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U. S. Department of Housing and Urban Development
Washington, D.C. 20410-7000
Community Planning and Development

Special Attention of: Notice CPD 97-02
All Environmental Officers
Field CPD Division Directors Issued: February 20, 1997
Field CPD Representatives Expires: February 20, 1998
SHOP Recipients and Subrecipients

Cross References:

SUBJECT: Environmental Guide for Self-Help Homeownership Opportunity
Program (SHOP)

I. Introduction

A. Purpose

This Guide, prepared by the Office of Community Viability, Environmental Review Division, in collaboration with the Office of Affordable Housing Programs, describes the responsibilities of grant recipients and subrecipients, HUD staff and Responsible Entities (REs) in complying with environmental requirements under the Self-Help Homeownership Opportunity Program.

B. Background

The SHOP program is authorized by Section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834, approved March 28, 1996). The Program is intended to facilitate and encourage innovative homeownership opportunities through the provision of self-help housing where the homebuyer contributes a significant amount of sweat-equity toward the construction of the new dwelling. These decent, safe, and sanitary nonluxury dwellings must be made available to eligible homebuyers at prices below the prevailing market prices. Eligible homebuyers are low-income families (families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD) who are unable to otherwise afford to purchase a dwelling. Activities to develop housing assisted under SHOP must involve community participation, by providing for the utilization of volunteers in the construction of dwellings or by other activities designed to involve the community in the project. The only eligible expenses for program funds are land acquisition (including financing and closing costs) and infrastructure improvement

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(installing, extending, constructing, rehabilitating, or otherwise improving utilities and other infrastructure). Administrative expenses and costs associated with the rehabilitation, improvement, or construction of dwellings are not eligible uses of program funds. Among the program requirements contained in section 11 of the

Extension Act or in the NOFA published on July 9, 1996 are the following: (1) to provide for development, through significant amounts of sweat-equity and volunteer labor, of at least 30 dwellings at an average cost of no more than \$10,000 per unit in SHOP funds; (2) to use the grant in a manner that leverages other sources of funding, including private or other public funds; (3) to construct quality dwellings that comply with local building and safety codes and standards and are available at prices below the prevailing market price; and (4) to schedule activities so as to substantially fulfill the obligations under the grant agreement within 24 months after grant amounts are first made available to the organization or consortia. HUD will recapture undisbursed amounts from the grantees who fail to substantially fulfill these obligations within such 24 months.

A total of \$40 million in SHOP funds have been awarded to the following national or regional organizations or consortia (the "Recipients"):

1. Habitat for Humanity International, 121 Habitat Street, Americus, Georgia 31709, telephone (912) 924-6935, \$25 million.
2. Housing Assistance Council, 1025 Vermont Avenue, N.W., Suite 606, Washington, D.C. 20005, telephone (202) 842-8600, \$13.5 million.
3. Neighborhood Reinvestment Corporation, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, telephone (202) 376-2412, \$1.2 million.
4. Northwest Regional Facilitators, 525 E. Mission Avenue, Spokane, WA 99202, telephone (509) 484-6733, \$300,000.

II. Environmental Requirement

SHOP funds are subject to the environmental review requirements that apply to HUD Special Projects in accordance with Section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, as implemented in 24 CFR part 58 (final rule published on April 30, 1996, 61 FR 19120, effective May 30, 1996). SHOP Recipients or their subrecipients (e.g., Habitat for Humanity affiliate organizations) may not commit or expend any SHOP funds on activities unless they are exempt under Sect. 58.34 or not subject to Sect. 58.5 authorities under Sect. 58.35(b) until HUD has approved the Recipient's Request for Release of Funds (RROF), or, where HUD determines that it will perform the environmental review in accordance with Sect. 58.11, until HUD notifies the Recipient that HUD has completed the environmental review. The expenditure or commitment of SHOP funds prior to the HUD approval of the site or the RROF may result in the denial of assistance for the property under consideration. Except where HUD determines to perform the environmental review under §58.11, the RROF is a statutory requirement and cannot be waived; thus violation of this provision will

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result in cannot be waived; thus violation of this provision will result in disapproval of the site or project. Furthermore, the Recipient or subrecipient may not commit non-HUD funds on a SHOP project before the

RROF is approved if the activity would have an adverse environmental impact or limit the choice of reasonable alternatives.

III. Responsibilities

A. Recipient's Responsibility

SHOP program Recipients are responsible for the following:

- (1) All program and environmental requirements.
- (2) The submission of RROFs and cover letters, both signed by the Recipient, to the appropriate local HUD field office. Pending revision of the RROF form (Form HUD 7015.15), the Recipient should sign at the bottom of item 11 of the Form HUD 7015.15. Part 2 of the form will have been signed by the Responsible Entity (RE).
- (3) Receiving from the local HUD field office the approval of the RROF or notification that HUD has completed the environmental review and notifying the subrecipients that they may commence work.

B. Subrecipient's environmental responsibility

SHOP Program subrecipients are responsible for the following:

- (1) negotiating an arrangement with the RE (unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility) for the performance of the environmental review. If not feasible, or if the RE is unwilling to undertake such review, the subrecipient should, in close coordination with the Recipient, notify the local HUD field office. HUD will either refer the subrecipient to the county or State or the review will be done by the HUD field office with environmental responsibility over that area.
- (2) supplying the RE or HUD with information on the location (address for existing structures) of the properties and the nature and scope of the activities to be undertaken along with all available environmental information.
- (3) carrying out mitigating measures required by the RE or HUD or selecting an alternate eligible property; and
- (4) preparing a cover letter for the RROF indicating its agreement to abide by any special conditions resulting from the environmental review, when the environmental review is done by an RE, and submitting it to the Recipient (the National Organization that received the funds directly from HUD) with the RROF. The Recipient must then sign the RROF and submit it to the local HUD field

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office. HUD must allow the public a 15 day objection period from the date of its receipt of the RROF, or from the time specified in the notice published pursuant to §58.70 of the regulations, whichever is later, before it can approve the release of funds. (If the environmental review is done by HUD, no RROF is required and the Recipient may authorize the subrecipient to commence work upon notification from the local HUD office that the environmental review is complete.)

(5) complying with the prohibition on the commitment or expenditure of any SHOP funds to program activities with respect to any eligible property, until HUD has notified the Recipient that it has completed its environmental review or approved the RROF and the Recipient has authorized the subrecipient to proceed.

(6) reporting to the entity performing the environmental review any changes in the scope of the project and any changes in environmental conditions.

(7) providing data for the RE's or HUD's performance of the environmental review when requested.

C. Responsible Entity (RE) responsibility

The RE shall determine whether a NEPA environmental assessment is required and shall also determine whether the assisted activities will trigger thresholds for other applicable Federal environmental laws and authorities. (In many cases of rehab or infill type projects, the RE may find that NEPA and other §58.5 environmental law thresholds are not triggered and therefore may determine that no publication notice is required and no RROF need be prepared.) A "Responsible Entity" (RE) is the unit of general government, Indian tribe or Alaska native village that exercises land use responsibility over project properties (or, if the local HUD field office determines that the involvement of these entities is infeasible, the county or State). The RE is requested to:

(1) assume environmental responsibility under 24 CFR Part 58.

(2) determine the appropriate level of environmental review.

(3) conduct the environmental review in compliance with 24 CFR Part 58.

(4) prepare and disseminate or publish, as appropriate, a Notice of Finding of No Significant Impact (FONSI), a Notice of Intent to Request Release of Funds (NOI/RROF) or a combined FONSI notice and NOI/RROF. The FONSI and the combined notice require a 15 day public comment period from the date of publication or, if no publication, 18 days from the date of mailing or posting, before the RROF can be submitted to HUD. (Should the RE or HUD determine that exceptional circumstances pertain to the project, the FONSI and a combined notice require a 30 day public comment period before the RROF can be submitted to HUD.) The NOI/RROF requires a 7 day comment

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period from the date of publication or, if no publication, 10 days from the date of mailing or posting, before the RROF can be sent to HUD.

(5) execute the certification portion of the Request for Release of Funds and Certification (RROF) (Part 2 of Form-HUD-7015.15) (not the portion requesting funds which the Recipient must sign) certifying the completion of the environmental review and related matters. The RE should cross out "Recipient" each time it appears in Part 2 and

write in "Responsible Entity". The RE must also include a description of any special conditions (see §58.71 (b)).

(6) transmit the executed RROF to the subrecipient for submission to the Recipient who will subsequently submit it to HUD along with the subrecipient's and Recipient's cover letter agreeing to adhere to any special environmental conditions required by the RE in carrying out the project.

(7) re-evaluate projects or properties where the scope of the project or environmental conditions have changed.

(8) document and maintain all findings in an Environmental Review Record (ERR) and provide a copy to the Recipient for its project files.

D. HUD - CPD Program Staff

(1) Field Office Environmental Officers do not routinely do environmental reviews. They have training, oversight, monitoring and, in some cases, sign-off responsibilities. The CPD Representatives in HUD Field Offices have the lead responsibility for carrying out the intent of this Notice and are to:

(a) Perform the necessary environmental review in compliance with 24 CFR part 50 when REs are unable or unwilling to assume responsibility or when the CPD Representative otherwise determines in accordance with §58.11 that HUD should perform the environmental review, and document compliance on HUD Form 4128. The environmental review is not complete until the 4128 has been signed by all appropriate parties.

(b) When a HUD environmental review is complete, notify the Recipient by letter from the Director for Community Planning and Development (CPD), or his/her deputy, indicating one of the following (See form letters in Attachment A):

Option 1: HUD approval;

Option 2: HUD environmental approval with special conditions, including any mitigating measures to be undertaken by the Recipient/subrecipient;

Option 3: HUD request for additional information to perform either the threshold determination or the compliance review, or both, or HUD advice that additional time will be required; or

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Option 4: HUD disapproval and recommendation that the Recipient select an alternate eligible property.

(c) keep environmental records until the closeout of the project by HUD; and

(d) monitor compliance with any mitigation measures.

(2) When an RE has agreed to undertake the environmental review on behalf of a Recipient/subrecipient, the CPD Representative will have the lead responsibility for the following:

(a) advise the RE and the subrecipient of the procedures to be followed;

(b) arrange for technical assistance as needed, either in-house or through a contractor;

(c) monitor RE/subrecipient environmental compliance; and

(d) approve the RROF submitted by the Recipient at the end of the 15 day statutory waiting period allowed for public objection to the release of funds. (See 24 CFR 58.74.)

Attachment:

A - REPLY TO RECIPIENT REGARDING HUD'S DETERMINATION FOR COMPLIANCE REVIEW

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Attachment A

REPLY TO RECIPIENT REGARDING HUD'S
DETERMINATION FOR COMPLIANCE REVIEW

[Type on HUD stationery]

Dear Recipient:

We have reviewed the environmental compliance factors for the project which you provided to us in your letter of (month, day, year) for the grant under the HUD SHOP program. Our determination for the property listed in your submission (or format) is as follows:

[Type the appropriate option]

[Option 1: HUD approval]

HUD has completed its environmental review and approves the use of this property in your SHOP program. You may proceed to commit or expend grant, State, local or other funds to undertake property acquisition rehabilitation, conversion, lease, repair, or construction activities.

[Option 2: HUD environmental approval with special conditions]

HUD has completed its environmental review and approves, subject to special conditions, the use of this property in your SHOP program. You may proceed to commit or expend grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities under the following specified conditions: (explain the specified conditions).

[Option 3: HUD request for additional information or time]

The following property appears to exceed one or more of the thresholds that activate the Federal environmental laws and authorities. Therefore, (we request that you provide the following necessary information so that we may perform the threshold determination) or (a compliance review is required and significantly more time will be needed for us to complete this review). You are prohibited from committing or expending grant, State, local or other funds to undertake property acquisition, rehabilitation, conversion, lease, repair, or construction activities, until HUD approval is received for the specific property. If you wish to remove this property from further consideration, please call us as soon as possible. For this property, the following action is required (explain action required).

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[Option 4: HUD disapproval]

The following property exceeds one or more of the thresholds that activate the Federal environmental laws and authorities, and for the following reasons HUD disapproves the use of this property in your SHOP program. You are prohibited from committing or expending grant, State, local or other funds to undertake property acquisition rehabilitation, conversion, lease, repair, or construction activities in connection with the SHOP program. For this property, the specific reasons for this disapproval are the following: (explain reasons).

For further assistance, please phone your CPD Rep,
_____, at _____.

Yours truly,

Director
Community Planning and Development Division

cc:
Field CPD Rep
Field Environmental Officer