



Travis County Commissioners Court Agenda Request

Meeting Date: August 28, 2012

Prepared By/Phone Number: Christy Moffett 854-3460

Elected/Appointed Official/Dept. Head:

Sherri E. Fleming, County Executive of Travis County Health and Human Services & Veterans Service

Commissioners Court Sponsor: Judge Samuel T. Biscoe

AGENDA LANGUAGE:

Consider and take appropriate action on items related to environmental clearance for Travis County's Community Development Block Grant (CDBG) Homebuyer Assistance Program with funding provided by the U. S. Department of Housing and Urban Development:

- A. Certificate of Exemption for \$78,927 for program management, conducting environmental clearances for individual properties, marketing and other allowable project delivery activities;
- B. Delegate signature authority to the Travis County Health and Human Services and Veterans Service County Executive to environmentally clear each property so long as neither a full environmental assessment nor any mitigation measures are required; and
- C. Other related items.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Please see the attached memorandum for a summary of the background and attachments.

STAFF RECOMMENDATIONS:

Please see the attached memorandum for a summary of the staff recommendation.

ISSUES AND OPPORTUNITIES:

Please see the attached memorandum for a summary of the issues and opportunities.

FISCAL IMPACT AND SOURCE OF FUNDING:

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, Cheryl.Aker@co.travis.tx.us by Tuesdays at 5:00 p.m. for the next week's meeting.

Please see the attached memorandum for a summary of the issues and opportunities.

REQUIRED AUTHORIZATIONS:

County Attorney

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**TRAVIS COUNTY HEALTH and HUMAN SERVICES
And VETERANS SERVICE**


100 North I.H. 35
P. O. Box 1748
Austin, Texas 78767

Sherri E. Fleming
County Executive
(512) 854-4100
Fax (512) 854-4115

MEMORANDUM

Date: August 21, 2012

To: Members of the Commissioners Court

From: 
Sherri E. Fleming, County Executive
Travis County Health and Human Services and Veterans Service

Subject: Community Development Block Grant (CDBG) Environmental Clearances

Proposed Motion:

Consider and take appropriate action on items related to environmental clearance for Travis County's Community Development Block Grant (CDBG) Homebuyer Assistance Program with funding provided by the U. S. Department of Housing and Urban Development:

- A. Certificate of Exemption for \$78,927 for program management, conducting environmental clearances for individual properties, marketing and other allowable project delivery activities;
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- C. Other related items.

Summary and Background

Every project must go through the appropriate level of environmental review as required by HUD. The level of environmental review is attributed to the nature of each project and its potential impact on the environment.

Responsible Entities (RE) that receive assistance directly from HUD must assume responsibility for the environmental reviews, decision-making and actions that would otherwise apply to HUD under the National Environmental Policy Act (NEPA) and other provisions of NEPA, as specified in §58.5 and §58.6. REs assume this responsibility through the execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on form HUD-7015.15, Request for Release of Funds (RROF), which certifies the RE's assumption of environmental responsibilities.

The Travis County CDBG Homebuyer Assistance Program provides down payment assistance and shared appreciation gap financing to qualified homebuyers. As such the funding must go through an environmental clearance process. For this project, there are two types of clearances needed.

- A. The project will incur direct support costs that are not directly associated with a loan closing, but are required to support the program. These costs include: staff time for CDBG staff to complete the environmental paperwork for each home and the Subrecipient's time to cover program start up, marketing, insurance, training, postage, etc. An estimated total of \$78,927 will be needed for these costs. These costs are included in the list of exempt activities in accordance with 24 CFR Part 58.34. Furthermore, these activities in no way effect the environment and are therefore exempt.
- B. For the Travis County CDBG Homebuyer Assistance program, each home must complete an environmental review. As a part of that review process, the Subrecipient will notify the CDBG office of a potential home to be purchased using program funds. CDBG staff will check each prospective property and determine if it is in a runway and airport clearance zone, FEMA Special Flood Hazard Area or a designated coastal barrier area, and complete the required environmental review forms. After completion of required forms, a signature must be acquired from the authorized RE. Traditionally, the CDBG Program places an item on the Commissioners Court agenda for consideration of all environmental documents, and the County Judge signs.

For this project, it is possible that upwards of 63 homes will be purchased using these funds over the next twelve months which translates to 63 agenda items. Additionally, each home closing will have a different time frame for closing; therefore, in the interest of time and efficiency in handling these transactions, the CDBG Office found that the Certifying Officer is allowed to delegate signature

authority as per the excerpt below from HUD's Region VI Environmental Office Compliance Book (May 2012, page 3).

: ***Certifying Officer***

- *The Certifying Officer represents the Responsible Entity (RE) , and serves as the “responsible Federal official,” who has the legal capacity to carry out the responsibilities of §58.13, and is authorized to certify Request for Release Of Funds (RROF) and represent the RE in federal court.*
- *The Certifying Officer for a State is the Governor. The Certifying Officer for a city is the Mayor or City Manager. The Certifying Officer for a county (or equivalent) is the highest elected official.*
- *A formal written delegation is required to transfer Certifying Officer responsibility from Governor, Mayor, City Manager, or elected county judge to another individual. This written documentation must be included as part of the Environmental Review Record.*
- *The Certifying Officer ensures all project mitigation and conditions are included in awards, contracts and other agreements pertaining to the project.*
- *Although the Certifying Officer must sign the RROF, s/he does NOT need to approve or sign environmental review forms. A manager within the RE's agency may be authorized to approve and sign environmental review forms on the RE's behalf.*

For the Homebuyer Assistance project, each loan closing falls under Categorical Exclusion not subject to 58.5 for Activities listed at 24 CFR Part 58.35(b). Due to the level of review, the County is not required to submit a RROF to HUD; therefore, the only documents that need to be signed are environmental review forms (see Sample attached). The Commissioners Court may delegate that authority to a manager within the Responsible Entity's agency.

Staff Recommendations:

- A. Staff recommends the approval of the certification of exemption for the direct support costs for the HBA program. As outlined in 24 CFR Part 58.34(a)(4), the types of activities to be completed with these funds qualify as exempt since they do not have an impact on the environment. The U.S. Department of Housing and Urban Development (HUD) requires an authority of the grantee to sign the findings of the exemption. Staff recommends the Court authorize the County Judge as said authority and allow signature of the HUD required documents provided as attachments.

- B. Staff recommends the approval of the delegation of signature authority to the Travis County HHS/VS County Executive for the environmental clearance of each property receiving assistance from Travis County's CDBG Homebuyer Assistance Project as HUD deems this an allowable practice.

Budgetary and Fiscal Impacts:

None.

Issues and Opportunities:

- A. Approval of the exemptions allows CDBG staff to remain in compliance with HUD's environmental review standards prior to the execution of the Subrecipient contract in September.
- B. Allowing the signature authority to be delegated to the TCHHS/VS County Executive for each home allows the program to move quickly and ensures that environmental clearance does not delay individual home closings. Additionally, it reduces the burden to the Court's agenda and protects the privacy of homebuyers.



Travis County Health and Human Services and Veterans Service

CDBG Program
P.O. Box 1748
Austin, Texas 78767
PH (512) 854-4100 FAX (512) 854-4115
www.co.travis.tx.us/cdbg

Exemption Determination for Activities Listed at 24 CFR §58.34

Grant Recipient: Travis County

Project Name: Travis County Homebuyer Assistance Program – Direct Program Support Costs

Project Description (Include all actions which are either geographically or functionally related):

Direct support costs including: environmental clearance activities for each house, direct supports costs for marketing and advertising the program and program set up including staff time, printing, postage, training, insurance, bus passes for clients, etc.

Location: Various locations throughout the County

Funding Source: CDBG

Estimated Funding Amount: \$78,927

Grant Number: B-09-UC-48-0503 and B-10-UC-48-0503

I have reviewed and determined that the abovementioned project is Exempt per 24 CFR §58.34 as follows:

| | |
|-------------------------------------|---|
| <input checked="" type="checkbox"/> | 58.34(1). Environmental & other studies, resource identification & the development of plans & strategies; |
| <input type="checkbox"/> | 58.34(2) Information and financial services; |
| <input checked="" type="checkbox"/> | 58.34 (3) Administrative and management activities; |
| <input type="checkbox"/> | 58.34(4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs; |
| <input checked="" type="checkbox"/> | 58.34(5) Inspections and testing of properties for hazards or defects; |
| <input checked="" type="checkbox"/> | 58.34(6) Purchase of insurance; |
| <input type="checkbox"/> | 58.34(7) Purchase of tools; |
| <input type="checkbox"/> | 58.34 (8) Engineering or design costs; |
| <input checked="" type="checkbox"/> | 58.34(9) Technical assistance and training; |
| <input type="checkbox"/> | 58.34(10) Assistance for temporary or permanent 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; |
| <input type="checkbox"/> | 58.34(11) Payment of principal and interest on loans made or obligations guaranteed by HUD; |
| <input checked="" type="checkbox"/> | 58.34(12) Any of the categorical exclusions listed in §58.35(a) provided that there are no circumstances that require compliance with any other Federal laws and authorities cited in §58.5. |

The responsible entity must also complete and attach the **58.6 Compliance Checklist**. By signing below the Responsible Entity officially determines in writing that all activities covered by this determination are Exempt and meets the conditions specified for such exemption under section 24 CFR §58.34. This document must be maintained in the ERR.

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature

Date

Samuel T. Biscoe
Authorized Responsible Entity Name (printed)

County Judge
Title (printed)

Compliance Checklist for 24 CFR §58.6, Other Requirements

Complete for all projects, including Exempt (§58.34), Categorically Excluded Subject to §58.5 [§58.35(a)], Categorically Excluded Not Subject to §58.5 [§58.35(b)] and Projects Requiring Environmental Assessments (§58.36)

Project Name: _____

ERR FILE # _____

1. §58.6(a) and (b) Flood Disaster Protection Act of 1973, as amended; national Flood Insurance Reform Act of 1994

- a. Does the project involve new construction, major rehabilitation, minor rehabilitation, improvements, acquisition, management, new loans, loan refinancing or mortgage insurance?
 Yes No

If No, compliance with this section is complete.
If Yes, continue.

- b. Is the project located in a FEMA identified Special Flood Hazard Area?
 Yes No

If No, compliance with this section is complete.
If Yes, continue.

- c. Is the community participating in the National Flood Insurance Program (or has less than one year passed since FEMA notification of Special Flood Hazards)?
 Yes No

If Yes, Flood Insurance under the National Flood Insurance Program must be obtained. If HUD assistance is provided as a grant, insurance must be maintained for the economic life of the project and in the amount of the total project cost (or up to the maximum allowable coverage, whichever is less). If HUD assistance is provided as a loan, insurance must be maintained for the term of the loan and in the amount of the loan (or up to maximum allowable coverage, whichever is less). A copy of the flood insurance policy declaration must be kept on file in the ERR.
If No, Federal assistance may not be used in the Special Flood Hazards Area.

Cite and attach source documentation: (Documentation should include a FEMA Flood Map showing project location in reference to flood zone designation. If flood map is not available, use best available information.)

For additional information see:

FEMA Map Service Center: <http://www.store.msc.fema.gov>

NFIP Community Status Book: www.fema.gov/fema/csb.shtm

2. **§58.6(c) Coastal Barrier Improvement Act, as amended by the Coastal Barriers Improvement Act of 1990 (16 U.S.C. 3501)**

- a. Does the project involve new construction, conversion of land uses, major rehabilitation, minor rehabilitation of existing structure, or acquisition of undeveloped land?

Yes No

If No, compliance with this section is complete.
If Yes, continue below.

- b. Is the project located in a coastal barrier resource area?

Yes No

If No, compliance with this section is complete.
If Yes, Federal assistance may not be used in such an area.

Cite and attach source documentation: (Documentation should include map (e.g. Google Earth) noting project distance from Coastal Barrier Resources.) For more information see: CBRS maps on US FWS and FEMA websites:

<http://www.FWS.gov/CBRA>
<http://www.FWS.gov/CBRA/Maps/index.html>

3. **§58.6(d) Runway Clear Zones and Clear Zones [24 CFR §51.303(a) (3)]**

- a. Does the project involve the sale or purchase of existing property?

Yes No

If No, compliance with this section is complete.
If Yes, continue below.

- b. Is the project located within 2,500 feet of the end of a civil airport runway (Civil Airport's Runway Clear Zone) or within 15,000 feet of the end of a military runway (Military Airfield's Clear Zone)?

Yes No

If No, compliance with this section is complete.
If Yes, Notice must be provided to buyer. The notice must advise the buyer that the property is in a Runway Clear Zone or Clear Zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information, and a copy of the signed notice must be maintained in this ERR.

Cite and attach source document (Map indicating project site in proximity to end of runway):

For more information see:

Airport Information: <http://www.airnav.com/airports/>

HUD Airport Hazards Q&A:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/qa/airport

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature

Date

Authorized Responsible Entity Name (printed)

Title (printed)



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Categorical Exclusion Not subject to §58.5 Determination for Activities Listed at 24 CFR §58.35(b)

Grant Recipient: Travis County Project Name: Travis County Homebuyer Assistance Program

Project Description (Include all actions which are either geographically or functionally related):

Assistance to a homeowner in the amount of: XXXX in Down payment Assistance and XXXXX in Shared Appreciation Gap Financing.

Location: Address of Property

Funding Source: CDBG

Estimated Funding Amount: TBD Grant Number: TBD

I have reviewed and determined that the abovementioned project is a Categorical Excluded activity (not subject to §58.5) per 24 CFR §58.35(b) as follows:

Table with 2 columns: checkbox and description. Row 5 is checked.

The responsible entity must also complete and attach the §58.6 Compliance Checklist. By signing below the Responsible Entity officially determines in writing that each activity or project is Categorical Excluded (not subject to §58.5) and meets the conditions specified for such exclusion under section 24 CFR §58.35(b). This document must be maintained in the ERR.

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature

Date

Sherri E. Fleming
Authorized Responsible Entity Name (printed)

County Executive for TCHHS & VS
Title (printed)

Compliance Checklist for 24 CFR §58.6, Other Requirements

Complete for all projects, including Exempt (§58.34), Categorically Excluded Subject to §58.5 [§58.35(a)], Categorically Excluded Not Subject to §58.5 [§58.35(b)] and Projects Requiring Environmental Assessments (§58.36)

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If Yes, continue.

- b. Is the project located in a FEMA identified Special Flood Hazard Area?

Yes No

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HUD Airport Hazards Q&A:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/environment/review/qa/airport

AUTHORIZED RESPONSIBLE ENTITY OFFICIAL:

Authorized Responsible Entity Signature

Date

Authorized Responsible Entity Name (printed)

Title (printed)