receives any written comments, the RE must respond in writing, resolve any issues and provide copies to CDBG. A copy of the publication must be enclosed in the ERR.

Name of Newspaper: _____

Date of publication: _____

Were adverse comments received in writing?

Yes

No

(If yes, attach all correspondence.)

Review Process

Completing the A-3

- Wetlands
 - If no new construction or rehab without expansion, this does not apply
 - If new construction, rehab with expansion, line extension, etc. check with USACE OR print map from Wetlands Inventory and soil survey
 - If USACE will require a permit, it cannot convert to exempt and plan for obtaining permit must be described
 - If in a wetland, complete the 8-Step Process

Review Process

Completing the A-3

- Coastal Zone Management
 - Print the page from the link in the A-4 and include in the documentation
- Sole Source Aquifers
 - Print the page from the link in the A-4 and include in the documentation

Review Process

Completing the A-3

- Endangered Species
 - If no new construction, rehab with expansion, ground disturbance or atypical noise, this does not apply
 - If there is new construction, rehab with expansion, ground disturbance or unusual noise, check with the FWS for clearance
 - If FWS requires a study or mitigation, project cannot convert to exempt and study and/or mitigation plan must be included

Review Process

Completing the A-3

- Wild and Scenic Rivers
 - If not within 1 mile of the 45.3 miles of the Obed River, this does not apply
 - If within 1 mile, get clearance from NPS
 - If within 1 mile and mitigation steps required by NPS, project cannot convert to exempt and NPS clearance must be included along with any other required documentation and plan for mitigation

Review Process

Completing the A-3

- Clean Air
 - If the county is in an attainment area, print map and mark project location or print list of attainment counties
 - If in a non-attainment area, project cannot convert to exempt and TDEC Air Quality division letter is required
 - Projects with generators also require a letter from TDEC Air Quality division

Review Process

Completing the A-3

- Farmland Protection
 - If no new construction, new construction is in urban area (see A-26 for explanation) or no acquisition, this does not apply – Complete A-26
 - If project converts farmland, cannot convert to exempt and clearance from NCRS is required

A-26

Farmland Protection**Checklist for Responsible Entity**

General requirements	Legislation	Regulation
The Farmland Protection Policy Act discourages Federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658

1. Does your project include new construction, acquisition of undeveloped land or change in use of land or property?

No: STOP here. The Farmland Protection Policy Act does not apply. Record your determination

Yes: PROCEED to #2

2. Does your project meet one of the following exemptions?

- Construction limited to on-farm structures needed for farm operations.
- Construction limited to new minor secondary (accessory) structures such as a garage or storage shed
- Project on land used for water storage or already in or committed urban development (this includes land with a density of 30 structures per 40 acre area. It also includes lands identified as “urbanized area” (UA) on the Census Bureau Map, or as urban area mapped with a “tint overprint” on the USGS topographical maps, or as “urban built-up” on the USDA Important Farmland Maps. Please note that land “zoned” for development, i.e. non-agricultural use, does not exempt a project from compliance with the FPPA).

No: PROCEED to #3

Yes: STOP here. The Farmland Protection Policy Act does not apply. Record your determination

Review Process

Completing the A-3

- Explosive and Flammable Operations
 - If not housing reconstruction, no new construction and no potential to increase number of people exposed to a hazard, this does not apply – Complete A-27
 - If the project is housing reconstruction, new construction or there is potential to increase the number of people who may be exposed to a hazard, but a radius map and site visit from EMS or Fire Chief does not ID any aboveground storage tanks, this does not apply – Complete A-27

Review Process

Completing the A-3

- Explosive and Flammable Operations – cont'd
 - If housing reconstruction, new construction or increase in number of people that can be exposed to a hazard, and aboveground storage tanks are present within 1 mile, project cannot convert to exempt and ASD calculations must be completed, A-27 must be included and list of hazards documented

A-27

Explosive and Flammable Operations

Checklist for Responsible Entity

General requirements	Legislation	Regulation
Establish safety standards that can be used a basis for calculating acceptable separation distances for assisted projects.	Sec. 2 Housing and Urban Development Act of 1969 (42 U.S.C. 1441 (a))	24 CFR 51 Subpart C

1. a. **Is the project housing rehabilitation (NOT reconstruction), a project with no new construction, AND a project with no potential to increase the number of people exposed to potential hazards**

Yes: STOP here. The project is not subject to 24 CFR Part 51 C. Record the determination in your ERR - "Project will not increase the number of people exposed to potential hazards."

No: PROCEED to #1.b.

1. b. **Is the project housing reconstruction or new construction or is there an increase in the number of people exposed to potential hazards but there are no aboveground storage tanks within 1 mile of project area?**

Yes: STOP here. The project is not subject to 24 CFR Part 51 C. Record the determination in your ERR - "No above ground storage tanks within 1 mile of project area. See radius map and memo from fire/EMS chief."

No: PROCEED to #2

Review Process

Completing the A-3

- Noise
 - If the project involves work on utilities, this does not apply
 - If housing, DNL calculations must be completed
 - For all other projects, document that the project is not within 1,000 feet of a highway, 3,000 feet of a railroad, 5 miles of a civilian airport or 15 miles of a military airport with a map or complete DNL calculations
 - If project exceeds noise levels, contact TNECD

Review Process

Completing the A-3

- Airport Clear Zones
 - If project is not
 - 2,500 feet for a civil airport or
 - 15,000 feet for a military airportfrom the end of a runway, document project location on a radius map and Complete A-28
 - If project is within those distances to an airport, contact TNECD

A-28 Clear Zones (CZ) and Accident Potential Zones (APZ)

Checklist for Responsible Entity

General requirements	Legislation	Regulation
Promote compatible land uses around civil airports and military airfields	Section 2 of the Housing Act of 1949 as amended, 42 U.S.C 1331, affirmed by Section 2 of the Housing and Urban Development Act of 1969, P.L. No 90-448; Section 7(d) of the Dept HUD Act of 1965, 42 U.S.C. 3535 (d).	24 CFR Part 51 Subpart D 32 CFR Part 256

1. Is the Project located within 2,500 feet for a civil airport or within 15,000 feet for a military airfield of the end of a runway?

No: STOP here. The project is not within a Clear Zone (also known as Runway Protection Zone) or Accident Potential Zone. Record your determination.

Maintain in your ERR a radius map with the project area marked that identifies airports. The regulations only apply to military and civil primary and commercial service airports. The Federal Aviation Administration updates the list of applicable airports annually:

http://www.faa.gov/airports_airtraffic/airports/planning_capacity/passenger_allcargo_stats/passenger

Yes: PROCEED to #2

2. Is the Project in the CZ or APZ?

Contact the airport operator and obtain written documentation of the Clear Zone (also known as Runway Protection Zone) and for military airfields, the Accident Potential Zone, and a determination of whether your project is in the APZ or CZ.

No: STOP here. Record your determination that the project is not in a CZ or APZ.

Yes: PROCEED TO #3

Review Process

Completing the A-3

- Hazardous Substances
 - If the project is utility work, this does not apply
 - Complete A-29
 - If new construction or housing rehab, complete A-29 and include EPA Envirofacts documentation and clearance letter from TDEC Solid Waste Management division
 - If project is located near a superfund or brownfield site, contact TNECD

Checklist for Responsible Entity

General Requirements	Legislation	Regulation
All property proposed for use in HUD programs must be free of hazardous materials, contamination, toxic chemicals and gasses and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.	Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by Superfund Amendments and Reauthorization Act	24 CFR 58.5(i)

You are required to consider all hazards that could affect the health and safety of occupants and use current techniques by qualified professionals to undertake investigations determined necessary.

1. Is the project for acquisition, new construction or rehabilitation of a one-to-four family residential property?

- No: PROCEED to #2
- Yes: PROCEED to #3 to determine the likelihood of hazardous conditions existing nearby or on the property which could affect the health and safety of proposed occupants.

2. Is the project for multifamily housing with 5 or more dwelling units (including leasing), or non-residential property?

- No: PROCEED to #3
- Yes: The environmental review **must** include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to assure that the occupants of proposed sites are not adversely affected by hazardous materials, contamination, toxic chemicals and gases, and radioactive substances. **For acquisition and new construction projects, HUD strongly advises that the review include an ASTM Phase 1 assessment or equivalent analysis, including an update if the assessment is over 180 days old, in order to meet real estate transaction standards of due diligence.** Your review should also cover the information in the questions below. PROCEED to #3.

Review Process

Completing the A-3

- Environmental Justice
 - Include a letter from the Mayor/CO that states that the project does not disproportionately negatively affect LMI or minority populations

Review Process

Distribution List

- When any notice is published in the paper or posted, a copy with a cover memo must be sent to all interested parties on or immediately before the date of publication – See A-14

Review Process

Publications

- Publish in a local newspaper or post in public places
 - have to let TNECD know where you posted
- Cannot post for floodplain projects
- Concurrent Notice (A-12) published with 15-day comment period, posted for 18 days
- Early Notice (A-10) published with 15-day comment period
- Final Notice (A-11) 7-day comment period
- NOI/RROF (A-13) has 7-day comment period, 10 days for posting
- Counting starts the day after publication/post

Review Process

Clearance of Notations

- If there are notations in the LOREC, the A-30 must be submitted with the plans and specs to outline how those notations have been addressed

Review Process

Addenda

- If size, location or scope of a project changes, the ERR has to be reevaluated
- ECD has to approve the scope or project change
- If ERR is still valid, an addendum will be needed including
 - Addendum of validity
 - Acknowledgment that NEPA checklist (A-6) is still valid
 - Description and map of new area
 - SHPO, THPO and tribal letters and response
 - Current Statutory Worksheet (A-3)

Review Process

General Guidelines

- Use a 3-ring binder or binder clip
- Place documents in the order they appear on the A-1
- No need for tabs or other markers
- No need for a copy of the calendar
- TNECD needs original signatures on A-2, A-3, A-6, A-16, A-17 (use blue ink)
- The new forms are to be used going forward (2014)

CDBG Overview

General Guidelines

- HUD number is B-14-DC-47-0001 for 2014 and B-13-DS-47-0001 for 2011-D
- OMB catalog number is 14.228 for RR and 14.269 for Disaster
- All maps must be in color and labeled and project area must be marked
- Submit all documents to TNECD – to your project rep
- TNECD holds RROF for 15 days – start date begins when all, correct information is received
- **DUE DECEMBER 3rd!**

••• CDBG Overview

ERR 2015

- HEROS is supposed to come online for states in 2015
- We will be getting training and we will make sure we pass that on to you

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