



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF THE CHIEF FINANCIAL OFFICER

MAY 6 2015

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Department of Housing and Urban Development (HUD) is pleased to transmit this interim report to the House and Senate Committees on Appropriations pursuant to Title II of Division L of the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235) Joint Explanatory Statement. The Explanatory Statement directed HUD “to collaborate with the Council on Environmental Quality and affected Federal agencies specified in the Senate Report 113-182 to develop a coordinated environmental review process to simplify tribal housing development and related infrastructure needs. The agencies are directed to consult with tribes and tribally designated housing entities and report their conclusions, recommendations and any statutory changes that may be necessary to facilitate this progress to the Committees on Appropriations by May 1, 2015.”

HUD is actively coordinating with an inter-agency team, as directed by the Committees. This report outlines the progress to date and details planned next steps. Highlights from the interim report include:

- HUD has completed data collection from federal agencies.
- Half of the twenty six interviews scheduled with tribes and tribally designated housing entities (TDHEs) have been conducted and HUD is on schedule to complete the remainder of the interviews by the end of May 31, 2015.
- HUD has and will continue to hold briefings and listening session with tribes/TDHEs through June, 2015 and, if necessary, July, 2015. Briefings and listening sessions will be completed by July 30, 2015.
- The first formal tribal consultation will be held May 13–14, 2015 at the AMERIND Risk National American Indian Housing Council Annual Convention. The second formal tribal consultation will be take place at the National Congress of American Indians from June 30–July 2, 2015.
- The final report will be completed in August 2015 and, subject to the affected agencies’ clearance processes, submitted to the Committee.

The Department appreciates Congress’ interest to identify barriers in accessing federal programs, especially for our Nation’s most vulnerable populations. We look forward to reporting our recommendations, including necessary statutory changes, to the Committees on Appropriations

in the future. If you should have any questions or concerns, please contact Jenn Jones, Chief of Staff in the Office of Public & Indian Housing, at 202-402-4604.

Sincerely,

A handwritten signature in black ink that reads "Brad Huther". The signature is written in a cursive style with a large, stylized "B" and "H".

Brad Huther
Chief Financial Officer

Enclosure

Coordinated Environmental Review Process Interim Report

Prepared by:

U.S. Department of Housing and Urban Development

In collaboration with:

The Coordinated Environmental Review Process Workgroup

Consisting of Representatives from:

Council on Environmental Quality

U.S. Department of Agriculture

U.S. Department of Commerce

U.S. Department of Energy

U.S. Environmental Protection Agency

U.S. Department of Health and Human Services

U.S. Department of Interior

May 6, 2015

I. Introduction

It is well documented that Native Americans face some of the most challenging housing conditions in the country. Those challenges are largely attributable to remote locations and the lack of adequate infrastructure to support the development of affordable housing. In its report to the Congressional committees¹, the Government Accountability Office (GAO) made several recommendations, including, the establishment of a “coordinated federal environmental review process for tribal housing development.”² This recommendation was made to “increase consistency and reduce time and predevelopment cost for Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) grant recipients.”³

Mandate for the Project

Relying in part on the GAO report, in December 2014, the Senate Report accompanying the FY 2015 Transportation and Housing and Urban Development (HUD), and Related Agencies Appropriations Bill directed HUD “to collaborate with the Council on Environmental Quality and affected agencies⁴ . . . to develop a coordinated review process to simplify tribal housing development and its related infrastructure needs.”⁵ Further, the Committee directed the Secretary of Agriculture “to work with HUD . . . and other agencies to investigate opportunities to design a coordinated environmental review process for tribal housing and related infrastructure.”⁶ In addition, the Committee “encourage[d] EDA [the Economic Development Administration] to work with the Department of Housing and Urban Development to reduce duplication in the environmental review process.”⁷ Subsequently, the FY 2015 Joint Explanatory Statement directed HUD “to collaborate with the Council on Environmental Quality and affected Federal agencies specified in the Senate Report 113-182 to develop a coordinated environmental review process to simplify tribal housing development and related infrastructure needs.”⁸

¹ “Native American Housing: Additional Actions Needed to Better Support Tribal Efforts.” March 2014; hereinafter referenced as the “GAO report.” (available at <http://www.gao.gov/assets/670/662063.pdf>)

² *Id.* at page 34.

³ *Id.*

⁴ The report language defined the affected agencies as “including the Department of the Interior, Agriculture, Commerce, Energy, Health and Human Services, Treasury and the Environmental Protection Agency.” Subsequently, the Appropriations Committee staff released the Department of Treasury. A list of the workgroup members from each agency can be found at Appendix 1.

⁵ Senate Report 113-182, June 5, 2014, at page 121, accompanying S.2438 (available at <https://www.congress.gov/113/crpt/srpt182/CRPT-113srpt182.pdf>).

⁶ Senate Report 113-164, May 22, 2014, at page 53 (available at <https://www.congress.gov/113/crpt/srpt164/CRPT-113srpt164.pdf>).

⁷ Senate Report 113-181, June 5, 2014, at page 17, accompanying S.2437 (available at <http://www.gpo.gov/fdsys/pkg/CRPT-113srpt181/pdf/CRPT-113srpt181.pdf>).

⁸ Congressional Record Volume 160, No. 151 – Book II, December 11, 2014, at page 676 (available at <https://www.congress.gov/crec/2014/12/11/CREC-2014-12-11-pt2-PgH9307.pdf>)

The Issue

The fundamental issue to be addressed by this project is the lack of a coordinated approach to environmental reviews. The number of environmental reviews required to develop housing in Indian country can result in disparate compliance regimes, duplicative efforts and excess spending. In addition, constructing needed housing infrastructure is slowed down when complying with multiple agency environmental review requirements.

Project Approach

This project is designed to be implemented in three phases. Phase I involves the review of each of the seven Federal departments' requirements for environmental reviews⁹. In addition, during Phase I a number of listening sessions and briefings are being held with HUD's Office of Native American Program (ONAP) funding recipients to obtain input about the challenges they face when developing housing. To ensure a thorough understanding of the specific kinds of challenges faced by NAHASDA grantees in developing housing and administering housing activities, the briefings, listening sessions and tribal consultations will be augmented by targeted interviews.

Interviewees were identified and selected based upon geographic location, size and the type of housing development that the entity is engaged in. The focus is on four different categories:

- Category 1: Housing Development on Fee Simple Land without Infrastructure
- Category 2: Housing Development on Fee Simple Land with Infrastructure
- Category 3: Housing Development on Trust Land without Infrastructure
- Category 4: Housing Development on Trust Land with Infrastructure

As discussed on page 3, specific interview questions were developed for officials of tribes or tribally designated housing entities (TDHEs), the funding recipients, in each category.

Once the interviews are completed, the interagency workgroup will use the information from the partner agencies and funding recipients to develop potential solutions. Those possible solutions will be discussed with the funding recipients, using the tribal consultation process. Input from the tribes/THDEs will be gathered and considered during the second phase of the project.

Phase II will focus on analyzing the information collected in the first phase to identify commonalities and impediments in environmental review processes and develop workable solutions. During this phase, the interagency workgroup will continue to meet and identify possible recommendations.

⁹ In February 2011, the Streamlining Preconstruction Paperwork Workgroup as requested by the Infrastructure Task Force on Access prepared a report entitled "Overview of Tribal Water Infrastructure Funding application Processes and Recommended Paperwork Streamlining Opportunities". The information contained in this report serves as the baseline for the data collection efforts.

In the final phase (Phase III), HUD will explore the agency recommendations and conduct formal consultation with the tribes prior to determining the final recommendations designed to improve and expedite the environmental review processes.

II. Project Design

Review Existing Information

At the outset of this project, a basic review of existing research and data was necessary. It included an examination of the reports entitled “Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities¹⁰” and “Native American Housing: Additional Actions Needed to Better Support Tribal Efforts¹¹.” The seven Federal departments most typically involved in environmental reviews for tribal housing infrastructure identified are the Department of Housing and Urban Development, Office of Native American Programs (HUD ONAP); the Department of Interior, Bureau of Indian Affairs (BIA); the Department of Commerce, Economic Development Administration (EDA); the Department of Energy (DOE); the Environmental Protection Agency (EPA); the Department of Health and Human Services, Indian Health Service (IHS); and the Department of Agriculture (USDA), Rural Housing Services (RHS) and Rural Utilities Services (RUS).¹² Based on the existence of additional affected agencies and the passage of time, each agency reviewed and updated its information to the existing National Environmental Policy Act (NEPA) matrix, which accompanied the Streamlining Preconstruction Paperwork Workgroup report, to ensure that the matrix was complete and up-to-date. This first-phase step has been completed.

The Development of Questionnaires

During this first phase, it was necessary to develop a questionnaire on the environmental review process to better understand the NEPA environmental review processes prescribed by law, policy, or regulation for each of the eight Federal agencies. In addition, the Council on Environmental Quality (CEQ) was included in this data collection because CEQ has been involved in a similar effort to provide guidance to Federal agencies on integrating their environmental review processes, as well as issuing guidance on collaborative efforts. The questionnaire was developed based upon the NEPA matrix and focused on all eight agencies’ environmental review processes, as well as the regulations and statutes specific to each. Upon completing interviews, each agency was provided a copy of its responses to ensure the accuracy and completeness of the information. In addition, CEQ was consulted on current policy guidance documents available to Federal agencies for conducting efficient and expeditious environmental reviews.

¹⁰ This document was prepared by the Streamlining Preconstruction Paperwork Workgroup as requested by the Infrastructure Task Force on Access in February 2011.

¹¹ GAO Report to Congressional Committees (March 2014).

¹² While seven departments were interviewed, there are two agencies within the Department of Agriculture that were interviewed separately – Rural Housing Services and Rural Utilities Services. Therefore, throughout this document there will be references to eight agencies.

A second survey document was developed to focus on issues concerning the environmental review process from the perspective of tribes and TDHEs. To ensure that the information being collected would provide insight on the impact of the environmental review process with regard to housing projects developed on fee simple land or trust land with or without infrastructure. There are four separate questionnaires covering four different categories:

- Questions for Tribes/TDHEs who develop housing on fee simple land,
- Questions for Tribes/TDHEs who develop housing and infrastructure on fee simple land,
- Questions for Tribes/TDHEs who develop housing on tribal trust land, and
- Questions for Tribes/TDHEs who develop housing and infrastructure on tribal trust land.

Interviews

During the final step of Phase I, officials at all eight agencies were interviewed. Upon completion of the questionnaires, the data collected¹³ was reviewed and findings are now being summarized. If additional information or clarification is needed, the agencies will be contacted with specific questions. All data will be analyzed and the findings shared with all affected Federal agencies as well as CEQ.

HUD is also in the process of interviewing tribes/TDHEs to identify impediments to housing development based on the current environmental review processes. Recommendations identifying tribes and TDHEs to be interviewed in each category were obtained from housing associations through the National American Indian Housing Council (NAIHC) and the ONAP Administrators.

Communication and Feedback

Communication and feedback are necessary throughout all three phases. Communication across Federal agencies as well as tribes/TDHEs is critical to the success of the project. While the questionnaires and interviews are being conducted, communication and feedback sessions are being held between the seven agency partners as well as with tribes and TDHEs. On a weekly basis, the partner agencies meet to discuss issues and share updates. At strategic points during this project, the partner Federal agencies are meeting to discuss recommendations on how to proceed. To ensure that access to all information concerning this project is available to all seven Federal departments, the notes, action items, and documents discussed and shared during the regular weekly meetings are distributed to all agency partners. In addition, they are posted online where tribes/TDHEs and other stakeholders can follow the process.

With regard to tribes and TDHEs, a variety of methods are being used to obtain their input. First, briefings with tribes/TDHEs are held to inform them about this project. In addition, listening sessions were and continue to be used to seek the tribes' and TDHEs' perspectives on agency environmental review requirements when developing housing projects, as well as their recommendations on how the environmental review process could be more effective, efficient, and timely. Listening sessions will be held throughout the country. HUD will conduct formal consultation sessions with tribes to obtain and

¹³ See Appendix 3-2.

incorporate their feedback in the report. Currently, HUD has scheduled two consultation sessions at the AMERIND Risk/NAIHC Annual Convention and the National Congress of American Indians (NCAI) conference¹⁴. The first tribal consultation will be conducted at the AMERIND Risk/NAIHC Convention (May 12—14, 2015). HUD will share the information gathered to date in Phase I and the interim report. HUD will consider feedback from the tribal consultation in developing the draft final report. A draft final report will be shared with tribes/TDHEs prior to the second consultation session (at NCAI) to obtain their feedback.

Analysis and Final Recommendations

Armed with the information gathered through the data collection phase, HUD will analyze the information obtained from the interviews, listening sessions, and tribal consultation sessions, and draft a final report with specific recommendations. Tribes and TDHEs will then be asked to comment on whether the recommendations in the draft report offer viable solutions for addressing their challenges and improving the environmental review process.

Finally, as mentioned above, HUD will edit the draft final report to incorporate feedback received from the second tribal consultation, coordinate the final review among the affected agencies, and then submit the report for HUD and partner agency clearance. Once all agency clearances are obtained, the final report will be submitted to Congress.

III. Steps Completed to Date

This effort began with reviewing a matrix developed in 2011 by an interagency committee for the grant paperwork streamlining workgroup of the Water Infrastructure Task Force¹⁵. The Federal agencies involved in that effort included the EPA; HUD; IHS; the U.S. Department of Interior, Bureau of Reclamation (USBR); and the USDA. The matrix summarized the identified Federal agencies' regulations and guidance documents for their respective NEPA environmental review processes.

Two new matrices have been developed¹⁶ that build on the 2011 matrix to lay out the NEPA requirements as well as related statutory authorities for the eight Federal agencies. These agencies are involved in this project to support tribes' and TDHEs' efforts to provide tribal members with affordable housing and the infrastructure to support it. One matrix is currently being developed by all of the agencies to provide a baseline picture of all of the requirements that could apply to a tribal housing development project using federal funds.

¹⁴ See Appendix 2: Communication Sessions with the Tribes or TDHEs.

¹⁵ See Appendix 3-1: NEPA Process Matrices -Review of Agency Requirements for Complying with the National Environmental Policy Act (NEPA) for Tribes and Alaska Native Villages, August 4, 2011, version 1.

¹⁶ See Appendix 3: NEPA Process Matrices.

A second matrix was developed to capture interviews with all eight agencies about their environmental review processes in general, as well as their programs that fund Indian housing and infrastructure projects on both trust and fee simple land¹⁷.

The interview questions were designed around the environmental review process tribes must assume as the “responsible Federal official,” according to section 105 of NAHASDA and section 104(g) of the Housing and Community Development Act. Under these legislative authorizations, tribes assume responsibility for compliance with NEPA and the other Federal laws and authorities that would otherwise apply to HUD, according to 24 CFR part 58, “Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.” By using this orientation to part 58 for developing these questions, HUD ensured that the focus of this examination was to support tribes’ efforts to provide affordable housing and associated infrastructure to their tribal members, as stated in the GAO report.

Key components of the data collected are summarized below. Additional detailed information will be provided in the final report.

Summary Information Gathered on Tribal Housing and Infrastructure Projects Eligible for Federal Funding Assistance

It is important to learn from each of the agencies¹⁸ the range of eligible tribal housing and infrastructure activities receiving Federal assistance (either loans or grants) from a variety of funding programs they administer, and whether those activities could be undertaken on trust land (including trust allotments) and fee simple land.

All eight agencies fund projects on both trust land¹⁹ and fee simple land. However, two of the agencies’ programs are primarily targeted to tribal communities on trust land, rather than individual tribal members, such as individuals whose homes are on trust or fee simple land.

Four agencies fund tribal housing projects, both single-family and multifamily residential units that include such things as weatherization and energy efficiency, bringing units up to current code specifications, renovation, rehabilitation, and new construction. One agency also funds all types of housing infrastructure projects, such as electrical, drinking water, sewer, waste water, and/or storm water, and roads and bridges. Another agency administers funds disbursed to tribes by the Federal Highway Administration for roads and bridges as part of tribes’ overall transportation systems, which includes access to tribal housing.

Four other agencies fund only infrastructure projects. Three of these agencies fund projects for drinking water, sewer, solid waste, waste water and/or storm water systems; and one of them also funds roads

¹⁷ See Appendix 3-2, Questionnaire on Federal Agency Partners’ NEPA Process and Funding Sources for Indian Housing and Infrastructure, April 2015.

¹⁸ For purposes of this analysis, reference is made to the eight Federal offices interviewed rather than the seven affected agencies. Each office addresses different issues within the housing development process.

¹⁹ References to tribes are intended to include Alaska Native Villages.

and bridges as well. Another of these agencies may provide funding for electrical services projects to tribes, though the overwhelming majority of the applications received are from rural electric cooperatives or companies, which may provide services to tribes as well.

Three agencies stated their programs were not oriented to providing infrastructure services directly to individual tribal housing and subdivision projects nor upgrading utilities within existing housing units (both single-family and multifamily), but rather had a community-wide orientation for public health and safety. However, eligible activities of two other funding agencies are oriented to providing such upgrades to existing residential units on both trust and fee simple land.

Two agencies also issue permits for requests to connect to their facilities or for right-of-way approvals for services projects that cross trust land.

Federally-Funded Actions Related to Levels of Environmental Review

Additional information needed from the eight agencies was whether there are notable differences in how they classify federally funded actions according to their respective environmental regulations. The NEPA reviews refer to three levels of review: categorical exclusions, environmental assessments (EAs), and environmental impact statements (EISs). Each type of NEPA review requires a different level of effort.

One agency stated that none of these three levels of review apply to its tribal programs because the programs are either statutorily exempt or it has been determined that processes undertaken by the agency for other statutes are “functionally equivalent with NEPA.” Therefore, no further NEPA review is required. However, the environmental review associated with other “cross-cutting Federal authorities” must still be considered. These include the environmental permitting and approvals necessary under the National Historic Preservation Act, the Endangered Species Act, the Clean Water Act, and the Executive Orders on Floodplain Management and Wetlands Protection.

For the remaining seven agencies, specific actions they fund may use a categorical exclusion, EA, or EIS.

Categorical exclusions are actions that, absent extraordinary circumstances, require neither completion of an EA or EIS because the agency has determined they normally “do not individually or cumulatively have a significant effect on the human environment.”²⁰ Therefore, they generally require the least level of effort of the three levels of review.

Most categorical exclusions for the remaining seven agencies are for similar actions, such as:

²⁰ Council on Environmental Quality Regulations Implementing the Procedural Requirements of the National Environmental Policy Act, 40 CFR parts 1500-1508. The requirements for Federal agency NEPA implementing procedures are set out at 40 CFR 1507.3 and those agency procedures must include categorical exclusions described at 40 CFR 1508.4.

- Improvements, upgrades or replacement in-kind of existing infrastructure, construction of roads in existing rights-of-way with minimal change in use or capacity, connections to energy grids, and similar actions, and/or
- Improvements to and rehabilitation of existing single-family and multifamily residential units, such as weatherization, energy efficiency, renovation, modernization, and similar actions.

In addition to the actions listed above, one of the agencies also classifies amendments to right-of-way agreements as a categorical exclusion, and two of the agencies also classify construction or reconstruction of single-family housing as a categorical exclusion so long as the infrastructure is already in place (except for necessary installation of access roads and utility lines within the parcel boundary).

Regarding actions requiring an EA, four agencies use as the standard for making determinations as to whether an EA is required that the proposed action “exceeds the criteria” for categorical exclusions as described in their environmental regulations. Therefore, completion of an EA in accordance with NEPA becomes necessary.

Two other agencies use the criterion of potential effects on important resources, such as cultural resources, floodplains, wetlands, farmlands, or others, in making their decisions to prepare an EA. Another agency makes the determination of whether to prepare an EA based upon the existence of upgrades to systems or the construction of new systems, which are limited in scope and therefore there is no potential for a significant impact on the human environment. Specifically, such actions occur on previously disturbed or developed rights-of-way, and the proposed systems do not exceed a certain length.

With regard to the review of EIS, one agency stated the mass and scale of actions proposed by tribes would never rise to the level of having potential for significant impact on the human environment as described in their regulations and, therefore, an EIS would never be necessary.

Two other agencies stated they do not entertain funding assistance for tribal housing or infrastructure projects that require the preparation of an EIS. This is because EIS-level projects are lengthy in nature and demanding on resources needed to complete such reviews. Therefore, undesirable when weighed against the urgent need to make improvements to existing tribal housing or developing affordable housing, including the infrastructure to support tribal housing projects.

Four more agencies stated the preparation of an EIS is rare for tribal projects, or any agency-funded projects for that matter. One of the four agencies also stated that, in general, their funding program requirement that projects be completed within two years tended to discourage EIS-level projects.

Initiation of the Environmental Review Process and Scope

The eight agencies also provided information on what triggers the need for an environmental review for each of them, and the scope of the review and information to be gathered. The term “environmental review” is being applied here as a generic term to mean all levels and types of environmental reviews,

including categorical exclusions, environmental assessments, and environmental impact statements, as well as statutory exemptions and “functional equivalency” determinations whereby “cross-cutting Federal authorities” must still be considered.

Seven agencies stated the environmental review process is triggered when an application is received from the tribe or TDHE. The eighth agency stated the process is triggered when funds are received from Congress for projects that are on a priority list.

Regarding the scope of agency environmental reviews, four agencies stated the scope of the environmental reviews address all “connected actions,” in accordance with 40 CFR 1508.25. The funded activity may trigger other dependent activities. If those activities are logical parts of the funded activity, they must be considered in the environmental review process. The other four agencies stated that, as a matter of course, only the actions funded by their agencies are considered in the scope of the environmental review.

One agency requires its applicants to submit the majority of environmental information needed for the review up front. Their staff provides technical assistance to applicants as to what information must be submitted.

Another agency has been authorized by Federal law to allow tribes to assume the role of “responsible Federal official” for purposes of compliance with NEPA and other Federal laws and authorities. Therefore, tribes are responsible for completing all environmental reviews.

The other six agencies have professional staff at the national, regional, or field office level that are responsible for gathering information and completing environmental reviews for the office.

Concluding the Environmental Review Process

The eight agencies provided information on the specific point at which the environmental review process is concluded, when funds could be committed and when a housing project could be started.

Seven agencies stated the environmental review process is complete as soon as the authorized agency official signs the review or approves awarding a grant or loan. However, the eighth agency stated the environmental review process is complete once the “responsible Federal official” for the tribe signed the completed environmental review or, under some circumstances, when the funding office had authorized funds to be committed and spent by the tribe.

Concerning when project funds may be committed and spent, seven agencies require completion of the entire application process before the project could begin. This not only included completion of the environmental review but also such things as planning, engineering, design work; conformance with community plans and minimum housing standards; and financial review. In some cases, these other procedural requirements run simultaneously with the environmental review process. In other cases, completion of these other procedural requirements could occur well after the environmental review

process has been completed. However, the eighth agency stated that projects could begin as soon as either the “responsible Federal official” for the tribe signed the completed environmental review or, in other situations, as soon as the funding office authorized funds to be committed and spent by the tribe.

CEQ’s Contribution

CEQ was interviewed as well. As the NEPA subject matter expert to Federal agencies, CEQ provides valuable leadership, advice, and guidance on how agencies may integrate their various environmental review processes with those of other agencies, as well as integrating the processes under other environmental laws.

There is CEQ guidance on collaborative efforts and integration available at www.nepa.gov:

- “Improving the Process for Preparing Efficient and Timely Environmental Reviews under the National Environmental Policy Act,” CEQ Memorandum for Heads of Federal Departments and Agencies, March 6, 2012.
- “Factors for Determining Whether to Invite, Decline or End Cooperating Agency Status,” pages 4-5 of “Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act,” CEQ Memorandum for the Heads of Federal Agencies, January 30, 2002.
- Posted on the Federal Emergency Management Agency’s (FEMA’s) Unified Federal Review website is the guidance for environmental and historic preservation practitioners developed to assist agencies in integrating their reviews for recovery projects following Presidentially-declared disasters. The draft guide for applicants seeking emergency assistance provides information to applicants concerning projects eligible for funding, as well as information that FEMA requires from applicants before FEMA approves funding for their project. Also of interest is FEMA’s Public Assistance Applicant Handbook, FEMA P-323/March 2010.

CEQ has also been working with several Federal agencies on preparing cooperative agreements and processes to streamline and expedite their environmental review processes. There is a general consensus that more needs to be done to integrate the review processes for projects, such as housing, that receive multiple sources of Federal assistance.

Tribal Interviews

At the same time the Federal agencies were being interviewed, interviews with selected tribes and TDHEs began; however, the interviews are not completed. Several tribes have been interviewed across multiple categories, and initial observations from these interviews are detailed below. Thirteen interviews have been conducted with the following tribes and TDHEs²¹:

1. Sault Ste. Marie Tribe of Chippewa Indians
2. Qualla Housing Authority Eastern Cherokee

²¹ Some tribes and TDHEs develop housing in more than one category.

3. Navajo Housing Authority
4. Red Lake Reservation
5. Northern Arapaho
6. Housing Authority of the Choctaw Nation of Oklahoma
7. Cheyenne River Housing Authority

Interviews have been held in all four categories:

Category	Interviews Completed
1. Tribes that have performed housing projects on fee simple land with the infrastructure already in place prior to housing development.	3
2. Tribes that have performed housing projects on fee simple land when the infrastructure necessary for housing was developed at the same time as the housing.	2
3. Tribes that have performed housing projects on trust land with the infrastructure already in place prior to housing development.	4
4. Tribes that have performed housing projects on trust land when the infrastructure necessary for housing was developed at the same time as the housing.	4

An additional 13 interviews are planned, with the goal of completing up to nine interviews with tribes/TDHEs that develop housing in each of the above delineated categories. These interviews will be completed in May 2015, depending on the availability of the tribes and TDHEs.

While it is early in the tribal interview process to identify any concrete themes or common experiences or issues across all four categories, HUD has made the following initial observations:

- The tribes interviewed to date are all conducting environmental reviews under 24 CFR part 58.
- Several tribes noted that they only use one source of Federal funding for housing construction per project (e.g., HUD, BIA) because layering sources can complicate the environmental review process.
- Developing or rehabilitating housing on fee simple land is generally easier than on tribal trust land, which requires the involvement of the Bureau of Indian Affairs to either provide a new lease or verify the validity of an existing lease and/or approve utility rights of way.
- Projects for which HUD requires an Environmental Assessment may only trigger a Categorical Exclusion for the other agencies involved (e.g., BIA, USDA).
- Generally, tribes would consider entering into a government-to-government agreement if it would simplify the environmental review process.

There have been several briefings and listening sessions with tribes and TDHEs. The purpose of these sessions is to inform them of the current effort to analyze the environmental review process, to get their

perspectives on the issues they encounter with varying agency environmental review requirements, and to hear their thoughts about how the process might be made easier (See Appendix 2: Communication Sessions with tribes and TDHEs for a list of the sessions held).

IV. Next Steps

Phase I

Work is underway to complete the remaining interviews with tribes and TDHEs. As noted above, HUD is anticipating that this task will be completed in May 2015.

HUD will lead sessions with all of the partnering Federal agencies to identify possible solutions to the issues raised by the tribes and TDHEs. Interviews with the agencies have already been completed, and the results will be provided to the agencies for their review, which will provide a basis for this discussion. The first of these brainstorming sessions will occur in Phase I as well.

In addition to the listening and briefing sessions being held, there will be formal tribal consultation (May 12—14, 2015) with the tribes to obtain feedback based on the data gathered from the agencies, tribes, and TDHEs during the interviews.

Phase II

Following completion of the data collection, HUD will analyze the outcomes from the consultation and suggested recommendations from the agencies and draft a final report with specific recommendations for changes to streamline the environmental review process. The first draft of the final report will be completed in the June/July timeframe after which each agency will commence its clearance process.

HUD will then lead discussions with all of the partnering agencies to discuss the proposed recommendations identified in the draft report, and then revise the report based upon these discussions.

A follow-up tribal consultation(s) will be held with the tribes to discuss the draft final report and recommendations. The tribes will be asked to provide their thoughts on whether the recommendations will offer a viable solution for eliminating their challenges and streamlining the environmental review process.

Phase III

The final report will be revised to include the recommendations and conclusions from the second consultation with the tribes and final input from the partner agencies. This final input will be acquired during brainstorming sessions held during phase III (July, 2015). The final report will be completed in August 2015, subject to consensus among the agencies and each individual agency's clearance process.

APPENDIX 1

Coordinated Environmental Review Process Workgroup Members

U.S. Department of Housing and Urban Development (Lead Agency)

Office of the Assistant Secretary for Public and Indian Housing

Jennifer Jones, Chief of Staff

Office of Native American Programs

Rodger Boyd, Deputy Assistant Secretary, Office of Native American Programs

Karen Newton Cole, Senior Executive for Project Management (on detail to ONAP for project)

Jennifer Bullough, Director, Office of Grants Evaluation

Deana O'Hara, Senior Advisor to the Deputy Assistant Secretary

Office of Environment and Energy

Danielle Schopp, Director

Elizabeth Zepeda, Environmental Specialist

Office of General Counsel

Christopher Hartenau, Senior Attorney Advisor

Alyce Thompson, Attorney Advisor

Jad Atallah, Attorney Advisor

Council on Environmental Quality

Horst Greczimieli, Associate Director for NEPA Oversight

Michael Drummond, Deputy Associate Director for the Unified Federal Review

U.S. Department of Agriculture

USDA Rural Development

Tedd Buelow, Native American Coordinator

Richard Fristik, Senior Environmental Protection Specialist (Rural Utilities Service)

Peggy Wade, Senior Environmental Protection Specialist (Rural Housing Service)

Juliet Bochicchio, Senior Environmental Specialist (RB-CS)

USDA Tribal Relations

Leslie Wheelock, Director

U.S. Department of Commerce

Office of the Secretary

Catherine Barrett, Deputy Director for Policy and Strategic Planning

Economic Development Administration

Shannon FitzGerald, Environmental Protection Specialist

National Telecommunications and Information Administration

Frank Monteferrante, Environmental Compliance Specialist

APPENDIX 1

Coordinated Environmental Review Process Workgroup Members

U.S. Department of Energy

Office of NEPA Policy and Compliance

Bradley Mehaffy, Environmental Protection Specialist

Denise Freeman, Environmental Protection Specialist

U.S. Environmental Protection Agency

Office of Waste Water Management

Matthew Richardson, Environmental Protection Specialist

Leslie Corcelli, Oakridge Institute for Science (ORISE) Fellow

Office of Ground Water and Drinking Water

John Irizarry, Environmental Protection Specialist

Susanna Bains, Oakridge Institute for Science (ORISE) Fellow

Office of Federal Activities

Jessica Trice, Environmental Protection Specialist (NEPA Compliance Division)

U.S. Department of Health and Human Services

Indian Health Services

Robert McSwain, Acting Director of Indian Health Services

Mark Calkins, Director, Division of Sanitation Facilities Construction

Stephen Aoyama, Senior Engineer

U.S. Department of the Interior

Office of the Assistant Secretary – Indian Affairs

Lawrence Roberts, Principal Deputy Assistant Secretary for Indian Affairs

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APPENDIX 2

Communication Sessions with the Tribes or TDHEs

Dates	Area ONAP	Organizations	Location	Completion	Event
2/3/2015	Headquarters	NAIHC/Legislative Conference	Washington, DC	yes	Listening session
3/17 -19/2015	SWONAP	Nevada/California Indian Housing Association Quarterly Meeting	Sacramento, CA	yes	Listening session
3/31/-4/1/2015	NPONAP	United Native American Housing Association (UNAHA) Annual Meeting	Denver, CO	yes	Listening session
4/10/2015	AKONAP	Association of Alaska Housing Authorities (AAHA) Quarterly Meeting	Anchorage, AK	yes	Listening session
4/20/2015	SPONAP	HUD hosted small group meeting	Tulsa, OK	yes	Briefing
5/12-14/2015	National	AMERIND/NAIHC Annual Convention	Scottsdale, AZ		Consultation
5/14/2015	E/WONAP	Great Lakes Inter-Tribal Council Meeting (GLITC)	Manitowoc, WI		Listening session
5/18-21/2015	E/WONAP	United South and Eastern Tribes (USET) Meeting	Mashantucket, CT		Listening session
5/18-21/2015	NWONAP	Affiliated Tribes of Northwest Indians, Mid-year Convention	Confederated Tribes of Warm Springs, OR		Listening session
5/18-21/2015	SPONAP	Southern Plains Indian Housing Association (SPIHA) Meeting	Tulsa, OK		Listening session
5/19-21/2015	E/WONAP	National Tribal Forum on Air Quality	Battle Creek, MI		Listening session
6/3-4/2015	E/WONAP	Midwest Alliance of Sovereign Tribes (MAST) Meeting	Green Bay, WI		Listening session
6/28-7/1/2015	National	NCAI 2015 Mid-Year Conference	St. Paul, Minnesota		Consultation
7/21-23/2015*	SWONAP	Southwest Indian Housing Association (SWIHA)	Tucson, AZ		Briefing
TBD*	National/USDA	Quarterly Tribal Consultation	Conference Call		Consultation
TBD*	Pacific Region/BIA	Housing Improvement Program (HIP) workshop	San Pasqual Band of Mission Indians Valley Center CA		

*These forums will be utilized if necessary.

APPENDIX 3

NEPA Process Matrices

This appendix consists of the following attachments:

1. Review of Agency Requirements for Complying with the National Environmental Policy Act (NEPA) for Tribes and Alaska Native Villages, August 4, 2011, version 1
 - Table 1: NEPA Summary by ITF Federal Agency Partner
 - Table 2: Internal NEPA Compliance Requirements of Each ITF Federal Agency Partner
2. Questionnaire on Federal Agency Partners' NEPA Process and Funding Sources for Indian Housing and Infrastructure, April 2015

Review of Agency Requirements for Complying with the National Environmental Policy Act (NEPA) for Tribes and Alaskan Native Villages

In support of the grant paperwork streamlining workgroup of the Water Infrastructure Task Force, this review of federal agency regulations and guidance documents focuses on Tribal water and wastewater infrastructure projects, and technical assistance to Tribes for the U.S. Environmental Protection Agency (EPA), the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Health and Human Services Indian Health Service (IHS), the U.S. Department of Interior Bureau of Reclamation (USBR), and the U.S. Department of Agriculture (USDA). All information provided below is summarized from the federal agency regulations and guidance documents (see reference list after the table), and should not be quoted “as is.” The symbol (...) identifies additional information available in the documents reviewed, but not referenced directly because it is presumed to be not directly applicable. In addition, analysis comments are made in italicized font to distinguish them from the overall summary. Relevant agency checklists and/or required environmental information are provided in Appendices A through D for reference. Note that the analysis only includes NEPA, not other environmental laws and regulations.

TABLE 1: NEPA SUMMARY BY ITF FEDERAL AGENCY PARTNER

EPA	HUD	IHS	USBR	USDA
A. NEPA Applicable Activities				
EPA actions subject to NEPA (40 CFR §6.101(a)) include: <ul style="list-style-type: none">The award of wastewater treatment construction grants under Title II of the Clean Water Act (CWA);EPA's issuance of new source National Pollutant Discharge Elimination System (NPDES) permits under section 402 of the CWA;(...). Actions statutorily exempt from NEPA: <ul style="list-style-type: none">EPA actions under the CWA, except those identified in §6.101(a); andEPA actions under the Clean Air Act.	<i>HUD activities subject to NEPA are described under 24 CFR Parts 50 and Part 58, depending on the responsible party for the NEPA review, i.e., HUD (Part 50), or the Tribe (Part 58). Under 24 CFR Parts 50 and 58: the following HUD activities are exempt from NEPA (only those relevant to this review are listed here):</i> <ul style="list-style-type: none">Environmental and other studies, resource identification and the development of plans and strategies;Public services that will not have a physical impact or result in any physical changes, including services for employment, (...), health, (...) energy conservation;Engineering or design costs;Technical assistance and training;(...); andAssistance for improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration. <i>Under 24 CFR Part 50 regulations apply to:</i> <ul style="list-style-type: none">All HUD policy actions, andAll HUD project actions. <i>Under 24 CFR Part 58 regulations apply to activities where statutory authority exists for recipients to assume environmental responsibilities, including:</i> <ul style="list-style-type: none">Community Development Block Grant programs;(...);Assistance provided under NAHASDA under:<ul style="list-style-type: none">(i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities; and(ii) Section 806 for Native Hawaiian Housing Block Grants; andIndian Housing Loan Guarantees.	IHS activities and programs that may require environmental review and compliance include (<i>relevant to this review</i>): <ul style="list-style-type: none">Grants and programs that provide grants;Contracting and Acquisitions;Custodial and grounds maintenance;(...); andConstruction (including sanitation facilities, renovations, and ground disturbing activities).	NEPA compliance is triggered by a discretionary Federal action that is subject to USBR control and responsibility, examples include: <ul style="list-style-type: none">Planning and construction of a project;The granting of a permit to a third party;The provision of Federal funding in a third party project; orOther discretionary actions where a Federal decision is required.The regulations (40 CFR 1508.18(a)) define a Federal action as including new and continuing activities, actions partly or entirely financed by Federal agencies (where some control and responsibility over the action remains with the Federal National Environmental Policy Act Handbook 3-4 agency [43 CFR 46.100]), actions conducted by Federal agencies, actions approved by Federal agencies, new or revised agency rules or regulations, and proposals for legislation.	Actions by USDA RUS including (<i>relevant to this review</i>): <ul style="list-style-type: none">The approval of financial assistance pursuant to the Electric, Telecommunications, and Water and Waste Programs;The disposal of property held by RUS pursuant to such programs;(...).

EPA	HUD	IHS	USBR	USDA
B. Actions That Require/May Require an Environmental Assessment (EA)				
Actions that normally require an EA include: <ul style="list-style-type: none">The award of wastewater treatment construction grants under Title II of the CWAEPA's issuance of new source NPDES permits under section 402 of the CWAEPA actions involving renovations or new construction of facilities(...)	<u>Under 24 CFR Part 50</u> : No specific requirements. <u>Under 24 CFR Part 58</u> : An EA is required if a project is not exempt (see NEPA Applicability above) or categorically excluded.	An EA is usually required when: <ul style="list-style-type: none">Environmental effects are uncertain, orWhen the proposed project does not fit into the IHS or HHS categorical exclusions (most relevant exclusions are for construction-type activities) The purpose of the EA is to determine the need for an EIS or to satisfy a specific environmental requirement (e.g., IHS <u>requires an EA for proposals for a new solid waste landfill or a new wastewater plant that may discharge to local waters</u>).	An EA will be prepared for all USBR actions, except those: <ul style="list-style-type: none">Covered by a categorical exclusion;Covered sufficiently by an earlier environmental document; orFor which a decision has already been made to prepare an EIS. The purpose of the EA is to allow the responsible official to determine whether to prepare an EIS.	An EA will be prepared for all proposed actions that are neither categorical exclusions nor normally requiring an EIS. For water and waste programs, an EA shall be prepared for applications for financial assistance for all proposed actions specifically not defined as a categorical exclusion or otherwise specifically categorized by the Administrator on a case-by-case basis.
C. Actions that Normally Require/May Require an Environmental Impact Statement (EIS)				
EPA actions that normally require an EIS include (<i>unlikely to apply to Tribal project</i>): <ul style="list-style-type: none">New wastewater treatment facilities or water supply systems for a community with a population greater than 100,000Expansion of existing wastewater treatment facilities that will increase existing discharge to an impaired water by greater than 10 MGD(...). Additional criteria relevant to the action may require an EIS (<i>see list of extraordinary circumstances below</i>)	<u>Under 24 CFR Part 50 and 58</u> : An EIS is required when the project: <ul style="list-style-type: none">Is determined to have a potentially significant impact on the human environment;Would provide a site or sites for, or result in the construction of, hospitals or nursing homes with 2,500 or more beds; andWould remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units, or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units. <u>Under 24 CFR Part 50</u> : In addition to the above, an EIS may be required when the environmental concerns of one or more Federal authorities will be affected by the project (<i>i.e., other environmental laws and regulations</i>) <u>Under 24 CFR Part 58</u> : In addition to the above, an EIS is required when the project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.	EISs are written when “significant environmental impacts are likely to occur,” as determined by the environmental assessment (EA). (<i>IHS does not appear to provide categories of activities that always require an EIS</i>).	USBR major actions that normally require an EIS include the following proposals: <ul style="list-style-type: none">Feasibility Reports (FR) on water resources projects;Definite Plan Reports (DPR) on water resources projects if not covered by an EIS at the FR stage or when there are major changes;Repayment of water service contracts or amendments for irrigation, municipal, domestic, or industrial water where NEPA compliance does not already exist;Project/operation modifications that cause a significant new impact;Initiation of project construction if not covered by an EIS or when causing significant new impacts;An EIS is normally required for a major Federal action where environmental effects are potentially significant. Major USBR actions normally requiring the preparation of an EIS are listed in Departmental Manual 516 DM 14.4.(...).	Under the water and waste programs, no groups or sets of proposed actions normally require an EIS. The environmental review process is used to identify proposed actions for which an EIS is necessary. When an EIS is required, prior completion of an EA is not mandatory.

EPA	HUD	IHS	USBR	USDA
D. Categorical Exclusions (<i>Note: analysis only includes NEPA, not other environmental laws and regulations</i>)				
<p>EPA actions may be categorically excluded if eligible, and action <u>does not involve any extraordinary circumstances</u> (<i>see below</i>). Eligible categorical exclusion with required documentation include:</p> <ul style="list-style-type: none"> • Actions at <u>EPA owned or operated facilities</u> involving routine O&M (...) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. • Actions relating to <u>existing infrastructure systems</u> (e.g., sewer, drinking water, and stormwater systems) that involve <u>minor upgrading, or minor expansion</u> of system capacity or rehabilitation of the existing system and system components or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. • Actions in <u>unsewered communities involving the replacement of existing onsite systems</u>, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate existing discharge. • Actions involving <u>re-issuance of a NPDES permit</u> for a new source providing the conclusions of the original NEPA document are still valid, there will be no degradation of the receiving waters, and the permit conditions do not change or are more environmentally protective. • Actions for <u>award of grants</u> authorized by Congress under EPA's annual Appropriations Act that are <u>solely for reimbursement</u> of the costs of a <u>project that was completed</u> prior to the date the appropriation was enacted. <p>Categorical exclusion with no required documentation: (<i>none are assumed to be applicable to Tribal infrastructure</i>)</p>	<p><u>Under 24 CFR 50</u>: Categorical exclusions apply to (<i>only those relevant to this review are listed</i>):</p> <ul style="list-style-type: none"> • Building rehabilitation and improvements under certain conditions limiting costs and changes in density, capacity, and land use; • An individual action on small projects (e.g., 4 dwelling units where there is a maximum of four units on any one site, 5 or more housing units developed on scattered sites); and • Acquisition of an existing structure or vacant land provided it is retained for the same use. <p><u>Under 24 CFR 58</u>: Categorical exclusions apply to:</p> <ul style="list-style-type: none"> • Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements when facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20% (e.g., replacement of water or sewer lines ...). • (...) • Building rehabilitation and improvements under certain conditions limiting costs and changes in density, capacity, and land use; • An individual action on small projects (e.g., 4 dwelling units where there is a maximum of four units on any one site, 5 or more housing units developed on scattered sites); • Acquisition of an existing structure or vacant land provided it is retained for the same use. <p>In addition, the following categorical exclusions are not subject to Sec. 58.5 (<i>i.e., other environmental laws and regulations</i>)</p> <ul style="list-style-type: none"> • Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs; • Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations. 	<p>Categorical exclusions apply to IHS program actions whether carried out directly by IHS, or funded or otherwise sponsored by IHS. These include the following (<i>relevant to this review</i>):</p> <ul style="list-style-type: none"> • Provision of Tribal technical assistance (TA) for (...) and TA for the O&M of sanitation facilities; • Actions associated with construction of sanitation facilities to serve Indian homes and communities (with appropriate documentation) except that the following actions are <u>NOT</u> included: <ul style="list-style-type: none"> (iii) Construction of a sanitary landfill at a new waste disposal site; and (iv) Construction of a new wastewater treatment facility with direct discharge of treated sewage to surface waters. 	<p>Categorical exclusions applicable to USBR actions include the following (<i>relevant to this review</i>):</p> <p><u>Project Implementation Activities</u></p> <ul style="list-style-type: none"> • Minor construction activities for authorized projects which correct unsatisfactory environmental conditions or supplement, or are enclosed in existing facilities. <p><u>Operators and Maintenance Activities</u></p> <ul style="list-style-type: none"> • Maintenance, rehabilitation, and replacement of existing facilities involving a minor change in size, location, and/or operation • Transfer of O&M of Federal facilities to other entities when O&M activities are agreed upon and remain unchanged; • (...) • Conduct of programs of demonstration, educational, and technical assistance to water user organizations for improvement of project and on-farm irrigation water use and management. <p><u>Grant and Loan Activities</u></p> <ul style="list-style-type: none"> • Rehabilitation and Betterment Act loans and contracts which involve repair, replacement, or modification of equipment in existing structures or minor repairs to existing dams, canals, laterals, drains, pipelines, and similar facilities; • The following proposed activities only when they are confined to areas already impacted by farming or developing activities, are considered minor, and where impacts are expected to be localized: <ul style="list-style-type: none"> ○ Small Reclamation Projects Act grants and loans; ○ Distribution System Loans Act ○ Disaster Assistance Act studies, construction management, conservation, loans, water purchasing assistance, and water redistribution. <p><i>(The USBR categorical exclusion checklist included in Appendix C is provided as an example. While extraordinary circumstances must be addressed (see below) there is no required format for the checklist.)</i></p>	<p>Certain categorically excluded USDA proposals may require that applicants submit an Environmental Report (ER) (<i>USDA-specific document not required by other agencies</i>). <u>Categorically excluded proposals not normally requiring an ER</u> include (<i>relevant to this review</i>):</p> <ul style="list-style-type: none"> • <u>Emergency situation repairs</u> to restore service of damaged facilities of an applicant's system; • Award of financial assistance for technical assistance planning, environmental analysis, management studies, or feasibility studies; • Loan closing or servicing activities when not altering the purpose, operation, locations, or design of the initial proposal (e.g., amendment, financial assistance for cost overruns); • (...) <p><u>Categorically excluded proposals requiring an ER</u> include water and waste program applications for financial assistance for the following actions:</p> <ul style="list-style-type: none"> • Rehabilitation of existing facilities or equipment, or the construction of new facilities near/related to existing facilities; • Facility improvements to meet current needs with a modest change in use, size, purpose or location from the original facility (must be predominantly residential use); • Construction of new facilities are designed to serve less than 500 equivalent dwelling units (EDUs) and with modest growth potential; • Extension, enlargement, or construction of interceptors, collection, transmission, or distribution lines within a 1-mile limit from existing service areas; • Installation of new water supply wells or water storage facilities that are required by a regulatory authority or standard engineering practice as backup to existing production well(s) or as reserve for fire protection; • (...).

EPA	HUD	IHS	USBR	USDA
E. Extraordinary Circumstances/Exceptions to the Categorical Exclusions				
<p>Under the following circumstances, proposed actions are not categorically excluded (<i>see above</i>) if they are known or expected to have significant impacts on:</p> <ul style="list-style-type: none">• <u>Quality of the human environment</u> either individually or cumulatively over time;• Any community, <u>including minority communities</u>, low-income communities, or federally-recognized Indian tribal communities;• Federally listed <u>threatened or endangered species</u> or their critical habitat;• <u>National natural landmarks</u> or any property with nationally significant historic, architectural, prehistoric, archeological, or cultural value;• Important <u>natural resource areas</u> (e.g., wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat);• <u>Air quality</u>;• Pattern and type of <u>land use</u> or growth and distribution of population, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use plans or federal land management plans;• Cause significant <u>public controversy</u> about a potential environmental impact of the proposed action;• Associated with providing financial assistance to a federal agency through an interagency agreement for a <u>project that is known or expected to have potentially significant environmental impacts</u>; and• <u>Conflict with [other] environmental, resource-protection, or land-use laws or regulations</u>.	<p><u>Under 24 CFR 50</u>: N/A <u>Under 24 CFR 58</u>: Under the following unusual conditions, and EA or EIS may be required:</p> <ul style="list-style-type: none">• Actions that are unique or without precedent;• Actions that are substantially similar to those that normally require an EIS;• Actions that are likely to alter existing HUD policy or HUD mandates; or• Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.	<p>Categorically excluded actions (<i>see above</i>) that may have the potential impacts or characteristics below cannot be categorically excluded:</p> <ul style="list-style-type: none">• Potential to <u>change the existing environment</u> where such change violates existing jurisdictional directives or other controls protecting that environment;• Potential/real <u>threat of violation of laws</u> or requirements imposed for the <u>protection of the environment or public health and safety</u>;• Likely to <u>cause controversy</u> about resulting environmental effects where such controversy is based on pertinent and substantial issues;• Involve <u>use of technology</u> where the possible effects are highly uncertain or involve <u>unique or unknown risks</u> (technology was not assessed previously for environmental impact);• Have adverse effects on <u>unique geographic characteristics</u> (e.g., <u>historic/</u> archeological/ cultural resources, and <u>natural resources</u> including wetlands and prime farmlands);• Establish a <u>precedent for future action</u> or represent a decision in principle about future actions with potentially significant environmental effects;• Have adverse effects on Federally listed <u>endangered or threatened species, or critical habitat</u>;• Require assessment for E.O. 11988 (<u>Floodplain Management</u>), E.O. 11990 (<u>Protection of Wetlands</u>), or the <u>Fish and Wildlife Coordination Act</u>;• Involve the use, transfer, or lease of <u>property used for hazardous waste storage for more than 1 year</u> (CERCLA 120(h)); and• Construction <u>projects significantly greater in scope or size</u> than normally experienced for a particular category of action.	<p>Categorically excluded actions (<i>see above</i>) with the following characteristics or impacts are considered exceptions and cannot be categorically excluded:</p> <ul style="list-style-type: none">• When extraordinary circumstances exist• Significant impacts on <u>public health or safety</u>;• Significant impacts on <u>unique geographic characteristics</u> (e.g., historical/ cultural resources, natural resources);• Highly <u>controversial environmental effects</u>;• Highly uncertain and potentially <u>significant environmental effects</u> or involve <u>unique environmental risks</u>;• Establish a <u>precedent for future action</u> or represent a decision in principle about future actions with potentially significant environmental effects;• Have a direct relation to other actions with individually insignificant but <u>cumulatively significant environmental effects</u>;• Significant impacts on properties listed or eligible for listing on the National Register of Historic Places;• Significant impacts on species listed or proposed to be listed on the List of <u>Endangered or Threatened Species</u>, or their <u>habitat</u>;• Required compliance with E.O. 11988 (<u>Floodplain Management</u>), E.O. 11990 (<u>Protection of Wetlands</u>), or the <u>Fish and Wildlife Coordination Act</u>; and• <u>Violate laws</u> or requirements imposed <u>for the protection of the environment</u>.• Have a disproportionately high and adverse effect on low income or minority populations.• Significant impacts on Native American Indian or Alaskan Native Villages sacred sites (. . .)• Significant impacts on Noxious weeds (. . .)	<p>N/A. <i>Most USDA proposals will require preparation of an ER, which would address many of the issues listed as exceptions or extraordinary circumstances for other agencies.</i></p>
F. Other (Adoption of Federal Documents)				
			<p>(Taken from the USBR NEPA Handbook §3.12.1 Adoption of Federal Documents) The adoption of other Federal environmental documents is encouraged to avoid duplication. However, one basic premise of adopting documents is that the adopting agency must make its independent review of the document and take full responsibility for its scope and content.</p>	<p>(Taken from §1794.14 Interagency involvement and coordination) Where RUS has agreed to participate as a cooperating agency, in accordance with 40 CFR 1501.6, RUS may rely upon the lead agency's procedures for implementing NEPA procedures. In addition, RUS shall request that (...) the scope and content of the EA or EIS satisfies the statutory and regulatory requirements applicable to RUS (...).</p>

The following table was developed to summarize compliance requirements listed either in agency checklists or as a list of information to be addressed as part of an environmental report (e.g., USDA). HUD uses a checklist for categorical exclusions subject to §58.5 (i.e., other environmental laws), which is provided in Appendix A. IHS and USBR use a checklist to identify categorical exclusions or the need for an EA. Both checklists are provided in Appendix B for IHS and Appendix C for USBR. USDA specifies environmental information that must be addressed in the ER to be used to determine the need for an EA, as listed in Appendix D. A similar checklist or list of compliance requirements was not identified for EPA at this time. It should be noted that most regulations reviewed under other agencies’ checklist or environmental requirements would be applicable to EPA environmental reviews. The requirements below are not listed in any particular order of priority.

TABLE 2: INTERNAL NEPA COMPLIANCE REQUIREMENTS OF EACH ITF FEDERAL AGENCY PARTNER

HUD	IHS	USBR	USDA
	Violation of applicable environmental, public health & safety laws or requirements?	Violation of orders, laws or requirements for environmental protection?	
	Other adverse considerations for the environment and/or public health & safety?	<u>Human Environment/Public Health & Safety</u> Significant impact on : <ul style="list-style-type: none">• The quality of the human environment?• Public health or safety?	
	Controversial environmental effects?	Highly controversial environmental effects?	
	Establish a precedent for future action?	Establish a precedent for future action?	
<u>Wetland Protection</u> [Executive Order 11990; 3 CFR, §§ 2, 5] Projects adversely impacting a wetland are subject to Executive Order 11990 (Protection of Wetlands). HUD's implementing regulations at 24 CFR Part 55--Floodplain Management, prescribe a process suitable for protecting wetlands. For proposed financial assistance for activities that will fill or degrade a wetland, HUD will require 8 Step processing (See 24 CFR 55.20) that may be performed concurrently with floodplain processing if applicable. Guidance at http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm	<u>Wetlands and Water Resources</u> Violation of a Section 404 (CWA)/Section 10 (Rivers and Harbors Act) permits?	Significant impact on unique geographical features such as wetlands.	<u>Wetlands</u> <ul style="list-style-type: none">• Soils surveys• National Wetland Inventory maps• Section 404 issues
<u>Wild and Scenic Rivers Act</u> [16 U.S.C. 1271, §§ 7(b), (c)] New construction and the acquisition of undeveloped land for water resources projects (i.e., water and sewer lines, water retention ponds, etc.), which are proposed in areas within one mile of a listed wild and scenic river, have the potential for impacting this natural resource Guidance at http://www.rivers.gov/wildriverslist.html	<u>Wild and Scenic Rivers Act</u> Adverse effect on wild, scenic, or recreational river area, or creation of conditions inconsistent with the character of the river?	Significant impact on unique geographical features such as wild or scenic rivers, rivers in the nationwide inventory, refuges.	<u>Formally Classified Lands</u> Wild & Scenic Rivers
<u>Floodplain Management</u> [Executive Order 11988; 24 CFR Part 55] Executive Order 11988- Floodplain Management requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable. The Federal Emergency Management Agency (FEMA) designates floodplains. Guidance at http://www.hud.gov/offices/cpd/environment/review/floodplain.cfm	<u>Floodplains</u> <ul style="list-style-type: none">• Located in 100- or 500-year floodplains?• Adverse impact on flood flows in floodplain or development in a floodplain?	Significant impact on unique geographical features such as floodplains.	<u>Floodplains</u> <ul style="list-style-type: none">• Flood insurance rate maps• Soil surveys
<u>Farmland Protection Policy Act</u> [7 CFR Part 658] A finding of compliance with the requirements of the Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) must be made for assisted new construction activities and the acquisition of undeveloped land. Guidance at http://www.hud.gov/offices/cpd/environment/review/farmlands.cfm	<u>Farmland Protection Policy Act</u> Convert significant agricultural lands to non-agricultural uses with >160 point score in farmland impact rating?	Significant impact on unique geographical features such as prime or unique farmlands.	<u>Important Farmland</u> Soil surveys

HUD	IHS	USBR	USDA
<u>Historic Preservation</u> [36 CFR Part 800] The National Historic Preservation Act, directs each Federal agency, and those Tribal, State, and Local governments that assume Federal agency responsibilities, to have a historic preservation program - that is, a program to protect historic resources and avoid or minimize possible harm that may result from agency decisions and actions. The NHPA does not prohibit change to historic properties, but it does require that alternatives be considered. Guidance at http://www.hud.gov/offices/cpd/environment/review/historic.cfm	<u>Historic Preservation</u> <ul style="list-style-type: none"> Action on property over 50 years old Adverse effect on property listed or eligible for the National Register of Historic Places 	Significant impact on properties listed or eligible for listing in the National Register for Historic Places? (To be completed only by Regional Archeologist)	<u>Formally Classified Lands</u> <ul style="list-style-type: none"> Monuments Landmarks <u>Historic Properties</u> <ul style="list-style-type: none"> Historic and archeological sites Traditional cultural properties
<u>Endangered Species Act</u> [50 CFR Part 402] The Endangered Species Act (ESA) of 1973 requires protection of listed or proposed endangered or threatened species or critical habitats. Projects that can affect listed endangered or threatened species or critical habitats require consultation with the Department of Interior in compliance with the procedure of Section 7 of the ESA. Only for new construction and conversion activities does the ESA authority apply. Guidance at http://www.hud.gov/offices/cpd/environment/review/endangeredspecies.cfm	<u>Endangered Species Act:</u> Likely adverse effect on species or their habitat	Adverse effect on a species listed or proposed to be listed as Endangered or Threatened	<u>Biological Resources</u> <ul style="list-style-type: none"> Threatened and endangered species Anadromous species Critical habitat Species of special concern
Conformance with comprehensive plans and zoning	Conflict with existing or proposed land use plans?		<u>General Land Use</u> <ul style="list-style-type: none"> Zoning Land use classifications
	Adverse impacts on park lands, public lands, or areas of recognized scenic or recreational value?		<u>Formally Classified Lands</u> <ul style="list-style-type: none"> State or national parks Recreational areas <u>Historic Properties</u> Visually sensitive areas
	Violation of storm water or wastewater discharge permit during construction or operation?		<u>Water Quality</u> Discharge permits
<u>Sole Source Aquifers</u> [40 CFR Part 149] The Safe Drinking Water Act of 1974 requires protection of drinking water systems that are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health. Development, which can affect aquifers designated by the Environmental Protection Agency (EPA), must be reviewed for impact on such designated aquifer sources. Only for new construction and conversion activities does the sole source aquifer (SSA) authority apply. Guidance at http://www.hud.gov/offices/cpd/environment/review/aquifers.cfm	<u>Safe Drinking Water Act:</u> Impact to EPA designated sole source aquifer?		<u>Water Quality</u> Sole source aquifers
<u>Clean Air Act</u> [40 CFR Parts 6, 51, 93] The Clean Air Act (42 U.S.C. 7401 et seq.) prohibits federal assistance to projects that are not in conformance with the SIP. New construction and conversion, which are located in "non-attainment" or "maintenance" areas as determined by the EPA may need to be modified or mitigation measures developed and implemented to conform to the SIP. Guidance at http://www.hud.gov/offices/cpd/environment/review/cleanair.cfm	Adverse long-term effect on community air pollution?		<u>Air Quality</u> State Implementation Plan

HUD	IHS	USBR	USDA
<u>Environmental Justice</u> [Executive Order 12898] Executive Order 12898 - "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," applies in low-income or minority neighborhoods where the grantee proposes the acquisition of housing, the acquisition of land for development, and new construction. Environmental justice issues may include, but are not limited to new, continued or historically disproportionate potential for high and adverse human health and environmental effects on minority or low-income populations. Guidance at http://www.hud.gov/offices/cpd/environment/review/justice.cfm	Disproportionately high and adverse human and environmental impact on the Tribe, low-income populations, or minority populations?		<u>Socio-Economic/Environmental Justice</u> <ul style="list-style-type: none">Economic dataLocation of minority and low-income populations
<u>Noise Abatement and Control</u> [24 CFR Part 51, Subpart B] The location of site and noise generators near sites which are noisy include major roads, railroads, industrial plants, etc. Guidance at http://www.hud.gov/offices/cpd/environment/review/noise.cfm	Adverse effect on community noise level?		<u>Noise</u> Noise levels/restrictions
	<u>Wilderness Act:</u> Adverse impact on a Wilderness Area?		<u>Formally Classified Lands</u> Wilderness Areas
<u>Coastal Zone Management Act</u> [16 U.S.C. 1451, §§ 307(c), (d)] 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 Guidance at http://www.hud.gov/offices/cpd/environment/review/coastal.cfm	<u>Coastal Zone Management (CZM) Act:</u> Direct effect on Coastal Zone in manner inconsistent with the State CZM Plan?		<u>Coastal resources</u> <ul style="list-style-type: none">Coastal barrier resource mapsCZM planning documents
		Effect on Indian Trust Assets (ITAs)? (To be completed by ITA coordinator) Consultation with Indian tribes is generally required when ITAs are affected.	<u>Formally Classified Lands</u> Reservations
Compatibility and urban impact	Action greater in scope than normal for the area, or with significantly unusual characteristics?		
	Construction of new municipal solid waste landfill?		
Will the proposal have significant effects on: <ul style="list-style-type: none">Solid waste?Waste water?Storm water?Water supply?Educational facilities?Commercial facilities?Health care?Energy consumption?Social services?Public safety – police, fire, and emergency medical?Open space and recreation? Transportation?	Create need for additional: <ul style="list-style-type: none">Solid waste disposal capacity?Wastewater treatment?Drinking water supply?Health care facilities & services?Energy supply & generation?Educational facilities?Transportation systems?		
Does the proposal have a significant effect on erosion, soil suitability and/or slope?	Need for major sedimentation and erosion control measures?		
	Substantially increase capacity of existing health care facility?		

HUD	IHS	USBR	USDA
	Action involves buildings over 12,000 square feet of useable space over more than 5 acres (new site)?		
	Action involves health care facilities for projects over more than 5 acres (new site)?		
	Property sale or transfer where hazardous substance was stored for >1year, known to have been released, or disposed of?		
	Violation of laws on the use, storage, transportation, disposal of hazardous wastes and medical wastes?		
		Involve unresolved conflicts concerning alternative uses of available resources?	
		Highly uncertain environmental effects or unique or unknown environmental risk?	
		Action related to other action actions with individually insignificant but cumulatively significant effects.	
			<u>Water Quality</u> Water appropriation permits
			<u>Transportation</u> <ul style="list-style-type: none">• Airports• Highway safety• Navigation hazards
<u>Explosive and Flammable Operations</u> [24 CFR Part 51, Subpart C] Properties that are located near hazardous industrial operations handling fuels or chemicals of an explosive or flammable nature are subject to HUD safety standards (24 CFR 51, Subpart C). In the case of tanks containing common liquid fuels, the requirement for an acceptable separation distance (ASD) calculation only applies to storage tanks that have a capacity of more than 100 gallons. Guidance at http://www.hud.gov/offices/cpd/environment/review/explosive.cfm			
<u>Airport Clear Zones</u> 24 CFR Part 51, Subpart D] HUD policy applies to assisted properties located within Clear Zones (CZ) in the case of proposed new construction, major or substantial rehabilitation (as defined below) of an existing structure, and acquisition of undeveloped land. This HUD policy also applies to properties located within Accident Potential Zones (APZ). Guidance at http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/qa/airport			

HUD	IHS	USBR	USDA
<p><u>Hazardous, Toxic or Radioactive Substances</u> [24 CFR Part 51, Subpart C] It is HUD policy, that "(1)... all property proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gasses, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property. (2) HUD environmental review of multifamily and non-residential properties shall include evaluation of previous uses of the site and other evidence of contamination on or near the site, to assure that occupants of proposed sites are not adversely affected by the hazards..." Sites known or suspected to be contaminated by toxic chemicals or radioactive materials include but are not limited to sites: (i) listed on an EPA Superfund National Priorities or CERCLA List, or equivalent State list; (ii) located within 3,000 feet of a toxic or solid waste landfill site; or (iii) with an underground storage tank. Guidance at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/hazardous</p>			

APPENDIX 3-2

Questionnaire on Federal Agency Partners' NEPA Process and Funding Sources for Indian Housing and Infrastructure

1. What entity within the agency (e.g., Department, Division, Office, or Section) is responsible for environmental reviews, decision-making and action regarding compliance with NEPA and the Federal laws and authorities?
2. What line officer in the agency must approve environmental compliance reviews?
3. What is the source of Federal funds that may be used for Indian housing and infrastructure projects?
4. What action triggers/initiates the environmental review process?
5. Must all related activities be incorporated into your agency's environmental review process (i.e. aggregation)?
6. What are the actions related to Indian housing and transportation projects that may require an environmental review by your agency (NEPA-applicable actions)?
7. What actions does your agency categorize as Categorical Exclusions?
8. What are the actions that normally require or may require an Environmental Assessment (EA)?
9. What are the actions that normally require or may require an Environmental Impact Statement (EIS)?
10. What decides whether there are Extraordinary Circumstances/Exceptions to the Categorical Exclusion (requiring an environmental assessment instead)?
11. What is your agency's public notification process?
12. Does your agency approve environmental reviews with contingencies or conditioned FONSI's?
13. What determines when Federal funds may be committed and spent?
14. What kind of GIS capabilities does your agency utilize for environmental reviews? Do you currently have a data-sharing agreement in place with other agencies?
15. Does your agency have any training materials available for environmental staff that might be useful in order for other agencies to better understand your environmental review process?
16. Does your agency provide environmental training to Tribes?
17. Does your agency have an electronic tracking system for environmental reviews?
18. What kind of information on environmental reviews could be found on your agency website (i.e., regulations, templates, supporting documentation requirements)?

19. At what level (local, field, regional, headquarters) are the environmental reviews carried out?
20. What kind of environmental checklists/forms/etc. does your agency currently use in order to request information from a Tribe or Program Staff to complete an environmental review?
21. How does your agency ensure mitigation measures and/or conditions for approval are implemented?
22. What is the timeframe for a project to clear the agency review process? How many other reviews must a project go through before a grant is awarded? Where does the environmental review fit into this process?
23. Do you request tribes to be cooperating agencies when preparing NEPA reviews for actions on tribal lands? If no, are there any regulatory obstacles or other reasons for not doing so?
24. For jointly-funded projects, are you able to adopt a HUD EA prepared in accordance with HUD's NEPA regulations? If no, are there any regulatory obstacles or other reasons for not doing so?
25. Is it generally understood by your staff preparing NEPA reviews that HUD has the legal authority to allow tribes and Alaska Native Villages or Regional Corporations to assume responsibility for compliance with NEPA and the related Federal laws and authorities that otherwise would apply to HUD?
26. Are there any types of infrastructure or housing projects you fund that are statutorily exempt from NEPA and the related Federal laws and authorities?

APPENDIX 4

Tribal Interview Questions

This appendix consists of the following attachments:

1. Category 1: Housing Development on Fee Simple Land without Infrastructure
2. Category 2: Housing Development on Fee Simple Land with Infrastructure
3. Category 3: Housing Development on Trust Land without Infrastructure
4. Category 4: Housing Development on Trust Land with Infrastructure

APPENDIX 4-1

Tribal Interview Questions

Category 1: Housing Development on Fee Simple Land without Infrastructure

- What types of housing projects do/have you used federal funding for?
 - How frequently do you do this type of project?
 - Which of the following agencies have you worked with on a housing project: BIA, Dept. of Commerce, Dept. of Energy, EPA, IHS, and USDA? If you don't know the agency, can you identify the name of the Federal grant program to which you have applied for funding assistance?
 - On average, how many of the above agencies (or programs, if you do not know the name of the funding agency) are involved in your housing projects? What are the most agencies (or programs) ever involved in a single project in order for that project to be successfully completed?
 - When your tribe/TDHE plans to leverage funds from other Federal agencies, do you incorporate those activities into your Part 58 environmental review for evaluation, too?
- What is your process for developing plans for housing projects?
 - At what point do you generally start preparing the ER? For example, do you begin as soon as the annual Indian Housing Plan (IHP) is submitted to HUD for approval, or is there another point in your planning process that determines when preparation of the ER must be initiated?
 - Are your ERs completed under part 50 or 58?
 - What type of HUD funds do you use:
 - IHBG
 - Section 184 loan guarantee
 - Title VI loan guarantee
 - ICDBG
 - RHED (Rural Housing and Economic Development)
- Coordination of multiple Federal funding sources for housing projects
 - On a typical housing project, do you know from the outset all of the agencies that will contribute funding?
 - **If yes:** How do you know? Are the same agencies involved in all your projects, or all of certain types of projects?
 - **If no:** Describe the process of getting the various agencies on board with the process.
 - **On fee simple land:**
 - What is the type of project(s)?
 - What is the first federal agency to provide funding and/or prepare an environmental review?
 - Does it vary from project to project?
 - Is the first agency to provide funding always the first agency to prepare an ER?
 - Have you ever done a project that converted fee simple land into trust land?
 - **If yes:** How did the process differ from that of a project on trust land?
 - Do you have any concerns with this process?

APPENDIX 4-1

Tribal Interview Questions

Category 1: Housing Development on Fee Simple Land without Infrastructure

- When you develop housing, is the necessary infrastructure usually already in place, or does it have to be developed at the same time?
 - If infrastructure is often/always in place prior to housing development:
 - Which agencies (or federally-funded programs) are typically involved in the housing development?
 - If infrastructure is rarely/never in place:
 - What is the process for coordinating the installation of housing and infrastructure together? Do you develop in phases, or all at once?
 - If in phases: What do you construct first?
 - Does your HUD ER address all housing and infrastructure, or just the housing?
 - If it varies: [Ask both sets of questions above, but also the following]
 - Describe the difference between the two processes. Which do you find runs smoother?
- Regarding HUD ER process:
 - Who within your tribe/TDHE conducts the environmental reviews? Or, do you use environmental consultants instead?
 - Who is your certifying officer? Is there more than one certifying officer?
 - What is your public notification process (publication or posting/ mailing)?
 - Does the tribe or TDHE maintain the project ERRs? (Note: In Alaska the Regional Corporations, and in some regions of the lower 48 states the Regional TDHEs, are asked by ONAP to maintain the records).
 - Do you maintain an ER database? If not, what resources do you use to derive environmental information?
 - Do you attend ER training? Who provides the training? How often does staff attend ER training?
- What is your system, if any, for tracking ERs and the implementation of mitigation measures, if required?
- What issues or problems have you encountered in using both HUD and other Federal agencies' funds for the same project?
 - Are there any inconsistencies in the review requirements across the different agencies that you have observed? For example, HUD has noise and Acceptable Separation Distance regulations that do not apply to other agencies. Have you found comparable requirements that other agencies consider that HUD does not?
- Have you ever had a lead agency agreement to coordinate multiple agencies' environmental reviews?
 - If yes: Describe that process.
 - Would you do it again? Why or why not?
 - If no:
 - Have you ever considered doing this?
 - Do you request a copy of that agency's environmental review to supplement and facilitate your own environmental findings?

APPENDIX 4-1

Tribal Interview Questions

Category 1: Housing Development on Fee Simple Land without Infrastructure

- Have you experienced situations in which the HUD environmental review process has worked well or effectively with another Federal agency's review process?
- Does your tribe/TDHE have written environmental review procedures?
 - If yes: May we have a copy?

APPENDIX 4-2

Tribal Interview Questions

Category 2: Housing Development on Fee Simple Land with Infrastructure

- What types of housing and housing infrastructure projects do/have you used federal funding for?
 - How frequently do you do this type of project?
 - Which of the following agencies have you worked with on a housing and housing infrastructure project: BIA, EDA, Dept. of Energy, EPA, IHS, Rural Housing Services and Rural Utilities Services? If you don't know the agency, can you identify the name of the Federal grant program to which you have applied for funding assistance?
 - On average, how many of the above agencies (or programs, if you do not know the name of the funding agency) are involved in your housing and housing infrastructure projects? What are the most agencies (or programs) ever involved in a single project in order for that project to be successfully completed?
 - When your tribe/TDHE plans to leverage funds from other Federal agencies, do you incorporate those activities into your Part 58 environmental review for evaluation, too?
- What is your process for developing plans for housing and housing infrastructure projects?
 - At what point do you generally start preparing the ER? For example, do you begin as soon as the annual Indian Housing Plan (IHP) is submitted to HUD for approval, or is there another point in your planning process that determines when preparation of the ER must be initiated?
 - Are your ERs completed under part 50 or 58?
 - What type of HUD funds do you use:
 - IHBG
 - Section 184 loan guarantee
 - Title VI loan guarantee
 - ICDBG
 - RHED (Rural Housing and Economic Development)
- Coordination of multiple Federal funding sources for housing projects:
 - On a typical housing project, do you know from the outset all of the agencies that will contribute funding?
 - **If yes:** How do you know? Are the same agencies involved in all your projects, or all of certain types of projects?
 - **If no:** Describe the process of getting the various agencies on board with the process.
 - **On fee simple land:**
 - What is the type of project(s)?
 - What is the first federal agency to provide funding and/or prepare an environmental review?
 - Does it vary from project to project?
 - Is the first agency to provide funding always the first agency to prepare an ER?
 - Have you ever done a project that converted fee simple land into trust land?
 - **If yes:** How did the process differ from that of a project on trust land?
 - Do you have any concerns with this process?
 - When you develop housing, what is the process for coordinating the installation of housing and infrastructure together? Do you develop in phases, or all at once?
 - **If in phases:** What do you construct first?
 - Does your HUD ER address all housing and infrastructure, or just the housing?

APPENDIX 4-2

Tribal Interview Questions

Category 2: Housing Development on Fee Simple Land with Infrastructure

- Describe the difference between developing housing plus infrastructure, and developing housing where infrastructure is already in place. Which process do you find runs smoother?
- Regarding HUD ER process:
 - Who within your tribe/TDHE conducts the environmental reviews? Or, do you use environmental consultants instead?
 - Who is your certifying officer? Is there more than one certifying officer?
 - What is your public notification process (publication or posting/mailing)?
 - Does the tribe or TDHE maintain the project ERRs? (Note: In Alaska the Regional Corporations, and in some regions of the lower 48 states the Regional TDHEs, are asked by ONAP to maintain the records).
 - Do you maintain an ER database? If not, what resources do you use to derive environmental information?
 - Do you attend ER training? Who provides the training? How often does staff attend ER training?
- What is your system, if any, for tracking ERs and the implementation of mitigation measures, if required?
- What issues or problems have you encountered in using both HUD and other Federal agencies' funds for the same project?
 - Are there any inconsistencies in the review requirements across the different agencies that you have observed? For example, HUD has noise and Acceptable Separation Distance regulations that do not apply to other agencies. Have you found comparable requirements that other agencies consider that HUD does not?
- Have you ever had a lead agency agreement to coordinate multiple agencies' environmental reviews?
 - If yes: Describe that process.
 - Would you do it again? Why or why not?
 - If no:
 - Have you ever considered doing this?
 - Do you request a copy of that agency's environmental review to supplement and facilitate your own environmental findings?
- Have you experienced situations in which the HUD environmental review process has worked well or effectively with another Federal agency's review process?
- Does your tribe/TDHE have written environmental review procedures?
 - If yes: May we have a copy?

APPENDIX 4-3
Tribal Interview Questions
Category 3: Housing Development on Trust Land without Infrastructure

- What types of housing projects do/have you used federal funding for?
 - How frequently do you do this type of project?
 - Which of the following agencies have you worked with on a housing project: BIA, Dept. of Commerce, Dept. of Energy, EPA, IHS, and USDA? If you don't know the agency can you identify the name of the Federal grant program to which you have applied for funding assistance?
 - On average, how many of the above agencies (or programs if you do not know the name of the funding agency) are involved in your housing projects? What are the most agencies (or programs) ever involved in a single project in order for that project to be successfully completed?
 - When your tribe/TDHE plans to leverage funds from other Federal agencies, do you incorporate those activities into your Part 58 environmental review for evaluation, too?
- What is your process for developing plans for housing projects?
 - At what point do you generally start preparing the ER? For example, do you begin as soon as the annual Indian Housing Plan (IHP) is submitted to HUD for approval, or is there another point in your planning process that determines when preparation of the ER must be initiated?
 - Are your ERs completed under part 50 or 58?
 - What type of HUD funds do you use:
 - IHBG
 - Section 184 loan guarantee
 - Title VI loan guarantee
 - ICDBG
 - RHED (Rural Housing and Economic Development)
- Coordination of multiple Federal funding sources for housing projects
 - On a typical housing project, do you know from the outset all of the agencies that will contribute funding?
 - **If yes:** How do you know? Are the same agencies involved in all your projects, or all of certain types of projects?
 - **If no:** Describe the process of getting the various agencies on board with the process.
 - **On trust land:**
 - What is the type of project(s)?
 - Is BIA always the first agency to conduct an environmental review?
 - Do BIA's environmental reviews aggregate to consider the activities that will be conducted on the land?
 - Have you ever done a housing project on fee simple land?
 - **If yes:** How did the process differ from that of a project on trust land?
- When you develop housing, is the necessary infrastructure usually already in place, or does it have to be developed at the same time?
 - **If infrastructure is often/always in place prior to housing development:**
 - Which agencies (or federally funded programs) are typically involved in the housing development?
 - **If infrastructure is rarely/never in place:**
 - What is the process for coordinating the installation of housing and infrastructure together? Do you develop in phases, or all at once?

APPENDIX 4-3
Tribal Interview Questions
Category 3: Housing Development on Trust Land without Infrastructure

- **If in phases:** What do you construct first?
 - Does your HUD ER address all housing and infrastructure, or just the housing?
- **If it varies:** [Ask both sets of questions above, but also the following]
 - Describe the difference between the two processes. Which do you find runs smoother?
- Regarding HUD ER process:
 - Who within your tribe/TDHE conducts the environmental reviews? Or, do you use environmental consultants instead?
 - Who is your certifying officer? Is there more than one certifying officer?
 - What is your public notification process (publication or posting/ mailing)?
 - Does the tribe or TDHE maintain the project ERRs? (Note: In Alaska the Regional Corporations, and in some regions of the lower 48 states the Regional TDHEs, are asked by ONAP to maintain the records).
 - Do you maintain an ER database? If not, what resources do you use to derive environmental information?
 - Do you attend ER training? Who provides the training? How often does staff attend ER training?
- What is your system, if any, for tracking ERs and the implementation of mitigation measures, if required?
- What issues or problems have you encountered in using both HUD and other Federal agencies' funds for the same project?
 - Are there any inconsistencies in the review requirements across the different agencies that you have observed? For example, HUD has noise and Acceptable Separation Distance regulations that do not apply to other agencies. Have you found comparable requirements that other agencies consider that HUD does not?
- Have you ever had a lead agency agreement to coordinate multiple agencies' environmental reviews?
 - **If yes:** Describe that process.
 - Would you do it again? Why or why not?
 - **If no:**
 - Have you ever considered doing this?
 - Do you request a copy of that agency's environmental review to supplement and facilitate your own environmental findings?
- Have you experienced situations in which the HUD environmental review process has worked well or effectively with another Federal agency's review process?
- Does your tribe/TDHE have written environmental review procedures?
 - **If yes:** May we have a copy?

APPENDIX 4-4

Tribal Interview Questions

Category 4: Housing Development on Trust Land with Infrastructure

- What types of housing and housing infrastructure projects do/have you used federal funding for?
 - How frequently do you do this type of project?
 - Which of the following agencies have you worked with on a housing and housing infrastructure project: BIA, EDA, Dept. of Energy, EPA, IHS, Rural Housing Services, and Rural Utilities Services? If you don't know the agency can you identify the name of the Federal grant program to which you have applied for funding assistance?
 - On average, how many of the above agencies (or programs, if you do not know the name of the funding agency) are involved in your housing and housing infrastructure projects? What are the most agencies (or programs) ever involved in a single project in order for that project to be successfully completed?
 - When your tribe/TDHE plans to leverage funds from other Federal agencies, do you incorporate those activities into your Part 58 environmental review for evaluation too?
- What is your process for developing plans for housing and housing infrastructure projects?
 - At what point do you generally start preparing the ER? For example, do you begin as soon as the annual Indian Housing Plan (IHP) is submitted to HUD for approval, or is there another point in your planning process that determines when preparation of the ER must be initiated?
 - Are your ERs completed under part 50 or 58?
 - What type of HUD funds do you use:
 - IHBG
 - Section 184 loan guarantee
 - Title VI loan guarantee
 - ICDBG
 - RHED (Rural Housing and Economic Development)
- Coordination of multiple Federal funding sources for housing projects
 - On a typical housing project, do you know from the outset all of the agencies that will contribute funding?
 - **If yes:** How do you know? Are the same agencies involved in all your projects, or all of certain types of projects?
 - **If no:** Describe the process of getting the various agencies on board with the process.
 - **On trust land:**
 - What is the type of project(s)?
 - Is BIA always the first agency to conduct an environmental review?
 - Do BIA's environmental reviews aggregate to consider the activities that will be conducted on the land?
 - Have you ever done a housing project on fee simple land?
 - **If yes:** How did the process differ from that of a project on trust land?
- When you develop housing, what is the process for coordinating the installation of housing and infrastructure together? Do you develop in phases, or all at once?
 - **If in phases:** What do you construct first?
 - Does your HUD ER address all housing and infrastructure, or just the housing?
- Describe the difference between developing housing plus infrastructure, and developing housing where infrastructure is already in place. Which process do you find runs smoother?

APPENDIX 4-4
Tribal Interview Questions
Category 4: Housing Development on Trust Land with Infrastructure

- Regarding HUD ER process:
 - Who within your tribe/TDHE conducts the environmental reviews? Or, do you use environmental consultants instead?
 - Who is your certifying officer? Is there more than one certifying officer?
 - What is your public notification process (publication or posting/ mailing)?
 - Does the tribe or TDHE maintain the project ERRs? (Note: In Alaska the Regional Corporations, and in some regions of the lower 48 states the Regional TDHEs, are asked by ONAP to maintain the records).
 - Do you maintain an ER database? If not, what resources do you use to derive environmental information?
 - Do you attend ER training? Who provides the training? How often does staff attend ER training?
- What is your system, if any, for tracking ERs and the implementation of mitigation measures, if required?
- What issues or problems have you encountered in using both HUD and other Federal agencies' funds for the same project?
 - Are there any inconsistencies in the review requirements across the different agencies that you have observed? For example, HUD has noise and Acceptable Separation Distance regulations that do not apply to other agencies. Have you found comparable requirements that other agencies consider that HUD does not?
- Have you ever had a lead agency agreement to coordinate multiple agencies' environmental reviews?
 - If yes: Describe that process.
 - Would you do it again? Why or why not?
 - If no:
 - Have you ever considered doing this?
 - Do you request a copy of that agency's environmental review to supplement and facilitate your own environmental findings?
- Have you experienced situations in which the HUD environmental review process has worked well or effectively with another Federal agency's review process?
- Does your tribe/TDHE have written environmental review procedures?
 - If yes: May we have a copy?