



June 14, 2019

Stan Gimont
 U.S. Department of Housing and Community Development
 Office of Community Planning and Development
 Room 7204
 451 7th Street SW
 Washington, D.C. 20410

Dear Mr. Gimont:

The Council of State Community Development Agencies (COSCAR) appreciates the relationships developed between its members and staff with the U.S. Department of Housing and Urban Development (HUD) - Office of Community Planning and Development (CPD). As a conduit between state agencies and federal government, COSCAR acts to facilitate relevant and timely feedback on issues integral to program administration. Our association recently approved its fiscal year (FY) 2020 advocacy priorities which includes proposed changes to HUD administrative rules and processes. COSCAR submits the following suggested programmatic updates to improve oversight and delivery of federal resources.

Maintain reliance on state environmental review systems

As HUD seeks improvements to the environmental review process, state administrators assess their own environmental reviews as sufficient. Moving forward, both HUD and states can maintain oversight in the best way through state-led systems responsive to administrative capacity and operations. HUD's implementation of the HUD Environmental Review Online System (HEROS) so far has not proven conducive with state-established monitoring and compliance mechanisms. COSCAR requests that states continue to maintain oversight in environmental review until further modifications can be made by HUD. If updates do occur, state administrators are available to provide feedback and assistance in a system renewal.

Recognize and adopt environmental review compliance across federal agencies

State administrators recognize the importance of efficiency in program oversight and promote the acceptance of environmental reviews from federal co-funding agencies. Similar community needs are often addressed by using a host of federal resources. Projects may be funded through multiple federal agencies contingent upon clearing an environmental review process. Agencies such as the U.S. Environmental Protection Agency (EPA) and U.S. Department of Agriculture – Rural Development (USDA-RD) have established policies based upon recognition of each agencies' review processes. Approval in the review process of one agency is accepted by the co-funding entity and vice-versa. The process eliminates the need for duplicative reviews, expedites project completion, and allows administrators to focus on other areas critical to program

monitoring. A mutual recognition of reviews, if adopted by HUD, would bring greater efficiency to program functions. An interagency memorandum developed in agreement with other federal agencies would ensure consistency and compatibility in reviews across federal entities. The attached preliminary engineering report serves as an example of an interagency agreement.

Align 24 CFR 58 Categorical Exclusions for public infrastructure projects with those of EPA State Revolving Fund (SRF) and USDA-RD

Alongside our request to accept environmental reviews of other federal agencies, COSCDA also seeks an update to 24 CFR 58. Often HUD's level of review for water and sewer projects is an Environmental Assessment while our funding partners like EPA and USDA-RD are completing categorically excluded subject to reviews. It would streamline the environmental review process if all funding partners were completing the same level of review. It would also aid in HUD recipients being able to accept other federal agency reviews without having to supplement them. As federal programs through EPA State Revolving Fund (SRF) and USDA-RD accept the level of review designation by one another, HUD could likewise adopt this policy. The policy adoption would support administrative efficiency while ensuring compliance is maintained in the environmental review process. COSCDA members with extensive environmental review experience are willing to assist HUD in revising 24 CFR 58 to insure that non-housing environmental review perspectives are available.

Update review standards with high-risk non-coastal developments

Another COSCDA priority involves developments in a high-risk non-coastal area. Current regulation prohibits the approval of HUD financial assistance for any activity in the floodway other than a functionally dependent use, a floodplain function restoration activity, or an action that is not subject to the requirements of 24 CFR Part 55. This strict prohibition can create unique project design challenges for HUD recipients, especially in mountainous regions. COSCDA applauds HUD's recent Notice CPD-17-013, "Notice for Interpreting the Limits of the Floodway for Linear Infrastructure Projects Complying with HUD Floodplain Management Regulations, 24 CFR Part 55," which clarified the vertical limits of the floodway and introduced exceptions for certain linear infrastructure located entirely below ground level or entirely above base flood elevation. COSCDA suggests, however, that HUD consider allowing additional exceptions for non-housing activities that meet Federal Emergency Management Agency (FEMA) guidelines regarding encroachments that would not result in an increase in base flood elevations (see 44 CFR 60.3(d)).

Apply consistent review standards across field offices

Field offices provide an essential role in program administration and technical support however guidance and review varies at times among regions. State administrative processes respond to HUD procedures including environmental review standards. Consistent standards allow states to adopt uniform procedures to accommodate HUD's policies. Instances exist though which apply different rules to a review process of the HUD field office. In many cases, turnover of staff brings with it different assessment standards to projects proposals. For example, one state agency reports different considerations for categorically excluded in review of the same project type. In this case, a water line replacement could not be considered categorically excluded unless the line was replaced in the exact location of the existing line regardless if the line was the

same size and not increasing capacity. Once new field staff was installed though, the assessment was reversed. Field office staff must adapt according to respective needs in the region and respond to individual issues many times on a case-by-case basis. Flexibility ensures minor complications do not upend project developments as long as overall compliance is achieved. However, general review procedures should be applied throughout all HUD field offices. COSCDA members ask that HUD provide additional training and other guidance for field office staff to promote greater consistency in environmental review standards.

Thank you for your consideration of these issues. COSCDA is available as a resource to CPD and offers our assistance in establishing solutions moving forward. Please feel free to reach out with any questions or concerns related to aforementioned matters.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dianne E. Taylor".

Dianne E. Taylor
Executive Director

Enclosed:
Federal interagency agreement template