



GLO-CDR Regulatory Oversight – Revised Policy Memo on Project Re-evaluations

Date: January 7, 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: Responsibilities of Subrecipients/Responsible Entities/Certifying Officers regarding project re-evaluations per 24 CFR 58.47

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 project re-evaluations, as described below.**

Subgrantees who receive CDBG-DR/CDBG-MIT funds administered by the TXGLO are considered responsible entities (REs), also referred to as subrecipients, and must complete an environmental review compliant with 24 CFR 58 on all project activities before funds are obligated. Under 24 CFR 58, the environmental review can be completed by the REs staff, program partners, or a hired consultant; however, the RE is ultimately responsible for the content of the Environmental Review Record (ERR) and must make an independent evaluation of the environmental issues, take responsibility for the scope and content of the compliance findings, and make the final environmental decision concerning project approval. The RE is also responsible for ensuring any mitigation measures or conditions for approval are implemented and for maintaining the ERR in accordance with HUD requirements.

Each RE must designate a Certifying Officer who is ultimately responsible for signing off on the completeness of environmental reviews as described in 24 CFR 58.13. **The GLO Regulatory Oversight may provide technical assistance on sections of the subrecipients ERRs; however, GLO is not responsible for any inaccuracies and should the ERR fail to meet federal/state requirements, including applicable Federal Register requirements, the RE is financially responsible for the oversight and any corrective action required. Completeness of the REs ERR, including mitigation measures and project-specific conditions, will be verified during GLOs in-depth Environmental Monitoring and Enforcement Program (24 CFR 58.18).**

Anytime there is a change in scope of work, the re-evaluation process in 24 CFR 58.47 must be followed prior to any work being initiated or funded. For brevity, a re-evaluation is required when the project footprint or area of potential effect (APE) changes regardless of the amount of linear feet/area, project activities are added/removed, unexpected conditions arise, or changes are made to the nature, magnitude, or extent of the project. If the original finding is assessed as still valid, the ERR would be updated with a memo to the file, which is commonly referred to as a Letter of Re-evaluation or LRE. If the original finding is assessed as no longer valid the RE may have to prepare a new environmental review and proceed with the approval process, which includes but is not limited to a new environmental review, public notices, public comment and objection periods, and a new Request for Release of Funds (RROF) and AUGF.



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. Per 24 CFR 58.22(a), neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and environmental certification have been accepted by GLO, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.

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 an environmental 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.

The GLO requests acknowledgment of these requirements by each REs Certifying Officer. Please sign and submit to the appropriate GLO Grant Manager.

GLO Contract #: _____

Responsible Entity Certifying Officer name: _____

Responsible Entity Certifying Officer signature: _____ Date: _____
