



**2005 HOME PROGRAM
ENVIRONMENTAL REVIEW
PROCEDURES MANUAL**

**Texas Department of Housing and Community Affairs
HOME Investment Partnerships Program
221 East 11th Street
P. O. Box 13941
Austin, TX 78711-3941**

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***Although State Participating Jurisdictions are not required under HUD regulations to apply 24 CFR 58.6 floodplain requirements, the state of Texas requires compliance with the requirements. Local contracts with Federal Emergency Management Agency may also apply.*

OVERVIEW

PURPOSE

The National Environmental Policy Act (NEPA) of 1969 was enacted by Congress to ensure that federal agencies consider and address environmental impacts resulting from the activities and projects they sponsor. Congress subsequently enacted a series of statutes dealing with specific environmental issues. The US Department of Housing and Urban Development (HUD) developed its own set of regulations that implement NEPA and the other environmental statutes. All federally-assisted projects are subject to the requirement for environmental review and documentation.

USING THE MANUAL

The way in which regulations affect any given project depends on several factors:

- Whether the Contract Administrator (defined as an entity that TDHCA has awarded funds and has assumed contractual obligations to administer a HOME contract) is a city or a county; or a nonprofit, for profit, or public housing authority; and what type of project the Contract Administrator is proposing, will affect how reviews, public notices, approvals, and documentation are processed.
- Depending on the description, size, and nature of the project, it may be subject to specific statutes or all statutes, and subject to differing levels of review.
- Depending on the initial results of the environmental review, the project may or may not be subject to further requirements for review, notices, approvals, and mitigation of environmental impact.

This manual is designed to help Contract Administrators, , and Texas Department of Housing and Community Affairs' (TDHCA) staff understand how to review, classify, and address the various size and types of projects funded by TDHCA in order to be in full compliance with HUD's environmental regulations. Following this introduction, the manual is divided into three major parts:

- Guidance for Contract Administrators that are cities or counties
- Guidance for Contract Administrators that are nonprofits, for profits, or public housing authorities
- Environmental Clearance Process

Attachments and general information useful to all Contract Administrators are also included in this manual.

Each part of the manual is divided into sections by type of project or activity, providing step-by-step instructions for the environmental review process, documentation requirements, notices, and approval process. As you use the manual, the first step is to locate the part and section that is applicable to the project. As you read the relevant section, the instructions will direct you to the necessary forms and other attachments. In some cases, you will be directed to another section.

Be aware that the process of environmental review may involve numerous layers. Any particular step in the process may require undertaking additional levels of review. For example: the rules require that the Responsible Entity (RE) determine whether a project is located in a 100-year floodplain. If it is not, then only documentation of that fact is needed. If a project is

located in the 100-year floodplain, then another set of steps is required, based on the type of project.

Contract Administrators are required to retain written documentation of the environmental review process. This documentation comprises the Environmental Review Record (ERR) and must be available to the public at all times. TDHCA requires Contract Administrators to use HUD forms or TDHCA forms, as applicable, when completing an environmental clearance review.

The environmental rules require the designation of a Responsible Entity (RE). City and county Contract Administrators will be designated as the RE for their programs, and TDHCA will be designated as the RE for nonprofits, for profits, and public housing authorities. The designation of RE affects the method for processing of notices and approvals, explained in each of the relevant sections of this Manual. For purposes of this Manual, cities and counties (who are the RE); and nonprofits, for profits, and public housing authorities will be referred to as Contract Administrators.

The following table will help you find the right Part and Section for projects.

CITIES AND COUNTIES	PART A	IMPORTANT NOTES
Program or Activity	Section	
All activities	Introduction	
Tenant-Based Rental Assistance (TBRA)	1 58.35(b)	
Homebuyer Assistance (HBA) – no rehabilitation or construction is occurring	2 58.35(b)	Please note that if rehabilitation or new construction is occurring in conjunction with this assistance, you must proceed to Section 3 or Section 4.
Some Owner-Occupied (OCC) and HBA with Rehabilitation (HBAR) – Limited rehabilitation is occurring	3 58.35(a)	Check the limitations in this section to determine whether to go to Section 4.
OCC, Single-family development, HBAR – Most rehabilitation, reconstruction, and new construction projects	4 EA	If a project is not exempt or categorically excluded under Sections 58.34 and 58.35, then the CA must prepare an Environmental Assessment.
OCC and HBAR – Construction projects that have met all the requirements of Section 3 as applicable	5 58.34(a)(12)	Proceed to this section only if Section 3 has directed you to do so.
Studies, management, and other activities with no potential for impact	6 58.34	At this time no activities funded by TDHCA are considered to be exempt.

Nonprofits, For Profits and Public Housing Authorities	PART B	IMPORTANT NOTES
Program or Activity	Section	
All activities	Introduction	
Tenant-Based Rental Assistance (TBRA)	1 58.35(b)	
Homebuyer Assistance (HBA) – no rehabilitation or construction is occurring	2 58.35(b)	Please note that if rehabilitation or new construction is occurring in conjunction with this assistance, you must proceed to Section 3 or Section 4.
Some Owner-Occupied (OCC) and HBA with Rehabilitation (HBA-R) – Limited rehabilitation is occurring	3 58.35(a)	Check the limitations in this section to determine whether to go to Section 4.
OCC, Single-family development, HBA-R – Most rehabilitation, reconstruction, and new construction projects	4 EA	If a project is not exempt or categorically excluded under Sections 58.34 and 58.35, then the Contract Administrator (CA) must prepare an Environmental Assessment.
OCC and HBA-R – Construction projects that have met all the requirements of Section 3 as applicable	5 58.34(a)(12)	Proceed to this section only if Section 3 has directed you to do so.
Studies, management, and other activities with no potential for impact	6 58.34	At this time no activities funded by TDHCA are considered to be exempt.

DEFINITIONS

Activity An action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an ineligible expense under the HUD assistance program.

Authority to Use Grant Funds (Release of Funds) Refers to a HUD issuance of a firm approval letter to use federal funds or authorizing use of grant funds as in *HUD 7015.16 (Attachment U)*.

Categorical Exclusion An activity that does not individually or cumulatively have a significant effect upon the environment as specified in regulations adopted by HUD in accordance with 24 CFR Part 58.35. In such cases, neither an environmental assessment nor an Environmental Impact Statement (EIS) is required. However, categorically excluded projects under 24 CFR 58.35(a) must obtain a release of funds and comply with additional environmental requirements such as those identified in 24

CFR 58.5. These include, but are not limited to, analysis of historic properties, floodplain management, and wetland protection. Categorically excluded projects under 24 CFR 58.35(b) do not require compliance with the additional environmental requirements such as those identified in 24 CFR 58.5, the public notice, or a release of funds.

Certification Verification to HUD or TDHCA that all responsibilities have been satisfied under National Environmental Policy Act of 1969 (NEPA) and other related laws and authorities including 24 CFR 58.35(a), 24 CFR 58.35(b), 24 CFR 58.34(a), HUD 7015.15, HUD 7015.16, NOI/RROF, and the FONSI NOI/RROF.

Certifying Officer (CO) The official who is authorized to execute the *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)* and has the legal capacity to carry out the responsibilities of 24 CFR 58.13.

Contract Administrator (CA) An entity which has been awarded funds and has assumed contractual obligations to administer a HOME contract, subject to the terms and conditions of the Final Rule, the Texas Administrative Code and the policies and procedures outlined in the HOME implementation manuals. The CA can be the responsible entity (RE) or simply the grant recipient if not qualifying as an RE.

Environmental Assessment (EA) A detailed examination of the proposed project, its environment, and the relationship between the two. The EA must include project alternatives as required under NEPA. It should include a listing of agencies and persons consulted, and include documentation of comment periods, comments, and responses and/or actions.

Environmental Impact Any alteration of existing environmental conditions, or creation of a new set of environmental conditions, caused or induced in whole or in part, directly or indirectly, by a proposed project.

Environmental Impact Statement (EIS) A detailed written statement as required by §102(2)(c) of NEPA describing, analyzing, and assessing any alteration of environmental conditions or creation of a new set of environmental conditions, adverse or beneficial, caused or induced by the proposed action, and alternatives to the proposed action.

Environmental Review Record (ERR) A written record of the environmental review process maintained and made available for public review by the RE. The ERR documents compliance with the environmental review requirements of 24 CFR 58 and NEPA.

Exempt Activity Any activity that is exempt from environmental review requirements of Part 58, including the NEPA-related laws listed at 24 CFR 58.5. Exempt activities are listed at 24 CFR 58.34 (see also 24 CFR 58.35(c)). Such activities may still be subject to compliance with authorities listed in 24 CFR 58.6. Exempt activities may include administrative activities, feasibility and engineering studies, outreach, and other activities that do not affect the human and physical environment.

Extraordinary Circumstances A situation in which an Environmental Assessment (EA) or Environmental Impact Statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:

- (1) Actions that are unique or without precedent;
- (2) Actions that are substantially similar to those that normally require an EIS;
- (3) Actions that are likely to alter existing HUD policy or HUD mandates; or

- (4) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment, or in which the environment could have a significant impact on users of the facility.

Finding of No Significant Impact (FONSI) A FONSI is one of the two possible results of an Environmental Assessment (EA). The other result is a Finding of Significant Impacts (FOSI). All EAs result in either a FOSI or a FONSI. An EA resulting in an FOSI requires an Environmental Impact Study (EIS) to proceed.

Human Environment The natural and physical environment and the human relationship with that environment.

Project An activity, or a group of integrally related activities, designed by the grant recipient to accomplish, in whole or in part, a specific objective.

Project Description is the scope of the project in writing listing: all funding sources, total cost including other funding sources, a break out of HOME award dollar amounts between administrative and construction, describes how funds will be utilized in as much detail as is available, target population, number of individuals to be assisted, location of project, area median family income (AMFI) existing and future needs, a map documenting the location of the project should be included as well as an evaluation of the effects.

Responsible Entity (RE) A unit of general local government (UGLG) within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State.

Request for Release of Funds and Certification (RROF) A document that requests funds be released for a proposed project so funds can be made available to the requesting entity to carry out the project (*HUD 7015.15*) (*Attachment S*).

Tiering The evaluation of an action or an activity at various points in the development process.

ACRONYMS

CA	Contract Administrator
CFR	Code of Federal Regulations
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ERR	Environmental Review Record
ESG	Emergency Shelter Grant
FEMA	Federal Emergency Management Agency
FONSI	Finding of No Significant Impact
FONSI NOI/RROF	Finding of No Significant Impact and Notice of Intent to Request Release of Funds
HOME	HOME Investment Partnerships Program

HUD	US Department of Housing and Urban Development
NEPA	National Environmental Policy Act of 1969, as amended
NOI/EIS	Notice of Intent to Prepare an Environmental Impact Statement
NOI/RROF	Notice of Intent to Request Release of Funds
ROF	Release of Funds
RROF	Request for Release of Funds
TDHCA	Department, Texas Department of Housing and Community Affairs

PART A – ENVIRONMENTAL REVIEW PROCESS FOR CITIES AND COUNTIES AS THE RESPONSIBLE ENTITY (RE)

INTRODUCTION

TDHCA assumes two roles of responsibilities during the environmental clearance process:

- (1) To act as HUD for cities and counties that are the Responsible Entity (RE) for their contracts.
- (2) To act as the RE for nonprofits, for profits, and public housing authorities that are not units of local government and cannot assume responsibility.

Environmental review procedures should begin as soon as the Contract Administrator classifies the projected use of HUD funds (24 CFR 58.30). **HUD or non-HUD funds (24 CFR 58.22) may not be committed to the project until the *Request for Release of Funds and Certification (RROF) (HUD 7015.15) (Attachment S)* is approved by TDHCA.**

OVERVIEW

Cities and counties act as the RE for the following environmental reviews and will maintain all original information in the Master Environmental Review Record (ERR) files in a master folder separate from the HOME contract files. Appropriate copies of ERR information is submitted to TDHCA for concurrence on findings of the RE. The TDHCA Environmental Specialist enters environmental review information in the environmental log, enters environmental documentation acceptance dates in the Contract Database System, and files copies of all submitted forms in the TDHCA ERR file separate from the HOME contract files folder. The Master ERR at the city of county will contain all the environmental review documents, responses, checklists, public notices, and written classification of environmental findings and correspondence with TDHCA required by the regulations. Projects will be aggregated if possible (*Attachment A*) if the Contract Administrator has more than one contract with the same activity or a different activity at the same location. Contract Administrators may use the *Environmental Review Flowchart (Attachment B)* to identify the correct level of environmental review required for their projects. For EA and EIS projects, CA must comply with both NEPA and HUD regulatory requirements to evaluate alternatives to the project and evaluate possible alternatives to the proposed project, including alternate locations, designs, size and scope, materials, and the "no action" alternative to minimize adverse effects of a project.

Cities and counties (RE) are responsible for the Master ERR including:

- Project description including the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate, and an evaluation of the effects
- Project classification
- Support documentation (evidence of compliance with regulations);
- Tiering strategy when completing a full environmental assessment or categorically excluded (subject to 58.5(a)) project
- Public Notices, Request for Release of Funds, and Release of Funds documentation

- Using the required HUD/TDHCA forms, as applicable

Contract Administrators that do not complete the above requirements will incur delays in the environmental clearance process. Required forms for each level of review are provided as attachments to this Manual and must be used by the Contract Administrator. These forms are also available on the Department's website at www.tdhca.state.tx.us.

EMERGENCY ACTIONS

For emergency actions that are determined to be exempt by the Responsible Entity as the result of an imminent threat to public safety according to §58.34(a)(10), the Contract Administrator must inform the Department, who will determine if the situation qualifies as an "imminent threat." Emergency actions only require documentation of the condition and written record of determination that they meet the conditions for exemption. Public notification and the RROF are not required.

PART A – SECTION 1

Categorically Excluded (not subject to 58.5)

24 CFR 58.6 floodplain insurance requirements are not applicable

Tenant-Based Rental Assistance

This section applies when a city or county is the Contract Administrator and is acting as the Responsible Entity (RE). While all federally funded activities require a basic environmental review and record, certain activities may not require full statutory review and public notice requirements.

The Contract Administrator must complete a *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* for Tenant-Based Rental Assistance (TBRA) for their total project. The procedures discussed under this section are limited to TBRA activities that are categorically excluded from full statutory review. If it is determined that a TBRA project may have a significant environmental effect, this section will no longer apply to the project.

A categorically excluded (not subject to 58.5) TBRA project **does not require a public notice or a Request for Release of Funds and Certification (HUD 7015.15) (RROF) (Attachment S)**. Complete the following steps:

Step 1. Write a Project Description

The *Project Description (Attachment D)* must include the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects.

Step 2. Classify the Project

A project is classified when the *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* is completed and signed by the Certifying Officer. Mark item #1 for TBRA projects. The location listed should be the geographical area (city or county name) that is being served. Individual addresses are not required for this step but will be required before HOME funds are drawn down.

Step 3. Submit Support Documents

Submit a copy of *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C) and Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* to TDHCA. TDHCA will review the form.

- If acceptable, TDHCA will notify the Contract Administrator of concurrence with an e-mail and hard copy formal letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary either a phone call or correspondence as necessary.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must be achieved and notification of TDHCA's concurrence with the determination of Categorical

Exclusion (not subject to 58.5) 24 CFR 58.35(b) must be obtained before HOME assistance is provided.

Step 4. Maintain the Environmental Review Record (ERR)

The RE must keep the following original forms in the ERR file and make them available for public review and audit by HUD and TDHCA:

- (1) *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*
- (2) *Project Description (Attachment D)*
- (3) *Compliance Documentation Checklist 24 CFR 58.6*
- (4) Support documentation (evidence of compliance with regulations);
- (5) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b)
- (6) *HUD Form 7 (Attachment E)*

PART A – SECTION 2

Categorically Excluded (not subject to 58.5)

24 CFR 58.6 floodplain insurance requirements are applicable **

Homebuyer Assistance

This section applies when a city or county is the Contract Administrator and is acting as the Responsible Entity (RE). While all federally funded activities require a basic environmental review and record, certain activities may not require full statutory review and public notice requirements.

The Contract Administrator must complete a *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* for all Homebuyer Assistance (HBA) and American Dream Down-Payment Initiative (ADDI) awards for each individual address. The procedures discussed under this section are limited to HBA and ADDI activities that assist homeownership of existing or new dwelling units not assisted with federal funds, including closing costs and down payment assistance to home buyers, interest buy downs, and similar activities that result in the transfer of title to a property.

Although HBA and ADDI activities are categorically excluded from full statutory review, if it is determined that an activity listed above may have a significant environmental effect, this section will no longer apply to the project.

A categorically excluded (not subject to 58.5) HBA or ADDI project **does not require a public notice or a Request for Release of Funds and Certification (RROF) (HUD 7015.15) (Attachment S).**

Complete the following steps.

Step 1. Write the Project Description

The *Project Description (Attachment D)* must include the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate, and an evaluation of the effects.

Step 2. Classify the Project

A project is classified when the *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* is completed and signed by the Certifying Officer of the RE. Mark Item #5 for activities assisting homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy downs, and similar activities that result in the transfer of title to a property.

Step 3. Complete Support Documents

Complete the *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* for each address:

- (1) Flood Disaster Protection Act
- (2) Coastal Barriers Resources Act

- (3) Airport Runway Clear Zones and Clear Zones Disclosures
 - a. *Notice to Prospective Homebuyers of Properties Located in Runway Clear Zones and Clear Zones (Attachment G)*

Step 4. Submit Support Documents

Submit a *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* for each address. TDHCA will review the form.

- If acceptable, TDHCA will notify the Contract Administrator. The Contract Administrator may not expend funds before the notification is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must be achieved and notification of TDHCA's concurrence with the determination of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) must be received before HOME assistance is provided.

Step 5. Maintain the Environmental Review Records (ERR)

The RE must keep the following original forms in the ERR file and make them available for public review and audit by HUD and TDHCA:

- (1) *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*
- (2) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*
- (3) Support documents
- (4) *Project Description (Attachment D)*
- (5) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b)*
- (6) *HUD Form 7 (Attachment E)*

***Although State Participating Jurisdictions are not required under HUD regulations to apply 24 CFR 58.6 floodplain requirements, the state of Texas requires compliance with the requirements. Local contracts with Federal Emergency Management Agency may also apply.*

PART A – SECTION 3

Categorically Excluded (subject to 58.5)

24 CFR 58.6 floodplain requirements are applicable **

- Rehabilitation/Reconstruction 24 CFR 58.35(a) (3)
- Construction Projects 24 CFR 58.35(a)(4)

NOTE: Most TDHCA construction projects will require compliance with Part A Section 4, addressing Environmental Assessment

This section applies when a city or county is the Contract Administrator and is acting as the Responsible Entity (RE) for environmental review. While all federally funded activities require a basic environmental review and record, certain activities require full statutory review, requests for release of funds, and public notice requirements.

The activities listed below are *Categorically Excluded (subject to 58.5)* and will require a full *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* review. Contract Administrators should keep in mind that a classification of categorically excluded must be kept on file, and future action, such as any construction that exceeds the threshold of 24 CFR 58.35(a), will require a full environmental assessment review as described in Part A Section 3 and 4.

Activities are limited to the following for **rehabilitation**:

- (3) Rehabilitation of buildings and improvements when the following conditions are met:
- (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland.
 - (ii) In the case of multifamily residential building: (a) unit density is not changed more than 20 percent; (b) the project does not involve changes in land use from residential to non-residential; and (c) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial and public buildings: (a) the facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and (b) the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

Activities are limited to the following for **reconstruction**:

- (4) An individual action:
- (i) up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
 - (ii) a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

Examples of categorically excluded activities are rehabilitation of an existing property, or an individual action such as reconstruction or new construction on a one-to-four family dwelling.

Activities in this category require the completion of a "compliance determination" review using the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* to ensure the project is in compliance with related federal laws and authorities.

NOTE: The *Statutory Checklist (Attachment H)* may require further review for compliance, notifications, and processing steps. See *Attachment H* for references to additional steps that may be required. A common example is the floodplain requirement (commonly referred to as the *8-Step Process (Attachment N)*). Serving properties in a floodplain will require further steps.

If a *tiered review* is to be completed, further steps and documentation will be required, but the overall level of work may be reduced.

Tiered Environmental Review

In many rehabilitation programs, all of the project addresses are not known at program inception. In this situation, a tiered environmental review may be appropriate. Tiering allows an environmental analysis to be completed on a geographic area basis to address those impacts typical of a proposed action so they need not be repeated on a site-specific basis once unit addresses are known.

CAUTION: Prior to any construction work, all environmental review steps must be complete for individual properties.

A tiered review process must begin with a written plan that describes how the process will be managed. This is referred to as a *Tiering Plan*. A sample is provided as *Attachment J*.

The tiered environmental review process will then have three major components:

1. Program and project description,
2. Classification
 1. Level I Review – Tiering plan including qualifications and limitations, and a broad scale and non site-specific environmental review that focuses on a defined geographical area and addresses environmental impacts that might occur, or not occur, on a typical site within the area, e.g. floodplain, coastal zone, wetlands, etc. The items that can be addressed during the Level I review will vary from program to program depending on the characteristics of the targeted area.
 2. Site-Specific Checklist – A site-specific checklist must be developed based on the Level I review that identifies those impacts that will vary by site and may only be resolved when specific project locations are known, e.g. historic preservation, etc..
 3. Mail notices to required parties and/or publish/post NOI-RROF, wait for comment period, sign and submit form 7015.15 to TDHCA and wait for authorization letter and or Form 7015.16 before proceeding with project.
 4. Level II (Site-Specific) Review – The review for each property that addresses each unresolved potential impact identified on the site-specific checklist, also includes, an Activity Description (more detailed version of project description specific to the identified address).

These components are described within the context of the following typical steps. Steps that are specific to tiered reviews are indicated as such below.

Remember!

Each item on the *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* and the *Statutory Checklist for Categorically Excluded Projects Only (Attachment H)* must be addressed for each project/property to be assisted either during the Level I or the Level II review. Each item that could not be addressed during the Level I review must be included on the site-specific checklist. These items will vary from program to program. The site-specific checklist must reference those items that were previously addressed during the Level I review and were determined not to have an impact.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must be achieved and the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* must be received before HOME assistance is provided.

Step 1. Write a Project Description (All reviews – tiered and non-tiered)

The *Project Description (Attachment D)* must include the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate, and an evaluation of the effects.

NOTE: If the project or program cannot be certified as categorically excluded, TDHCA will provide further guidance.

Step 2. Classify the Project (All reviews – tiered and non-tiered)

Complete the *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I)*. List all known addresses on one form. Mark Item #3 or Item #4, as appropriate.

If all addresses are known and the project will not be tiered, skip to Step 4. If all addresses are not known and the project will be tiered, complete Step 3.

Step 3. Start the Tiering Process (Tiered reviews only)

First, complete a *Tiering Plan* at a city, county, or subdivision level that describes how the tiered review will be carried out. A sample *Tiering Plan* and a general discussion of the tiered review process is provided as *Attachment J*. The *Tiering Plan* should reference the need to resolve environmental compliance factors that could not be addressed during the Level I review once project sites are identified.

Next, conduct a Level I broad scale and non site-specific review by completing a *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* and a *Statutory Checklist for Categorically Excluded Projects Only (Attachment H)* for the targeted geographic area based on as much information as is known about the area and environmental factors that can be addressed without knowing all of the specific sites. Contact the appropriate local, state, and federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*); and brief summary of applicable laws and sample support documentation is also provided (*Attachment V*).

The Level I review must identify and evaluate those issues that need a decision or determination during the site-specific review and exclude those issues not relevant to the project under consideration. For each item on each checklist, indicate those potential impacts that may vary by individual project and thus must be considered for each address. Each of these items must be addressed during the Level II site-specific review and will vary from program to program. For example: The program may be targeted so it serves no properties in a floodplain or near a source of toxic waste. In this case, a broad scale and non site-specific review will be sufficient for these potential impacts as long as that condition stays true. Another program may have the potential to serve properties in a floodplain. In that case, each property will have to be examined for floodplain impact. *If the service area changes or new conditions are identified after the broad scale and non site-specific review is done, it must be revised and processed accordingly.*

Then, using data gathered from the Level I review, develop a site-specific checklist that summarizes the issues addressed in the Level I review and includes what the site acceptability standards and mitigation measures will be for any impacts. Once specific units have been selected, a site-specific review must be completed for each project based on the site-specific checklist. This is discussed further under Step 10. For guidance on determining what issues will still need to be addressed in the site-specific review.

NOTE: The review process may require additional steps, as indicated in the instructions, before it is considered complete.

Skip to Step 6.

Step 4. Complete Support Documents (*Non-tiered reviews only*)

Complete a *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* and a *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* for each known address and contact the appropriate federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*).

NOTE: The Statutory Checklist review process may require additional steps, as indicated in the instructions, before it is considered complete.

Step 5. Determine if Project Can Convert to Exempt (*Non-tiered reviews only*)

- Determine if the project can convert to exempt because compliance with federal regulation is not required nor is mitigation of any kind (tiered projects cannot convert to exempt). Mark Item #1 of the Determination Section located on page 2 of the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)*. The Certifying Officer must sign and date the form. If the project can convert to exempt, a recipient does not have to submit an RROF and certification, and no further approval from TDHCA will be needed by the Contract Administrator for the drawdown of funds to carry out exempt activities and projects. **SKIP TO PART A SECTION 5.**
- If the project cannot convert to exempt because compliance with a federal regulation requires further action and possible mitigation is required mark Item #2 of the Determination Section located on page 2 of the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)*. The Certifying Officer must sign and date the form.

NOTE: Proceed to Step 6 only if the project cannot convert to exempt.

Step 6. Publish or Post and Comment Period (*All reviews – tiered and non-tiered*)

CAUTION: Before proceeding with this step, be sure that all required review steps for the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* have been completed, including Historical Preservation requirements and the *8-Step Process (Attachment N)* which addresses floodplain management.

Decide to either publish or post the *NOI/RRUF (Attachment M)*.

For tiered reviews, the notice must also include a description of the tiering process, including how site specific reviews will be conducted and issues resolved, and the availability of the *Tiering Plan (Attachment J)*.

Additional guidance on publishing or posting:

- If publishing, go to *Instructions for Publishing a Notice of Intent to Request Release of Funds for Cities and Counties (Attachment Q)* for instructions and a timetable on how to complete this process.
- If posting, go to *Instructions for Posting a Notice of Intent to Request Release of Funds for Cities and Counties (Attachment R)* for instructions and a timetable on how to complete this process.
- As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office or in this case, TDHCA acting as HUD.

Step 7. Submit Documents (*All reviews – tiered and non-tiered*)

At this point, the following documents must be submitted to TDHCA:

- *NOI/RRUF (Attachment M)*
- Proof of publishing (tear sheet with date) or posting (notice and affidavit)
- *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I)*
- *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)*

Step 8. Initiate the Objection Period (*All reviews – tiered and non-tiered*)

TDHCA will begin a 15-day objection period the following day after it receives all required documents as listed in the instructions. If all required documents are not received and properly completed, TDHCA cannot begin the objection period.

TDHCA will forward all objections to the Contract Administrator as they are received. The Contract Administrator must consider the comments and address all objections, if appropriate, in response to the comments, before TDHCA will provide an *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)*.

Step 9. Issuance of Authority to Use Grant Funds (*All reviews – tiered and non-tiered*)

TDHCA's issuance of the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* indicates acceptance of the Contract Administrator's environmental certification on the *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I)* form.

- If acceptable, TDHCA will notify the Contract Administrator and issue an *Authority to Use Grant Funds (HUD 7015.16)*. (*Attachment U*). The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

Contract Administrators that are not completing a tiered review can skip to Step 12.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must be achieved and the *Authority to Use Grant Funds (HUD 7015.16)* (*Attachment U*) must be received before HOME assistance is provided.

Step 10. Complete the Site-Specific Review (*Tiered reviews only*)

Once specific sites are known, a site-specific review must be completed. The site-specific review only needs to address environmental compliance factors that must be considered for each particular site according to the site-specific checklist that was developed during the broad scale and non site-specific review. The site-specific checklist should reference or summarize the issues addressed in the Level I review, and what the site acceptability standards and mitigation measures will be.

NOTE: If any project sites deviate from the tiered review (and the approved site-specific compliance strategies outlined in it), then a separate environmental review should be prepared for that specific site and another public notice and RROF may be required.

Step 11. Submit Site-Specific Documents (*Tiered reviews only*)

Once site-specific reviews are complete, the following documents must be submitted to TDHCA for each specific project activity:

- *Site-Specific Review*

TDHCA will review the form.

- If acceptable, TDHCA will notify the Contract Administrator of concurrence and allowance to begin using grant funds with an e-mail and follow-up hard copy formal letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

Remember!

Contract Administrators must ensure that HOME assistance is not provided for specific project activities until notification of TDHCA's acceptance of the *Site-Specific Review* is received.

Step 12. Maintain the Environmental Review Record (ERR) (*All reviews – tiered and non-tiered*)

The ERR must be maintained in the Contract Administrator's place of business. The Contract Administrator must keep the following forms in the ERR file and make them available for public review and audit by HUD and TDHCA:

- (1) *Tiering Plan* (if applicable) (*Attachment J*);

- (2) *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I);*
- (3) *Project Description (Attachment D);*
- (4) *Statutory Checklist (Attachment H);*
- (5) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F);*
- (6) Support documentation (evidence of compliance with regulations);
- (7) Copies of the tear-sheet or posted notice;
- (8) Copies of the affidavits for the *NOI/RROF (Attachment M)*, if applicable;
- (9) *Copy of RROF and Certification (HUD 7015.15) (Attachment S);*
- (10) *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* from TDHCA;
- (11) Notification that the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* has been executed;
- (12) *Site-Specific Review (if applicable);*
- (13) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a)* for specific project activities, if applicable;
- (14) *HUD Form 7 (Attachment E).*

***Although State Participating Jurisdictions are not required under HUD regulations to apply 24 CFR 58.6 floodplain requirements, the state of Texas requires compliance with the requirements. Local contracts with Federal Emergency Management Agency may also apply.*

PART A – SECTION 4

Environmental Assessment

24 CFR 58.6 floodplain requirements are applicable **

Construction Projects

This section applies when a city or county is the Contract Administrator and is acting as the Responsible Entity (RE) for environmental review. While all federally funded activities require a basic environmental review and record, certain rehabilitation and reconstruction activities require a full environmental assessment, request for release of funds, and public notice requirements.

If a project is not exempt or categorically excluded under 24 CFR 58.34 or 58.35, the Contract Administrator must comply with the requirements of this section. The following HOME activities require a full environmental assessment if they exceed the threshold of 24 CFR 58.35(a) (activities listed in Part B, Sections 1, 2, or 3) or have a significant impact on the environment because one or more federal regulations require further action. Owner-Occupied (OCC), Homebuyer Assistance with Rehabilitation (HBAR), Contract for Deed Conversion (CFD), Community Housing Development Organization (CHDO), and Multifamily Rental Housing Development (RHD) units that will be rehabilitated or reconstructed.

Activities in this category require compliance with the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* which consists of a Compliance Documentation Checklist, a Statutory Checklist, and an Environmental Assessment Checklist.

NOTE: Completion of the checklists included in *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* may require compliance through further review, notice, and processing steps. A common example is the floodplain requirement in the Statutory Checklist (commonly referred to as the 8-Step Process). Serving properties in a floodplain will require further steps.

If a *tiered review* is to be completed, further steps and documentation will be required, but the overall level of work may be reduced.

Tiered Environmental Review

In many rehabilitation programs, all of the project addresses are not known at program inception. In this situation, a tiered environmental review may be appropriate. Tiering allows an environmental analysis to be completed on a geographic area basis to address those impacts typical of a proposed action so they need not be repeated on a site-specific basis once unit addresses are known.

CAUTION: Prior to any construction work, all environmental review steps must be complete for individual properties.

A tiered review process must begin with a written plan that describes how the process will be managed. This is referred to as a *Tiering Plan*. A sample is provided as *Attachment J*.

The tiered environmental review process will then have three major components:

1. Level I Review – Tiering plan including qualifications and limitations, and a broad scale and non site-specific environmental review that focuses on a defined geographical area and addresses environmental impacts that might occur, or not occur, on a typical site within the area, e.g. floodplain, coastal zone, wetlands, etc. The items that can be addressed during the Level I

review will vary from program to program depending on the characteristics of the targeted area.

2. Site-Specific Checklist – A site-specific checklist must be developed based on the Level I review that identifies those impacts that will vary by site and may only be resolved when specific project locations are known, e.g. historic preservation. Publish public notice and proceed with RROF process.
3. Level II (Site-Specific) Review – The review for each property that addresses each unresolved potential impact identified on the site-specific checklist, also includes, an Activity Description (more detailed version of project description specific to the identified address).

These components are described within the context of the following typical steps. Steps that are specific to tiered reviews are indicated as such below.

Remember!

Each item on each checklist in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* must be addressed for each project/property to be assisted either during the Level I or the Level II review. Each item that could not be addressed during the Level I review must be included on the site-specific checklist. These items will vary from program to program. The site-specific checklist must reference those items that were previously addressed during the Level I review and were determined not to have an impact.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must be achieved and the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* must be received before HOME assistance is provided.

Step 1. Write a Project Description (All reviews – tiered and non-tiered)

The *Project Description (Attachment D)* must include the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects.

Step 2. Classify the Project (All reviews – tiered and non-tiered)

If a project is not exempt or categorically excluded under 24 CFR 58.34 or 58.35, the Contract Administrator must complete an Environmental Assessment. If the environmental assessment reveals that the project may result in a significant impact to the environment than and EIS is required.

If all addresses are known and the project will not be tiered, skip to Step 4. If all addresses are not known and the project will be tiered, complete Step 3.

Step 3. Start the Tiering Process (Tiered reviews only)

First, complete a *Tiering Plan* at a city, county, or subdivision level that describes how the tiered review will be carried out. A sample *Tiering Plan* and a general discussion of the tiered review process is provided as *Attachment J*. The *Tiering Plan* should reference the need to resolve environmental compliance factors that could not be addressed during the Level I review once

project sites are identified. It must also include as part of that plan alternative locations, designs, materials and the “no action” alternative for the projects.

Next, conduct a Level I broad scale and non site-specific review by completing all three checklists (Compliance Documentation Checklist, Statutory Checklist, and Environmental Assessment Checklist) in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* for the targeted geographic area based on as much information as is known about the area and environmental factors that can be addressed without knowing all of the specific sites. Contact the appropriate local, state, and federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*); and brief summary of applicable laws and sample support documentation is also provided (*Attachment V*).

The Level I review must identify and evaluate those issues that need a decision or determination during the site-specific review and exclude those issues not relevant to the project under consideration. For each item on each checklist, indicate those potential impacts that may vary by individual project and thus must be considered for each address. Each of these items must be addressed during the Level II site-specific review and will vary from program to program. For example: The program may be targeted so it serves no properties in a floodplain or near a source of toxic waste. In this case, a broad scale and non site-specific review will be sufficient for these potential impacts as long as that condition stays true. Another program may have the potential to serve properties in a floodplain. In that case, each property will have to be examined for floodplain impact. *If the service area changes or new conditions are identified after the broad scale and non site-specific review is done, it must be revised and processed accordingly including if required new public notification and RROF.*

Then, using data gathered from the Level I review, develop a site-specific checklist that summarizes the issues addressed in the Level I review and includes what the site acceptability standards and mitigation measures will be for any impacts. Once specific units have been selected, a site-specific review must be completed for each project based on the site-specific checklist. This is discussed further under Step 9. For guidance on determining what issues will still need to be addressed in the site-specific review.

NOTE: The review process may require additional steps, as indicated in the instructions, before it is considered complete.

If tiering, skip to Step 5.

Step 4. Complete Support Documents (*Non-tiered reviews only*)

Complete all three checklists (Compliance Documentation Checklist, Statutory Checklist, and Environmental Assessment Checklist) in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* for each project and contact the appropriate federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*). The support documentation for the Environmental Assessment Checklist must include a description of possible alternatives to the proposed project, including alternate locations, designs, materials, and the "no action" alternative. The feasibility of each alternative and the reasons why each should be adopted or rejected should be discussed sufficiently to indicate that an adequate consideration of each alternative has occurred.

- The Certifying Officer must sign and date the form.

Step 5. Publish or Post and Comment Period (*All reviews – tiered and non-tiered*)

CAUTION: Before proceeding with this step, be sure that all required review steps in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment*

K) have been completed. Pay particular attention to Historical Preservation requirements and the *8-Step Process (Attachment N)* which addresses floodplain management.

Decide to publish or post the *FONSI NOI/RROF (Attachment T)*. Prepare the *FONSI NOI/RROF (Attachment T)*.

For tiered reviews, the notice must also include a description of the tiering process, including how site specific reviews will be conducted and issues resolved, and the availability of the *Tiering Plan (Attachment J)*.

Additional guidance on publishing or posting:

- If publishing, go to *Instructions for Publishing a Combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds (Attachment W)* for instructions.
- If posting, go to *Instructions for Posting a Combined Finding of No Significant Impact and Notice of Intent to Request Release of Funds* for instructions.
- As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office or in this case TDHCA acting as HUD

Step 6. Submit Documents (*All reviews – tiered and non-tiered*)

At this point, the following documents must be submitted to TDHCA:

- *FONSI NOI/RROF (Attachment T)*
- Proof of publishing (tear sheet with date) or posting (notice and affidavit)
- *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)*

Step 7. Initiate the Objection Period (*All reviews – tiered and non-tiered*)

TDHCA will begin a 15-day objection period the following day after it receives all required documents as listed in the instructions. If all required documents are not received and properly completed, TDHCA cannot begin the objection period.

TDHCA will forward all objections to the Contract Administrator as they are received. The Contract Administrator must consider the comments and address all objections, if appropriate, in response to the comments, before TDHCA will provide an *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)*.

Step 8. Issuance of Authority to Use Grant Funds (*All reviews – tiered and non-tiered*)

TDHCA's issuance of the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* indicates acceptance of the Contract Administrator's environmental certification on the *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)*.

- If acceptable, TDHCA will notify the Contract Administrator and issue an *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)*. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

For non-tiered review programs, skip to Step 11.

Step 9. Complete the Site-Specific Review (*Tiered reviews only*)

Once specific sites are known, a site-specific review must be completed. The site-specific review only needs to address environmental compliance factors that must be considered for each particular site according to the site-specific checklist that was developed during the broad scale and non site-specific review. The site-specific checklist should reference or summarize the issues addressed in the Level I review, and what the site acceptability standards and mitigation measures will be, as outlined in the broad scale and non site-specific review.

NOTE: If any project sites deviate from the tiered review (and the approved site-specific compliance strategies outlined in it), then a separate environmental review should be prepared for that specific site and notification and RROF may be required.

Step 10. Submit Site-Specific Documents (*Tiered reviews only*)

Once site-specific reviews are complete, a *Site-Specific Review* must be submitted to TDHCA for each specific project activity.

- If acceptable, TDHCA will notify the Contract Administrator of concurrence and allowance to begin using grant funds with an e-mail and follow-up hard copy formal letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary by phone or correspondence as necessary.

Remember!

Contract Administrators must ensure that HOME assistance is not provided for specific project activities until notification of TDHCA's acceptance of the *Site-Specific Review* is received.

Step 11. Maintain the Environmental Review Record (ERR) (*All reviews – tiered and non-tiered*)

The ERR must be maintained in the Contract Administrator's place of business. The Contract Administrator must keep the following forms in the ERR file and make them available for public review and audit by HUD and TDHCA:

- (1) *Project description (Attachment D);*
- (2) *Environmental Review Guide for Community Development Block Grant Programs (Attachment K) with all 3 checklists;*
- (3) *Support documentation (evidence of compliance with regulations);*
- (4) *Copies of the tear-sheet or posted notice;*
- (5) *Copies of the affidavits for the FONSI NOI/RROF (Attachment T), if applicable;*
- (6) *Copy of RROF and Certification (HUD 7015.15) (Attachment S);*
- (7) *Authority to Use Grant Funds (HUD 7015.16) (Attachment U) from TDHCA;*
- (8) *Notification that the Authority to Use Grant Funds (HUD 7015.16) (Attachment U) has been executed;*
- (9) *Site-Specific Review (if applicable);*
- (10) *Notification of TDHCA's acceptance of the Site-Specific Review if applicable;*
- (11) *HUD Form 7 (Attachment E).*

***Although State Participating Jurisdictions are not required under HUD regulations to apply 24 CFR 58.6 floodplain requirements, the state of Texas requires compliance with the requirements. Local contracts with Federal Emergency Management Agency may also apply.*

PART A – SECTION 5

Categorically Excluded (subject to 58.5)

24 CFR 58.6 and 58.5 are applicable, but project may be converted to exempt for purposes of notices and the RROF)

Non-tiered Projects That Convert to Exempt (Section 3)

While all federally funded activities require a basic environmental review and record, certain activities may be exempt from full review, request for release of funds, and public notice requirements.

A project that has been classified as categorically excluded under 24 CFR 58.35(a) may convert to exempt after a full *Statutory Checklist (Attachment H)* review is completed and it is determined that no federal laws and authorities have compliance issues for Homebuyer Assistance with Rehabilitation (HBAR), Owner-Occupied (OCC), Community Housing Development Organization (CHDO), or Rental Housing Development Program (RHD) activities. Activities are limited to the following:

- Any of the categorical exclusions listed in 24 CFR 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.

Before proceeding to Step 1, Contract Administrators must ensure that Steps 1, 2, 4, and 5 under Part A, Section 3 have been properly completed. (TIERED projects cannot convert to exempt).

Step 1. Complete and Submit Support Documentation

Complete the *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)* and mark Item #12 indicating there are no circumstances requiring compliance with any other federal laws and authorities.

Submit the form to TDHCA for review.

- If acceptable, TDHCA will notify the Contract Administrator. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must have been obtained and notification of TDHCA's acceptance of the *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)* must be received before HOME assistance is provided.

Step 2. Maintain the Environmental Review Record (ERR)

The RE must keep the following original forms in the ERR file and make them available for public review, and audit by HUD and TDHCA:

- (1) *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I);*
- (2) *Statutory Checklist (Attachment H);*

- (3) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*, if applicable;
- (4) *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*;
- (5) Support documentation (evidence of compliance with regulations);
- (6) *Project Description (Attachment D)*;
- (7) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Exemption for HUD funded projects 24 CFR 58.34(a)*;
- (8) *HUD Form 7 (Attachment E)*.

PART A –SECTION 6

Exempt Activities

Studies, Management, and Other Activities with no Potential for Environmental Impact

NOTE: Not applicable for TDHCA programs at this time

This section applies when a city or county is the Contract Administrator and is acting as the Responsible Entity (RE) for environmental review. While all federally funded activities require a basic environmental review and record, certain very limited activities may be exempt from full statutory review and public notice requirements.

In addition, the *Certification of Exemption for HUD funded projects form 24 CFR 58.34(a) (Attachment Y)* must be completed. The activities listed below are exempt from full statutory review, but Contract Administrators should keep in mind that certification of the exempt classification must be kept on file, and any action that is deemed “choice limiting,” such as acquisition or construction, would require full statutory review. Activities are limited to the following:

- Environmental and other studies, resource identification, and the development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- Public services that will not have a physical impact or result in any physical changes;
- Inspection and testing of properties for hazards or defects;
- Purchase of insurance and tools;
- Engineering or design costs;
- Technical assistance and training;
- 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, imminent threats, or physical deterioration;
- Payment of principal and interest on loans made or obligations guaranteed by HUD.

An exempt project **does not require a *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)* and a public notice**. Complete the following steps for an exempt project:

Step 1. Write a Project Description

The *Project Description (Attachment D)* must include the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects.

Step 2. Classify the Project

Identify the appropriate activity and classify the project using *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*.

Step 3. Complete and Submit Support Documents

Complete the *Compliance Documentation checklist 24 CFR 58.6 (Attachment F)* and file in the Environmental Review Record file (ERR).

Submit a copy of *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)* to TDHCA for review.

- If acceptable, TDHCA will notify the Contract Administrator. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

Remember!

Contract Administrators must ensure that projects are not implemented before achieving the correct level of environmental review and approval. In all cases, environmental clearance must have been obtained and notification of TDHCA's acceptance of the *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)* must be received before HOME assistance is provided.

Step 4. Maintain the Environmental Review Record (ERR)

The RE must keep the following original forms in the ERR file and make them available for public review and audit by HUD and TDHCA:

- (1) *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*;
- (2) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*, if applicable;
- (3) *Project Description (Attachment D)*;
- (4) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Exemption for HUD funded projects 24 CFR 58.34(a)*;
- (5) *HUD Form 7 (Attachment E)*.

PART B – ENVIRONMENTAL CLEARANCE PROCESS FOR NONPROFITS, FOR PROFITS, AND PUBLIC HOUSING AUTHORITIES WITH TDHCA AS THE RESPONSIBLE ENTITY (RE)

INTRODUCTION

TDHCA assumes two roles of responsibilities during the environmental clearance process:

- (1) To act as HUD for cities and counties that are the Responsible Entity (RE) for their contracts
- (2) To act as the RE for nonprofits, for profits, and public housing authorities that are not units of local government and cannot assume responsibility.

Environmental review procedures should begin as soon as the Contract Administrator proposes a classification for the projected use of HUD funds (24 CFR 58.30). **HUD or non-HUD funds (24 CFR 58.22) may not be committed to the project until the *Request for Release of Funds and Certification (RROF) (HUD 7015.15) (Attachment S)* is approved by HUD.**

OVERVIEW

TDHCA acts as the RE for the following environmental reviews and will maintain the Master Environmental Review Record (ERR) in a folder separate from HOME contract files. The TDHCA Environmental Specialist enters environmental clearance information in the environmental log, enters environmental clearance dates in the Contract Database System, and files original forms in the Master ERR. The Master ERR will contain all environmental review documents, responses, public notices, request for release of funds, authorization releasing funds, and written classification of environmental findings required by the regulations. Projects will be aggregated when possible (*Attachment A*) if the Contract Administrator has more than one contract with the same activity or multiple activities at the same location. For EA and EIS projects, the Contract Administrator must comply with both NEPA and HUD regulatory requirements to evaluate and recommend possible alternatives to the proposed project, including alternate locations, designs, size and scope, materials, and the "no action" alternative to minimize adverse effects of a project. Contract Administrators may use the *Environmental Clearance Flowchart (Attachment B)* to identify the correct level of environmental review required for their projects.

The environmental clearance process should be initiated as soon as the project is proposed. The Contract Administrator must prepare all environmental clearance documentation in a timely manner and submit to TDHCA for approval. The Contract Administrator may not expend project funds until TDHCA sends an email and/or letter stating the project was environmentally cleared.

If the Contract Administrator must publish or post a notice, the notice may not be published or posted until TDHCA reviews and approves the notice (i.e. 8-Step Process (Early or Final notices), NOI/RROF or the FONSI NOI/RROF). The Contract Administrator is responsible for maintaining a copy of the ERR that includes:

- *Project Description (Attachment D)* (effects on the human environment)
- Project classification
- Support documentation (evidence of compliance with regulations);

- Tiering strategy when completing a categorical excluded subject to 58.5 or a full environmental assessment project
- Notices (published or posted)
- Required HUD/TDHCA forms, as applicable

Contract Administrators that do not complete the above requirements will incur delays in the environmental clearance process. Required forms for each level of review are provided as attachments to this Manual and must be used by the Contract Administrator. These forms are also available on the Department's website at www.tdhca.state.tx.us.

EMERGENCY ACTIONS

For actions that are determined to be exempt by the Responsible Entity as the result of imminent threats to public safety according to §58.34(a)(10)), the Contract Administrator must inform the Department, who will determine if the situation qualifies as an "imminent threat." Emergency actions only require documentation of the condition and written record of determination that they meet the conditions for exemption. Public notification and the RROF are not required.

PART B – SECTION 1

Categorically Excluded (not subject to 58.5)

24 CFR 58.6 floodplain requirements are not applicable

Tenant-Based Rental Assistance

This section applies when a nonprofit, for profit, or public housing authority is the Contract Administrator and TDHCA is the Responsible Entity (RE) for environmental review. The Contract Administrator will prepare the necessary documentation for the environmental review and will keep a complete copy of the Environmental Review Record (ERR) on file. The original ERR will be maintained by TDHCA. While all federally funded activities require a basic environmental review and record, certain limited activities may not require full statutory review and public notice requirements.

The Contract Administrator must prepare the *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* for the total tenant-based rental assistance (TBRA) project. The procedures discussed under this section are limited to TBRA activities that are categorically excluded from full statutory review. TDHCA as the RE will certify the activity and keep documentation of the certification in the Environmental Review Record (ERR) and send copies of the ERR to the Contract Administrator.

If it is determined that a TBRA project may have a significant environmental effect, this section will no longer apply to the project.

A categorically excluded (not subject to 58.5) TBRA project **does not require a public notice or a Request for Release of Funds and Certification (RROF) (HUD 7015.15) (Attachment S)**. Complete the following steps:

Step 1. Write the Project Description

The Contract Administrator will prepare a proposed *Project Description (Attachment D)* that includes the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects. TDHCA will review the proposed Project Description and adopt it, revise it and adopt it, or return it to the Contract Administrator for revision.

Step 2. Classify the Project

The Contract Administrator will prepare the *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*, for each address marking Item #1 for TBRA projects. The location should be the geographical area (city or county name) that is being served. Individual addresses are not required for this step but will be required before HOME funds are drawn down. TDHCA will review the certification and, if acceptable, sign as the RE.

3. Complete and Submit Support Documentation

The following documentation will be prepared by the Contract Administrator and submitted to TDHCA:

- (1) A copy of *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*. TDHCA will sign as the RE.
- (2) *and Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*
- (3) *Project Description (Attachment D)*
- (4) *HUD Form 7 (Attachment E)*

TDHCA will review the documentation.

- If acceptable, TDHCA will notify the Contract Administrator of concurrence and allowance to begin using grant funds with an e-mail and follow-up hard copy formal letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will call the Contract Administrator and advise how to correct.

Remember!

Notice of environmental clearance must be obtained from TDHCA before HOME assistance is provided. Contract Administrators must ensure that projects are not implemented before achieving environmental clearance.

Step 4. Maintain the Environmental Review Record (ERR)

The Contract Administrator will keep copies of the following forms in the ERR copy file and make them available for public review and audit by HUD and TDHCA:

- (1) *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*;
- (2) *Project Description (Attachment D)*;
- (3) *and Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*
- (4) Support documentation (evidence of compliance with regulations);
- (5) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b)* from TDHCA;
- (6) *HUD Form 7 (Attachment E)*.

TDHCA will keep the following original forms in the Master ERR file. The forms must be available for public review and audit by HUD:

- (1) *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*;
- (2) *Project Description (Attachment D)*;
- (3) *and Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*
- (4) Support documentation (evidence of compliance with regulations);
- (5) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b)* from TDHCA;
- (6) *HUD Form 7 (Attachment E)*.

PART B – SECTION 2

Categorically Excluded (not subject to 58.5)

24 CFR 58.6 floodplain insurance requirements are applicable**

Homebuyer Assistance

This section applies when a nonprofit, for profit, or public housing authority is the Contract Administrator and TDHCA is the Responsible Entity (RE) for environmental review. The Contract Administrator will prepare the necessary documentation for the environmental review and will keep a complete copy of the Environmental Review Record (ERR) on file. The original ERR will be maintained by TDHCA. While all federally funded activities require a basic environmental review and record, certain activities may not require full statutory review and public notice requirements.

The Contract Administrator must prepare the *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* for all Homebuyer Assistance (HBA) and American Dream Down Payment Initiative (ADDI) programs for each individual address. The procedures discussed under this section are limited to HBA and ADDI activities that are categorically excluded from full statutory review. TDHCA as the RE will certify the activity and keep documentation of the certification in the Environmental Review Record (ERR) and send copies of the ERR to the Contract Administrator.

If it is determined that an activity listed above may have a significant environmental effect, this section will no longer apply to the project.

A categorically excluded (not subject to 58.5) project **does not require a Request for Release of Funds and Certification (RROF) (HUD 7015.15) (Attachment S) or a public notice.** Complete the following steps:

Step 1. Write the Project Description

The Contract Administrator will prepare a proposed *Project Description (Attachment D)* that includes the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects. TDHCA will review the proposed Project Description and adopt it, revise it and adopt it, or return it to the Contract Administrator for revision.

Step 2. Classify the Project

The Contract Administrator will prepare the *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*, for each address marking Item #5 for activities that assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy-downs, and similar activities that result in the transfer of title. TDHCA will review the Certification and, if acceptable, certify as the RE.

Step 3. Complete and Submit Support Documents

The following documentation will be prepared by the Contract Administrator for each address and submitted to TDHCA:

Texas Department of Housing and Community Affairs
HOME Investment Partnerships Program
2005 Environmental Review Procedures Manual

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1. *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)*. TDHCA will sign as the responsible entity;
 2. *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*;
 - a. Flood Disaster Protection Act
 - b. Coastal Barriers Resources Act
 - c. Airport Runway Clear Zones and Clear Zones Disclosures
 - i. *Notice to Prospective Homebuyers of Properties Located in Runway Clear Zones and Clear Zones (Attachment G)*, if applicable
- If acceptable, TDHCA will notify the Contract Administrator of concurrence and allowance to begin using grant funds with an e-mail and follow-up hard copy formal letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
 - If unacceptable, TDHCA will call the Contract Administrator and advise how to correct.

Remember!

Notice of environmental clearance must be obtained from TDHCA before HOME assistance is provided. Contract Administrators must ensure that projects are not implemented before achieving environmental clearance.

Step 4. Maintain the Environmental Review Records (ERR)

The Contract Administrator will keep copies of the following forms in the ERR copy file and make them available for public review and audit by HUD and TDHCA:

- (1) *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* TDHCA will sign as the responsible entity;
- (2) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*;
- (3) Support documents;
- (4) *Project Description (Attachment D)*;
- (5) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b)* from TDHCA;
- (6) *HUD Form 7 (Attachment E)*.

TDHCA will keep the following original forms in the ERR file. The forms will be available for public review and audit by HUD:

- (1) *Certification of Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b) (Attachment C)* TDHCA will sign as the responsible entity;
- (2) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*;
- (3) Support documentation (evidence of compliance with regulations);
- (4) *Project Description (Attachment D)*;

- (5) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (not subject to 58.5) 24 CFR 58.35(b)* from TDHCA;
- (6) *HUD Form 7 (Attachment E)*.

PART B – SECTION 3

Categorically Excluded (subject to 58.5)

24 CFR 58.6 floodplain and other requirements are applicable**

- **Rehabilitation/Reconstruction** 24 CFR 58.35 (a) (3)
- **Construction Projects** 24 CFR 58.35 (a) (4)

NOTE: Most TDHCA construction projects will require compliance with Part B Section 4, addressing Environmental Assessment

This section applies when a nonprofit, for profit, or public housing authority is the Contract Administrator and TDHCA is the Responsible Entity (RE) for environmental review. The Contract Administrator will prepare the necessary documentation for the environmental review and will keep a complete copy of the Environmental Review Record (ERR) on file. The original ERR will be maintained by TDHCA. While all federally funded activities require a basic environmental review and record, certain activities require full statutory review, requests for release of funds, and public notice requirements.

The activities listed below are categorically excluded (subject to 58.5). This means they require a full *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* review. TDHCA as the RE will certify the activity as categorically excluded (subject to 58.5) and keep documentation of the certification in the Environmental Review Record (ERR) and send copies of the ERR to the Contract Administrator. Future action, such as any construction that exceeds the threshold of 24 CFR 58.35(a), would require a full environmental assessment review as shown in Part B Section 4. Activities are limited to the following:

- (3) Rehabilitation of buildings and improvements when the following conditions are met:
 - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland.
 - (ii) In the case of multifamily residential building: (a) unit density is not changed more than 20 percent; (b) the project does not involve changes in land use from residential to non-residential; and (c) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
 - (iii) In the case of non-residential structures, including commercial, industrial and public buildings: (a) the facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and (b) the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- (4) An individual action on:
 - (i) up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

- (ii) a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.

Examples of categorically excluded activities are rehabilitation of an existing property, or an individual action such as new construction/reconstruction on a one-to-four family dwelling.

Activities in this category require the completion of a "compliance determination" review using the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* to ensure the project is in compliance with related federal laws and authorities.

NOTE: The *Statutory Checklist (Attachment H)* may require further review for compliance, notifications, and processing steps. See *Attachment H* for references to additional steps that may be required. A common example is the floodplain requirement (commonly referred to as the 8-Step Process). Serving properties in a floodplain will require further steps.

If a *tiered review* is to be completed, further steps and documentation will be required, but the overall level of work may be reduced.

Tiered Environmental Review

In many rehabilitation programs, all of the project addresses are not known at program inception. In this situation, a tiered environmental review may be appropriate. Tiering allows an environmental analysis to be completed on a geographic area basis to address those impacts typical of a proposed action so they need not be repeated on a site-specific basis once unit addresses are known.

Caution: Prior to any construction work, all environmental review steps must be complete for individual properties.

A tiered review process must begin with a written plan that describes how the process will be managed. This is referred to as a *Tiering Plan*. A sample is provided as *Attachment J*. Contract Administrators will propose a *Tiering Plan* which TDHCA may adopt and implement or revise and implement.

The tiered environmental review process will then have three major components:

1. Program and project description,
2. Classification
 1. Level I Review – Tiering plan including qualifications and limitations, and a broad scale and non site-specific environmental review that focuses on a defined geographical area and addresses environmental impacts that might occur, or not occur, on a typical site within the area, e.g. floodplain, coastal zone, wetlands, etc. The items that can be addressed during the Level I review will vary from program to program depending on the characteristics of the targeted area.

Site-Specific Checklist – A site-specific checklist must be developed based on the Level I review that identifies those impacts that will vary by site and may only be resolved when specific project locations are known, e.g. historic preservation, etc.

2. CA will mail notices to required parties and/or publish/post NOI-RROF, wait for comment period, sign and submit form 7015.15 to TDHCA who will review and then submit to HUD, after additional objection period HUD will send

TDHCA Form 7015.16. TDHCA will keep copy in master ERR and forward authorization to CA.

3. Level II (Site-Specific) Review – The review for each property that addresses each unresolved potential impact identified on the site-specific checklist, also includes, an Activity Description (more detailed version of project description specific to the identified address).

These components are described within the context of the following typical steps. Steps that are specific to tiered reviews are indicated as such below.

Remember!

Each item on the *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* and the *Statutory Checklist for Categorically Excluded Projects Only (Attachment H)* must be addressed for each project/property to be assisted either during the Level I or the Level II review. Each item that could not be addressed during the Level I review must be included on the site-specific checklist. These items will vary from program to program. The site-specific checklist must reference those items that were previously addressed during the Level I review and were determined not to have an impact.

Remember!

Notice of environmental clearance must be obtained from TDHCA before HOME assistance is provided. Contract Administrators must ensure that projects are not implemented before achieving environmental clearance.

Step 1. Write a Project Description (All reviews – tiered and non-tiered)

The Contract Administrator will prepare a proposed *Project Description (Attachment D)* that includes the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects. TDHCA will review the proposed Project Description and adopt it, revise it and adopt it, or return it to the Contract Administrator for revision.

NOTE: If the project or program cannot be certified as categorically excluded, TDHCA will provide further guidance.

Step 2. Classify the Project (All reviews – tiered and non-tiered)

The Contract Administrator will prepare the *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) form (Attachment I)* by listing all known addresses on one form and marking item #3 or Item #4, as appropriate. TDHCA will review the certification and, if acceptable, sign as the RE.

If all addresses are known and the project will not be tiered, skip to Step 4. If all addresses are not known and the project will be tiered, complete Step 3.

Step 3. Start the Tiering Process (Tiered reviews only)

First, the Contract Administrator will propose a *Tiering Plan* at a city, county, or subdivision level that describes how the tiered review will be carried out. A sample *Tiering Plan* and a general discussion of the tiered review process is provided as *Attachment J*. The *Tiering Plan* should reference the need to resolve environmental compliance factors that could not be addressed

during the Level I review once project sites are identified. Nonprofits must propose a tiering plan which TDHCA may then adopt and implement or revise and implement.

Next, the Contract Administrator will conduct a Level I broad scale and non site-specific review by completing a *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* and a *Statutory Checklist for Categorically Excluded Projects Only (Attachment H)* for the targeted geographic area based on as much information as is known about the area and environmental factors that can be addressed without knowing all of the specific sites. Contact the appropriate local, state, and federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*); and brief summary of applicable laws and sample support documentation is also provided (*Attachment V*).

The Level I review must identify and evaluate those issues that need a decision or determination during the site-specific review and exclude those issues not relevant to the project under consideration. For each item on each checklist, indicate those potential impacts that may vary by individual project and thus must be considered for each address. Each of these items must be addressed during the Level II site-specific review and will vary from program to program. For example: The program may be targeted so it serves no properties in a floodplain or near a source of toxic waste. In this case, a broad scale and non site-specific review and non site-specific review will be sufficient for these potential impacts as long as that condition stays true. Another program may have the potential to serve properties in a floodplain. In that case, each property will have to be examined for floodplain impact. *If the service area changes or new conditions are identified after the broad scale and non site-specific review is done, it must be revised and processed accordingly.*

Then, using data gathered from the Level I review, develop a site-specific checklist that summarizes the issues addressed in the Level I review and includes what the site acceptability standards and mitigation measures will be for any impacts. Once specific residential units have been selected for rehabilitation, a site-specific review must be completed for each project based on the site-specific checklist. This is discussed further under Step 11. For guidance on determining what issues will still need to be addressed in the site-specific review.

NOTE: The review process may require additional steps, as indicated in the instructions, before it is considered complete.

Skip to Step 6.

Step 4. Complete Support Documents (*Non-tiered reviews only*)

The Contract Administrator will complete a *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* and a *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* for each known address and contact the appropriate federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*).

NOTE: The Statutory Checklist review process may require additional steps, as indicated in the instructions, before it is considered complete.

Step 5. Determine if Project Can Convert to Exempt (*Non-tiered reviews only*)

- Contract Administrators will determine if the project can convert to exempt if no further compliance with federal regulations is required or mitigation of any kind (tiered projects cannot convert to exempt). Mark item #1 of the Determination Section located on page 2 of the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)*. TDHCA will review, sign, and date the form as the RE. If the project can convert to

exempt, no further approval from HUD will be needed by TDHCA for the approval of the drawdown of funds to carry out exempt activities and projects. SKIP TO PART B SECTION 5.

- Contract Administrators will determine if the project cannot convert to exempt because compliance with a federal regulation requires further action and possible mitigation. Mark item #2 of the Determination Section located on page 2 of the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)*. TDHCA will review, sign, and date the form as the RE.

Proceed to Step 6 only if the project *cannot* convert to exempt.

Step 6. Prepare and Submit Support Documentation (All reviews – tiered and non-tiered)

CAUTION: Before proceeding with this step, be sure that all required review steps for the *Statutory Checklist for Categorical Excluded Projects Only (Attachment H)* have been completed, including Historical Preservation Requirements and the *8-Step Process (Attachment N)* which addresses floodplain management.

Contract Administrators prepare the *NOI/RROF (Attachment M)* for TDHCA's approval. For tiered reviews, the notice must also include a description of the tiering process, including how site specific reviews will be conducted and issues resolved, and the availability of the *Tiering Plan (Attachment J)*.

Contract Administrators must submit:

- *NOI/RROF (Attachment M)*
- *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I)*
- *Statutory Checklist for Categorical Excluded Projects Only (Attachment H) with supporting documentation*
- *Project Description (Attachment D)*
- *HUD Form 7 (Attachment E)*
- *Tiering plan and Site-specific checklist if applicable*

TDHCA will review the documentation for accuracy. If acceptable, TDHCA will notify by e-mail, the Contract Administrator to publish or post the *NOI/RROF (Attachment M)*.

If the documentation is not acceptable, TDHCA will contact the Contract Administrator by phone and or e-mail as appropriate and advise how to correct.

Step 7. Publish or Post and Comment Period (All reviews – tiered and non-tiered)

Guidance on publishing or posting:

- If publishing, go to *Instructions for Publishing a Notice of Intent to Request Release of Funds for Nonprofits, For Profits, and Public Housing Authorities (Attachment Z)* for instructions and a timetable on how to complete this process; or
- If posting, go to *Instructions for Posting a Notice of Intent to Request Release of Funds for Nonprofits, For Profits, and Public Housing Authorities (Attachment AA)* for instructions and a timetable on how to complete this process..
- As a minimum, the **CA** must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local,

State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office

Step 8. Submit Support Documents (*All reviews – tiered and non-tiered*)

After publishing or posting, the following documents must be submitted to TDHCA:

- *NOI/RROF (Attachment M)*
- Proof of publishing (tear sheet with date) or posting (notice and affidavit)
- *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)*

TDHCA will forward these documents and the *HUD Form 7 (Attachment E)* to HUD to initiate the objection period.

Step 9. Initiate the Objection Period (*All reviews – tiered and non-tiered*)

Upon receipt of the above documents, HUD will begin a 15-day objection period the following day. If all documents are not received and properly completed, HUD cannot begin the objection period.

HUD will forward any objections received to TDHCA. TDHCA must consider the comments and make modifications if appropriate, in response to the comments, before the environmental certification is complete. Any objections must be addressed before HUD will provide the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)*.

Step 10. Issuance of Authority to Use Grant Funds (*All reviews – tiered and non-tiered*)

HUD will approve or disapprove the request for release of funds.

- If approved, HUD will issue the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* to TDHCA and the Contract Administrator.
- If disapproved, HUD will return the RROF to TDHCA.

TDHCA will forward a copy of all complete forms needed for the ERR file to the Contract Administrator.

Non-tiered programs can skip to Step 13.

Step 11. Complete the Site-Specific Review (*Tiered reviews only*)

Once specific sites are known, a site-specific review must be completed for each site. The site-specific review only needs to address environmental compliance factors that must be considered for each particular site according to the site-specific checklist that was developed during the broad scale and non site-specific review. The site-specific checklist should reference or summarize the issues addressed in the Level I review, and what the site acceptability standards and mitigation measures will be as outlined in the broad scale and non site-specific review.

NOTE: If any project sites deviate from the tiered review (and the approved site-specific compliance strategies outlined in it), then a separate environmental review should be prepared for that specific site and another public notice and RROF may be required.

Step 12. Submit Site-Specific Documents (*Tiered reviews only*)

Once site-specific reviews are complete, the following documents must be submitted to TDHCA for each specific project activity:

- *Site-Specific Review* with supporting documentation

TDHCA will review the forms.

- If acceptable, TDHCA will notify the Contract Administrator of concurrence and allowance to begin using grant funds with an e-mail and follow-up hard copy formal letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary by phone or e-mail whichever is appropriate.

Remember!

Contract Administrators must ensure that HOME assistance is not provided for specific project activities until notification of TDHCA's acceptance of the *Site-Specific Review* is received.

Step 13. Maintain the Environmental Review Record (ERR)

The Contract Administrator will keep copies of the following forms in the ERR copy file and make them available for public review and audit by HUD and TDHCA:

- (1) *Tiering Plan* (if applicable) (*Attachment J*);
- (2) *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a)* (*Attachment I*);
- (3) *Project Description* (*Attachment D*);
- (4) *Statutory Checklist* (*Attachment H*);
- (5) *Compliance Documentation Checklist 24 CFR 58.6* (*Attachment F*);
- (6) Support documentation (evidence of compliance with regulations);
- (7) Copies of the tear-sheet or posted notice;
- (8) Copies of the affidavits for the *NOI/RROF*(*Attachment M*), if applicable;
- (9) Copy of *RROF and Certification (HUD 7015.15)* (*Attachment S*);
- (10) *Authority to Use Grant Funds (HUD 7015.16)* (*Attachment U*) from HUD;
- (11) Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination of *Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a)* from TDHCA;
- (12) *Site-Specific Review (if applicable)* with supporting documentation;
- (13) *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a)* (*Attachment I*) for specific project activities signed by TDHCA, if applicable;
- (14) *HUD Form 7* (*Attachment E*).

TDHCA will keep the following original forms in the ERR file. The forms will be available for public review, and audit by HUD:

1. *Tiering Plan* (if applicable) (*Attachment J*);
2. *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a)* (*Attachment I*);

3. *Project Description (Attachment D);*
4. *Statutory Checklist (Attachment H);*
5. *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F);*
6. Support documentation (evidence of compliance with regulations);
7. Copies of the tear-sheet or posted notice;
8. Copies of the affidavits for the *NOI/RROF(Attachment M)*, if applicable;
9. *Copy of RROF and Certification (HUD 7015.15) (Attachment S);*
10. *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* from HUD;
11. Notification e-mail allowing the use of grant funds and concurrence of environmental determination from TDHCA;
12. *Site-Specific Review (if applicable)* with supporting documentation;
13. *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I)* for specific project activities signed by TDHCA, if applicable;
14. *HUD Form 7 (Attachment E).*

***Although State Participating Jurisdictions are not required under HUD regulations to apply 24 CFR 58.6 floodplain requirements, the state of Texas requires compliance with the requirements. Local contracts with Federal Emergency Management Agency may also apply.*

PART B – SECTION 4

Environmental Assessment

24 CFR 58.6 floodplain requirements are applicable**

Construction Projects

This section applies when a nonprofit, for profit, or public housing authority is the Contract Administrator and TDHCA is the Responsible Entity (RE) for Environmental Review. The Contract Administrator will prepare the necessary documentation for the environmental review and will keep a complete copy of the Environmental Review Record (ERR) on file locally. The original ERR documents will be forwarded and maintained by TDHCA in a Master Environmental Review Record file separate from the HOME contract files. While all federally funded activities require a basic environmental review and record, certain limited activities require a full environmental assessment, request for release of funds, and public notice requirements.

If a project is not exempt or categorically excluded under 24 CFR 58.34 or 58.35, the Contract Administrator must comply with the requirements of this section. The following HOME activities require a full environmental assessment: Owner-Occupied (OCC), Homebuyer Assistance with Rehabilitation (HBAR), Contract for Deed Conversion (CFD), Community Housing Development Organization (CHDO), and Multifamily Rental Housing Development (RHD) units that will be rehabilitated or reconstructed.

Activities in this category require compliance with the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* which consists of a Compliance Documentation Checklist, a Statutory Checklist, and an Environmental Assessment Checklist.

NOTE: Completion of the checklists included in *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* may require compliance through further review, notice, and processing steps. A common example is the floodplain requirement in the Statutory Checklist (commonly referred to as the 8-Step Process). Serving properties in a floodplain will require further steps.

If a *tiered review* is to be completed, further steps and documentation will be required, but the overall level of work may be reduced.

Tiered Environmental Review

In many housing programs, all of the project addresses are not known at program inception. In this situation, a tiered environmental review may be appropriate. Tiering allows an environmental analysis to be completed on a geographic area basis to address those impacts typical of a proposed action so they need not be repeated on a site-specific basis once unit addresses are known.

Caution: Prior to any construction work, all environmental review steps must be complete for individual properties.

A tiered review process must begin with a written plan that describes how the process will be managed. This is referred to as a *Tiering Plan*. A sample is provided as *Attachment J*. Contract Administrators will propose a *Tiering Plan* which TDHCA may adopt and implement or revise and implement.

The tiered environmental review process will then have three major components:

1. Program and project activity description
2. Classification
 - a. Level I Review – Tiering plan including qualifications and limitations, and a broad scale and non site-specific environmental review that focuses on a defined geographical area and addresses environmental impacts that might occur, or not occur, on a typical site within the area, e.g. floodplain, coastal zone, wetlands, etc. The items that can be addressed during the Level I review will vary from program to program depending on the characteristics of the targeted area.
 - b. Site-Specific Checklist – A site-specific checklist must be developed based on the Level I review that identifies those impacts that will vary by site and may only be resolved when specific project locations are known, e.g. historic preservation, etc..
3. Public Notice and RROF process
 - c. Level II (Site-Specific) Review – The review for each property that addresses each unresolved potential impact identified on the site-specific checklist, also includes, an Activity Description (more detailed version of project description specific to the identified address).

These components are described within the context of the following typical steps. Steps that are specific to tiered reviews are indicated as such below.

Remember!

Each item on each checklist in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* must be addressed for each project/property to be assisted either during the Level I or the Level II review. Each item that could not be addressed during the Level I review must be included on the site-specific checklist. These items will vary from program to program. The site-specific checklist must reference those items that were previously addressed during the Level I review and were determined not to have an impact.

Remember!

Environmental clearance must be obtained from TDHCA before HOME assistance is provided. Contract Administrators must ensure that projects are not implemented before achieving environmental clearance.

Step 1. Write a Project Description (All reviews – tiered and non-tiered)

The Contract Administrator will prepare a proposed *Project Description (Attachment D)* that includes the contract number, amount of the HOME award (administrative and project dollars), explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects. TDHCA will review the proposed Project Description and adopt it, revise it and adopt it, or return it to the Contract Administrator for revision.

Step 2. Classify the Project (*All reviews – tiered and non-tiered*)

If a project is not exempt or categorically excluded under 24 CFR 58.34 or 58.35, the Contract Administrator must determine that the project requires an Environmental Assessment.

If all addresses are known and the project will not be tiered, skip to Step 4. If all addresses are not known and the project will be tiered, complete Step 3.

Step 3. Start the Tiering Process (*Tiered reviews only*)

First, the Contract Administrator will propose a *Tiering Plan* at a city, county, or subdivision level that describes how the tiered review will be carried out. A sample *Tiering Plan* and a general discussion of the tiered review process is provided as *Attachment J*. The *Tiering Plan* should reference the need to resolve environmental compliance factors that could not be addressed during the Level I review once project sites are identified. It must also include as part of that plan alternative locations, designs, materials and the “no action” alternative for the projects. The Contract Administrator must propose a tiering plan which TDHCA may then adopt and implement or revise and implement.

Next, the Contract Administrator will conduct a Level I broad scale and non site-specific review by completing all three checklists (Compliance Documentation Checklist, Statutory Checklist, and Environmental Assessment Checklist) in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* for the targeted geographic area based on as much information as is known about the area and environmental factors that can be addressed without knowing all of the specific sites. Contact the appropriate local, state, and federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*); and brief summary of applicable laws and sample support documentation is also provided (*Attachment V*).

The Level I review must identify and evaluate those issues that need a decision or determination during the site-specific review and exclude those issues not relevant to the project under consideration. For each item on each checklist, indicate those potential impacts that may vary by individual project and thus must be considered for each address. Each of these items must be addressed during the Level II site-specific review and will vary from program to program. For example: The program may be targeted so it serves no properties in a floodplain or near a source of toxic waste. In this case, a broad scale and non site-specific review and non site-specific review will be sufficient for these potential impacts as long as that condition stays true. Another program may have the potential to serve properties in a floodplain. In that case, each property will have to be examined for floodplain impact. *If the service area changes or new conditions are identified after the broad scale and non site-specific review is done, it must be revised and processed accordingly including if required new public notification and RROF.*

Then, using data gathered from the Level I review, develop a site-specific checklist that summarizes the issues addressed in the Level I review and includes what the site acceptability standards and mitigation measures will be for any impacts. Once specific residential units have been selected for assistance, a site-specific review must be completed for each project based on the site-specific checklist. This is discussed further under Step 9.

NOTE: The review process may require additional steps, as indicated in the instructions, before it is considered complete.

If tiering, skip to Step 5.

Step 4. Complete Support Documents (*Non-tiered reviews only*)

Complete all three checklists (Compliance Documentation Checklist, Statutory Checklist, and Environmental Assessment Checklist) in the *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* for each project and contact the appropriate federal agencies to request jurisdictional confirmation. A list of agencies is provided (*Attachment L*).

Step 5. Prepare and Submit Support Documentation (*All reviews – tiered and non-tiered*)

CAUTION: Before proceeding with this step, be sure that all required review steps for each checklist has been completed, including the *8-Step Process (Attachment N)* which addresses floodplain management. The support documentation for the Environmental Assessment Checklist must include a description of possible alternatives to the proposed project, including alternate locations, designs, materials, and the "no action" alternative. The feasibility of each alternative and the reasons why each should be adopted or rejected should be discussed sufficiently to indicate that an adequate consideration of each alternative has occurred.

Contract Administrators prepare the *FONSI NOI/RROF (Attachment T)* for TDHCA's approval. For tiered reviews, the notice must also include a description of the tiering process, including how site specific reviews will be conducted and issues resolved, and the availability of the *Tiering Plan (Attachment J)*.

Contract Administrators must submit:

- *FONSI NOI/RROF (Attachment T)*
- *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)* with all 3 checklists and supporting documentation
- *Project Description (Attachment D)*
- *HUD Form 7 (Attachment E)*

TDHCA will review the documentation for accuracy. If acceptable, TDHCA will notify the Contract Administrator to publish or post the *FONSI NOI/RROF (Attachment T)*.

If the documentation is unacceptable, TDHCA will contact the Contract Administrator and advise how to correct.

Step 6. Publish or Post and Comment Period (*All reviews – tiered and non-tiered*)

Guidance on publishing or posting:

- If publishing, go to *Instructions for Publishing a Notice of Intent to Request Release of Funds for Nonprofits, For Profits, and Public Housing Authorities* for instructions and a timetable on how to complete this process; or
- If posting, go to *Instructions for Posting a Notice of Intent to Request Release of Funds for Nonprofits, For Profits, and Public Housing Authorities (Attachment AA)* for instructions and a timetable on how to complete this process.
- As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office

Step 7. Submit Support Documents (*All reviews – tiered and non-tiered*)

After publishing or posting, the following documents must be submitted to TDHCA:

- *FONSI NOI/RROF (Attachment T)*
- Proof of publishing (tear sheet with date) or posting (notice and affidavit)
- *Request for Release of Funds and Certification (HUD 7015.15) (Attachment S)*

TDHCA will forward these documents and the *HUD Form 7 (Attachment E)* to HUD to initiate the objection period.

Step 8. Initiate the Objection Period (*All reviews – tiered and non-tiered*)

Upon receipt of the above documents, HUD will begin a 15-day objection period the following day. If all documents are not received and properly completed, HUD cannot begin the objection period.

HUD will forward any objections received to TDHCA. TDHCA must consider the comments and make modifications if appropriate, in response to the comments, before the environmental certification is complete. Any objections must be addressed before HUD will provide the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)*.

Step 9. Issuance of Authority to Use Grant Funds (*All reviews – tiered and non-tiered*)

HUD will approve or disapprove the request for release of funds.

- If approved, HUD will issue the *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)*. HUD will notify TDHCA and the Contract Administrator.
- If disapproved, HUD will notify TDHCA and the Contract Administrator.

TDHCA will forward a copy of all complete forms needed for the ERR file to the Contract Administrator and notify the Contract Administrator that they can begin expending funds.

Non-tiered programs can skip to Step 11.

Step 9. Complete the Site-Specific Review (*Tiered reviews only*)

Once specific sites are known, a site-specific review must be completed. The site-specific review only needs to address environmental compliance factors that must be considered for each particular site according to the site-specific checklist that was developed during the broad scale and non site-specific review. The site-specific checklist should reference or summarize the issues addressed in the Level I review including alternatives, and what the site acceptability standards and mitigation measures will be as outlined in the broad scale and non site-specific review.

NOTE: If any project sites deviate from the tiered review (and the approved site-specific compliance strategies outlined in it), then a separate environmental review should be prepared for that specific site.

Step 10. Submit Site-Specific Documents (*Tiered reviews only*)

Once site-specific reviews are complete, the following documents must be submitted to TDHCA for each specific project activity:

- *Site-Specific Review* with support documentation

TDHCA will review the document.

- If acceptable, TDHCA will notify the Contract Administrator. The Contract Administrator may not expend funds for specific project activities before the notification is received.
- If unacceptable, TDHCA will notify the Contract Administrator that corrections are necessary.

Remember!

Contract Administrators must ensure that HOME assistance is not provided for specific project activities until notification of TDHCA's acceptance of the *Site-Specific Review* is received.

Step 11. Maintain the Environmental Review Record (ERR) (*All reviews – tiered and non-tiered*)

The Contract Administrator will keep copies of the following forms in the ERR copy file and make them available for public review and audit by HUD and TDHCA:

1. *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)*;
2. *Project Description (Attachment D)*;
3. Support documentation (evidence of compliance with regulations);
4. Copy of the tear-sheet or posted notice;
5. Copy of the affidavits for the *FONSI NOI/RROF(Attachment T)*, if applicable;
6. Copy of *RROF and Certification (HUD 7015.15) (Attachment S)*;
7. *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* from HUD;
8. Environmental clearance email from TDHCA;
9. *Site-Specific Review* with support documentation;
10. Notification e-mail allowing the use of grant funds and hard copy letter confirming clearance of the *Site-Specific Review* ;
11. *HUD Form 7 (Attachment E)*.

TDHCA will keep the following original forms in the ERR file. The forms will be available for public review, and audit by HUD:

1. *Environmental Review Guide for Community Development Block Grant Programs (Attachment K)*;
2. *Project Description (Attachment D)*;
3. Support documentation (evidence of compliance with regulations);
4. Tear-sheet or posted notice;
5. Affidavits for the *FONSI NOI/RROF(Attachment T)*,if applicable;
6. *RROF and Certification (HUD 7015.15) (Attachment S)*;
7. *Authority to Use Grant Funds (HUD 7015.16) (Attachment U)* from HUD;

8. Environmental clearance email from TDHCA;
9. *Site-Specific Review* with support documentation;
10. Notification e-mail allowing the use of grant funds and hard copy letter confirming clearance of the *Site-Specific Review* ;
11. *HUD Form 7 (Attachment E)*.

***Although State Participating Jurisdictions are not required under HUD regulations to apply 24 CFR 58.6 floodplain requirements, the state of Texas requires compliance with the requirements. Local contracts with Federal Emergency Management Agency may also apply.*

PART B – SECTION 5

Categorically Excluded (subject to 58.5)

24 CFR 58.6 and 58.5 are applicable, but project may be converted to exempt for purposes of notices and RROF)

Non-tiered Projects That Convert to Exempt (Section 3)

While all federally funded activities require a basic environmental review and record, certain activities may be exempt from full review, request for release of funds, and public notice requirements.

A project that has been classified as categorically excluded under 24 CFR 58.35(a) may convert to exempt after a full *Statutory Checklist (Attachment H)* review is completed and it is determined that no federal laws and authorities have compliance issues for Homebuyer Assistance with Rehabilitation (HBAR), Owner-Occupied (OCC), Community Housing Development Organization (CHDO) or Rental Housing Development Program (RHD) activities. Activities are limited to the following:

- Any of the categorical exclusions listed in 24 CFR 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.

The Contract Administrator will prepare the necessary documentation for the environmental review and will keep a complete copy of the Environmental Review Record (ERR) on file. The original ERR will be maintained by TDHCA.

Before proceeding to Step 1, Steps 1, 2, 4, and 5 under Part B, Section 3 must have been properly completed.

Step 1. Complete and Submit Support Documentation

Complete the *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)* and mark Item #12 indicating there are no circumstances requiring compliance with any other federal laws and authorities. TDHCA will sign as the Responsible Entity.

Contract Administrators must submit:

- *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*
- *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I)*
- *Statutory Checklist (Attachment H)* with support documents
- *Project Description (Attachment D)*
- *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)* for each address
- *HUD Form 7 (Attachment E)*

Step 2. Obtain Environmental Clearance Notification

TDHCA will review all documentation for accuracy and completeness.

- If acceptable, TDHCA will notify the Contract Administrator of concurrence and allowance to begin using grant funds with an e-mail and follow-up hard copy formal

letter. The Contract Administrator may begin expending funds only after the e-mail clearance is received.

- If unacceptable, TDHCA will call the Contract Administrator and advise how to correct.

Remember!

Notice of environmental clearance must be obtained from TDHCA before HOME assistance is provided. Contract Administrators must ensure that projects are not implemented before achieving environmental clearance.

Step 3. Maintain the Environmental Review Record (ERR)

The Contract Administrator will keep copies of the following forms in the ERR copy file and make them available for public review and audit by HUD and TDHCA:

1. *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I);*
2. *Statutory Checklist (Attachment H);*
3. *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F), if applicable;*
4. *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*
5. Support documentation (evidence of compliance with regulations);
6. *Project Description (Attachment D);*
7. Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination from TDHCA;
8. *HUD Form 7 (Attachment E).*

TDHCA will keep the following original forms in the ERR file. The forms will be available for public review and audit by HUD:

1. *Certification of Categorical Exclusion (subject to 58.5) 24 CFR 58.35(a) (Attachment I);*
2. *Statutory Checklist (Attachment H);*
3. *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F), if applicable;*
4. *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*
5. Support documentation (evidence of compliance with regulations);
6. *Project Description (Attachment D);*
7. Notification e-mail allowing the use of grant funds and hard copy letter confirming e-mail notification's concurrence of environmental determination from TDHCA;
8. *HUD Form 7 (Attachment E).*

PART B – SECTION 6

Exempt Activities

Studies, Management and Other Activities with no Potential for Impact

NOTE: Not applicable for TDHCA programs at this time

This section applies when a nonprofit, for profit, or public housing authority is the Contract Administrator and TDHCA is the Responsible Entity (RE) for Environmental Review. The Contract Administrator will prepare the necessary documentation for the environmental review and keep an Environmental Review Record (ERR) on file. While all federally funded activities require a basic environmental review and record, certain very limited activities may be exempt from full statutory review and public notice requirements.

In addition, the Certification of Exemption for HUD funded projects form 24 CFR 58.34(a) must be complete. The activities listed below are exempt from full statutory review and may be completed prior to a full statutory review, but Administrators should keep in mind that certification of the exempt classification must be kept on file, and any action that is deemed “choice limiting”, such as acquisition or any construction would require full statutory review. Activities are limited to the following:

- Environmental and other studies, resource identification and the development of plans and strategies.
- Information and financial services.
- Administrative and management activities.
- Public services that will not have a physical impact or result in any physical changes.
- Inspection and testing of properties for hazards or defects.
- Purchase of insurance and tools.
- Engineering or design costs.
- Technical assistance and training.
- 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, imminent threats or physical deterioration.
- Payment of principal and interest on loans made or obligations guaranteed by HUD;

The Contract Administrator will prepare the necessary documentation for the environmental review and will keep a complete copy of the Environmental Review Record (ERR) on file. The original ERR will be maintained by TDHCA.

An exempt project **does not require a *Request for Release of Funds and Certification (RROF) (HUD 7015.15) (Attachment S)* and a public notice.** Complete the following steps for an exempt project:

Step 1. Write a Project Description

The Contract Administrator will prepare a proposed *Project Description (Attachment D)* that includes the contract number, amount of the HOME award (administrative and project dollars),

explanation of how the funds will be used, target population, number of individuals receiving assistance, amount per individual, total project amount, location, Area Median Family Income (AMFI) of the target population, size, function, cost, existing and future need, the project location indicated on a map, as appropriate and an evaluation of the effects. TDHCA will review the proposed Project Description and adopt it, revise it and adopt it, or return it to the Contract Administrator for revision.

Step 2. Classify the Project

The Contract Administrator prepares the *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*. TDHCA will review the certification and, if acceptable, sign as the RE.

Step 3. Complete and Submit Support Documents

Contract Administrators must complete and submit:

- (1) *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*;
- (2) *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*. TDHCA will sign this form as the RE.
- (3) Support documentation (evidence of compliance with regulations);
- (4) *Project Description (Attachment D)*;
- (5) *HUD Form 7 (Attachment E)*;

Step 4. Obtain Environmental Clearance Notification

TDHCA will review the support documentation.

- If approved, TDHCA will e-mail a clearance notice and follow-up with a formal letter of environmental clearance to the Contract Administrator. The Contract Administrator may begin expending funds when the environmental clearance is received.
- If disapproved, TDHCA will call the Contract Administrator and advise how to correct.

Remember!

Notice of environmental clearance must be obtained from TDHCA before HOME assistance is provided. Contract Administrators must ensure that projects are not implemented before achieving environmental clearance.

Step 5. Maintain the Environmental Review Record (ERR)

The Contract Administrator will keep copies of the following forms in the ERR copy file and make them available for public review and audit by HUD and TDHCA:

1. *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y)*;
2. *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F)*, if applicable;
3. Support Documentation (evidence of compliance with regulations);
4. *Project Description (Attachment D)*;
5. Environmental clearance email and formal letter from TDHCA;

6. *HUD Form 7 (Attachment E).*

TDHCA will keep the original forms in the ERR file. The forms will be available for public review and audit by HUD:

1. *Certification of Exemption for HUD funded projects 24 CFR 58.34(a) (Attachment Y);*
2. *Compliance Documentation Checklist 24 CFR 58.6 (Attachment F), if applicable;*
3. Support documentation (evidence of compliance with regulations);
4. *Project Description (Attachment D);*
5. Environmental clearance e-mail and formal letter from TDHCA;
6. *HUD Form 7 (Attachment E)*

