



VHDA'S ENVIRONMENTAL REVIEW PROCESS

Background

All developments utilizing TCAP funds are required to assess the environmental effects of that activity in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and US Department of Housing and Urban Development (HUD) regulations at 24 CFR Part 58. The Virginia Housing Development Authority (VHDA) requires applicants to conduct various activities required for the environmental review process, including an Environmental Site Assessment (ESA)/Phase I, as outlined in the Qualified Allocation Plan (QAP) and the Environmental Manual.

This document to inform the applicant/potential TCAP awardee and the Environmental Professional about the environmental review process requirements for TCAP and to assist the same with the completion of the HUD Environmental Questionnaire. Please note that the Environmental Questionnaire must be completed to help facilitate the quick and accurate completion of the environmental review process, including a Request for the Release of Funds from HUD.

Mandatory Requirements

The environmental review process commences as soon as a proposed site is identified and applies for TCAP. Therefore, applicants/proposed owner/developers may not acquire, demolish, move, rehabilitate, convert, lease, repair or construct property, or commit or expend HUD or non-Federal funds for TCAP activities with respect to any eligible property, until the environmental review process has been completed. These actions could have an adverse environmental impact or limit the choice of reasonable alternatives, thus disqualifying the entire development. The only activities that may occur are completion of the environmental review itself, purchase of a real estate option and payment of relocation (if required).

Ultimately it is VHDA's decision whether to proceed with the development. If the development is selected for TCAP funding, the initial environmental review process ends. However, VHDA must petition HUD with a request for the release of funds. VHDA can not legally clear the use of TCAP funds for a development until HUD gives VHDA the authority to do so.

Purpose

The purpose of an environmental review process is to identify environmental impacts that might be associated with a development prior to decision-making by VHDA. It also informs decision makers and the public of what impact a proposed development is likely to have on the environment and what can be done to reduce or mitigate any significant effects. Possible areas of environmental impact include traffic circulation, water quality, archaeological resources and vegetation & wildlife.

In addition to providing information, the process also requires that significant impacts be reduced or mitigated whenever possible.

VHDA will accept environmental reviews already approved by HUD (i.e. the development has gone through environmental review process as a result of receiving HOME, RD funding, etc.).

Otherwise, a development utilizing TCAP funds will fall into one of two review processes; (1) Categorically Excluded or (2) Regular Review. VHDA will determine which process the activity must follow and will inform the applicant of that determination. In either instance, certain statutory and other requirements must be addressed.¹ These requirements are covered in the Environmental Questionnaire.

Categorical Exclusion

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required.

If a development is categorically excluded and there is no finding by the Environmental Professional, VHDA will publish a Finding of No Significant Impact (FONSI), as well as a Notification of Intent and Request for Release of Funds. The following two types of developments qualify for categorical exclusion:

1. Rehabilitation of multifamily residential buildings and improvements when the following conditions are met:
 - 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.
2. An individual action on a one-to-four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.

¹ Statutory Requirements (24 CFR §58.5) & Other Requirements (24 CFR §58.6) **OR** Section 1609 (c), American Recovery and Reinvestment Act of 2009" (Recovery Act)

New construction of five or more units within 2,000 feet of each other and adaptive re-use developments do not qualify for a categorical exclusion.

If a development is categorically excluded, its activities could be exempt under the following conditions:

1. The statutory review (per HUD guidelines) is completed for compliance determination under the Federal laws and authorities cited in §58.5 and VHDA finds that no circumstances exist where any of the Federal laws and authorities require compliance with its own review procedures.
2. Conclusions are documented on the compliance review form (Environmental Review Cover Sheet and Statutory and Other Requirements Checklist) with evidentiary documentation attached.
3. Records are titled the Environmental Review Record and are maintained by both the Owner and VHDA.

Regular Review Process

If a development does not meet one of the two categorically excluded requirements above, the applicant must follow the regular review process where public notices are published and a Request for Release of Funds and Certification is submitted to HUD.

The following documents must be a part of the final environmental report:

1. Owner Environmental Questionnaire & Disclosure Statement; VHDA provided form
2. HUD Environmental Questionnaire (to be completed by the environmental professional); VHDA provided form
3. Environmental Certification (to be completed by the environmental professional); VHDA provided form

Finding of No Significant Impact

If after reviewing the environmental report, VHDA determines that the development will not result in a significant impact on the quality of the human environment, a Finding of No Significant Impact (FONSI) will be issued. On the other hand, if VHDA determines that the development may significantly affect the quality of the human environment, a finding of significant impact, VHDA will instruct the applicant to proceed with further environmental reviews (i.e. Phase II, Phase III, Environmental Impact Statement, etc.). If after further reviews are—completed there are remaining, but manageable environmental concerns, the consultant will be asked to prepare an Operations & Maintenance Plan (O&M Plan) and to prepare an Environmental Impact Statement (EIS).

Notice and Comment Period

Along with the FONSI, a Notice of Intent to Request Release of Funds must be published as a legal notice in the local newspaper. The local comment period is 15 days. The Affidavit of Publication (supplied by the newspaper) and any comments received should be submitted to VHDA.

Request Release of Funds

After the 15-day local comment period, VHDA will submit to HUD a Request for Release of Funds. Once received by HUD, there is a 15-day objection period. If no objections are received, or if objections can be resolved, HUD will release funds (via Form 7015.16, Authority to Use Grant Funds), at which time, limitations on the commitment of TCAP funds and other funds will be removed, and development owners may participate in program activities such as purchasing land or starting work on proposed developments.

Regular Review Process

1. Owner/Applicant completes all documentation outlined in the Qualified Allocation Plan and the Environmental Manual.
2. VHDA publishes the combined FONSI/Notice of Intent to Request Release of Funds.
3. 15-Day Local Comment Period
4. VHDA submits Request for Release of Funds Certification (RROF) to the local U.S. Department of Housing & Urban Development office.
5. 15-Day Objection Period which could result in one of the following:
 - Rejection of Request
 - Resolution of Objection
 - No Objection
6. HUD Approves RROF Certification