



U.S. Department of Housing and Urban Development

COMMUNITY PLANNING AND DEVELOPMENT

Special Attention of:

All Regional Office Directors
All Field Office Directors
All Field Environmental Officers
All Public Housing Office Directors
All CPD Office Directors

Notice CPD-03-01

Issued: February 10, 2003

Expires: February 10, 2004

Subject: Implementing Risk Analysis for Monitoring Responsible Entities for Compliance with 24 CFR Part 58 for FY 2003

I. Purpose

The purpose of this Notice is to provide a consistent methodology for risk analysis to establish priorities for monitoring Responsible Entities who assume Departmental environmental responsibilities under 24 CFR Part 58. In general this notice should direct Field Environmental Officers (FEOs) in procedures for ranking those Responsible Entities to ensure that those who are at highest risk for environmental compliance concerns are monitored as first priority within the resources made available.

II. Background

The Department has issued guidance for risk analysis processes to provide a consistent and logical approach to selecting the grantees to be monitored. However, that process applies only to program grantees under the regulations specific to those programs. A wide array of HUD programs (24 CFR 58.1(b)) are subject to 24 CFR Part 58 which allows states, units of general local government, and native American tribes to act for the Department and conduct necessary environmental assessments and other specified environmental requirements (24 CFR 58.4). HUD is required according to 24 CFR 58 .77(d) to monitor the activities undertaken for the Department under that Section. Sec. 305(c)(1)(B)(i) of the Multi Family Housing Property Disposition Reform Act of 1994, Sec. 288(a)(1) of the Home Investments Partnership Act of 1992, and Sec. 105(a)(2)(B)(i) of the Native American Housing Assistance and Self-Determination Act of 1996 also require on-site monitoring of Responsible Entities for compliance with environmental requirements under the National Environmental Policy Act (NEPA) of 1969.

Risk analysis is the mechanism used by the Department to allocate monitoring and technical assistance resources in the most efficient and effective manner. At the beginning of the fiscal year, each FEO should develop a monitoring strategy and work plan that covers all HUD programs and Responsible Entities that might be monitored during the fiscal year. The purpose of this strategy is to facilitate the development of adequate management controls that will reduce risk to acceptable levels, and to establish a framework for determining the appropriate level of monitoring, training, and/or technical assistance

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attention for each Responsible Entity consistent with available resources. Risk analysis is the method that is used to establish priorities for in-depth environmental monitoring by Field Environmental Officers (FEO) and to determine where staff and travel resources can be best utilized. The selection process should ensure that those Responsible Entities and their projects that represent the greatest vulnerability to non-compliance with the Department's environmental regulations are monitored.

This notice is intended to augment the departmental policy contained in Handbook 1840.1, Rev-3, Departmental Management Control Program, which requires the development of risk based rating systems for all programs. The major steps for implementing risk based, in-depth monitoring as it pertains to environmental compliance include:

- Identifying environmental compliance risks and setting monitoring objectives
- Developing risk based rating systems for Responsible Entities
- Developing and communicating environmental compliance strategies and plans for oversight of identified risks
- Documenting the process and recording the rationale for choosing responsible entities
- Rating and selecting grantees for monitoring

III. Risk Analysis Participants

Each FEO will take responsibility for and perform the risk analysis using the methodology described in this notice. This process should lead the FEO to a conclusion that provides the foundation for an overall work plan that clearly designates specific Responsible Entities for in-depth environmental monitoring or technical assistance and proposes a specific allocation of resources and schedule to accomplish this task.

FEO staff are assigned primary responsibility for performing environmental risk analyses that are outlined further in this notice. However, other HUD guidance requires program staff to assess environmental concerns as part of their overall risk analysis. These program staff may inquire into environmental procedures when conducting on-site monitoring and can be a source of information to FEOs on the overall and environmental compliance profile of a State or local government acting both as a program grantee and a Responsible Entity under 24 CFR Part 58. Therefore, it is imperative that each FEO consult with all necessary program office staff in gathering necessary risk analysis information and will be responsible for maintaining all necessary data on environmental compliance in the geographic region to support effective risk analysis procedures under 24 CFR Part 58. It is the responsibility of the FEO to assure that the consultation process with program office staff is thorough and successful.

IV. Risk Criteria

All Environmental risk analyses are standardized and use a five factor rating system. These factors are consistent with those described in the "HUD Monitoring Desk Guide (Training Edition)". They are:

- Recent Monitoring
- Program Complexity
- Local Capacity

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- Program Office Rating
- Audit Findings, Monitoring Findings and Citizen Complaints

IV. Analyzing Environmental Compliance Risk

The risk analysis process will begin with a review of each Responsible Entity against a predetermined set of criteria to determine their relative rank. This review of each entity’s Part 58 programs will provide the basic knowledge needed to compare and rank each entity. In completing this review, all necessary program office staff shall be consulted as sources of information on relevant programs that can be used in the ranking process. This data should include information obtained from the Integrated Disbursement and Information System (IDIS), annual performance reports outlining the current projects of Responsible Entities, prior monitoring visits, previous audits, citizen complaints, and annual performance reviews. In addition, special attention should be given during the risk analysis process to recent audits with findings designated as significant, material weaknesses, and departmental priorities.

The guidance below will provide exact instructions on how to rank each responsible entity according to the five risk criteria. The FEO, after proper consultation and analysis, should assign a numeric risk rating in each category for each Responsible Entity (RE). The numbers provided within the table are maximum ratings, but the “Evaluator’s Rating” should reflect the discretion and unique knowledge of the FEO. After completing the five criteria for an RE, they should proceed to the Total Score section of this notice to finalize the risk analysis process.

A. Recent Monitoring

Definition: 24 CFR 58.77 states that HUD’s intention is to “ at least once every three years...conduct in-depth monitoring...over environmental activities performed by responsible entities.”

Rating Consideration: HUD has not been able to comply with the regulatory standard cited above, but it must be weighed as a factor, and the degree to which other risk factors compel inquiry and the entity has not been monitored must be evaluated jointly to assign a risk rating under this factor.

A. Recent Monitoring (Total Points = 25)	Factor Score	Evaluator’s Rating	Evaluator’s Comments
a. Responsible Entity has not been monitored in-depth for more than five (5) years by FEO.	25		
b. Responsible Entity has neither had limited nor in-depth environmental monitoring in last three (3) years	15		
c. Responsible Entity was monitored within the last three years and no significant findings or concerns were	5		

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B. Program Complexity

Definition: Program complexity is the degree to which the Responsible Entity uses HUD funds for purposes likely to involve environmental consideration. Since many HUD funded activities are exempt from environmental review, it is possible that a smaller grantee might engage in limited activities that require review, or conversely, a larger grantee might engage in numerous highly complex activities where many environmental concerns are reviewed. Examples of complex activities would be new construction of multi-unit housing developments, redevelopment of existing commercial or industrial sites, or other new construction of significant size and scope. Particular attention should be given to complex projects where numerous issues such as wetlands, historic areas, floodplains, contaminated soils, and other environmental concerns occur.

Rating Consideration: The FEO should consult the Responsible Entity’s planning documents and expenditure records to evaluate the frequency of activities that are complex in nature where environmental concerns are brought to bear.

B. Program Complexity (Total Points = 25)	Factor Score	Evaluator’s Rating	Evaluator’s Comments
a. Responsible Entity frequently engages in large and environmentally complex projects where toxics, floodplains, wetlands, or historic preservation, etc. involved.	25		
b. Responsible Entity undertakes environmentally complex projects occasionally, and usually has development projects where some environmental issue is involved.	15		
c. Responsible Entity will only rarely have projects of sufficient scale to require environmental assessment.	5		

C. Local Capacity

Definition: The demonstrated capacity of the Responsible Entity to carry out the requirements for environmental review according to 24 CFR Part 58 including all procedures and requirements for public notification.

Rating Considerations: The FEO should base their ratings on their own interactions with the

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environmental staff for the Responsible Entity, on consultations with program office staff, and on the environmental processing records in the Field Office, such as the Request for Release of Funds log within the Office of Community Planning and Development (CPD), Housing, Public Housing, and Office of Native American Programs.

C. Local Capacity (Total Points = 25)	Factor Score	Evaluator's Rating	Evaluator's Comments
a. Responsible Entity has experienced recent staff turnover and new staff are untrained.	25		
b. Responsible Entity staff has had some training with moderate environmental expertise.	15		
c. Responsible Entity staff are well trained with considerable environmental expertise.	5		

D. Program Office Rating

Definition: The FEO should consult with all Program Office directors, and staff persons as applicable, with jurisdiction over Responsible Entities within their geographic jurisdiction to determine their perspective on environmental risk concerns.

Rating Considerations: The FEO should assign numeric ratings to Responsible Entities based on the comments of all program office directors and staff. The FEO has discretion to weigh the comments of various program offices in arriving at an overall score.

D. Program Office Rating (Total Points = 15)	Factor Score	Evaluator's Rating	Evaluator's Comments
a. CPD, Public Housing, Housing, and/or other program office directors indicated grantee as high risk.	15		
b. CPD, Public Housing, Housing, and/or other director indicated RE as moderate risk.	10		
c. CPD, Public Housing, Housing, and/or other director indicated RE as low risk.	5		

E. Audit Findings, Outstanding Monitoring Findings, or Citizen Complaints

Definition: Any HUD OIG or other audit findings concerning the environmental review procedures of the Responsible Entity, outstanding concerns or findings from prior environmental monitoring—either
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limited or in-depth, or unresolved citizen complaints about the Responsible Entity’s environmental procedures.

Rating Considerations: The FEO should use discretion and exercise careful judgment in considering HUD OIG, GAO, or other audit findings. Some such audit issues may be sufficiently serious in nature to warrant an automatic on-site monitoring visit. However, in other cases the FEO should base their ratings on the degree to which outstanding findings or concerns exist that have not been satisfactorily resolved, including mitigating measures that remain un resolved. Also, the ratings should include citizen complaints that are unresolved. As in the instance of audit findings, some complaints may be serious enough in nature, and/or the number of complaints about a single instance may be sufficient in and of themselves to warrant an on-site monitoring to investigate the complaints.

E. Audit Findings, Outstanding Monitoring Findings, Citizen Complaints. (Total Pts = 10)	Factor Score	Evaluator’s Rating	Evaluator’s Comments
a. Serious outstanding audit or monitoring concerns or findings, or citizen complaints.	10		
b. Some outstanding issues from either monitoring or audits, or less serious citizen complaints.	5		
c. Few concerns or complaints	0		

F. Total Score

The FEO should total the scores indicated for each of the five previous factors for each Responsible Entity:

Recent Monitoring Rating (25)	Program Complexity Rating (25)	Local Capacity Rating (25)	Program Office Rating (15)	Findings/Complaints Rating (10)	Total Risk Rating (100)

To rank the universe of Responsible Entities (RE) under consideration within the geographic area of the FEO, the FEO should prepare a short table to summarize the overall risk analysis results indicating which entities are highest ranked at the top of the table and all REs ranked in descending order. That table should be the primary consideration in determining in-depth environmental monitoring and technical assistance as part of the work plan, should be retained to document the risk analysis process, and should become a key part of the overall monitoring strategy that is communicated to the Field Office Director, the Headquarters Office of Community Viability and other Program Office staff with whom collaboration about the overall environmental monitoring strategy is necessary. A copy of the risk analysis should be provided with the Work Plan sent to the Office of Community Viability in Washington, DC. At that time, any disparities between high risk entities and those scheduled for on-site monitoring, should be highlighted and addressed within the Work Plan for the fiscal year.

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