



GLO-CDR Regulatory Oversight – Policy Memo on Revised ERR Review Procedures

Date: January 10, 2022
To: CDBG-DR/CDBG-MIT Subrecipients/Responsible Entities/Certifying Officers
From: Jill Seed, Director, GLO-CDR Regulatory Oversight
Through: Heather Lagrone, GLO-CDR Senior Deputy Director *HL*
Subject: Revised GLO Environmental Review Procedures and HUD 7015.15 RROF and Environmental Certification Submissions

This memo is a result of directives given to the Texas General Land Office (GLO) by the U.S. Department of Housing and Urban Development (HUD) on December 16, 2021. **The GLO will no longer conduct reviews of subrecipients environmental review records (ERR), as described below.**

Subrecipients who receive CDBG-DR/CDBG-MIT funds administered by the TXGLO are considered responsible entities (REs) as defined in 24 CFR 58.2 and must complete an environmental review compliant with 24 CFR 58 for all GLO contractually approved activities before federal funds are obligated. Each RE must designate a Certifying Officer who is ultimately responsible for validating the completeness of environmental reviews as described in 24 CFR 58.13. In addition, by signing and submitting HUD 7015.15 Request for Release of Funds and Environmental Certification (RROF), the RE's Certifying Officer is providing a legally binding certification that they have fully carried out their responsibilities for environmental review, decision-making, and action pertaining to the project(s) named.

Effective 12/27/2021, GLO will continue to provide technical assistance, guidance, and training to all subrecipients; however, **submitted environmental documents will not be reviewed for compliance.** Completeness of the REs ERRs, including mitigation measures and project-specific conditions, will be verified during GLOs in-depth **Environmental Monitoring and Enforcement Program** (24 CFR 58.18).

GLO requires subrecipients to upload completed and certified ERRs to the Texas Integrated Grant Reporting (TIGR) system. For projects classified as Categorically Excluded Subject to Section 58.5 (CEST) and Environmental Assessment (EA) per 24 CFR 58.36, submission of the final ERR and HUD 7015.15 RROF and Environmental Certification is required. Projects classified as Exempt (24 CFR 58.34), Categorically Excluded Not Subject to the related laws and authorities (CENST) (24 CFR 58.35(b)), CEST that converts to Exempt (58.34(a)(12)) or site-specific checklist (SSC), do not require a RROF and Environmental Certification; therefore, the RE is required to obtain necessary signatures and upload the ERR into TIGR after which funds can be obligated.

GLO will process HUD 7015.15 RROFs and Environmental Certifications for CEST's and EA's in accordance with federal regulation 24 CFR 58.72, as described below:

The actions which HUD (or a State) may take with respect to a subrecipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these



documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the State) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in § 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD (or the State) has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD (or the state) shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

Please keep in mind that the RE is responsible for ensuring all project conditions, best management practices (BMPs), and/or mitigation measures are implemented prior to and throughout construction. The RE must maintain documentation of all project conditions, BMPs, and/or mitigation measures in the form of photos, receipts, letters, contracts, and any other evidence that demonstrates compliance. Completeness of the RE's ERR will be verified during GLO's Environmental Monitoring and Enforcement Program (24 CFR 58.18(a) (2)). The RE must ensure all ERRs are maintained and current in TIGR, as environmental monitoring will likely occur after the initiation of project work.

As a reminder, anytime there is a change in scope of work, the project re-evaluation process in 24 CFR 58.47 must be followed prior to any work being initiated or funded. If a RE fails to comply with 24 CFR 58.47, a choice limiting action as described in 24 CFR 58.22(a) may have occurred. According to 24 CFR 58.72, in cases where the GLO is exercising HUD's responsibilities outlined in 24 CFR 58.18 and has approved a certification and RROF but subsequently learns that the RE violated 58.22(a) or otherwise failed to comply with any applicable environmental authority, the GLO can impose appropriate remedies and sanctions in accordance with the law and regulations for the program under which the violation was found. This may include repayment of federal funds.

Please note that these procedures are subject to change, and the RE should always contact the Regulatory Oversight team at env.reviews@recovery.texas.gov for the most recent guidance.

The GLO requests acknowledgment of these process revisions by each RE's Certifying Officer. Please sign and submit to the appropriate GLO Grant Manager.

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Responsible Entity Certifying Officer name: Judge KP George

Responsible Entity Certifying Officer signature: _____ Date: _____