

CHAPTER 6 PRELIMINARY ASSESSMENT OF ELIGIBILITY

6-1. Introduction.

a. This chapter discusses the preliminary assessment of eligibility (PAE) phase of an OE response action. The topics discussed include the purpose of the PAE, determination of property/project eligibility, historical records review, site visits, and the Inventory Project Report (INPR). The district is responsible for executing and approving the SOW and IGE for the PAE.

b. The purpose of the PAE is to determine property and project eligibility. This is accomplished by conducting a historical records search to examine the title of the property and determine if DOD formerly used the site. In conjunction with the historical records search, a site visit may also be conducted to obtain information on the type of activities that occurred at the site during its operation,

c. The PAE follows a two-step process to determine property and project eligibility. The first step is the confirmation that a potentially eligible property fulfills the requirements of the FUDS program. The second step is the confirmation of contamination on the eligible property. Following the determination of property and project eligibility, an INPR is prepared.

6-2. Property Eligibility.

a. Under DERP-FUDS policy, a property is defined as a former Army fort, Air Force base, Naval yard, ammunition plant, Army depot, or any other defense component facility, including those operated by contractors.

b. Determination of property eligibility will be made for potential FUDS independent of the effective date of the DERP statute (SARA, 17 October 1986). A determination that a facility fits within the definition of DERP-FUDS does not constitute admission of DOD cleanup liability. As a policy decision, any property exsessed after 17 October 1986 will not be cleaned up with FUDS money.

c. During the PAE, a potentially eligible property is classified as either eligible, ineligible, or categorically excluded. Figure 6-1 illustrates the process for determining property eligibility.

(1) Eligible Property.

(a) A potentially eligible property is one that was formerly owned or used by a defense component. A FUDS is a real property that was formerly owned by, leased by, possessed by, or otherwise under the jurisdiction of the Secretary of Defense or military components that predate

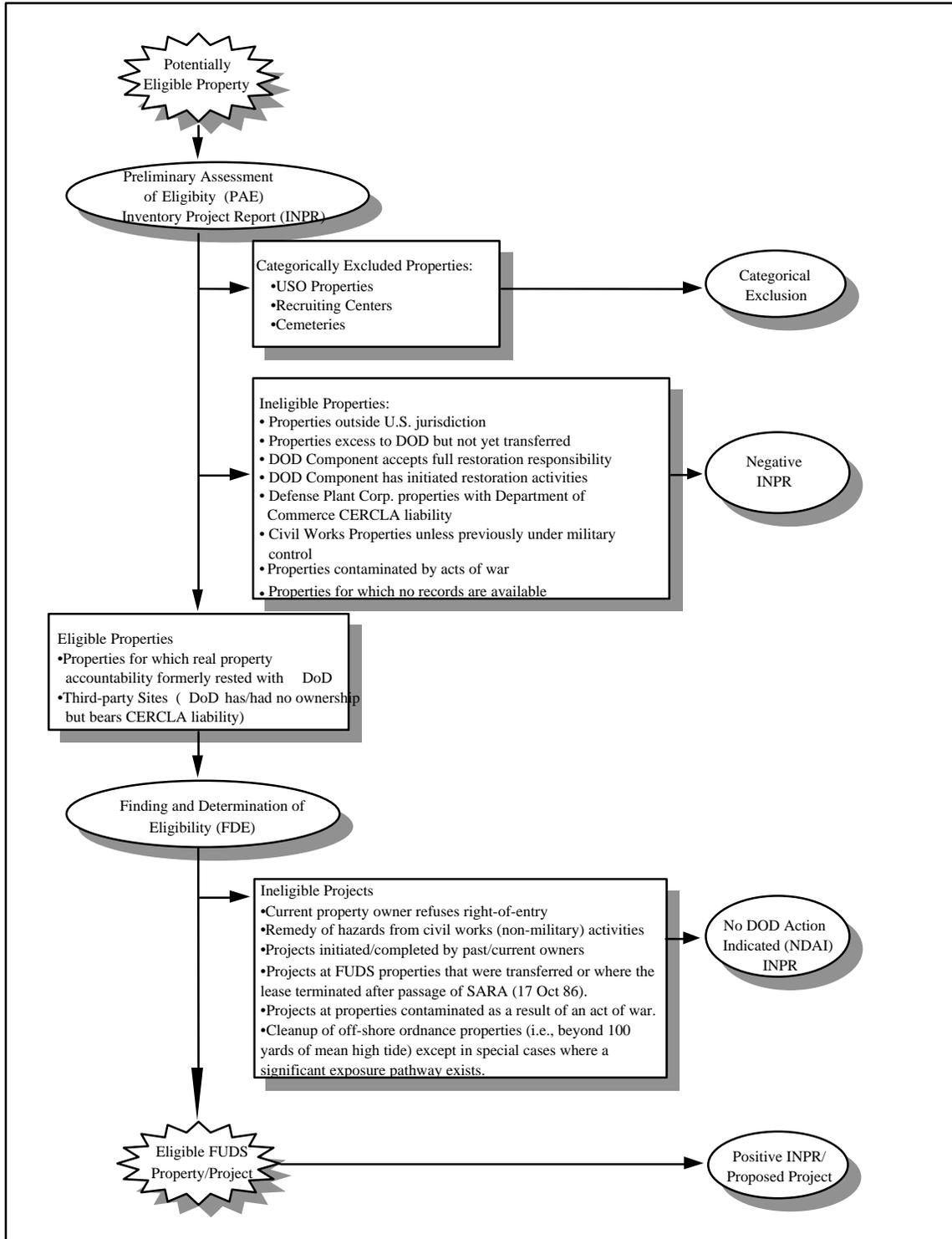


Figure 6-1. Determining Formerly Used Defense Site Property/Project Eligibility

DOD. DERP-FUDS include: all property for which real property accountability previously rested with DOD irrespective of current ownership or current responsibility for accountability within the Federal Government; all properties previously used by DOD components under lease or other agreements; and all properties previously occupied by DOD components over which significant control was exercised without the benefit of a formal real estate instrument or other agreements. FUDS may also include manufacturing facilities which were owned by DOD components and real property accountability rested with DOD but were operated by contractors, and National Guard (state controlled) and Reserve facilities where property accountability at one time rested with DOD. Third party sites are not considered active or former DOD property, but may be considered for DERP-FUDS funding if the contamination was wholly or partly caused by previous DOD controlled activities.

(b) Following the determination of property eligibility, a FDE is prepared and included in the INPR. The eligible property is then evaluated for project eligibility.

(2) Ineligible Property. An ineligible property does not qualify for restoration under the FUDS program. Once a determination of property ineligibility is made, a negative INPR is prepared. Examples of ineligible properties include:

- (a) Properties outside U.S. jurisdiction.
- (b) Properties excessed to DOD but not yet transferred.
- (c) Properties where the responsible DOD component accepts full restoration responsibility.
- (d) Properties where the responsible DOD component has initiated restoration activities.
- (e) Defense Plant Corporation properties with Department of Commerce CERCLA liability.
- (f) Civil Works Properties unless previously under military control.
- (g) Properties contaminated by acts of war.
- (h) Properties for which no records are available.

(3) Categorically Excluded Property. A categorically excluded property is not eligible for the FUDS program because of the nature of its operation or control. The preparation of an INPR is not necessary for a categorically excluded property. Examples of a categorically excluded property include:

- (a) United Services Organizations.

(b) Recruiting Centers.

(c) Cemeteries.

(d) Properties currently controlled by the DOD components (Army, Navy, Air Force, Marines, National Guard [not state controlled]; Reserves, Defense Logistics Agency, and Defense Nuclear Agency) which resulted in hazards.

6-3. Project Eligibility.

a. Following a determination of property eligibility, the property is evaluated for confirmation of contamination in order to establish project eligibility.

b. A project is defined as an activity undertaken to clean up a hazardous condition on a property. A potentially eligible project is one where a DOD component has or shares potential responsibility for the hazardous condition, after applying applicable policy considerations. Figure 6-1 also illustrates the process for determining project eligibility.

(1) Eligible Projects. An eligible project is one in which there is confirmed contamination on the property requiring a response action or where a DOD component has or shares potential responsibility. At an eligible property, cleanup of foreign ordnance may be proposed as an eligible project. Following the determination of project eligibility, a positive INPR is prepared.

(2) Ineligible Projects. Following the determination of project ineligibility, a NDAI INPR is prepared. The discovery of new information can change the status of a project from ineligible to eligible. Ineligible projects are described in the following paragraphs.

(a) Projects identified on property where the current owner refuses ROE. The appropriate authorities (e.g., USEPA, state environmental agency, Office of Public Safety, etc.) should be notified if a hazard exists. Such a project may become eligible if the property owner provides ROE at a later date.

(b) Projects to remedy hazards which resulted from civil works activities rather than military activities.

(c) Projects initiated or completed by a past or current owner. Property owners cannot be reimbursed under DERP-FUDS for any response activities.

(d) Projects at FUDS properties that were transferred or where the lease terminated after the passage of SARA (17 October 86). In these cases, any environmental cleanup project must be undertaken by the DOD component who disposed of the property. The component will conduct the cleanup under its active-site Installation Restoration Program and the project determined as

NDAI under the FUDS program (i.e., the project is not eligible for the FUDS program). This is based on SARA's mandate that a DOD property be cleaned up prior to disposal.

(e) Projects at properties which were contaminated as a result of an act of war.

6-4. Historical Records Review. Review of locally available historical records provides information such as the past use of the facility; types of OE used, tested, stored, disposed, or produced at the site; and whether an OE clearance has been performed in the past. Sources of historical information include local officials and real estate records.

6-5. Site Visit. The PAE site visit can provide information regarding the type, extent, and magnitude of OE contamination at a site. Sites that are no longer owned or controlled by DOD require an ROE prior to conducting a site visit. Acquisition of an ROE is discussed in Chapter 3.

a. Safety Considerations.

(1) Safety is a primary consideration when conducting a site visit at a property that is potentially contaminated with OE. An ASSHP is required for the site visit per ER 385-1-92. The district is responsible for executing and approving the ASSHP for the PAE site visit. Additional information on ASSHPs is provided in Chapter 20.

(2) The site visit should be executed using anomaly avoidance techniques. If ordnance is found during the site visit, extreme caution must be exercised. Personnel conducting the PAE should not touch, move, or jar an apparent OE item in any way, regardless of its apparent condition. Markings such as "practice bomb", "dummy", or "inert" should not be interpreted to mean the item is not hazardous. Practice bombs can have explosive charges that are used to spot the point of impact or the item may be mismarked. If items are found with green band markings, which indicate the item may contain chemical fillers, then personnel should leave the area immediately. A full description of the items should be provided, including a photograph or video, an estimate of the diameter and length, and any visible markings or other identifiers.

(3) If OE is found at a site and may present an imminent danger to the public, USAESCH must be contacted by phone as soon as possible to discuss interim actions. USAESCH may ask that local law enforcement officials be instructed to secure the site and contact the local EOD unit. USAESCH will then coordinate with EOD and may provide an OE Safety Specialist to assess the risks and recommend a course of action.

b. Visible Evidence of OE Contamination. The most obvious evidence of OE contamination is visible evidence at the surface. Due to the time difference between the actual contamination of the site and current assessment visits, however, OE items may not be apparent due to the effects of erosion on land markings and oxidation of metal parts or fragments. The following paragraphs describe visual evidence of OE that may be encountered on the site visit.

(1) True Craters. These are formed when an ordnance item penetrates the ground and explodes. The size varies with the depth of penetration, size of the ordnance, and the geology of the site. They can be identified by striation marks leading out from the crater, the slanted sides, and a raised lip around the crater edge.

(2) False Craters. These are formed by large unexploded projectiles and are actually just a point of entry. A false crater has vertical sides, flat bottom, and non-raised lips. False craters can be as large as 10 feet in diameter.

(3) Ordnance Items or Fragments. It may be possible to find intact OE items at the surface. In many cases, however, only fragments or parts will be found. In training ranges, the detonation or impact may shatter the item into many unrecognizable pieces. Open Burn/Open Detonation (OB/OD) operations will create the same effect.

(4) Soil Stains. An unnatural soil color may indicate bulk explosive contamination. The particular color of soil stain is not a very good indicator of the type of explosive due to weathering effects and the vast number of possible explosive mixtures. Only chemical analysis can provide reliable explosive identification. The only responsibility of the personnel performing the PAE is to note these areas in the site visit report.

6-6. Inventory Project Report.

a. General. The results of the PAE are reported in an INPR. The district executes the INPR.

b. Types of INPRs. The MSC Commander uses the information in the INPR to make eligibility determinations. An INPR may be classified as positive, negative, or NDAI.

(1) A positive INPR is one that reports an eligible property with an eligible project. The INPR Approval Memorandum authorizes the project eligibility and initiation of additional ROE, easement, or other access agreement negotiation.

(2) A negative INPR is one that reports on a property that is ineligible for DERP-FUDS funding.

(3) An NDAI INPR is one that reports on an eligible property at which there are no eligible hazards (i.e., ineligible project). Ineligible OE projects in an NDAI INPR will be confirmed by the OE MCX.

c. Contents. The contents of the INPR are dependent upon the property eligibility, project eligibility, and project category. Table 6.1 lists the documents required for the INPR. These documents include the Property Survey Summary Sheet, the FDE, Project Summary Sheet(s), Risk Assessment, and a cost estimate.

Table 6.1
Documents Included in the Inventory Project Report

Documents	Property Status			
	NOT ELIGIBLE	CATEGORICAL EXCLUSION	ELIGIBLE	
			Project Type	
			NDAI	OE
MSC Commander's Memorandum	Yes	Yes	Yes	Yes ¹
District Engineer's Memorandum	Yes	Yes	Yes	Yes
Property Survey Summary Sheet	No	No	Yes	Yes
Findings and Determination of Eligibility	Yes	No	Yes	Yes
Project Summary Sheet	No	No	No	Yes
Project Cost Estimate	No	No	No	Yes ²
Risk Assessment Code	No	No	Yes ³	Yes ³
Categorical Exclusion Form	No	Yes	No	No

¹ The OE MCX will make a project recommendation to the MSC Commander for OE projects prior to the MSC Commander's INPR Approval Memorandum.

² The OE Design Center will prepare the cost estimate for OE projects.

³ A Risk Assessment Code is required for all OE projects.

GENERAL NOTES:

1. The District Engineer's and MSC Commander's Memoranda are for the transmittal of the INPR (including amendments).
2. The FDE is for the eligibility of the property. When more than one project is included in the INPR, only one FDE, one property survey summary sheet, one District Engineer's Memo, and one MSC Memo are needed for the INPR.
3. If an eligible property with a hazard, but no project, is being proposed due to policy considerations, prepare a project summary sheet. There will not be a reason to have a cost estimate with those INPRs.

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(1) Property Survey Summary Sheet. The Property Survey Summary Sheet provides information including property name (current and former); property location; property history as prepared by the geographic real estate district; description of site visit, if applicable; category of hazard (e.g., HTRW, OE, etc.); brief project description by category; listing of available studies and reports; and a POC.

(2) FDE. The FDE documents whether the property is eligible for DERP-FUDS. There are two components of the FDE: the Findings of Fact and the Determination. The Findings of Fact explains when and in what manner the site was formerly owned or used by DOD. The Determination is a summary of the MSC Commander's determination of property eligibility. The FDE is signed by the MSC Commander.

(3) Project Summary Sheet. The project summary sheet includes a description of the problem or suspected problem; project description; cost-to-complete estimate; completed RAC worksheet for OE projects; description of project eligibility; policy considerations; a description of the next step in the proposed project; and a POC. A description of the types of ordnance manufactured, stored, or utilized must be included. If no information is available, this must be stated and the source of information searched must be documented.

(4) Risk Assessment. A risk assessment will be performed for all sites under investigation for potential OE contamination. Paragraph 6-6d describes the risk assessment procedures.

(5) Cost Estimate. Due to the great uncertainty associated with determining the type, extent, and magnitude of ordnance contamination, the district providing the INPR is not required to develop a cost estimate for ordnance response actions. The OE MCX will determine the type of response action needed and the OE Design Center will prepare an estimate. The project will then be recommended to HQUSACE for inclusion into the program work plan.

d. Risk Assessment Code Worksheet.

(1) The risk assessment will be performed using the RAC Worksheet. The RAC worksheet relies on the best available information to assess the risk involved based on the potential OE hazards identified at a site. The RAC Worksheet is used to generate a RAC score, which is used to prioritize the response actions taken at FUDS. The RAC is executed by the district, reviewed by the OE MCX, and approved by the MSC. Appendix B provides an example of a RAC Worksheet.

(2) There are four general steps to performing an explosives safety risk assessment using the RAC Worksheet.

(a) Step 1 - Identify the hazard in terms of the types of OE known or expected to be present and the known or suspected distribution. Consideration must be given to effects of aging and environmental exposure on the susceptibility of energetic response.

(b) Step 2 - Determine the severity of the hazard by considering the threats the OE poses to personnel and property. Hazard severity categories are defined to provide a qualitative measure of the worst credible event resulting from personnel exposure to various types and quantities of UXO. The five hazard severity categories are: catastrophic, critical, marginal, negligible, and none.

(c) Step 3 - Determine the probability of the hazard by considering the type and amount of OE likely to be encountered, suspected condition/ease of initiation, accessibility, and the degree of current and anticipated personnel activity which could create situations for contact. The hazard probability descriptions are: frequent, probable, occasional, remote, and improbable.

(d) Step 4 - The hazard severity and hazard probability are considered together to determine the RAC score for the site. This score is used to prioritize response actions as follows:

- RAC 1 - Expedite the INPR, recommend further action by the OE MCX, immediately contact the OE Safety Manager if a TCRA situation exists.
- RAC 2 - Give high priority to completion of the INPR, recommend further action by the OE MCX.
- RAC 3 - Complete the INPR, recommend further action by the OE MCX.
- RAC 4 - Complete the INPR, recommend further action by the OE MCX.
- RAC 5 - Usually indicates that NDAI is necessary. Submit NDAI and RAC to the OE MCX.

e. INPR Review and Approval Process.

(1) The INPR must be reviewed by the district OC prior to submittal to the MSC. If a project also involves HTRW or is a potentially responsible party project, the INPR must also be reviewed by the appropriate HTRW Design District and reviewed for technical content by the HTRW MCX.

(2) The MSC must forward an OE INPR to the OE MCX. The OE MCX is responsible for returning the OE INPR, with project recommendations, within 20 days of receipt to the MSC for approval.

(3) If a project is approved, the MSC will prepare an INPR Approval Memorandum. The INPR Approval Memorandum authorizes the project eligibility and initiation of ROE, easement, or other access agreement negotiation. Additional information regarding landowner notification and access agreements is included in Chapter 3 of this pamphlet.

(4) The MSC must forward a copy of the INPR Approval Memorandum to the OE MCX for the PAE file and to authorize project approval for an ASR.

(5) The district should forward a copy of the signed FDE to each landowner as well as to the USEPA for NPL projects. Figure 6-2 illustrates the INPR review process.

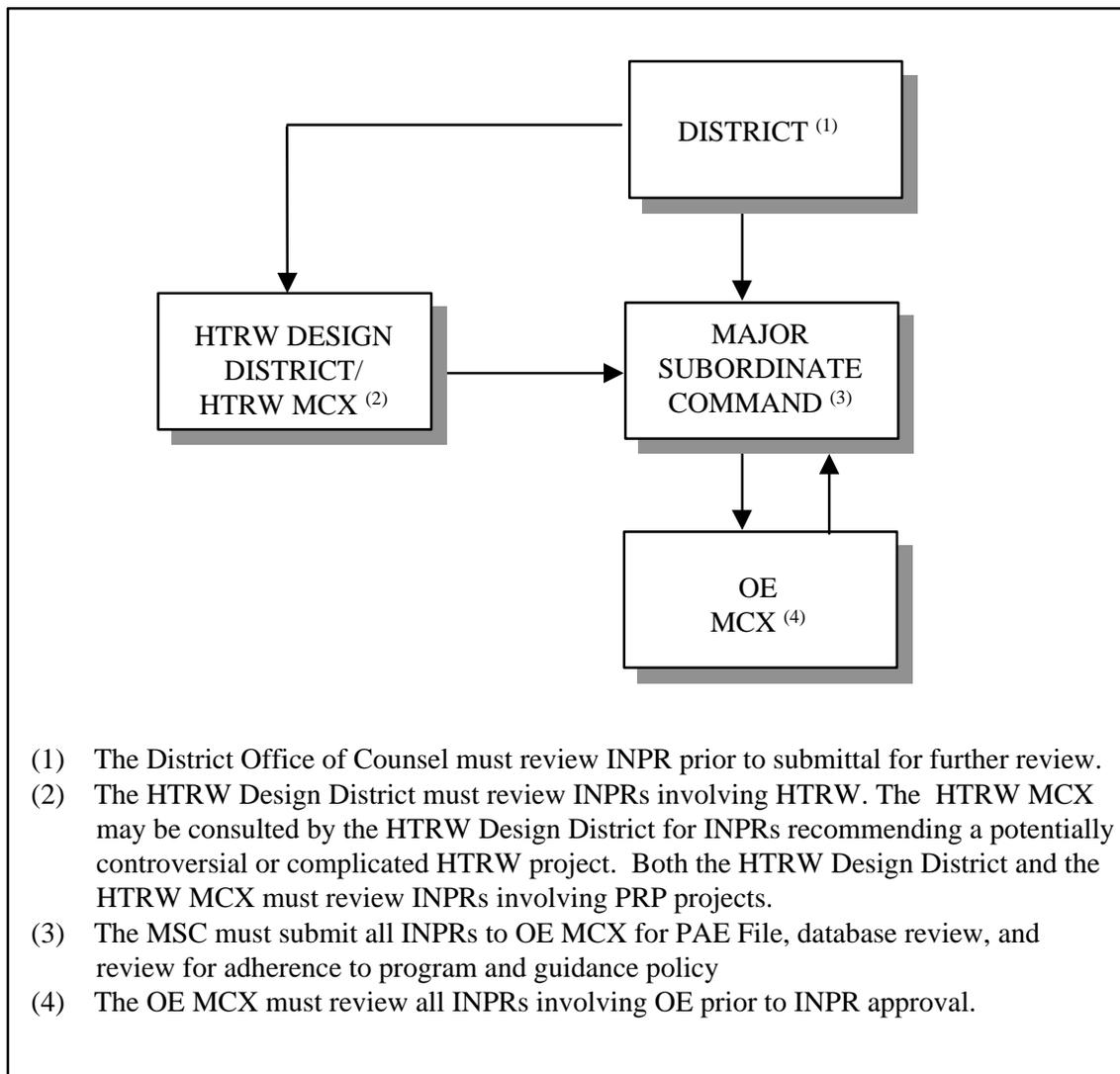


Figure 6-2. Inventory Project Report Review Process