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

Special Attention of:

NOTICE CPD-02-7

Field Environmental Officers
Field CPD Division Directors
Field ONAP Administrators
Field Public Housing Division Directors
HOC Directors
Multifamily Housing HUB Directors
Multifamily PD Center Directors

Issued: August 22, 2002
Expires: August 22, 2003

Cross Reference: 40 CFR 1501.6

Subject: CEQ Survey of Cooperating Agency Agreements for Implementing the Procedural Requirements of the National Environmental Policy Act (NEPA) for HUD Programs

A. Background

In response to a request from the Council on Environmental Quality (CEQ), this Notice requests information from HUD Field Offices relating to Cooperating Agency Agreements, which are formalized agreements used to facilitate Federal and non-federal governmental coordination of complex environmental analysis in compliance with the National Environmental Policy Act (NEPA). Although these agreements have not been widely used for environmental analysis for HUD programs, CEQ has found, based on extensive research, that Cooperating Agency Agreements can improve the quality of communication between governmental entities involved in NEPA for projects and activities subject to NEPA. HUD in its role as facilitator with State and local governments participating in various grant programs encourages cooperating agency involvement, and wishes to support CEQ in its efforts to broaden the use of interagency agreements with both Federal and non-federal governments in NEPA activities.

This Notice relates only to such cooperative agreements that are formal, and whose purpose is to coordinate and improve the efficient preparation of Environmental Assessments (EA) and Environmental Impact Statements (EIS) performed under 24 CFR Part 50 –“Protection and Enhancement of Environmental Quality.” Furthermore, this Notice only applies to EA and EIS documents that are prepared by and signed by HUD staff. Please note that the cooperating agreements covered by this Notice address cooperation on the administration of NEPA and do *not* pertain to other environmental requirements calling for an agency to engage another governmental agency in a coordination or cooperation process (e.g. Endangered Species Act, §7; National Historic Preservation Act, §106; or toxic clean up, etc.).

B. Purpose

The purpose of this notice is to obtain information about the frequency of Cooperating Agency Agreements by having HUD Field Office staff complete the questionnaire included as part F of this Notice. Also, our purpose is to make HUD Field Office staff cognizant that these agreements can further interagency effectiveness in conducting environmental analysis.

This request is directed towards all HUD Field Environmental Officers (FEOs) whose familiarity with NEPA requirements will facilitate compliance with this request. In Field Offices where no FEO exists, Program Office Directors should seek the assistance and direction from the nearest FEO or other staff persons familiar with NEPA requirements (including headquarters staff listed at the end of this Notice) in complying with this request. All respondents should complete the brief questions provided in part F of this Notice and return the completed portions of this Notice as directed. In answering the questions in part F, Questionnaire, respondents should consider all Environmental Assessments and Environmental Impact Statements that have occurred from March 1, 2002 to August 31, 2002 and answer the questions to the best of their ability for this period.

The Department will comply with CEQ's request that information regarding HUD's use of Cooperating Agency Agreements be submitted to them every 6 months. The first report will be based upon the respondent's completion of part F of this Notice, Questionnaire, for the specified reporting period. To comply with this request, FEOs and Program Office Directors in HUD Field Offices lacking an FEO (CPD Division Directors, Field ONAP Administrators, Field Public Housing Division Directors, HOC Directors, Multi-family Housing HUD Directors and Multifamily PD Center Directors) should provide information to their Environmental Clearance Officer in HUD Headquarters (identified in part F of this Notice) in a timely manner. *Respondents are requested to reply by mailing or sending by FAX, the attached survey form, no later than September 30, 2002.* To enable the Department to collect data for subsequent periods, you are requested to send complete copies of all Cooperating Agency Agreements for fiscal year 2003 and beyond to the Headquarters staff listed below.

C. Authority

CEQ rules address cooperating agency status at 40 CFR 1501.6 and 40 CFR 1508.5. The subject of cooperating agencies is discussed in CEQ regulations at 40 CFR 1501.6 and the CEQ memoranda of February 4, 2002 addressed to State and Local Governmental Entities and to Tribal Leaders (see attached).

D. Use of Cooperating Agency Status for Environmental Assessments

This notice will have its greatest application as regards Environmental Assessments (EAs) where NEPA requirements apply. HUD's expectation is that EAs will normally be brief, concise documents that would not warrant use of formal cooperating agency status. However, HUD programs support many complex projects where numerous and varied funding streams are required, hence, designation of a lead agency and a formal Cooperating Agency Agreement about the preparation of necessary environmental analysis and documentation can be a productive means of assuring stakeholder involvement.

As an example, a proposed Housing project may involve HUD HOME funds to a city, HUD HOPE VI grant funds to a Public Housing Authority within the city, the city's Housing Finance Agency funds, and FHA Mortgage Insurance. Such a project would require NEPA reviews for compliance by at least two separate offices with HUD under 24 CFR Part 50, and an additional review by the city as a Responsible Entity assuming NEPA responsibilities under 24 CFR Part 58. A formal "Cooperating Agency Agreement," could be established between HUD and the city, naming a lead agency, and a more comprehensive NEPA review could be achieved and the potential for adversarial situations could be avoided.

Thus, this Notice seeks not only to determine how frequently HUD is using this authority currently, but seeks to facilitate wider use of these agreements in the preparation of Environmental Assessments and Environmental Impact Statements.

E. Return of Responses

Mail to one of the following as necessary:

For Community Planning and Development Directors or FEOs:

U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Attn: Ted Leavengood
Office of Community Viability, Room 7240
Washington, DC 20410
FAX: 202-708-3363

For Housing Field Office Staff:

U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Office of Housing, Room 9122
Attn: Eric Axelrod
Washington, DC 20410

For Public Housing and Office of Native American Programs:

U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Office of Public Housing, Room 4146
Attn. Dan O'Connell
Washington, DC 20410

Questions regarding the contents of this Notice should be directed to Ted Leavengood (Theodore_Leavengood@hud.gov), (202) 708-1201 x 4451.

F. Questionnaire

HUD Field Office: _____

Preparer's Name: _____

Preparer's Phone No.: _____

1. Environmental Assessments:

Please indicate below the total number of Environmental Assessments completed during this reporting period, the number of those assessments where a cooperating agency agreement COULD have been in order between numerous Federal, State or local agencies, and the number of those assessments where formal, written Cooperating Agency Agreements were actually utilized.

Total Number of Environmental Assessments during the reporting period.

Total Number of Environmental Assessments during the reporting period where the potential for Cooperating Agency Agreements existed.

Total Number of Cooperating Agency Agreements during the reporting period.

Attach copies of all Cooperating Agency Agreements with your response. If copies are not readily available, please identify the names and locations of the projects and agencies that cooperated with HUD in the preparation of the documents.

2. Environmental Impact Statements:

HUD and its program participants are only infrequently involved in EIS analysis. The questions below relate only to EIS. In those limited instances where an EIS is prepared by HUD and for a HUD assisted project, please address the questions below appropriately.

Total Number of EIS during the reporting period.

Total Number of Cooperating Agency Agreements during the reporting period.

Attach copies of all Cooperating Agency Agreements with your response. If copies are not readily available, please identify the names and locations of the projects and agencies that cooperated with HUD in the preparation of the documents.

Direct all questions to Ted Leavengood (theodore_leavengood@hud.gov or 202-708-0614, ex 4451).