VA Office of Facilities & Construction Management

GPD Capital Grant CFM Webinar – Part 2

October 13, 2021

Webinar Recording:

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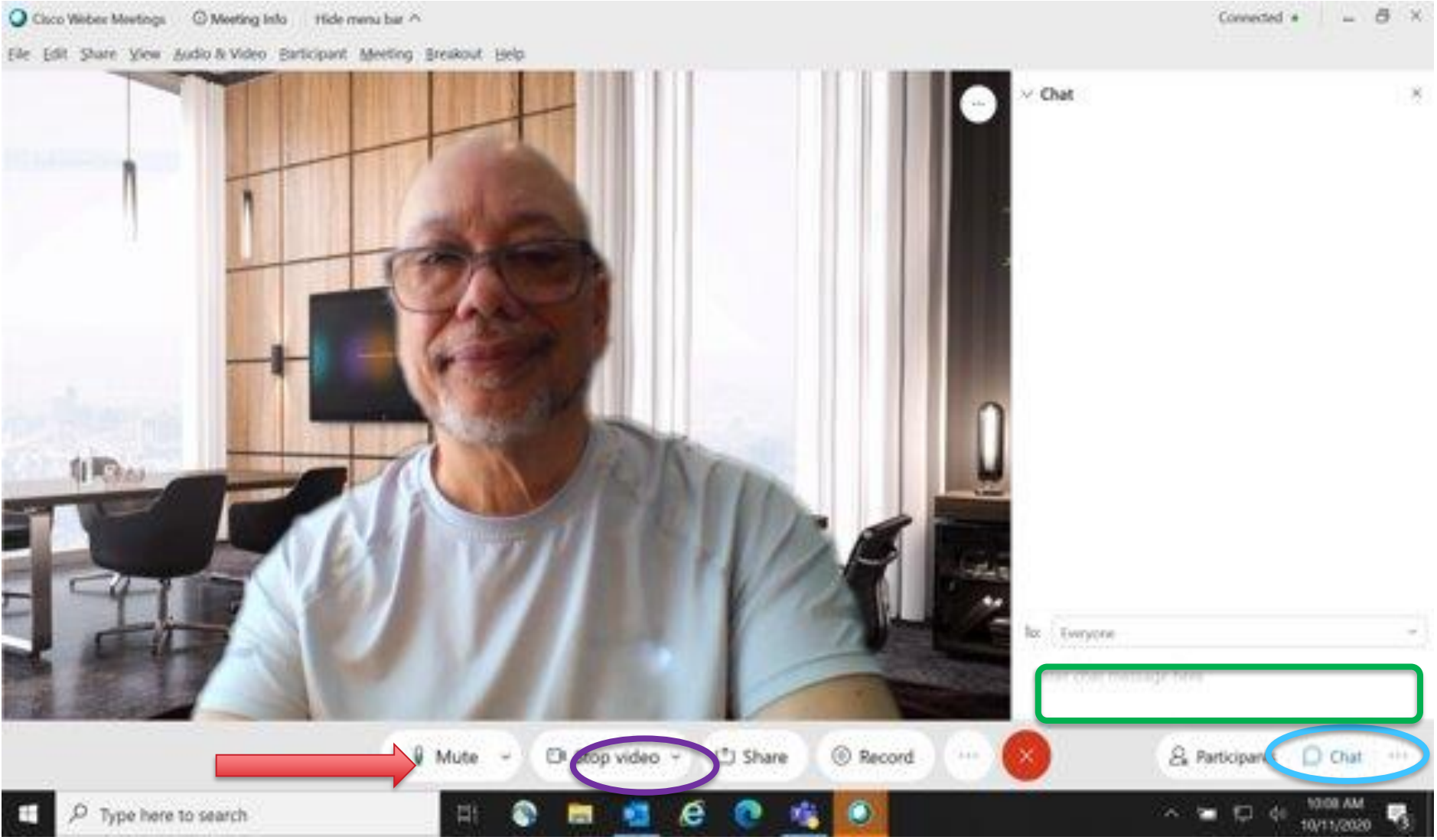
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OBJECTIVES

- Grant recipients will understand the steps required for compliance with:
  - Accessibility, Life/Safety, Codes/Standards
  - Historic Compliance
  - Environmental Compliance
- CFM Review/Approval Process
- Questions

AGENDA

- Re-Introduction of CFM team
- Accessibility, Life/Safety, Codes/Standards Compliance
- Historic Compliance
- Environmental Compliance
- Questions

REMINDERS

Read the Capital Grant Recipient Guide

- https://www.va.gov/HOMELESS/docs/GPD/providers/RecipientGuideCapitalFY22FINALv2.pdf

Establish HHS Division of Payment Management (DPM) Account

Obtain VA Construction and Facilities Management (CFM) Approval

Demonstrate site control (unless activity is acquisition) & Demonstrate total funds to complete the project

Begin drawing capital funds for costs incurred

- Advances only for acquisition; must be expended within 3 business days

Costs incurred prior to completing the steps above are at the applicants own risk

CFM CONTACT INFORMATION

- CFM-GPD Capital Grants (CFM team shared email) | VA Office of Construction & Facilities Management
  - Email: VACOCFMGPDCapitalGra@va.gov
- CFM Team Lead - Point of Contact:
  - Elizabeth Yo, Architect
    - Accessibility, Life/Safety, Codes/Standards Compliance
- CFM Team:
  - Alec Bennett, Senior Historic Preservation Specialist
    - Historical Compliance
  - Jason Sturm, Environmental Engineer
    - Environmental Compliance

ACCESSIBILITY, LIFE/SAFETY, CODES/STANDARDS

35% Design Development Drawings and Specifications:

- Documents must demonstrate:
  - Accessibility Compliance [§61.15 (a) (5)]:
    - Americans with Disabilities Act (ADA) Accessibility Guidelines
    - Architectural Barriers Act Accessibility Standards (ABAAS)
  - Life/Safety Compliance [§61.15 (a) (6)]:
    - Life Safety Code of the National Fire Protection Association (NFPA 101)
  - Code/Standards Compliance [§61.15 (a) (6) & (7)]:
    - Authority having jurisdiction: issue building permits and certificates of occupancy
      - Building Codes
      - Zoning Ordinances

35% Design Development Drawings and Specifications Checklist:

Addition, New Construction or Remodel Projects:

- Brief Project Description
- Site Survey / Site Plan [§61.15 (a) (9)] - Addition, New Construction or Site Improvements:
  - Original/existing conditions
  - Proposed improvements
- Demolition Floor Plan(s) [§61.11 (b) (5) (i) & (ii)] - Addition or Remodel:
  - Original/existing conditions showing features to be removed, stored, or relocated
- Proposed Floor Plan(s): Addition, New Construction or Remodel:
  - Proposed improvements
- Additional Drawings/Details/Specifications to Describe the Project

35% Design Development Drawings and Specifications Checklist:

Purchase of a Property with minor improvements (i.e. interior finish upgrades, no demolition/construction):

- Brief Project Description:
  - Property Description: number of bedrooms/bathrooms, congregate/community areas, amenities, etc.
  - Description of Minor Proposed Improvements
  - Floor Plan(s) of the Property
  - Site Plan of the Property (can be from Google Maps/Earth)
  - Photos to Describe the Property to be Purchased
- Additional Drawings/Details/Specifications to Describe the Project

HISTORIC COMPLIANCE

National Historic Preservation Act (NHPA)

- 38 CFR §61.15(a)(4): Documentation establishing compliance with NHPA (54 U.S.C. 300101)
- All GPD Capital Grants must be compliant with NHPA Section 106 (no waivers or exceptions)

HISTORIC COMPLIANCE

- **Section 106 of the NHPA as amended (54 U.S.C. 306108)**
  - "The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking…
  - prior to the approval of the expenditure of any Federal funds on the undertaking…
  - *shall take into account the effect of the undertaking on any historic property*…"

HISTORIC COMPLIANCE

Why is consultation required for GPD Grants?

- The NHPA Section 106 requirement is triggered by:
  - Federal involvement in a project, through funding, and
  - If the project (or undertaking) is the type of activity that have the potential to affect historic properties
  - **This holds even if there are no historic properties in the project area**
  - Example: An interior renovation on a 20-year-old building would require Section 106 compliance
  - All GPD capital grants are the types of activities that could affect historic properties

HISTORIC COMPLIANCE

How will VA and grant applicants comply with NHPA Section 106?

- The Section 106 implementing regulations (36 CFR Part 800) outline four steps:
  - Initiation (determine undertaking)
  - Identification (of Historic Properties)
  - Assessment (of Affect to Historic Properties)
  - Resolution (of Adverse Effect)

HISTORIC COMPLIANCE

Step 1: Initiation (36 CFR § 800.3)

- Define undertaking
- Identify SHPO
- Identify Consulting Parties (VA will support you)
- Identify Federally-Recognized Tribes (VA responsibility)

HISTORIC COMPLIANCE

State Historic Preservation Office

- Review all federal projects for impacts to historic properties, per NHPA Section 106

Pennsylvania State Historic Preservation Office
PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION

MICHIGAN
S·H·P·O
STATE HISTORIC PRESERVATION OFFICE

HISTORIC COMPLIANCE

Step 2: Identification and Evaluation (36 CFR § 800.4)

- Determine the Area of Potential Effect (APE)
- Identify historic properties with the APE
- If there are no historic properties, consult with SHPO and other parties
  - This is done by sending out a consultation letter, or by completing a SHPO form
  - SHPO and consulting parties have a statutory 30-day review window
  - Initiating Section 106 consultation early in the project is strongly encouraged
  - VA will consult with federally-recognized tribes

HISTORIC COMPLIANCE

Step 2: Identification and Evaluation (36 CFR § 800.4)

- If VA/grant applicants determine that there are no historic properties present in the project area or affected by the project,
- and SHPO/consulting parties agree,
- **then the project is compliant with NHPA.**

HISTORIC COMPLIANCE

Step 2: Identification and Evaluation (36 CFR § 800.4)

- VA is taking the legal steps for applicants to initiate Section 106
- If you are ready to initiate, please send an email to: VACOCFMGPDCapitalGra@va.gov
- **If you are not prepared to initiate, no problem. VA will work with you to prepare an initiation package**.

HISTORIC COMPLIANCE

Step 3: Assessment (36 CFR § 800.5)

- If there are historic properties in the project area, please
  email: VACOCFMGPDCapitalGra@va.gov
- In this case, VA/applicant must apply the criteria of adverse effect
- Adverse effects to historic properties include demolition, or alternations unsympathetic to the historic character of the property

HISTORIC COMPLIANCE

Step 3: Assessment (36 CFR § 800.5)

- If VA/grant applicants determine that the project will result in "no adverse effect" to historic properties...
- then we consult with SHPO and other parties by sending out letters explaining this determination.
- If SHPO and consulting parties agree,
- **then the project is compliant with NHPA.**

HISTORIC COMPLIANCE

Step 4: Resolution (36 CFR § 800.6)

- If, through consultation, it is determined that the project will result in an adverse effect to historic properties...
- then an agreement must be executed to mitigate the adverse effect
- This will require significant participation by VA
- **Most GPD grants will not result in an adverse effect.**

ENVIRONMENTAL COMPLIANCE

- **CFM is preparing a programmatic Environmental Assessment (EA)**
  - Estimated completion of Final EA and Finding of No Significant Impact (FONSI) – mid to late December 2021
  - CFM will review each project scope to ensure compliance with the EA
- **Why is VA preparing a programmatic EA?**
  - NEPA requires agencies to consider the environmental impacts of actions under their purview, including providing funding
- **Environmental Due Diligence to support NEPA review**
  - CFM will do preliminary review, may require additional information from grantee
  - For acquisitions of property or new construction of a new facility
    - Phase I Environmental Site Assessment required
    - CFM can provide a scope of work & estimated cost range, if needed
  - For all other actions (renovation, new wing, minor construction, etc.)
    - Certificate of Occupancy or Occupancy Permit will be required before use

ENVIRONMENTAL COMPLIANCE

National Environmental Policy Act (NEPA)

- Comprehensive Environmental Review requirements for all federal agencies
- NEPA reviews consider, but do not replace, compliance with federal laws specific to certain environmental resources
  - NHPA, Endangered Species Act, Clean Water Act, Coastal Zone Management Act, and others
  - These laws have independent processes and requirements, but conclusions/mitigations for impacts to that resource are informed by compliance with these laws and integrated into the NEPA review
  - Executive orders on floodplain management, wetlands, environmental justice, and climate change are among those that are most frequently relevant and included.

ENVIRONMENTAL COMPLIANCE

NEPA Impacts Assessment Subjects

- Aesthetics
- Air Quality
- Cultural Resources
- Geology and Soils
- Hydrology and Water Quality
- Wildlife and Habitat
- Noise
- Land Use
- Floodplains, Wetlands, and Coastal Management
- Socioeconomics
- Community Services
- Solid Waste and Hazardous Materials
- Traffic, Transportation, and Parking
- Utilities
- Environmental Justice
- Cumulative Impacts
- Potential for Substantial Controversy

ENVIRONMENTAL COMPLIANCE

NEPA Compliance for the GPD Grants

- Interior Renovation – Likely no action
- Small additions to existing facility – Likely no action
- Acquisitions and New Construction – Will need a Phase I Environmental Site Assessment, additional information may be requested

- Presence of threatened or endangered species, wetlands, or floodplains could necessitate further information/action

Phase I Environmental Site Assessment

- Must meet ASTM Standard E1527 – 13 (Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process
- Phase II Environmental Site Assessment could be required depending on the findings of the Phase I
  - purpose is to obtain sound, scientifically valid data concerning actual property conditions

ENVIRONMENTAL COMPLIANCE

Why is a Phase I ESA needed for GPD project review?

- If the grantee is purchasing property, it is in their interest to ensure they have the "innocent landowner" protection from any liability due to past contamination.

Why is VA concerned since the grantee would have any liability?

- (1) VA requires a Phase I ESA for GPD projects that involve property acquisition or any ground-disturbing activity because cleaning up contamination or other mitigation can affect:
  - scope
  - budget
  - schedule

  all of which must be estimated as accurately as possible within the grant application and approval process.

- (2) VA's responsibility to consider potential environmental impacts under NEPA includes effects on human health and safety. This would require identifying and mitigating any health risks to construction workers, residents, staff, and visitors due to site contamination.

Phase I ESA: Investigation and Report

Four main components:

- Records review – specific requirements for sources and search radius
  - Records search output (such as an EDR report) is included as an attachment.
  - The main body of the report summarizes and evaluates the records search results.
  - Records search output by itself (such as an EDR report) does not serve as a Phase I ESA.
- Site reconnaissance
- Interviews
- Report

Must include a current USGS 7.5 minute topographic map (or equivalent) of the area.

Must be conducted by a qualified environmental professional.

ENVIRONMENTAL COMPLIANCE

The Findings section of a Phase I ESA report identifies each known or suspect:

- Recognized environmental condition (REC) –the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment.
- Controlled REC –past release that has been addressed with hazardous substances or petroleum products allowed to remain in place subject to controls.
- Historic REC –past release that has been addressed or meets unrestricted use criteria with no required controls.
- De minimis condition –generally does not present a threat to human health or the environment and generally would not be the subject of an enforcement action if brought to the attention of appropriate government agencies. Not a REC.

May also identify business environmental risks (BERs) –not within the scope of a CERCLA landowner protection AAI investigation, but BERs may affect current or planned use of property: asbestos, biologicals, cultural or historic resources, ecological resources, endangered species, health and safety, indoor air quality unrelated to releases of haz/petroleum

Phase II ESA

- Obtains data concerning actual property conditions, often by sampling and laboratory analysis.
- May have any of these objectives:
  - Assess whether there has been a release of hazardous substances within the meaning of CERCLA, for purposes including landowner liability protections.
  - Provide information relevant to identifying, defining, and implementing landowner "continuing obligations," or the criteria established under CERCLA for maintaining the CERCLA landowner liability protections.
  - Develop information required to qualify for EPA Brownfields Program remediation grants.
  - Provide information on conditions that may pose risk to human health or the environment, or risk of bodily injury to persons on the property and thereby give rise to potential liability in tort.
  - Provide information related to BERs in relation to transferring, financing, and insuring properties.
  - Provide information to support disclosure of liabilities and contingent liabilities in financial statements and securities reporting.

ENVIRONMENTAL COMPLIANCE

Other Environmental Due Diligence

- U.S. Fish and Wildlife Service (USFWS) Consultation
- Wetlands
- Floodplains
- Coastal Zone Management

ENVIRONMENTAL COMPLIANCE

- CFM will verify
  - Scope is within bounds of the EA
  - No extraordinary circumstances
  - Phase I ESA is adequate, and RECs are addressed
  - All necessary consultation is complete – NHPA, USFWS
- CFM will provide approval

CFM REVIEW/APPROVAL PROCESS

- Document Submittal Process:
  - Submit documents via CFM's email: VACOCFMGPDCapitalGra@va.gov
  - Maximum 34 MB file size
  - File Naming Standard: FAIN ID_FileDescription.PDF:
    - Example: *VOA0121-2527-541-CG-22_DD-Dwgs-Specs.PDF*
    - No special characters (i.e. %, #, *, @, &, etc.)

- CFM will contact the grantee's point of contact if any additional information/clarification is required.

- CFM will provide the GPD team approval recommendation memos for compliance with the following technical requirements:
  - 35% Design Development Drawings and Specifications: Accessibility, Life/Safety, Codes/Standards Compliance
  - NHPA Compliance
  - NEPA Compliance, Environmental Due Diligence