

National Environmental Policy Act (NEPA) Notice

Please be advised that the Agency will make a determination of which ARRA resource may be available to the development in its discretion based on the availability of funds, the attributes of the development, the amount of assistance needed to complete the development and demonstrated ability of the development to meet all constraints of the funding timeframes. Receipt of Tax Credit Assistance Program (TCAP) funds triggers compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321), NEPA related laws and authorities, and the implementing regulations (24 CFR part 58) prior to the commitment or expenditure of the TCAP funds. It is essential that you as the applicant are familiar with and understand NEPA requirements and the significant impact that the timing of certain decisions or actions may have on the Agency's ability to award TCAP funds. Further guidance on compliance with NEPA can be found on the Department of Housing and Urban Development website at <http://www.hud.gov/offices/cpd/environment/review/>.

The federal environmental laws, regulations and requirements apply to a TCAP project as of the date of the owner's application for TCAP funds. After the TCAP application date, TCAP or any other funds can not be committed to the project before the federal environmental review has been completed and the "Authority to Use Grant Funds" (**HUD 7015.16**) or equivalent letter has been executed. The owner must stop all work that is not being undertaken in accordance with an existing legally-binding contract, until the federal environmental review is complete and the "Authority to Use Grant Funds" (**HUD 7015.16**) or equivalent letter has been executed.

As of the date of the owner's application for TCAP funds, the owner and its contractors are prohibited from undertaking any project "choice-limiting" activity until after the completion of the federal environmental review and the execution of the "Authority to Use Grant Funds" (**HUD 7015.16**) or equivalent letter. This includes *any activity* that will result in a physical change to the property including property acquisition, demolition, movement, rehabilitation, conversion, repair, construction, and leasing or disposition. *Performing a choice-limiting action may disqualify a project from receiving any federal TCAP funds.*

If work is already underway on a project in accordance with a pre-existing legally binding contract before the federal environmental review is completed and the "Authority to Use Grant Funds" (**HUD 7015.16**) or equivalent letter has been executed, project owners proceed *at their own risk* with activities that are authorized by pre-existing legally-binding contracts. *Projects that fail to successfully complete the federal environmental review process are ineligible for TCAP funding.*

If a federal environmental review has already been completed because the project has been previously awarded other HUD funds (such as NAHASDA, HOME or CDBG) and the Responsible Entity for the federal environmental assessment has not changed *and* neither the project nor the environmental conditions have changed since the completion of the previous federal environmental review and execution of the "Authority to Use Grant Funds" (**HUD 7015.16**) or equivalent letter, then no new environmental review and "Request for Release of Funds and Certification" (form HUD **7015.15**) are required. **See**

24 CFR 58.35(b)(7) “Categorical Exclusions”. The only requirement is that the Responsible Entity must make a determination that no additional federal environmental review is required and record this determination in the environmental review record for that project.

If the Responsible Entity has changed, a new federal environmental review, “Request for Release of Funds and Certification” (form **HUD 7015.15**) and execution of the “Authority to Use Grant Funds” (**HUD 7015.16**) or equivalent letter are required. This means that even if you have a clearance from a local government entity, you may need to resubmit all necessary documents and undergo a supplemental review/clearance process. An exception may be made for environmental reviews completed by HUD.

Once the environmental review is complete, a combined Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds (FONSI/RROF) will be published and/or posted. Following a 15 day public comment period, a “Request for Release of Funds and Certification” (HUD 7015.15) will be sent to HUD. HUD will then have a 15 day review period to accept comments. The environmental review process will be complete once HUD has issued the “Authority to Use Grant Funds” (HUD 7015.16).