

TCAP Guidance on Projects with an Existing Environmental Review



As of September 4, 2009

This guidance provides additional information to TCAP grantees (i.e., state housing crediting agencies) to help them meet the environmental review requirements for projects to be assisted with TCAP funds where an environmental review has been previously conducted by HUD staff for another HUD program (e.g., HOPE VI or FHA mortgages or insurance) under 24 CFR part 50.

TCAP Notice CPD-09-03 provided the following guidance in May 2009:

1. If 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.
2. 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.

Since the Responsible Entity will be changing to the State for TCAP funding, the above paragraph number two (2) applies. The following describes the two options available to TCAP grantees when an environmental assessment for a proposed TCAP project has already been performed by HUD staff for another HUD program under **24 CFR part 50**:

- Since a second environmental compliance review must be performed by the Responsible Entity for the TCAP funds, the State, as the Responsible Entity, would perform the review under the provisions of **24 CFR part 58**. The State can designate a qualified state instrumentality, such as the TCAP grantee, to conduct the environmental review for TCAP projects; or
- The provisions of **§58.11(c)** - Legal Capacity - may be invoked upon request of the TCAP grantee. This provision states: “At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with **§58.77(d)(1)**.”

Under this scenario, HUD Field Office staff (Environmental Officers or CPD program staff) could perform the second review under the provisions of Part 50. In doing so, HUD staff should draw upon the previous environmental review for background and analysis purposes, provided that it was for the *exact same project*, and the reviewer

concluded that the previous review was current, accurate and complete. If these conditions are met, this second review can be speedily accomplished, without any public comment period.

If the TCAP grantee wishes to invoke this provision for a particular project, the grantee should notify the HUD Field Office CPD Director as soon as possible.

Should you have any comments or questions, please contact us through the TCAP@hud.gov mailbox.