An Introductory Guide to Environmental Review
for CDBG Grant Recipients

Virginia Department of Housing and Community Development (DHCD)
Program Administration and Assistance Office
Richmond, Virginia

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10 – 11 AM

Speakers

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Participation Instructions

1. Keep phone muted [*6] during the webinar

2. Use the chat feature to ask questions and communicate with everyone!

3. Please complete the evaluation after the webinar

Learning Objectives

- Understand the purpose of the Environmental Review process

- Learn how to get started on the review process

- Become aware of common challenges and troubleshooting tips

Agenda

- The Purpose

- The Process – 9 Key Steps

- Common Challenges

- Tips & Helpful Hints

- Q&A

Brief Survey

▸ Using the survey feature on your Webex webinar screen, please answer the simple survey:

What is your level of experience with CDBG Environmental Review?

   a) I have never done one before
   b) I have only done a few
   c) I am very experienced

Why Environmental Review?

▶ REQUIRED – by Federal law under the National Environmental Policy Act of 1969 and Related Acts

◦ Protects health & safety of our clients

◦ Avoids or mitigates impact on the environment

What about NEPA?

- Ensures that environmental information is available to the public BEFORE decisions are made and BEFORE actions are taken
- Helps public officials make decisions with an understanding of environmental consequences
- THEREFORE:
  - Do not take ANY action until the environmental review compliance is achieved.

Statutory & Regulatory Structure

- National Environmental Policy Act (NEPA) of 1969
- HUD Regulations (24 CFR Part 58)
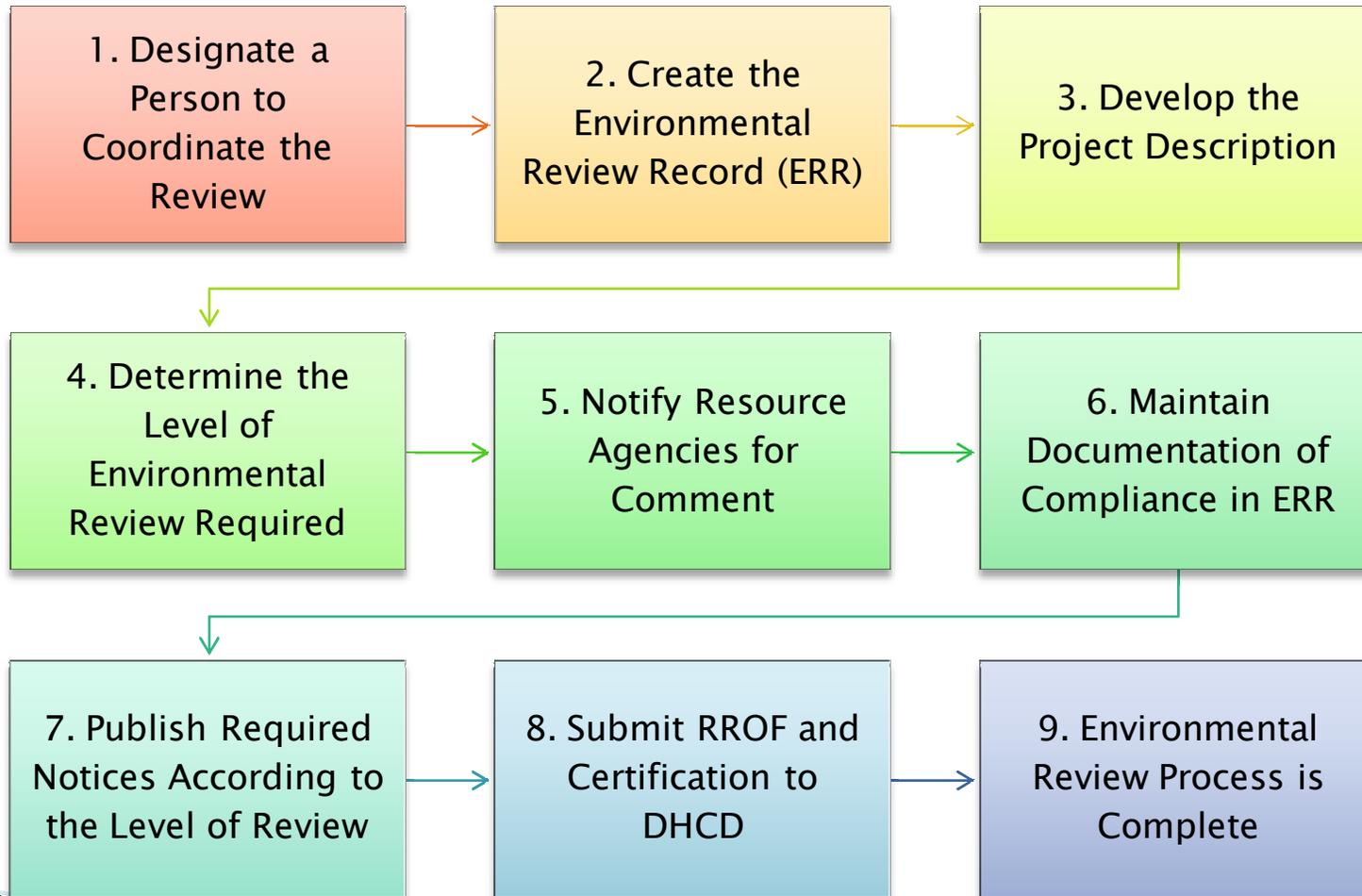- NEPA-Related Laws and Authorities (24 CFR 58.5).

NEPA-Related Laws/Authorities

- National Historic Preservation Act (1966)
- Floodplain Management & Wetlands Protection: Executive Orders (1977)
- Coastal Zone Management Act (1972)
- Safe Drinking Water Act (1974)
- Endangered Species Act (1973)
- Wild & Scenic Rivers Act (1968)
- Clean Air Act (1970)
- Farmland Protection Policy Act (1981)
- HUD Environmental Criteria & Standards
- Environmental Justice Executive Order (1994)
- Noise Control Act (1972)

Definitions

- Responsible Entity (RE)
  - The entity responsible for conducting the environmental review and complying with NEPA and related laws.
- Certifying Officer (CO)
  - Designated by the unit of local government, assumes responsibility for environmental review and must sign the Request for Release of Funds /Certification (RROF/C).

9 Key Steps of the Environmental Review Process

1. Designate a Person to Coordinate the Review	2. Create the Environmental Review Record (ERR)	3. Develop the Project Description
4. Determine the Level of Environmental Review Required	5. Notify Resource Agencies for Comment	6. Maintain Documentation of Compliance in ERR
7. Publish Required Notices According to the Level of Review	8. Submit RROF and Certification to DHCD	9. Environmental Review Process is Complete

Step 1 — Designate a person to conduct the review

- Manages entire environmental review process and serves as point of contact for public inquiries regarding the environmental review.
- Typically not the Certifying Officer
- If paid from CDBG, must follow procurement procedures.

Step 2

Create the Environmental Review Record (ERR)

- ▸ Written record of review
- ▸ Must be available for public inspection
- ▸ Must contain the following:

  - ◦ description of project and each activity
  - ◦ maps
  - ◦ photographs
  - ◦ site plans, studies
  - ◦ All correspondence
  - ◦ public notices and newspaper publications
  - ◦ written determinations or findings as evidence of review, decision making and action
  - ◦ Request of Release of Funds/Certification

Step 3	# Develop a project description

- ▶ What is the scope?
- ▶ What Activities will be included?
- ▶ What is the location?
  - ◦ Get Maps – various
    - • Planning Area Map
    - • Wetlands Map
    - • Floodplain Map
    - • Historical Districts Map – GIS

Step 4 — Determine the Level of Environmental Review Required

▸ **Four levels of review:**
  ◦ Exempt
  ◦ Categorically Excluded
    • Categorical exclusions <u>subject to</u> Part 58.5
    • Categorical exclusions <u>not</u> subject to 58.5
  ◦ Environmental Assessment
  ◦ Environmental Impact Statement

Step 4

Exempt Activities - defined

▸ Include:
  ◦ Environmental Studies
  ◦ Information/Financial Services
  ◦ Administrative/Management activities
  ◦ Public services (such as child care, counseling, etc)
  ◦ Inspections
  ◦ Purchase of tools
  ◦ Engineering/design services
  ◦ Technical training
  ◦ Loan payments

Step 4

## Categorical Exclusion - defined Subject to Part 58.5

- ▸ Acquisition, repair, improvement, reconstruction, or rehab of public facilities where the use will not change (replacement of water lines, etc)
- ▸ Removal of architectural barriers that restrict mobility to elderly or handicapped person
- ▸ Rehab of buildings and improvements where density is not increased, no change in land use, and footprint doesn't increase in a floodplain or wetland

Step 4

Categorical Exclusion – defined Not Subject to Part 58.5

- Tenant-based rental assistance
- Supportive services to health care, housing, etc.
- Operation costs including utilities, equipment, etc
- Economic development activities
- Down payment assistance
- Affordable housing pre-development costs
- Supplemental assistance
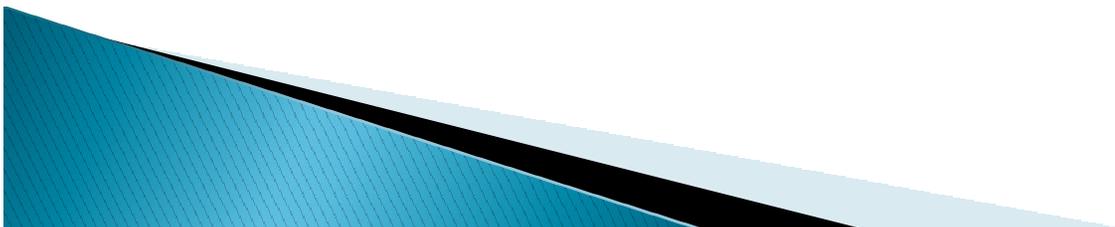
Step 4 | # Environmental Assessment Defined

- Environmental Assessment (EA) is required if project activities are not determined to be Exempt or Categorically Excluded (CE).

- Most CDBG funded activities require an Environmental Assessment because of their potential for environmental impact.

- When in doubt, conduct an environmental assessment

Step 4 | # Environmental Impact Statement

- An Environmental Impact Statement (EIS) is required when the RE determines that the project will have a potentially significant impact on the physical/human environment.

- VERY rare – EIS with CDBG

Step 5

Notify Resource Agencies for Comment

- ▸ Conduct research on which groups/ agencies would have a particular interest in your project
- ▸ Contact agencies for comments on your project. Include description, map and other relevant information
- ▸ Allow at least 30 days for comments
- ▸ Additional considerations
  - ◦ VDHR – Section 106 process
  - ◦ Floodplain/Wetland – 8 step process

Step 6 — Maintain Documentation of Compliance in the ERR

- ▸ **Exempt**
  - ◦ Document ERR with determination of exemption
    - • Project description
    - • Complete the "Written Exempt Determination" form citing applicable reference signed by CO
  - ◦ Same process for Categorical Exclusion that converts to Exempt

- ▸ **Categorical Exclusion (that doesn't convert to Exempt)**
  - ◦ Complete Part 1 & Statutory Checklist
  - ◦ Include source documentation & maps

Step 6

Maintain Documentation of Compliance in the ERR cont..

- Environmental Assessment
  - Complete Part 1, Statutory Checklist and Part 2
  - Identify impacts – beneficial or adverse
  - Examine all alternatives
  - Include all correspondence, maps, and source documents

Step 7	**Publish Required Notices According to Level of Review**

- ▸ Finding of No Significant Impact (FONSI)
  - ◦ Required notice for an EA
  - ◦ Send notice to EPA – Regional, local newspaper, other persons known to be interested, posted in public building
  - ◦ 15-day public comment period
- ▸ Notice of Intent to Request the Release of Funds (NOI-RROF)
  - ◦ Required for CE (not converting to Exempt) and EA
  - ◦ Distribute as noted above
  - ◦ 7-day public comment period
  - ◦ NOI-RROF is a HUD-specific requirement

Publish Required Notices cont..

- ▶ Combined Notice (FONSI/NOI-RROF)
  - ◦ Used for EA and comment periods can run concurrently
  - ◦ Send notices to EPA – Regional, local newspaper, other persons known to be interested, posted in public building
  - ◦ 15-day public comment period

Step 8 Submit RROF and Certification

- ▸ Request for the Release of Funds and Certification Form
- ▸ The form must be signed by the Certifying Officer
  - ◦ Ensure that Part 2 question 3 is marked
- ▸ Submitted to DHCD – public notice, affidavit of publication, and RROF & C form
- ▸ 15-day State comment period (once received!)
- ▸ Form recently updated HUD 7015.15

Step 9 Proceed with Project

- ▸ Once the state comment period has expired, the project (from an Environmental Review standpoint) can proceed
- ▸ Funds not available for payment until a CDBG contract executed

Common Challenges

- Begin environmental review process as soon as possible.
- Typical times required to complete review range from 1 to 120 days.
- Allow time for periods of public comment on environmental notices, including Finding of No Significant Impact (FONSI) and the Notice of Intent to Request for Release of Funds (NOI-RROF).
- Make sure notices are correct – typos or incorrect dates can cause a re-do.

Tips & Helpful Hints

- Do Not Approach Arbitrarily
    - Be <u>thorough</u>, responsible & thoughtful
- Do Not Spend Any Funds– until your review process is complete.
- Even $.01 of CDBG money commits entire project to regulations
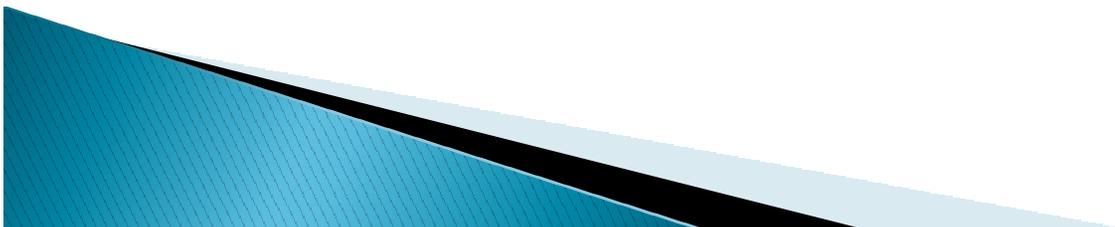- **When in doubt – contact your Community Development Specialist!**

Q&A

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Resources –

- **Appendix 2 of CDBG Manual**
  - Details process
  - Sample forms, publications, ERR document

Thank You

- For more information:
  - CDBG Web Archives, www.dhcd.virginia.gov
  - Call your Community Development Specialist,
    (804) 371-7000 or (276) 676-5471

- Register for the Grant Management Workshop
  - June 26 & 27, 2012
  - Stonewall Jackson Hotel, Staunton

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