HOME AND HUD ENVIROMENTAL QUESTIONNAIRE & ENVIRONMENTAL REVIEW PROCESS GUIDANCE

INTRODUCTION

All developments utilizing HOME funds are required to assess the environmental effects of that activity in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and US Department of Housing and Urban Development (HUD) regulations at 24 CFR Part 58. The Georgia Department of Community Affairs (DCA) requires applicants to conduct various activities required for the environmental review process at HOME application, including an Environmental Assessment (EA)/Phase I, as outlined in the Qualified Allocation Plan (QAP) and the Environmental Manual.

The environmental review process commences as soon as a proposed site is identified and applies for HOME or other federal funding. Therefore, applicants/proposed owner/developers may not acquire, demolish, move, rehabilitate, convert, lease, repair or construct property, or commit or expend HUD or non-Federal funds for HOME activities with respect to any eligible property, until the environmental review process has been completed. These actions could have an adverse environmental impact or limit the choice of reasonable alternatives, thus disqualifying the entire development. The only activities that may occur are completion of the environmental review itself, purchase of a real estate option and payment of relocation (if required).

If the project meets the QAP's threshold environmental requirements, it is ultimately DCA's decision whether to proceed with the project. If the project meets threshold requirements and the project is selected for HOME funding, the initial environmental review process ends. However, DCA must petition HUD with a request for the release of funds. DCA can not legally clear the use of HOME funds for a project until HUD gives DCA the authority to do so.

This guidance is to help educate the project applicant/potential HOME awardee and the environmental professional on the environmental review process requirements for HOME and to assist the same with the completion of the HOME and HUD Environmental Questionnaire (Questionnaire). Please note that the Questionnaire must be completed to help facilitate the quick and accurate completion of the environmental review process, including the request for the release of funds.

PURPOSE OF THE ENVIRONMENTAL REVIEW

The purpose of an environmental review process is to identify environmental impacts that might be associated with a project prior to decision-making by DCA. It also informs decision makers and the public of what impact a proposed project is likely to have on the environment and what can be done to reduce or mitigate any significant

effects. Possible areas of environmental impact include traffic circulation, water quality, archaeological resources and vegetation & wildlife.

In addition to providing information, the process also requires that significant impacts be reduced or mitigated whenever possible. A wide range of DCA policies and procedures provide a basis for determining impacts and a means for insuring that these impacts are mitigated.

CATEGORIES OF ENVIRONMENTAL REVIEW & REVIEW FINDINGS

A development utilizing HOME funds will fall into one of two review processes. Certain developments are "categorically excluded". If a development does not meet one of the categorically excluded requirements, the applicant must follow the regular review process. DCA will determine which process the activity must follow and will inform the applicant of that determination. In either instance, certain statutory and other requirements must be addressed.

Categorical Exclusion Process

Categorical Exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required. This does not, however, exclude the development from following other applicable Federal environmental laws and authorities, including 24 CFR §58.5. This determination is made by DCA.

In general, rehabilitation of existing structures is excluded from environmental assessment requirements provided that:

- Unit density is not changed more than 20 percent;
- The project does not involve changes in land use from residential to nonresidential; and
- The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

Certain new construction and major rehabilitation developments also can fall into the Categorical Exclusion process as long as it is a single action on a one-to-four unit dwelling. New construction or major rehabilitation of five or more units located within 2,000 feet of each other undertaken, as a single action (e.g., a subdivision of duplexes), is not categorically excluded. **In DCA's opinion, projects submitted to OAH for HOME funding will not be categorically excluded and the regular review process must be followed.**

Categorically excluded activities converted to exempt activities (24 CFR 58.34(a)(12))

Activities that fall into the Categorical Exclusion process may be converted into exempt activities by DCA under the following conditions:

• The statutory review is completed for compliance determination under the Federal laws and authorities cited in §58.5 and DCA finds that no circumstances exist where any of the Federal laws and authorities requires compliance with its own review procedures.

• These conclusions are documented on the compliance review form (ER cover sheet and statutory and other requirements checklist) with evidentiary documentation attached. No public notices are published and a Request for Release of Funds and Certification will not be submitted to HUD.

• The records will be titled the Environmental Review Record and must be maintained by both the Owner and DCA.

Finding of No Significant Impact

If DCA determines that the development will not result in a significant impact on the quality of the human environment, a Finding of No Significant Impact (FONSI) will be issued. In contrast, if DCA determines that the development may significantly affect the quality of the human environment, a finding of significant impact, DCA will instruct the Project applicant to proceed with further environmental reviews including the Environmental Impact Statement (EIS). **It is DCA's opinion that most applications that are submitted to DCA for HOME funds for multifamily housing development will not require an EIS, but will require that a FONSI be issued for each application submitted**.

Notice and Comment Period

Along with the FONSI, a Notice of Intent to Request Release of Funds must be published as a legal notice in the local newspaper (A copy of the notice can be found in the Exhibits at the end of this chapter). The Affidavit of Publication (supplied by the newspaper) and any comments received should be submitted to DCA.

Request Release of Funds

DCA will submit a Request for Release of Funds from HUD no sooner than seven days after the end date of publication period. Once received by HUD, there is another 17-day objection period. If no objections are received, or if objections can be resolved, HUD will issue the Release of Funds, at which time, limitations on the commitment of HOME funds and other funds will be removed, and project owners may participate in program activities such as purchasing land or starting work on proposed projects.

ENVIRONMENTAL REVIEW PROCESS—BEGINNNING TO END

The below is an example of the typical process that results in the release of funds:

1. Owner/Applicant completes all documentation outlined in the Qualified Allocation Plan and the Environmental Manual.

2. DCA publishes the combined FONSI/Notice of Intent to Request Release of Funds.

3. 15-Day Local Comment Period (from date of publication)

4. DCA submits Request for Release of Funds (RROF) Certification to the local U.S. Department of Housing & Urban Development office.

5. 17-Day Objection Period which could result in one of the following:
   - Rejection of Request
   - Resolution of Objection
   - No Objection

6. HUD Approves RROF Certification

HUD AND HOME ENVIRONMENTAL QUESTIONNAIRE

Statutory Requirements (24 CFR §58.5) & Other Requirements (24 CFR §58.6)

As stated above, a development utilizing HOME funds, regardless of the review processes-- "categorically excluded" or regular review process-- must address certain statutory and other requirements. These areas are covered in the HUD and HOME Environmental Questionnaire, which must be submitted at application.

Air Quality

The Clean Air Act (42 U.S.C. 7401 et seq.) prohibits federal assistance to projects that are not in conformance with the State Implementation Plan (SIP). New construction and conversion, which are located in "non-attainment" or "maintenance" areas as determined by the Environmental Protection Agency (EPA) may need to be modified or mitigation measures developed and implemented to conform to the SIP.

The EPA has established National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), nitrogen dioxide (N02), sulfur dioxide (S02), ozone (03), and total suspended particulates (TSP). On a countywide basis, EPA classifies each contaminant as either being attainment, non-attainment, or unclassifiable. It is critical that the project applicant or environmental consultant review the SIP and determine

whether the site is within a nonattainment area, and, if so, should confer with EPA regarding conformance with the Georgia's SIP. The EPA non-attainment designations can be found at http://www.epa.gov/oar/oagps/greenbkl.

In Georgia, the following are the only counties that are within a non attainment area: **Metro Atlanta** (including Barrow, Bartow, Carrol, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Heard, Henry, Newton, Paulding, Putnam, Rockdale, Spalding, Walton), **Macon** (Bibb, Monroe), **Others** Catoosa, Walker, Floyd.

Historic Properties

The project applicant must determine whether the development is among or near any properties listed on the National Register. This not only pertains to the proposed site, but must also take in consideration any listed property that may be in the general vicinity of the project site. Furthermore, consideration must be given to those properties that might be eligible for listing.

The project applicant must consult the State Historic Preservation Officer (SHPO) concerning compliance with Section 106 of the National Historic Preservation Act of 1966 and the related regulations found at 36 CFR Part 800. The SHPO will require the following information to complete their review:

- Cover letter clearly indicating the county and city within which the project will take place and a sentence stating that the letter is a "request for consultation regarding the proposed project in accordance with 36 CFR 800." Provide a project name and number (if available) along with the name, address, and telephone number of a contact person. Also indicate the name of the person or entity requesting consultation, if different from the contact person, and the federal or state agency for which review is required, and a detailed project description.

- Detail site location map of the area in which the development is to occur.

- One photo of each structure and/or site (house, building, etc.) to be impacted.

- Information on the age of any structures located on the site.

- Other information related to identifying historic resources within the developments are of potential effect.

Georgia's State Prevention Officer contact information is as follows:
Deputy SHPO Dr. W. Ray Luce, Director,
Historic Prevention Division
34 Peachtree Street, NW, Suite 1600,
Atlanta, GA 30303

For projects located in any of the following counties: Burke, Chatham, Effingham, Richmond and Screven, the Tribal Historic Preservation State Officer must be consulted as required under Section 106 of the National Historic Preservation Act. Please contact:

Catawba Indian Nation
Attn: Caitlin Totherow
Tribal Historic Preservation State Officer
1536 Tom Steven Road
Rock Hill, SC 29730
Telephone: (803) 328-2427 ext. 226

The Applicant shall also determine the public interest in planned rehabilitation or new constructions activities which may affect potentially historic properties or districts by informing the public about potentially historic properties while meeting its public participation requirements as set forth in the regulations for the HOME program and in complying with 24 CFR Part 58

If there are historic properties involved, and if DCA and the SHPO agree that there is no adverse effect, the development may proceed as planned. When an effect is considered adverse and if DCA, the project applicant and the SHPO can agree as to the litigation measures to be taken, a Memorandum of Agreement (MOA) should be prepared.

As a part of the application process, the following documentation is required: a detailed site location map of the area in which the development is to occur, one photo of each structure and/or site (house, building, etc.) to be impacted and information on the age of any structures located on the site.

Floodplain Management & Flood Insurance

Project applicants must determine whether the development is located within a floodplain. "Floodplain" means the Special Flood Hazard Area (SFHA) identified on the flood maps published for the National Flood Insurance Program (NFIP) by the Federal Emergency Management Agency (FEMA). These maps should be referenced when inquiring whether a project is located within a floodplain. Flood maps are generally available for viewing in a community's land planning or building permit office. Project applicants must provide the floodplain map number and date of the map.

Whenever HUD financial assistance is proposed for a development within a floodplain, compliance is required with the 8-step decision making process of Executive Order 11988, "Floodplain Management", and implementing procedures contained in 24 CFR Part 55. The Executive Order sets floodplain management as a national priority and adds new prominence to the natural and beneficial floodplain functions as well as to the public benefit to be derived from their restoration or preservation. Federal programs

are "to avoid direct or indirect support of floodplain development wherever there is a practicable alternative."

Furthermore, if a development does occur within the Floodplain and the project is awarded HOME funds, the project Owner must obtain flood insurance and document as such to DCA.

Wetland Protection

As a general policy, project applicants should avoid developments that either take place in or affect a designated wetland. However, if a designated wetland may be affected, DCA will require the project applicant comply with the 8-step decision making process of Executive Order 11990, "Protection of Wetlands".

For a listing of designated wetlands, contact the U.S. Fish & Wildlife Services or visit their website at http://wetlandsfws.er.usgs.gov/wtlnds/launch.html.

At application, the required documentation for projects with wetlands on the project site includes:

- A map clearly delineating the project site and the location of the wetland; and
- Statement from Architect and/or Environmental Professional stating the wetland will not be impacted.

Coastal Areas & Coastal Barriers Act

Only for new construction, conversion, major rehabilitation, and substantial improvement activities does the Coastal Zone Management (CZM) authority apply. Projects that can affect the coastal zone must be carried out in a manner consistent with the approved State coastal zone management program under Sec. 307 of the Coastal Zone Management Act of 1972, as amended.

Georgia's six coastal counties and five "inland tier" counties includes: Chatham, Effingham, Bryan, Liberty, McIntosh, Long, Glynn, Wayne, Brantley, Camden and Charlton counties.

Endangered Species

Developments must not jeopardize the existence of any endangered or threatened species, and will not modify any critical habitats. The U.S. Fish &Wildlife Services should be requested to review the proposed development for compliance with the Endangered Species Act. Endangered species *generally* does not apply to rehabilitation. Designated endangered species and/or plants can be found at: http://www.fws.gov/athens/endangered/counties_endangered.html or contact:

U.S. Fish &Wildlife Services, Ecological Services Field Office
105 Westpark Drive,
Westpark Center Suite D
Athens, Georgia 30606-3175 315

Wild & Scenic Rivers

Water quality is affected by wastewater, which is simply another term for sewage. The terminology is not as important as the fact that pollution from wastewater can harm the environment and become a health hazard. Project applicants should consult the National Parks Service website to ensure that no designated wild or scenic rivers will be affected.

Designated scenic rivers can be found at: http://www.nps.gov/ncrc/programs/rtca/. Select "*contact us*" and then select "*Tennessee*", which handles Atlanta. Jeff Duncan is the current contact and can be reached at:

Rivers, Trails & Conservation Assistance
National Park Service
175 Hamm Rd., Suite C
Chattanooga, TN 37405
Attn: Jeff Duncan
(423) 266-1150

At application, the required documentation includes a map clearly delineating both the project site and the Wild and Scenic River.

Farmland Protection

New construction development that includes undeveloped land must include a review of Farmland Protection Policy to ensure that the project does not include or affect prime or unique farmland or land of statewide or local importance. Water or urbanized land is exempt if the land is already in or committed to urban development. Project applicants should consult the local planning office and/or the local National Resources Conservation Services (this could be the local USDA office).

Noise

If the proposed development is located near a major noise source, i.e., civil airports (within 5 miles), military airfields (15 miles), major highways or roads (within 1000 feet), or railroads (within 3000 feet), then the project applicant must undertake a Noise Assessment, in accordance with HUD's Noise Guidebook. The guidebook is available on HUD's website:

http://www.hud.gov/offices/cpd/energyenviron/environmentlresources/guidebooks/noise/index.cfm.

Explosive & Flammable Hazards

Particular attention should be given to any site proposed that is in the vicinity of hazardous operation involving tanks and facilities that store, handle or process chemicals or petrochemicals of an flammable or explosive nature. HUD regulations establish acceptable separation distances for sites near these facilities (further detail can be found in HUD Guidebook Siting of HUD-Assisted Projects Near Hazardous Facilities).

The project applicant must confer with the local authorities and conduct site reviews of a 2,000 foot radius from the site to determine the evidence of such hazards on or near the site, to assure that occupants of proposed sites are not adversely affected by the above hazards.

Toxic Chemical & Radioactive Hazards

Particular attention should be given to any site proposed that is located on, or in the general proximity of, such areas as dumps, landfills, industrial sites, abandoned railroads or other locations that may contain hazardous wastes. All property proposed or used in the HOME Program must be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.

The project applicant must confer with the local planning agency and/or similar agencies to determine the previous uses of the site and other evidence of hazards on or near the site, to assure that occupants of proposed sites are not adversely affected by the above hazards. If any such evidence is found, the project applicant must obtain a Phase I (ASTM) report. HUD requires the use of current techniques by qualified professionals to undertake investigations determined necessary.

Airport Clear Zones

Development must not take place within either civilian or military airport clear zones. HUD policies prevent building homes in areas where airplane crashes are greatest or most likely to occur, which is generally in areas near airport runways.

For each major airport, an Airport Layout Plan has been prepared that has been approved by the Federal Aviation Administration. The Runway Clear Zones at Civil Airports are trapezoidal in shape and have a maximum length of 3,000 feet. These plans delineate the Clear Zones for each runway.

The Department of Defense requires that an Air Installation Compatible Use Zone (AICUZ) be prepared for each military airfield. The AICUZ for each airfield

contains a noise contour map. Unlike the clear zones at civil airports, the clear zones on military airfields are rectangular in shape and are usually 7,000 feet in length. In addition to the clear zones at the end of the runways of military airfields, there is also Accident Potential Zones (APZ). The person preparing the Environmental Assessment for a proposed project should be guided by the land uses as outlined in the APZ's and as set forth in the AICUZ for the particular airfield involved.

Environmental Justice

Environmental Justice (EJ) involves reviewing the disproportional impact on minority or low-income neighborhoods, relative to the community at large, when a site has environmental issues. If no issues are found during the initial review process, EJ is not applicable. In instances where EJ applies, then DCA will conduct the EJ review. Applicants are responsible for completing DCA's Site and Neighborhood Standards Certification form and the requisite supporting documentation.

Vapor Intrusion

For all HOME and HUD funded projects, the Phase I ESA must include a Tier I vapor intrusion (VIA) assessment to determine if there is a potential for vapors to occur in the subsurface below existing and/or proposed on-site structures from hazardous substances that consist of VOCs, SVOCs and inorganic volatile compounds. If the VIA reveals that a vapor intrusion condition ("VIC") exists and "may" present an unacceptable health risk to occupants, additional assessment must be performed according to ASTM E 2600-08 standards. For more guidance, please refer to ASTM E 2600.

Environmental Analysis/Part C

As a part of the HUD and HOME Environmental Questionnaire, the project applicant must complete the Environmental Assessment, Part C analysis (See Exhibit A of this chapter for additional resources). The review is intended to be completed at the local level by the project applicant and should cover the following:

- Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the development.

- Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the development.

- Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance.

• Examine and recommend feasible ways in which the project or external factors relating to the development could be modified in order to eliminate or minimize adverse environmental impacts.

• Examine alternatives to the development itself, if appropriate, including the alternative of no action.

Lastly, the assessment should also include notification of all appropriate authorities, including the State and Federal agencies listed above when the assessment has been completed.

ENVIRONMENTAL LAWS AND AUTHORITIES RESOURCE GUIDE

While completing the HOME and HUD Environmental Questionnaire and the EA for HOME or other federal funded projects, this guidance, along with the following authorities and website may be helpful:

HUD website (www.hud.gov)
HUD Handbook 1390.2 (available at www.hudclips.org)
Floodplain Management (24 CFR Part 55)
Historic Preservation (36 CFR Part 800)
Noise Abatement (24 CFR Part 51 Subpart B)
Hazardous Operations (24 CFR Part 51 Subpart C)
Airport Hazards (24 CFR Part 51 Subpart D)
Protection of Wetlands and Floodplains (E.O. 11990 and E. O. 11988)
Toxic Chemicals & Radioactive Materials (§50.3(i))
Other § 50.4 authorities – see HUD website
(e.g., endangered species, farmlands protection, flood, insurance, environmental justice)

CONTACT INFORMATION

If you have any questions, please contact DCA at 404-679-4940 and ask for the OAH Legal Department.

EXHIBIT A

TO BE COMPLETED BY THE APPLICANT & THE ENVIRONMENTAL PROFESSIONAL (for new construction only)

Please answer the below questions. Responses such as "n/a" or "not applicable" are not acceptable. Responses are short narratives. Attach additional sheets as necessary.

Alternatives and Project Modifications Considered [24 CFR 58.40(e), Ref. 40 CFR 1508.9] *Identify other reasonable courses of action that were considered and not selected, such as other sites, design modifications, or other uses of the subject site. Describe the benefits and adverse impacts to the human environment of each alternative and the reasons for rejecting it.*

DCA is not looking for actual specific site locations but alternatives and/or project modifications considered, for example, closer to desirables or public transportation. Examples of project modifications may include smaller/larger density, zoning and high rise vs. garden style.

No Action Alternative [24 CFR 58.40(e)]
Discuss the benefits and adverse impacts to the human environment of not implementing the preferred alternative.

Discuss why the project site you chose benefits the human environment or discuss alternative would have been is a less desirable location or presented issues like minority concentration. In cases, where an alternative does not apply, list why.

Mitigation Measures Recommended [24 CFR 58.40(d), 40 CFR 1508.20]
Are there feasible ways in which the proposal or its external factors should be modified in order to minimize adverse environmental impacts and restore or enhance environmental quality?

Discuss <u>all</u> mitigation taken or recommended by Environmental Professional.

Additional Studies Performed

Ex. Phase II reports

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]. Because the environmental review process is extensive, most reviews should yield a minimum of twenty sources.

Sample list could include the following:
HUD websites, HUD Handbook 1390.2 (available at www.hudclips.org), State agencies website, Documentation from local or state agencies (document who you spoke with and what agency).