Perspectives on Environmental Review

N C D A
NATIONAL COMMUNITY DEVELOPMENT ASSOCIATION

Region I – New England
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What I plan to talk about

- My Role
- A Few General Tips
- RROF Processing
- HEROS
- WISER
- HUD Exchange
- Questions?

My Role
(in part, and as I see it…)

Help you fund the projects you want to fund with your HUD $$

- Technical Assistance

- Training

- Monitoring

Note that I cover all HUD programs for all of New England

Tip Area #1
The environmental review process matters!

- HUD assistance may not be committed until an environmental review is completed and either:

    1. The project is determined to be exempt [per 58.34(a)] or categorically excluded not subject to §58.5 [per 58.35(b)]

    OR

    2. The Authority to Use Grant Funds is received!

- Once project is "federalized" (e.g. application for HUD funds received), even non-HUD funds may not be used on project until environmental review is complete
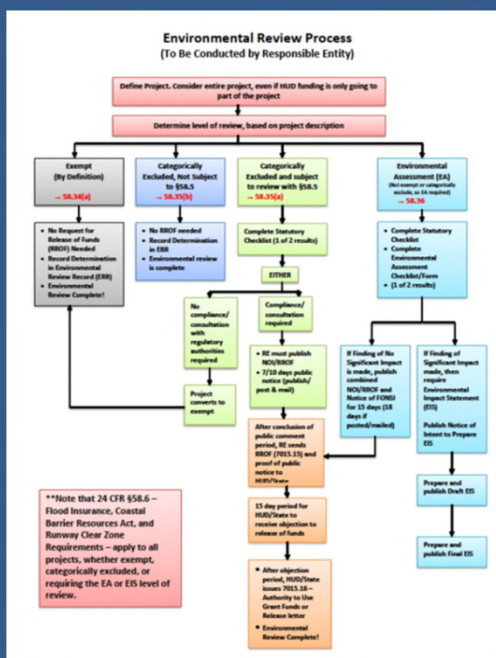
Tip Area #2
Complete project description is key!

Make Sure
- You have the **complete** project description (including all sources of funding, not just HUD funds)

- Only then can you determine the correct level of environmental review

Remember That
- The Environmental Assessment level of review is the default level of review

Environmental Review Process
(To Be Conducted by Responsible Entity)

Tip Area #3
Tiered Reviews
(They're not a piece of cake)

- Better characterized as a Programmatic Review
- You have to actually complete the "Tier 1" review!
  - → You can't just publish the public notice. Must have an environmental review record that evaluates every factor that can be fully evaluated at that point in time, and that defines protocol/procedures for how you will evaluate those factors that can't be evaluated until you have addresses identified
  - → Must then have ERRs for individual addresses when identified
- A separate tiered review must be completed for each different program
- Generally not appropriate for Environmental Assessment level of review
- Project description in public notice must be very clear – scope, magnitude, location, and cover all aspects of project.
  (Sample Notice: https://www.hudexchange.info/resource/5160/sample-notice-of-intent-to-request-release-of-funds-for-tiered-reviews/
- Then you must complete the site-specific review prior to committing funds to that project.

Tip Area #4
Economic Development Activities
are not automatically CENST (58.35(b)(4))

- **58.35(b)(4) is limited to:** Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations.

- Though HUD funding may, for example, be going to equipment purchase, you have to step back and look at the whole project. See Tip #1

Tip Area #5
Be mindful of when SHPO determination allows project to convert to exempt.

- Buildings ≥ 50 years are eligible for listing on National Register of Historic Places, so notify the SHPO

- SHPO has one of three basic findings
  1. No Historic Properties Affected – eligible to convert to exempt
  2. No Adverse Effect – NOT eligible to convert to exempt
  3. Adverse Effect

- Don't forget Tribal Historic Preservation Officer(THPO) notification!

Tip Area #6
The Emergency Exemption (58.34(a)(10)) is very limited

- It reads (in part): Temporary or permanent improvements that do not alter environmental conditions and are limited to <u>protection, repair or restoration</u> activities necessary only to control or arrest the effects from <u>disasters</u> or imminent threats to <u>public safety</u>

- Questions:
    - Is it government-declared disaster?
    - Is it truly an imminent threat to public safety?
    - Are the activities limited to protection, repair or restoration to control or arrest the effects?

- Generally does not allow for demolition

RROF Processing

Public Notice
- Use the right one(s)!
    - Don't publish a Notice of FONSI if it's CATEX level review
- Calculate the public comment period correctly
    - It starts the day after publication
- Have an adequate project description
    - The public should be able to understand the full scope of the project, and where it's located

RROF
- Certifying Officer must sign, or signatory authority must be officially delegated
- Signed day after public comment period ends
- Submit to your CPD Rep and cc David Manganis (david.m.manganis@hud.gov)
- Submit to PIH if Housing Authority project
- I no longer play a role in RROF processing (unless there's a question/issue)

HEROS

The HUD Environmental Review Online System

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What is HEROS?

• HEROS is HUD system that replaces HUD's current paper-based environmental review process with a comprehensive online tool

• HEROS allows the environmental review procedures you have in place now to be performed *online*

• HEROS walks users through the entire environmental review process from beginning to end, including compliance with related laws and authorities

HEROS isn't a Fail-Safe System

For example, you still need to:

- Have a complete project description

- Ensure you have the correct level of review (Exempt, CENST, CEST, EA)

- Answer questions correctly

- Upload the correct "source documentation"

Who Uses HEROS?

- Once fully implemented, it can be used by all Responsible Entities (REs), non-RE recipients, and consultants who currently prepare HUD environmental reviews

- It is continuing to be rolled-out to additional partners.

- Not rolled-out to State CDBG Programs

Why Use HEROS Now?

- HEROS makes complying with environmental requirements easier by:
    - →Integrating guidance with formats
    - →Facilitating communication on reviews
    - →Helping users manage reviews

- It collects data that will help HUD improve environmental training and compliance

- Use HEROS <u>now</u> and give feedback that will help HUD improve the system and make sure that it works for <u>you</u>

- <u>HEROS will become mandatory – likely in 2020</u>

HEROS Tools and Resources

Tools and Resources Include

- HEROS User Guide
- "How To" Videos
- Frequently Asked Questions
- Ask A Question
    - →Bottom of Page
    - →Use this for any HEROS functionality questions/problems with system, etc.
    - →If you don't provide feedback on problems, the developers won't know!

Find tools at: https://www.hudexchange.info/environmental-review/heros/

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Need HEROS Access?

- Complete HEROS Access Form
  https://www.hudexchange.info/faqs/2734/how-do-i-get-heros-access/

- Contact your REO or FEO - A.K.A. – me!
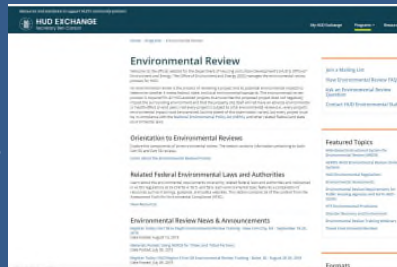

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WISER

- Web-Based Instructional System for Environmental Review

- Self-paced online learning modules

- All aspects of environmental review process

- https://www.hudexchange.info/trainings/wiser/

HUD Exchange

https://www.hudexchange.info/programs/environmental-review/

- Has great resources!
- Orientation to Environmental Reviews
- Details on the related Federal Environmental Laws and Authorities and the analysis required for each
- Partner Worksheets
- Suggested formats and sample notices
- News and announcements

Questions?