

# PIER Introduction to Environmental Reviews

*Planning, Infrastructure, Economic Revitalization (PIER)*



# Training Objectives

- Understand the environmental review process as it will be conducted in PIER projects
- Understand Subrecipient responsibilities versus OHCS responsibilities



The U.S. Dept. Of Housing and Urban Development (HUD) allocates Community Development Block Grant Disaster Recovery (CDBG-DR) funding to Oregon Housing and Community Services (OHCS) for PIER projects.



Environmental clearance will begin when projects are approved/Subrecipient Agreements are signed.

# When is an Environmental Review Required?

Compliance with the federal National Environmental Policy Act (NEPA) of 1969 must occur when any project:

- **Receives federal funding**
- Requires a federal permit
- Includes a federal land decision

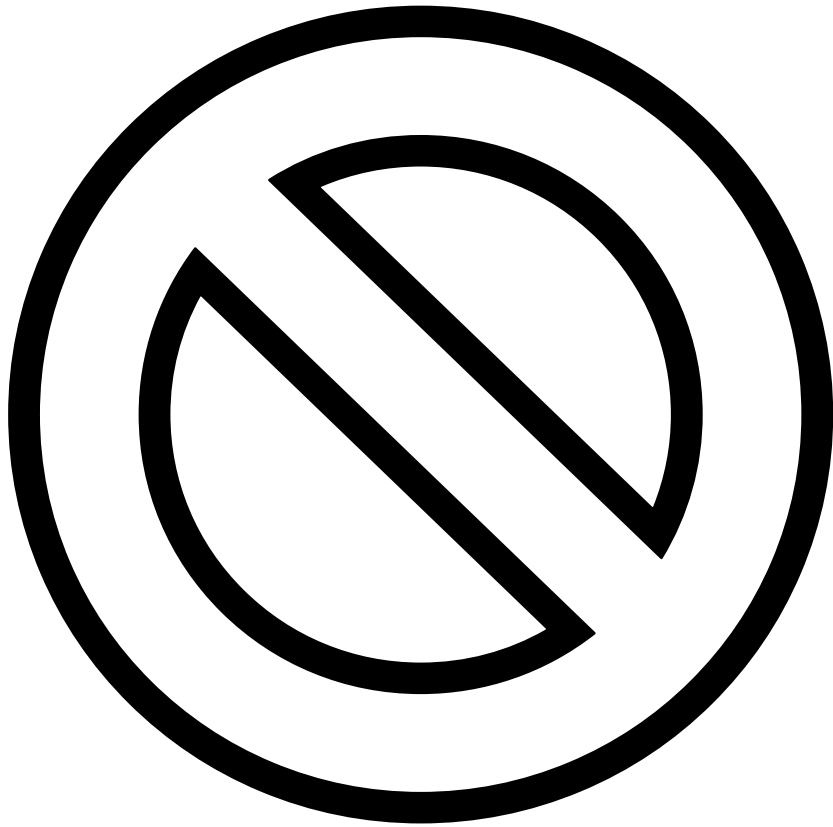
**HUD is the *federal* agency allocating CDBG-DR *funding* to Oregon Housing and Community Services for HARP activities.**

# What is the Purpose of Environmental Review?

The purpose of NEPA is to ensure that federally funded projects:

- Avoid or mitigate environmental effects that may cause harm to humans
- Avoid or mitigate any harm to the surrounding environment
- Reduce the chances of legal action halting projects on environmental grounds

# No Work Prior to OHCS Environmental Determination or Clearance



No project funds, either federal or local, may be committed until the environmental review is complete. Commitment of funds before the environmental review has cleared your project is what's known as a **"choice limiting action"** and will preclude your project from moving forward.

# Consequences of Choice Limiting Actions



Failure to properly complete the required environmental review prior to commitment of project funds will result in PIER funding being taken away from the project.

# Commitment of Funds/Choice Limiting Actions

## What does "commitment of funds" mean?

- Executing a legally binding agreement for acquisition, rehabilitation, conversion, repair, or construction before environmental clearance.
- Spending public or private monies (nonfederal or other federal funds) for acquisition, rehabilitation, conversion, repair, or construction on the work. Any action that would preclude the selection of alternative choices before environmental clearance.
- Any "shovels in the ground/hammers on the wall" for rehabilitation, conversion, repair, or construction on the work. This includes any site prep work.



# Responsible Entity

HUD uses the term the **RE (Responsible Entity)** to describe the entity that is responsible for conducting and certifying the environmental review. OHCS is the RE on PIER projects.



# Responsible Entity

As the RE, OHCS will:

- With the assistance of the Subrecipient, ensure no choice limiting actions occur before the environmental review process is complete (§58.22)
- Determine the appropriate level of environmental review for the project
- Complete the appropriate level of environmental review
- Notify the public when applicable
- Request release of funds for projects that have achieved compliance
- Maintain the Environmental Review Record (ERR)

## OHCS

- Conducts the environmental review

## Subrecipients

- Will not commit funds to work ahead of environmental clearance
- Provides the project work description and other information as requested for the environmental review
- Ensures that the environmental review is adhered to and reports if any changes to the scope of work cleared are being contemplated

# Levels of Environmental Review

**There are five levels of environmental review:**

1. **Exempt** — 24 CFR 58.34(a)
2. Categorical exclusions not subject to 24 CFR 58.5 — 24 CFR 58.35(b) (**CENST**)
3. Categorical exclusions subject to 24 CFR 58.5 — 24 CFR 58.35(a) (**CEST**)
4. Environmental Assessment (Finding of No Significant Impact) — 24 CFR 58.36 (**EA/FONSI**)
5. Environmental Impact Statement (Finding of Significant Impact) — 24 CFR 58.37 (**EIS**)

# Environmental Process Flow – Initial Steps

Project is approved by OHCS/Subrecipient Agreement is signed



OHCS will review the activities to make an initial determination on the level of review needed for each activity



The Subrecipient will receive a notification from OHCS on the level of review needed for each activity

If the activity is determined to be **Exempt or Categorically Excluded, Not Subject To**, OHCS will complete the registration and record the finding in the HUD Environmental Review Online System (HEROs) and notify the Subrecipient that the activity can proceed

## Examples of Exempt and CENST Activities

- Environmental studies, plans, and strategies
- Information and financial services
- Administrative and management expenses
- Engineering/Design
- Operating costs including maintenance, security, operation, utilities, etc.

# Environmental Process Flow – CEST and EA

If the activity is determined to be **Categorically Excluded/Subject To** or a full **Environmental Assessment**, OHCS will reach out for more information to move forward with that level of review



OHCS will complete the review and if there is a **Finding of No Significant Impact (FONSI)**, OHCS will enter the project into HEROS and publish the **Notice of Intent to Request Release of Funds**



If all items are resolved, the **AUGF** will be issued and the OHCS will notify the Subrecipient that funds can be committed to the activity



Depending on the level of review, there will be **7-15 days** for the public to comment

## Examples of CEST and EA Activities

- Removal of material and architectural barriers that impact accessibility
- Acquisition (including leasing)
- Construction for the 1 to 1 replacement of damaged facilities
- Construction for the creation of new facilities, reconstruction with capacity increases, or to expand the capacity of existing facilities

An Environmental Impact Statement (EIS) is required when the project is determined to have a potentially significant impact on the human environment.

It is not anticipated that any CDBG-DR projects will reach this level of review. Any required EIS would begin with a scoping exercise to identify the essential components of that individual EIS. EIS projects may be determined to be ineligible under PIER.



The timeline of an environmental review will vary depending on the level of review, how quickly the Subrecipient can provide the accurate project details required, the level of complication of the work, outside agency response times, outside agency requirements, and any changes to project descriptions that occur along the way.

# Project Information Request – CEST and EA/FONSI

OHCS will base the initial determination on your Project Description Form but will reach out for additional information to complete the review. The project description should include:

- Specific locations (addresses, to and from, GPS locations)
- Performance measures (linear footage, number of improvements installed, etc.)
- Depth and width of disturbance
- Method of construction (example: installing a sewer line through pipe bursting versus open trench)
- Components of construction (example: if you were building a street with curb, gutter, ramps, and sidewalks, curb, gutter, ramps, and sidewalks should be explicitly listed)
- Any acquisition
- Funding sources and funding amount

# Review Criteria

**Using the information the Subrecipient has provided, the RE (OHCS) must consider through the review process the criteria, standards, policies, and regulations required and how those regulations apply to your activity. Items to be considered could include:**

- Historic properties
- Floodplain management and wetland protection
- Coastal zone management
- Sole source aquifers
- Endangered species
- Contamination and toxic substances
- Wild and scenic rivers
- Air quality and noise
- Farmlands protection
- Explosive and flammable Hazards
- Environmental justice
- Other HUD environmental standards as ID'd

# The Environmental Review Record



The review process will generate a document set known as the Environmental Review Record (ERR). The RE establishes and maintains an ERR for each project to document the environmental review decision-making process and all actions taken during the environmental review, regardless of the funding source of the activity.

# Purpose of the Environmental Review Record

## The ERR will accomplish the following:

- Describe all activities that are part of the project
- Evaluate effects of project on human environment
- Document compliance with applicable authorities
- Record determinations and findings
- Contain verifiable source documents and relevant base data
- Contain all re-evaluations needed for changes to the project description (as needed)
- Contain evidence that the project adhered the requirements of the AUGF, including mitigation measures and the project as described



# Mitigation Measures

- If the environmental review results in mitigation measures (actions that must be taken to mitigate the activity's impact on the environment) OHCS will instruct the Subrecipient on how to comply with those measures.
- Mitigation measures *must* be adhered to; include the required measures and activities in your vendor contracts and ensure that mitigations as identified are included in your designs and schedules as appropriate. Evidence that mitigation measures were adhered to (as part of the design, contractual obligations, scheduling, or otherwise) will be maintained by the Subrecipient.

# Environmental Commitment Tracking

- It's worth repeating—mitigation measures must be conducted as identified and there must be evidence on file that they were adhered to.
  - In contracts as contractual obligations with vendors who will be doing the work that was cleared
  - In the design of the project (if the mitigation measure impacts design)
  - In your schedules (if the mitigation measure impacts schedules)
  - In post construction proof (such as elevation certificates or as-built plans)
- It's the Subrecipient's responsibility to ensure the measures are included and reported back to OHCS.
- OHCS will conduct their reporting on based on Subrecipient report.

# Mitigation Measures - Examples

Common examples of mitigation measures include but are not limited to:

- Elevation and floodproofing
- Scheduling construction to avoid the chance of clearing bird nests during applicable migratory bird breeding seasons
- Archeological monitoring in culturally sensitive areas
- Stormwater treatment plans



# Contents of the ERR - Summary

Description of the project and all related activities

All environmental review documents

Documentation of Public Involvement/Public Notices

Public comments and responses to them

Written determinations and findings

Verifiable source documentation and relevant data

Request for Release of Funds and Certification (RROF)

Release of Funds issued by the state—the Authority to Use Grant Funds (AUGF)

# Changes to the Project after AUGF

- Any change to the project after the AUGF must be associated with an environmental re-evaluation before funds can be committed to the change.
- This includes updates to design, bid schedules, change orders, or any items that update quantities, method of construction, locations, components of construction, funding amounts, and scope of work item. **Any contemplated change should be reported to OHCS to determine the impact to the environmental review before proceeding.**
- Changes to a project can lead to increased scrutiny and should be considered thoughtfully, as that increased scrutiny can have scheduling impacts.

# Check Your Knowledge

**How many "levels" (i.e. types) of environmental reviews could be conducted in the PIER program?**

- A. 4
- B. 7
- C. 5
- D. 3



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# Check Your Knowledge

## True or False?

Subrecipients will be responsible for conducting the environmental reviews for each project.



# Check Your Knowledge

**False.**

While the Subrecipients have an important role to play in providing key information required and adhering to the environmental clearance, they are not responsible for conducting the review. Instead, it is OHCS and their partner vendors who will formally conduct the review.



# Additional Resources

- [OHCS ReOregon CDBG-DR Web page](#) – general programs
- [OHCS ReOregon PIER program Web page](#) – policy and forms
- [ReOregon Subrecipient Manual, Chapter 3 \(Environmental Review\)](#)

# Questions?

Reach out to [PIER@hcs.oregon.gov](mailto:PIER@hcs.oregon.gov) OR [julie.lovrien@hcs.oregon.gov](mailto:julie.lovrien@hcs.oregon.gov).

