

# **St. Clair County Community Development Division**

## **Environmental Review Procedures for Federally Funded Projects**



# Table of Contents

ENVIRONMENTAL REVIEW PROCEDURES.....	4
Introduction .....	4
Purpose of Environmental Review Process.....	4
Project Review .....	4
Requirements for Environmental Review.....	5
Full Project Review .....	5
Review by St. Clair County – Community Development Division .....	5
Environmental Review Record .....	7
Glossary Of Terms Used In Environmental Review .....	8
Abbreviations .....	10
GENERAL STEPS: A SUMMARY OF ENVIRONMENTAL REVIEW PROCESS .....	11
How Subrecipients (Nonprofit Agencies, County Departments, CHDOs, Etc.) Can Expedite/ Facilitate Environmental Review .....	14
Initiation Of the Environmental Review Process: Drafting the ERR.....	14
Steps In Completing The ERR: Exempt Activities.....	15
Steps In Completing The ERR: Categorical Exclusion Not Subject To 58.5 .....	16
Steps In Completing The ERR: Categorical Exclusion Subject To 58.5 .....	17
Determination:.....	19
Effect Of Statutory Checklist.....	20
Common Statutory Checklist Concerns Identified In St. Clair County .....	24
Decision Making Process Executive Order 11988 And 24 CFR 55.20 .....	25
Steps In Completing The ERR: Projects Requiring Environmental Assessment .....	26
FONSI And NOI/RROF Procedures .....	27
Special Problems Environmental Review .....	28
 ATTACHMENT A	
24 CFR 58 Regulations.....	30
 ATTACHMENT B	
Summary of Levels of Environmental Review & Documentation Required in ERR.....	59
 ATTACHMENT C	
Certification of Exemption .....	62
 ATTACHMENT D	
Certification of Categorical Exclusion (not subject to 58.5).....	66
 ATTACHMENT E	
Certification of Categorical Exclusion (subject to 58.5).....	70
 ATTACHMENT F	
Environmental Assessment Determination & Statutory Compliance Checklist .....	76
 ATTACHMENT G	
Notice of Intent to Request a Release of Funds .....	85
 ATTACHMENT H	
Combined Notice of Finding of No Significant Impact and Intent to Request Release of Funds	89

ATTACHMENT I  
Request for Release of Funds and Certification .....93  
ATTACHMENT J  
Authority to Use Grant Funds .....97  
ATTACHMENT K  
Tiering Procedure & Sample Notices for Multi-Year Reviews .....99  
ATTACHMENT L  
IHPA Sample Letter ..... 108  
ATTACHMENT M  
Federally Recognized Tribes: Tribal Letter Sample & Unanticipated Discoveries Information .110  
REVISION HISTORY ..... 116

# ENVIRONMENTAL REVIEW PROCEDURES

## Introduction

St. Clair County, Illinois as a responsible entity has assumed the responsibility for environmental review, decision-making, and action that would otherwise apply to the U.S. Department of Housing and Urban Development (HUD) under National Environmental Policy Act of 1969 (NEPA) and other provisions of the law that further the purposes of NEPA as specified in Title 24 Part 58.5, by execution of a grant agreement with HUD. It is the County's goal to carry out these responsibilities to ensure compliance with all federal regulations as outlined in Title 24 Part 58.

In addition to NEPA compliance, the County will implement the Federal Flood Risk Management Standard and HUD's 8-Step Decision-Making Process for projects located in floodplains, as required under 24 CFR Part 55. This process evaluates practicable alternatives, minimizes adverse impacts, and ensures resilience against flood risk.

The federal statutes set forth three basic goals for HUD Community Planning and Development programs, CDBG and HOME along with HUD special programs (i.e. HOME ARP, CDBG-CV, CDBG-DR). These goals are closely related to the major commitments and priorities of HUD. First, the programs are to provide decent housing; second, provide a suitable living environment; and, third expand economic opportunities. The second of these goals clearly establishes concerns of environmental effect as an important consideration in all federal programs.

This manual is intended to give detailed, step-by-step guidance in carrying out the environmental review function in the administration of the grant programs. References, information sources, and suggestions on timelines are based on experience in the County and may not be applicable elsewhere.

## Purpose of Environmental Review Process

The purpose of these environmental procedures is to ensure that all projects funded with federal funds including program income are in compliance with all applicable federal laws and authorities identified in Title 24 Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Also, these procedures are intended to insure a suitable living environment, or more specifically, to determine if any significant environmental impact may occur as a result of a proposed project; to release funds to support eligible projects that neither harm nor are harmed by the environment; to safeguard, enhance, and restore the environment; and to foster public participation in the development decision-making process.

## Project Review

All CDBG and HOME Program Applications requesting funding are submitted to St. Clair County's Community Development Division for review. Proposed projects include projects submitted to the department via CDBG, HOME or CHDO applications developed by the St. Clair

County's Community Development Division. Budget Analyst (Review Officer) will review the project.

## **Requirements for Environmental Review**

All federally funded projects (e.g. CDBG and HOME along with all federally funded special grants) are subject to environmental review using the criteria and statutory authorities specified in the HUD regulations 24 CFR Part 58 (**see Attachment A**) and for more complex projects, using procedures from the National Environmental Policy Act (NEPA).

### **Full Project Review**

Under HUD rules, even if federal funds support only a portion of the project, the full project and its impacts must be examined before any funds are obligated or expended..

If another agency or private firm has conducted an environmental review, St. Clair County's Environmental Review Officer must verify and document that the review meets HUD requirements. When adopting another agency's environmental review under 24 CFR 58.12 , the Environmental Review Officer must: (1) obtain the complete environmental review record from the originating agency; (2) confirm that the review complies with NEPA and all applicable federal laws and authorities listed at 24 CFR Part 58 Subpart G ; (3) document the adoption in St. Clair County's Environmental Review Record (ERR), including a written statement of acceptance; and (4) complete any required public notice and comment periods prior to submitting the Request for Release of Funds. Adoption is only permissible if the original review covers the entire project scope and meets HUD standards.

The environmental review process must be fully completed before committing any funds or starting any project activities, including work funded with non-HUD sources. Environmental clearance is required prior to executing contracts or incurring costs for both federal and non-federal expenses. Failure to comply with this requirement will render the project ineligible for federal funding, and any costs incurred before clearance may be disallowed.

In addition, no Choice Limiting Actions (CLAs) may occur before the environmental review process is complete and clearance has been issued. CLAs include activities such as acquisition, rehabilitation, demolition, or contracting that would commit funds or limit future project alternatives. Performing any CLA prior to clearance is a violation of 24 CFR 58.22 and may result in the project being ineligible for federal funding and disallowance of costs.

## **Review by St. Clair County – Community Development Division**

St. Clair County's Environmental Review Officer conducts the environmental review or otherwise determines and documents that the environmental review requirements have been met. Subrecipients may choose or be required to complete the environmental review using office staff of the subrecipient or a subrecipients third party contractor through procurement. A contract between the County and Subrecipient cannot be carried out and work for the project in which the ER is being

completed cannot begin until the County, as the Responsible Entity, has signed off on the submitted review or if necessary, HUD has signed and released the AUGF. Even if a federally funded activity is an exempt activity under the HUD rules, the Environmental Review Officer must determine that it is exempt, explain why it is exempt, and maintain a record stating that it is exempt. The County retains ultimate responsibility for environmental compliance as the Responsible Entity, while subrecipients support the process by providing accurate information and implementing mitigation measures. When subrecipients conduct the ER, the County reviews and approves all documentation before any funds are released.

#### **St. Clair County Responsibilities when subrecipients complete the environmental review**

- Provide guidance and assistance to subrecipients on environmental review requirements and procedures.
- Use project description and information to assist the subrecipient in determining the level of review.
- Initiate all formal consultation with state, federal and tribal agencies.
- Post public notices associated with the 8 Step-Process and NOI/FONSI or other notices specifically related to the environmental review on the official County website.
- Review completed environmental review. Request any additional documentation or information prior to completing signature pages.
- Assign completed review to CPD HUD office for review and 15-day comment period prior to receiving the AUGF.
- Release funds only after environmental clearance has been completed, the required public comment period has expired without permissible objections, and all grant conditions have been met.
- Withhold or suspend funding if new information reveals that the environmental review or certification was improper. The subrecipient may be required to revise its review, conduct an additional public comment period, and recertify.
- Monitor compliance with environmental conditions and mitigation measures outlined in the Notice to Proceed and maintain documentation in the Environmental Review Record (ERR).

#### **Subrecipient Responsibilities when St. Clair County completes the environmental review**

- Provide accurate project information to the County to determine the level of environmental review required.
- Avoid Choice Limiting Actions (CLAs) prior to environmental clearance, as required by 24 CFR 58.22.
- Assist with documentation by supplying data, maps, field reports, and other materials needed for the ERR.
- Comply with all mitigation measures and conditions identified during the environmental review and ensure these are implemented and documented.
- Maintain internal records demonstrating compliance with environmental requirements and respond promptly to County monitoring request

## **Environmental Review Record**

The Environmental Review Officer maintains a written record of the environmental review undertaken under this part for each project. This document will be designated the “Environmental Review Record” (ERR) and shall be available for public review. The Environmental Review Officer uses the current HUD recommended formats or develop equivalent formats.

The ERR contains all the governmental review documents, public notices and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making and actions pertaining to a particular project of a recipient. As appropriate, the ERR shall:

- (1) Describe the project and activities the recipient has determined to be part of the project;
- (2) Evaluate the effects of the project or the activities on the human environment;
- (3) Document compliance with applicable status and authorities, those cited in Section 58.5 and 58.6; and
- (4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact)

The ERR contains, as appropriate, verifiable source documents and relevant base data used or cited in EAs, EISs, or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspections by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR. St. Clair County utilizes HEROS for ER review/input 100%. See link for a Guide to HEROS: <https://files.hudexchange.info/resources/documents/HUD-Environmental-Review-Online-System-User-Guide.pdf>

## **Glossary Of Terms Used In Environmental Review**

### ***Activity:***

An action that a grantee or recipient puts forth as part of an assisted project regardless of whether it's to be borne directly by the HUD assistance or imparted by another funding source.

### ***Certification:***

Environmental certification including HUD form 7015.15, containing a statement forwarded to HUD along with the RROF/C and the FONSI certifying to HUD that St. Clair County, Illinois has satisfied its responsibilities under the National Environmental Policy Act of 1969 and other related laws and authorities.

### ***Certifying Officer:***

The official authorized to execute the Request for Release of Funds and Certification with the legal authority of the County to carry out the responsibilities of 24 CFR 58.13 of the federal regulations.

### ***Determination of Effect:***

The effect of the undertaking (project) on historic properties. The “determination of effect” is based on the results of the identification and evaluation of properties (for listing on the National Register of Historic Places) located in the project area of potential effects (APE). The federal agency must submit a “determination of effect” that best represents the undertaking’s (project) impact on properties located within the APE that are eligible for listing on the National Register of Historic Places. Option 1) No Historic Properties Affected: if the federal agency finds that either there are no historic properties present or there are historic properties present but the undertaking will have no effect upon them. Option 2) Adverse Effect: an adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register. An adverse effect may include reasonably foreseeable effects caused by the undertaking that may occur later

in time, be farther removed in distance, or be cumulative. Option 3) No Adverse Effect: the federal agency, in consultation with the SHPO/Tribal Historic Preservation Office (THPO), may propose a finding of no adverse effect when the undertaking’s effects do not meet the criteria established as an adverse effect or the undertaking is modified or conditions are imposed to ensure consistency with the Secretary of Interior’s Standards for the Treatment of Historic Properties and other applicable guidelines. SHPO cannot make a determination of effect for the federal agency because, as a consulting party in the process, it is the SHPO’s responsibility to advise and assist the federal agencies in carrying out their Section 106 responsibilities.

### ***ERR:***

Environmental Review Record, an instrument documenting compliance with the environmental review requirements of NEPA and/or 24 CFR 58.

***EIS:***

Environmental Impact Statement, (under NEPA) a detailed examination of the proposed project, the environment of the proposed project, and the relationship between the two.

***FONSI:***

Finding of No Significant Impact, a statement forwarded to HUD finding that the proposed project (including mitigating measures) will not adversely affect or be affected by the environment.

***Ground Disturbance:***

Ground disturbance is defined as any activity that compacts or disturbs the ground within a project area. The project area is defined as all areas where project activities will occur, including: the actual construction activities, permanent easements, temporary construction easements, staging areas for supplies and equipment, and borrow pits. Ground disturbance can also be caused using hand tools (shovels, pick axe, posthole digger, etc.), heavy equipment (excavators, backhoes, bulldozers, trenching and earthmoving equipment, etc.), and heavy trucks (large four-wheel drive trucks, dump trucks and tractor trailers, etc.). Trenching, bulldozing, excavating, scraping, and plowing are typical examples of ground disturbance activities. Project types that usually involve ground disturbance include acquisition/demolition/relocation of structures; vegetation management; landslide stabilization; and infrastructure projects such as utilities, storm water management, and flood control. However, any projects that include the installation of utilities, culverts, temporary roads or structures, permanent roads, foundations and footers all typically involve ground disturbance activities.

***NEPA:***

The National Environmental Policy Act of 1969.

***NOI:***

Notice of Intent, as in Notice of Intent to Request Release of Funds(NOI/RROF).

***Project:***

An activity, or group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.

***Responsible Entity:***

The unit of general local government whose jurisdiction contains the project sites.

***ROF(ATUGF):***

Authorizing Use of Grant Funds. (Form HUD 7015.16)

***RROF/C:***

Request for Release of Funds and Certification (Form HUD 7015.15), a statement forwarded to HUD with the FONSI (see definition above) certifying that the environmental review is complete and requesting that funds for the proposed action be released to carry out the project.

***Section 106 Review:***

An integral part of environmental review under 24 CFR 58.5 and NEPA which determines whether a federally permitted, licensed, or Any historic resources and how to minimize any negative effects. The Section 106 consultation is mandated by The National Historic Preservation Act of 1966, as amended.

***Segmenting:***

Conducting an environmental review so that only parts of the project come under review, a procedure strictly forbidden by NEPA regulations and 24 CFR 58.32.

***Tiering:***

Conducting an environmental review in steps, commencing with a general review of the whole project, in which the ERR includes stipulated requirements for certain compliance to occur later and certain documents to be attached to the ERR when it is practical to do so.

**Abbreviations**

<b><i>CDBG</i></b>	Community Development Block Grant
<b><i>EA</i></b>	Environmental Assessment
<b><i>EPA</i></b>	Environmental Protection Agency
<b><i>HUD</i></b>	Department of Housing and Urban Development
<b><i>NEPA</i></b>	National Environmental Policy Act of 1969
<b><i>HOME</i></b>	Home Investment Partnerships Program
<b><i>IHPA</i></b>	Illinois Historic Preservation Agency
<b><i>FEMA</i></b>	Federal Emergency Management Agency

## GENERAL STEPS: A SUMMARY OF ENVIRONMENTAL REVIEW PROCESS

The list of approved projects through St. Clair County's Annual Action Plan by the U.S. Housing and Urban Development (HUD) triggers the initiation of the environmental review process. The Environmental Officer, who is an employee of the Community Development Division, will initially make a review of the project descriptions/applications and environmental conditions and make an environmental determination of the project after the projects have been approved. A description of key steps in implementing the environmental requirements is as follows:

- (1) Create an ERR file with appropriate project identification.
- (2) Project or Project Aggregation - determine the scope of activity or activities comprising the project: consider all other related activity or activities that may be grouped and consider their aggregate potential impact. Activities may be grouped geographically or functionally. See 24 CFR 58.32 for full description of aggregation, including descriptions of geographic and functional aggregation.
- (3) Visit project site, get representative photographs of project site and surrounding area, and review pertinent maps, e.g. flood map, wetland maps and topography maps. Make use of mapping and satellite internet sites to conduct a preliminary "site" visit from your desktop computer. A review of available aeriels and satellite images can assist with identifying potential red flags prior to going on site (e.g. identify rail lines, airports, highways, above ground storage tanks, schools, hospitals, toxic/contaminated sites, etc. – some internet mapping sites allow for on screen measuring to assist in getting a general sense of a project site's proximity to certain features of interest).
- (4) Applicants must submit an acceptable project description for review by the Environmental Officer. **The project description must detail the exact use of funds.** The project description will include representative photographs, key map, site address or legal description, and proposed site plan (if applicable or available). At a minimum, the project description shall include and address the following:
  - a) Project Name; Funding Source; and Project Number
  - b) Estimated Total Project Cost (plus estimated HUD Funding by Program if total cost exceeds subject grant amount)
  - c) Project Location (address, site map)
  - d) Use of Project (park, affordable housing, public services)
  - e) Size of Project (sq. ft., no. of units, etc.)
  - f) What services will be provided?
  - g) Who will be served by the project?
  - h) How many will be served by the project?
  - i) Will people be moved?
  - j) Type of Construction (new construction, rehabilitation, conversion)
  - k) Can another ER report be utilized?

- (5) Determine the level of review required. Levels of environmental review are characterized by the degree to which the regulations require a review or compliance determination under the statutes cited in (24 CFR 58.34, 58.35, 58.36, 58.37) of the HUD regulations. In order from simplest to most complex, they are:

**Exempt Activities- Level 1:** activities that meet the requirements of the regulations under 24 CFR 58.34 (a)(1)-(11) do not have to comply with the other provisions of law or authorities cited in Section 58.5 except for the applicable requirement of Section 58.6 (see **Attachment C and F**). **Skip to number 15.**

**Categorical Exclusion not subject to 58.5 – Level 2:** activities that, according to the regulations under 24 CFR 58.35(b), would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in 58.5. However, these activities are still subject to 58.6 (see **Attachment D and F**). **Skip to number 15.**

**Categorical Exclusions subject to 58.5- Level 3:** activities that, according to regulations under 24 CFR 58.35(a), do not require an EIS or an EA plus FONSI, but do require compliance with the federal statutes on the Statutory Checklist (see **Attachment D and E**). **If exempt, skip to number 15. If not, skip to number 9.**

**Environmental Assessment- Level 4:**

**(Environmental Impact Statement Not Required):** activities that are neither exempt nor categorically excluded, which fall below the threshold of activities requiring an EIS. An EA must be prepared in accordance with Subpart E of Part 58 (see **Attachment F**). **Skip to number 9.**

**Environmental Impact Statement Required- Level 5:** activities that are neither exempt nor categorically excluded, which exceed the threshold of activities requiring an EA.

- (6) Collect and evaluate data and information from other sources such as but not limited to FEMA flood maps, wetland inventory maps and soil survey maps.
- (7) Initiate contact with other agencies requesting jurisdictional confirmation of the County's determination.
- (8) Make the environmental determination and complete all required forms, i.e. the Statutory Checklist and Environmental Assessment forms.
- (9) As appropriate, publish and disseminate a Notice of Intent to Request Release of Funds (NOI/RROF) for Level 3 projects (see **Attachment G**). If any of the categorical exclusions listed in Section 58.35(a) do not require compliance with any other Federal laws and authorities cited in Section 58.5, the project converts to **Exempt**, per Section 58.34(a)(12) and a NOI/RROF notice is not required.

- (10) For Level 4, publish a combined NOI/RROF and FONSI (see **Attachment H**).
- (11) Submit official determination for the Certifying Officer’s signature, i.e. Director of Community Services.
- (12) Prepare the RROF, HUD Form 7015.15 (see **Attachment I**) to be submitted to HUD along with a letter of submittal signed by Director of Community Services, copy of all pertinent publications. This information will be forwarded Federal Express – Priority Overnight at the end of the 15-day comment period to HUD.
- (13) Wait for receipt of signed Authorization to Use Federal Funds (HUD Form 7015.16) from HUD (see **Attachment J**).
- (14) Funds cannot be utilized until St. Clair County has received the Authorization to Use Federal Funds from HUD. Also, this step will ensure that the contracts and Letters of Agreement are not executed prior to the completion of the environmental review process.
- (15) Record the process of carrying out the preceding steps by concluding the Environmental Review Record (ERR) for the project and filing it for public review or audit in the departmental central files. The purpose of the ERR is to document compliance with HUD regulations and with NEPA.
- (16) Contract executed by County Executive (or appointee) and notice to proceed issued.

**Sample Timeline**

Environmental Determination	Estimated Timeline for Preparation
Exempt	1 Day
Categorically Excluded not Subject to 58.5	1 Day
Categorically Excluded Subject to 58.5	30-75 Days
Environmental Assessment	45-100 Days
Environmental Impact Statement	1-2 Years

## How Subrecipients (Nonprofit Agencies, County Departments, CHDOs, Etc.) Can Expedite/ Facilitate Environmental Review

- (1) **Complete Project Description:**  
The project description should include any proposed physical alteration of a site, whether demolition, exterior alteration (including painting, siding, replacement windows, etc.), rehabilitation, or new construction (including expansion, replacement, etc.). The description must have enough detail to allow the reviewer to visualize the proposed physical changes including square footage, linear footage, number of items to be installed, and number of people to be served. The description must include the whole project. NEPA does not allow segmenting of a project. Even if CDBG funds can be described as supporting predevelopment actions, which result in construction, the environmental review treats the entire project as a construction project. The information allows for an accurate determination of eligibility and a correct choice of NEPA requirements of the level of environmental review and related laws and authorities identified in Section 58.5 that the environmental review must consider.
  
- (2) **Location/Site Information:**  
Site location should include street address; site map and any additional information that will make it easy for the Environmental Officer to locate the site.
  
- (3) **Photographs:**  
Photographs of the site with reference points to help identify the site. If a structure is on the land, photographs of the front, side and rear of the structure should be submitted.

### Initiation Of the Environmental Review Process: Drafting the ERR

Title of document:	Environmental Review Record
Subtitle of document	Example: Park Improvements: Name and location of parks service area
Funding Source	List all funding sources that will be utilized to complete
Amount:	Amount of funding from each source, each year and each grant
Prepared by	Name of reviewer
Phone #:	Telephone number of reviewer
Agency:	Name and address of Subrecipient Agency and phone number of contact person
Project:	Name of proposed activity, project name, program name, etc. as listed in the Consolidated Plan.
Project Monitor:	Name of Project Monitor, the department staff person responsible for the project, and the person to contact with any questions about the proposed activity

Location of Proposed Site:	The location of the proposed activity must be sufficiently precise to identify the location such as; street address, site in relation to cross streets, or equivalent description that will identify the site and a site map. The environmental officer cannot complete an Environmental Review without knowing the specific site. However, with the housing rehabilitation program, tiering will be used since the address will not be available. An Environmental Review Checklist will be completed on each property when identified.
Description Of the Proposed Activity:	The detailed project description shall be submitted Environmental Review Officer. There should be ample Review information to describe the environmentally significant feature of the activity
Project Analysis:	The Environmental Review Officer evaluates the full project scope, location, aggregation, and anticipated physical impacts to determine what environmental compliance components will apply.
Determination of Environmental Review Level:	The Environmental Review Officer must determine the level of the environmental review based on the project description

### Steps In Completing The ERR: Exempt Activities

The ERR must show that the eligible activity appears on the list of Exempt Activities in 24CFR 58.34(a) below:

Except for the applicable requirements of Sec. 58.6, St. Clair County does not have to comply with the requirements of 24 CFR 58 or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

- (1) Environmental and other studies, resource identification and the development of plans and strategies;
- (2) Information and financial services;
- (3) Administrative and management activities;
- (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- (5) Inspections and testing of properties for hazards or defects;
- (6) Purchase of insurance;
- (7) Purchase of tools;
- (8) Engineering or design costs;
- (9) Technical assistance and training;
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and is limited to protection, repair or restoration

- activities necessary only to control or arrest the effects from disasters, imminent threats or physical deterioration;
- (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
  - (12) Any of the categorical exclusions listed in Sec. 58.35(a) provided there are no circumstances, which require compliance with any other Federal laws, and authorities cited in Sec. 58.5. Projects classified as Exempt under 24 CFR 58.34(a)(12), a statutory checklist must be completed to document the requirements have been satisfied. St. Clair County does not have to publish a NOI/RROF or submit to HUD a HUD Form 7015.15. No further approval from HUD will be needed for the drawdown of funds to carry out exempt activities and projects. Sign the Certification of Exemption for HUD Funded Projects, and Compliance Document Checklist 24 CFR 58.6 when applicable. The original form is maintained in the project Environmental Review Record. Retain the Exempt forms in the ERR and it is always made available for public review and audit.

## **Steps In Completing The ERR: Categorical Exclusion Not Subject To 58.5**

ERR must show that the eligible activity appears on the list of Categorical exclusions not subject to 58.5 in 24 CFR 58.35(b) below:

### **Sec. 58.35 Categorical Activities Exclusion**

Categorical exclusion refers to a category of for which no environmental impact state mentor environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact. There are two levels of Categorical Exclusion identified in Section 58.35. Categorical exclusion subject to Section 58.5 and (b) Categorical exclusion not subject to Section 58.5

#### **(b) Categorical exclusion Officer *not* subject to Sec. 58.5:**

Under this section, the Environmental Review will make a determination that the following categorically excluded activities will not alter any conditions requiring a review or compliance determination under the Federal laws and authorities cited in Section 58.5. When the following types of activities are undertaken, the Community Development Division does not have to publish a NOI/RROF and does not have to submit a RROF to HUD except in the circumstances described in 24 CFR 58.35(c).

- (1) Tenant-based rental assistance;
- (2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short- term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, Federal government benefits and services;
- (3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

- (4) 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;
- (5) Activities to assist homeownership of existing “or new dwelling units not assisted with Federal funds” including closing costs and down payment assistance to home buyers, interest buy-downs and similar activities that result in the transfer of title to a property;
- (6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities not having a physical impact. Circumstance requiring NEPA review: if the Environmental Review Officer determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.
- (7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under 58.47.

Determine that the proposed activity is a categorical exclusion not subject to 58.5 and therefore is not subject to further action under NEPA. Sign the Certification of Categorical Exclusion (not subject to 58.5), and Compliance Document Checklist 24 CFR 58.6 when applicable (see Attachment E). The original form is maintained in the Environmental Review Record. Retain the signed Certification of Categorical Exclusion (not subject to 58.5) and the Compliance Documentation Checklist 24 CFR 58.6 form in the ERR. These forms will make up the ERR which shall be kept in the Community Development office for public review and audit.

## **Steps In Completing The ERR: Categorical Exclusion Subject To 58.5**

Show that the proposed project appears on the list of Categorical exclusions subject to 58.5, in 24 CFR 58.35(a) below.

### **Sec. 58.35 Categorical exclusions:**

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA are required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in Sec. 58.5 is required for any categorical exclusion listed in this section.

**(a) Categorical exclusions under subject to Sec. 58.5:**

The following activities are categorically excluded: NEPA, but may be subject to review under authorities listed in Sec. 58.5:

- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
- (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility and accessibility to elderly and handicapped persons.
- (3) Rehabilitation of buildings and improvements when the following conditions are met:
  - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in a floodplain or in a wetland;
  - (ii) In the case of multifamily residential building:
    - (a) Unit density is not changed more than 20 percent;
    - (b) The project does not involve changes in land use from residential to non-residential; and
    - (c) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
  - (iii) In the case of non-residential structures, including commercial, industrial and public buildings:
    - (a) The facilities and improvements are in place and will not be changed in size or by more than 20 percent; and
    - (b) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
- (2)
  - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or

- (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
- (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).
- (3) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
- (4) Combinations of the above activities.

Determine that the proposed project is a categorical exclusion subject to 58.5. Complete the Certification of Categorical Exclusion (subject to 58.5), Statutory Checklist and the Compliance Documentation checklist 24 CFR 58.6 forms. Upon completion of the Statutory Checklist, if there are no circumstances which require compliance with any other Federal laws and authorities, a determination of **exempt** will be made and documented in the ERR.

If the proposed project appears on the list of categorical exclusions subject to 58.5, a Statutory Checklist must be prepared for the project (**see Attachment F**). Include the checklist as part of the ERR. This checklist records in tabular form how the proposed project complies with the applicable federal environmental regulations in 58.5.

After the completion of the Statutory Checklist, one of the following determinations are made:

**Determination:**

- This project converts to Exempt, per Section 58.34(a)(12), because it does not require any mitigation for compliance with any listed statutes or authorities, nor requires any formal permit or license (Status “A” has been determined in the status column for all authorities); Funds may be drawn down for this (now) EXEMPT project; OR

- This project cannot convert to Exempt because one or more statutes/authorities require consultation or mitigation. Complete consultation/mitigation requirements, publish NOI/RROF and obtain Authority to Use Grant Funds (HUD 7015.16) per Section 58.70 And 58.71 before drawing down or obligating funds; OR
- The unusual circumstance of this project may result in a significant environmental impact. This project requires preparation of an Environmental Assessment (EA). Prepare the EA according to 24 CFR Part 58 Subpart E.

## **Effect Of Statutory Checklist**

Following completion of the Statutory Checklist, the reviewer proceeds according to whether the proposal complies with all the statutory requirements.

### **No Statutory Concerns Raised By Project:**

If the proposed project complies fully with all the items on the Statutory Checklist and the Compliance Documentation Checklist, revise the status of the project from categorical exclusion subject to 58.5 to exempt activity pursuant to 58.34(a)(12).

### **Findings:**

Status Reverts to Exempt Activity the determination is declared on the Statutory Checklist (**see Attachment F**).

### **Sign and Forward:**

The Statutory Checklist form will be signed, dated and placed in the ERR.

### **Documents to Retain:**

Retain the HUD Certification of Categorical Exclusion (subject to 58.5) form, Statutory Checklist form and Compliance Documentation Checklist form in the ERR. These forms will make up the ERR which shall be kept in the Community Development office for public review and audit.

### **Some Statutory Concerns compliance, Raised by Project:**

If one or more items on the checklist trigger: the proposed activity cannot be approved until assurance is given that the necessary approvals, controls, or mitigating actions have taken place in order to bring the activity into compliance. Some activities cannot be made acceptable for federal funding due to the inability of being able to mitigate any items identified in 58.5 and 58.6.

If, however, there is confidence that the appropriate reviews, controls, and mitigations will reasonably take place, reaffirm that the proposed activity is a categorical exclusion subject to 58.5. and document the basis for believing that necessary action will occur.

To ensure compliance with the statutes in 58.5, the ERR then needs to include conditions in the form of instructions to the Project Manager/Engineer on steps necessary to complete compliance with the statutes. These conditions shall be incorporated in the contract and monitored for

compliance by the Environmental Officer. Project Manager/Engineer shall provide the Environmental Officer documentation of compliance such as plans and specifications, field notes, photographs and inspection reports. All documentation shall be placed in the Environmental Review Record.

#### **EXAMPLE**

General form of Illinois Historic Preservation Agency has determined statement of conditions: that this property is eligible for inclusion in the National Registry. The rehabilitation of this property must include all work as outlined in the MHT letter. Refer to the date of the letter, be able to verify the changes and the approval from MHT. If additional work or changes are needed, MHT must approve the work in writing. The letter shall be placed in the file to verification of all approved changes prior to the commencement of the rehabilitation. The rehabilitation work specification should include the work required by IHPA. Project Managers/Engineers shall provide a copy of the revised plans and specifications, inspection report and a copy should be placed in the ERR.

#### **Determination:**

Status remains Categorical Exclusion subject to 58.5 Initiate NOI/RROF

#### **Procedure:**

The purpose of the NOI/RROF procedure is to make possible a degree of public input on projects, which qualify for this level of review.

#### **Maintain ERR for Public Inspection:**

Documents up to this point result in an ERR. ERR will be available in the Community Development Department for public review and audit by HUD.

#### **Public Notice of NOI/RROF:**

Prepare and publish a NOI/RROF (see Attachment G) in the official newspaper.

#### **Period of comment on Environmental Impacts:**

The ERR will be made available for review in the Community Development office from 8:30a.m. to 4:30p.m., Monday through Friday and the department will receive comments from all interested parties for seven days after the publication. The Environmental Officer will address all comments in writing within 30 days and a copy shall be placed in the ERR. The Community Development department shall not submit the RROF to HUD until all comments have been addressed.

#### **Prepare RROF and HUD form 7015.15 Environmental Certification:**

(see Attachment I) must be completed and signed by the Chief Elected Official after the end of the comment period.

#### **Deliver RROF and the Environmental Certification:**

On the next day following the 7-day comment period, following items will be assigned in HEROS to the U. S.

**Department of Housing and Urban Development, Maryland State, Office of Community Planning and Development Division:**

- Copy of Publication of NOI/RROF notice, including the published notice;
- RROF and Environmental Certification, HUD form 7015.15; and
- Cover letter explaining the content of the submission and identifying the Community Development Division contact person.

**Comment on compliance to with rules:**

A copy of the required information will be assigned HUD to begin the 15-day comment period. For fifteen days following delivery of HUD form 7015.15, the HUD will receive any objections that meet the conditions and procedures set forth in subpart H of 24 CFR 58. Community Development Division will answer any comments received by HUD within 30 days. HUD can refuse the RROF and certification on any grounds set forth in Section 58.75.

**Receive Notice of Removal from HUD**

After conclusion of the 15-day period of public notice and of Grant Conditions for public review and comment, St. Clair County Receives the Authority to Use Grant Funds, HUD form 7015.16 (see **Attachment J**) from HUD. St. Clair County may then authorize the execution of the project contract or Letter of Agreement.

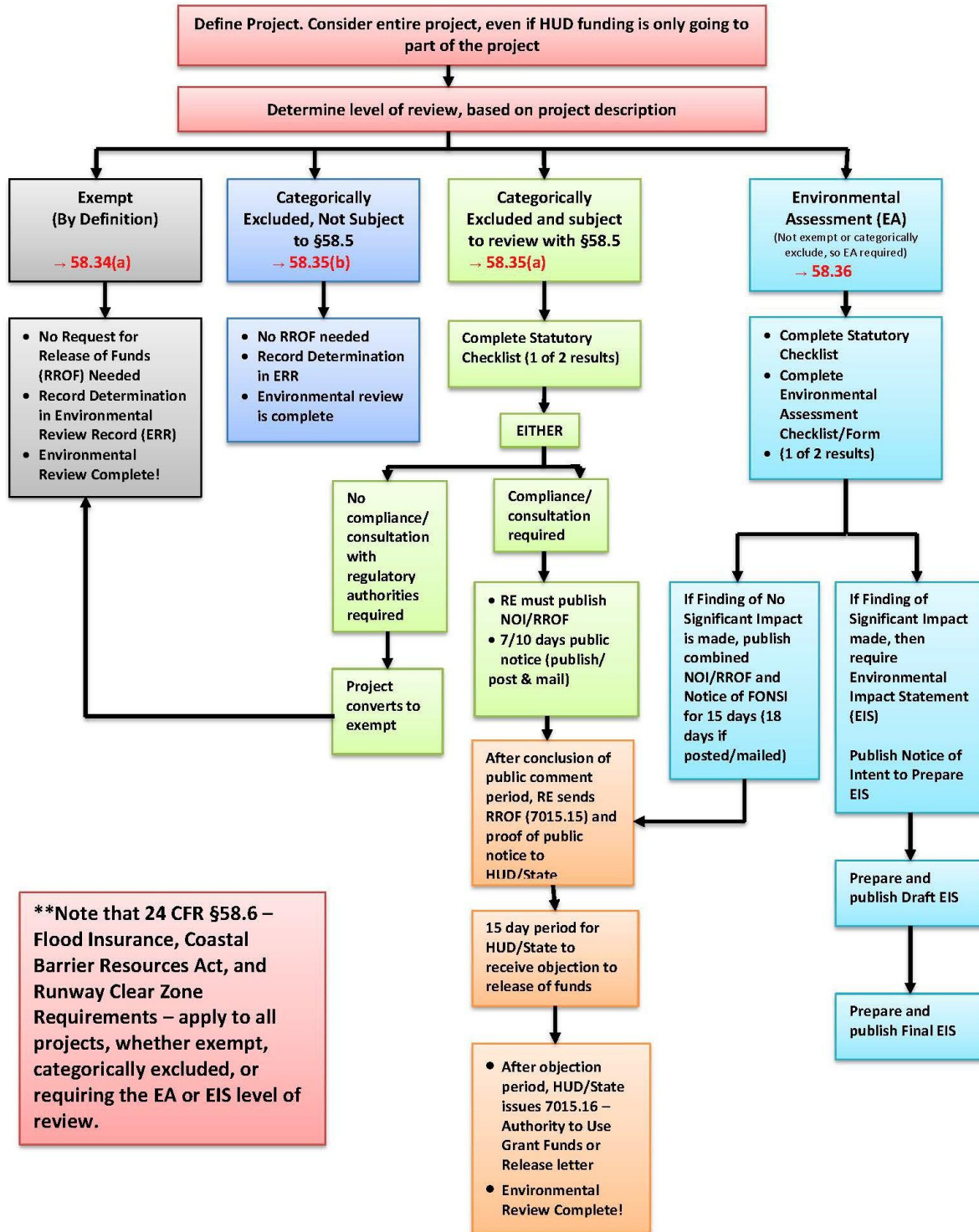
**Sign and Forward:**

HUD form 7015.16 is placed in the Environmental Review Record. A copy of the form is filed in the Community Development Department file and in the Environmental Review Record.

**Documents to Retain:**

ERR, including Statutory Checklist NOI/RROF notice Copy of Publication of NOI/RROF notice RROF and Environmental Certification, HUD form 7015.15 Authorization to Use Grant Funds, HUD form 7015.16 These forms will make up the ERR which shall be kept in the Community Development Department for public review and audit by HUD.

## Environmental Review Process (To Be Conducted by Responsible Entity)



## Common Statutory Checklist Concerns Identified In St. Clair County

There are many concerns to consider from the ER checklist, however below are more common concerns in St. Clair County

### Section 106 Review:

Any federal undertaking requires a Section 106 Review to determine if it is eligible for listing in the National Register of Historic Places by the grant conditions from HUD. Community Development Division will submit to IHPA a letter of determination. If IHPA concurs that the action will not affect a property eligible for listing in the National Register, then the Section 106 Review ends at this point. The letter from the IHPA is placed in the project ERR file as documentation. If, however, the structure on the site is determined to be listed or eligible for listing in the National Register, then a Determination of Effect must be filed. The Determination of Effect is a detailed explanation of all proposed construction activities-both interior and exterior in the case of renovation and includes plans, specifications, and photographs of the project. See the Department of Interior's Standard for Rehabilitation provides guidelines for the Section 106 Review.

### Effect of Ambient Noise on the Project:

A Noise Assessment is required when housing and other noise sensitive activities are proposed if the project is:

- (1) Within 1,000 feet of a roadway with high ambient vehicular noise levels;
- (2) Within 3,000 feet of a railroad; or
- (3) Within 15 miles of a military airport or a commercial airport; or
- (4) A combination of any or all 3 noise sources.

Construction of noise-sensitive activities in these areas may require design modifications to mitigate the noise impacts. If the noise level is excessive, special approval from HUD may be required.

Site acceptability standards are listed below:

	<b>Day-night average sound level (in decibels)</b>	<b>Special approvals and requirements</b>
Acceptable	<ul style="list-style-type: none"> <li>• Not exceeding 65 dB (1)</li> </ul>	<ul style="list-style-type: none"> <li>• None</li> <li>• Special Approvals (2)</li> </ul>
Normally Unacceptable	<ul style="list-style-type: none"> <li>• Above 65 dB but not exceeding 75 dB</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental Review (3)</li> <li>• Attenuation (4)</li> <li>• Special Approval (2)</li> </ul>
Unacceptable	<ul style="list-style-type: none"> <li>• Above 75 dB</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental Review (3)</li> <li>• Attenuation (5)</li> </ul>

Notes:

- (1) Acceptable threshold may be shifted to 70 dB in special circumstances pursuant to 51.105(a).
- (2) See 51.104(b) for requirements
- (3) See 51.104(b) for requirements
- (4) 5 dB additional attenuation required for sites above 65 dB but not exceeding 70 dB and 10 dB additional attenuation required for sites above 70 dB but not exceeding 75 dB (See 51.104(a).)

**Flood:**

An 8-step assessment for project sites within the 100- year flood plain and for critical action activities falling within the 500-year floodplain as outlined in federal regulation part 55.20.

**Decision Making Process Executive Order 11988 And 24 CFR 55.20**

<b>Step 1</b>	Determine whether the proposed action is located in a 100-year floodplain.
<b>Step 2</b>	Publish notice of the proposal to consider an action in the floodplain (15 days).
<b>Step 3</b>	Evaluate practicable alternatives to locating the proposed action in a floodplain
<b>Step 4</b>	Identify the potential impacts associated with occupancy and modification of the floodplain.
<b>Step 5</b>	Design or modify the action to minimize adverse impacts and preserve the beneficial values of the floodplain
<b>Step 6</b>	Reevaluate whether the proposed action is practicable.
<b>Step 7</b>	Publish a notice of decision to identify why there is “no practicable alternative,” and the alternative and mitigation measures adopted (15-day command).
<b>Step 8</b>	Proceed with the project planning
<b>Tribal Consultation:</b>	<p>The County shall ensure its adherence to the HUD CPD Notice 12-006 in completing the process for Tribal Consultation. (Attachment M) will also have a tribe listings and sample tribal letter. The letter will state a 30-day period for tribal to respond, but the County will allow 35 days for response before proceeding.</p> <p>The County requires consultation with federally recognized tribes if the project includes the types of activities that have the potential to affect historic properties of religious and cultural significance to tribes such as:</p> <ul style="list-style-type: none"><li>• Ground disturbance (digging);</li><li>• New construction in undeveloped natural areas</li><li>• Incongruent visual changes – impairment of the vista or view shed from an observation point in the natural landscape;</li><li>• Incongruent audible changes – increase in noise levels above an acceptable standard in areas known for their quiet,</li><li>• contemplative experience;</li><li>• Incongruent atmospheric changes – introduction of lights that create sky glow in an area with a dark night sky;</li><li>• Work on a building with significant tribal association;</li><li>• Transfer, lease or sale of a historic property of religious and cultural significance.</li></ul>

	<p>There are six federally recognized tribes that may have an interest of religious and cultural significance in St. Clair County, they are listed on (Attachment M). The County shall engage those tribes in the review of several projects that may have the potential to affect religious and cultural significance. If a cultural resource survey is required, the entity shall utilize proper procedures to solicit and select a company to complete the survey. If there are disagreements with tribes about appropriate mitigation measures the Advisory Council on Historic Preservation must be consulted to review and decide. County to ensure architect/engineer/project supervisor has knowledge of artifacts, knows to stop work and who to notify (Attachment M).</p>
<p><b>Site Contamination:</b></p>	<p>The County requires that lead, asbestos, and radon be considered, tested for, and mitigated as necessary to meet the HUD Standards [24 CFR 50.3(i) &amp; 58.5(i)(2)] All tested results should be uploaded to the HEROS Environmental Review.</p>
<p><b>Mine subsidence</b></p>	<p>The County requires consultation of the mine subsidence maps as part of the ER. In some circumstances the County will require subsidence insurance as a mitigation measure where residential structures are near abandoned mines. For Federally assisted housing, there may be circumstances where new residential structures should not be built in a certain location due to existing mines and potential subsidence or fire issues.  <a href="https://ilmineswiki.web.illinois.edu/wiki/County_Coal_Data">https://ilmineswiki.web.illinois.edu/wiki/County_Coal_Data</a></p>

**Steps In Completing The ERR: Projects Requiring Environmental Assessment**

**Determination to Conduct an Environmental Assessment:**

State that the proposed project does not appear on the list of exempt activities, 24 CFR 58.34(a) nor the list of categorical exclusions not subject to 58.5, 24 CFR 58.35(b), nor the list of categorical exclusions subject to 58.5, 24 CFR 58.35(a).

**Compliance with Statutory Provisions of §58.5**

State that all the statutes in 24 CFR 58.5 (as appearing Require on the Statutory Checklist) must comply. Initiate compliance procedures as appropriate.

**Environmental Assessment Required:**

State that NEPA requires an Environmental Assessment for proposed projects that are neither exempt nor categorically excluded, according to 58.36. Review the proposal to determine if any part of the project exceeds any NEPA threshold in 58.37(b). Use the environmental assessment form in Attachment F to evaluate the project in conjunction with the Statutory Checklist (also in Attachment F) and assess the probable environmental impact.

**Finding FOSI:**

If the proposed project does exceed any threshold in 58.37(b), make a finding of significant impact (FOSI) in the ERR. Initiate the FOSI/EIS procedure outlined in 24 CFR Subparts F and G.

**Finding FONSI:**

If the proposed project does not result in a finding of significant impact or exceed any threshold in 58.37(b), make a finding of no significant impact (FONSI) in the ERR. Initiate the FONSI and NOI/RROF procedures.

**FONSI And NOI/RROF Procedures**

The purpose of the FONSI and NOI/RROF procedures is to make possible a degree of public input on projects, which qualify for this level of review.

**Maintain ERR for Public based on Inspection:**

Steps up to this point have resulted in an ERR, the available information about the project. Keep the ERR available in the Community Development Department office for public review and audit.

**Public Notice of FONSI**

Prepare and publish a combined notice of FONSI and NOI/RROF:NOI/RROF in the official newspaper (see Attachment H) for text of notice.

**Comment Period on available for environmental impacts:**

The Environmental Review Record must be review to the public in the Community Development office from 8:30 a.m. to 4:30 p.m., Monday through Friday. Comments will be accepted for 15 days from the date of publication. The Environmental Review Officer will address all comments in writing within 30 days and a copy shall be placed in the ERR. The Community Development Division shall not submit the RROF to HUD until all comments have been addressed.

**Prepare RROF and Environmental Certification:**

The Chief Elected Official must sign HUD form 7015.15 after the 15-day comment period.

**Deliver RROF and the Environmental Certification:**

On the day following the 15-day comment period, following will be assigned in HEROS to the U. S. Department of Housing and Urban Development, Office of Community Planning and Development Division:

- Copy of publication of FONSI and NOI/RROF notice and a copy of the notice;
- RROF and Environmental Certification, HUD form 7015.15;
- Cover letter explaining the content of the submission and the Community Development Division contact person.

For fifteen days following delivery of HUD form 7015.15, the HUD office will receive any objectives that meet the conditions and procedures set forth in subpart H of 24 CFR 58. The Community Development Division will answer any comments received by HUD within 30 days. HUD can refuse the RROF and certification on any grounds set forth in Section 58.75.

### **Receive Notice of Removal of Conditions from HUD:**

After conclusion of the period of public notice Grant of opportunity for public review and comment, St. Clair County receives HUD form 7015.16, Authorizing Use of Grant Funds. St. Clair County may then authorize the execution of the project contract or Letter of Agreement.

### **Sign and Forward:**

The Authorization to Use Grant Funds, HUD form 7015.16 is placed in the Environmental Review Record.

### **Documents to Retain:**

- Environmental Review Record (ERR), including:
  - Statutory Checklist
  - Environmental Assessment (EA)
  - Finding of No Significant Impact (FONSI)
  - Notice of Intent to Request Release of Funds (NOI/RROF)
- Copy of the published FONSI and NOI/RROF notice
- Request for Release of Funds (RROF) and Environmental Certification (HUD Form 7015.15)
- Authorization to Use Grant Funds (HUD Form 7015.16)
- The ERR must be maintained in the Department of Community Services. These documents collectively make up the ERR and will be kept in the Community Development Department for public review and for HUD audit.

### **Special Problems Environmental Review**

**Avoiding Segmentation:** The environmental review process requires that projects be evaluated in a holistic manner. The project as a whole is evaluated as to its impact on the environment. The urge to separate a project into components and deal with each segment individually produces good results in financing, phasing, or managing a project, but it tends to obscure understanding of the environmental effects.

Therefore, if an agency (subrecipient) uses even a very small amount of federal funds to support a project, St. Clair County must carry out an environmental review on the whole project from start to finish.

### **When sites are not yet determined:**

Use the technique known as tiering based on site information. This consists of producing a general, programmatic Environmental Review Record with the information that is available at the time. Require documentation that the project sponsors address any statutory concerns identified on the Statutory Checklist when possible (see 24 CFR 58.15 Tiering). This results in a case-by-case review of the environmental elements not previously cleared.

A multiple-site project can commence even though some of the sites are not yet selected. This technique has the potential side benefit of injecting environmental concerns into the site selection process, as it should be in any case.

**When project has multi-year funding**

When planning and program development provide for activities to be implemented over two or more years, St. Clair County’s environmental review shall consider the relationship among all component activities of the multi- year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The complete project description will be listed in the environmental review and included in the RROF.

In the case of multiple-year funding, St. Clair County’s Environmental Review Section should revisit the project annually to confirm that a FONSI or other finding remains valid, or that an EA describes the project accurately. Document the site visit and finding in writing and include in the ERR for review and audit.

<b>Minimum Public Comment Periods</b>	
<b>Notice Type</b>	<b>Public Comment Period Requirements</b>
Notice of Finding of No Significant Impact (FONSI)	15 days when published.
FONSIs for projects that involve considerable interest, that are similar to other projects normally requiring an EIS, or projects that are unique and without precedent	30 days.
Notice of Intent to Request Release of Funds (NOI/RROF)	7 days when published.
Concurrent or Combined Notices	15 days when published.

**ATTACHMENT A**

**24 CFR 58 REGULATIONS**

**PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES**

**Authority:** 12 U.S.C. 1707 note, 1715z–13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4321–4335, 4852, 5304(g), 12838, and 12905(h); title II of Pub. L. 105–276; E.O. 11514 as amended by E.O. 11991, 3 CFR, 1977 Comp., p. 123.

**Source:** 61 FR 19122, Apr. 30, 1996, unless otherwise noted.

**Subpart A—Purpose, Legal Authority, Federal Laws and Authorities**

**§ 58.1 Purpose and applicability.**

- (a) **Purpose.** This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.
- (b) **Applicability.** This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:
  - (1) Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));
  - (2) [Reserved]
  - (3)
    - (i) Grants to states and units of general local government under the Emergency Shelter Grant Program, Supportive Housing Program (and its predecessors, the Supportive Housing Demonstration Program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care Program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);
    - (ii) Grants beginning with Fiscal Year 2001 to private non-profit organizations and housing agencies under the Supportive Housing Program and Shelter Plus Care Program authorized by Title IV of the McKinney-Vento Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);
  - (4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);
  - (5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));

- (6)
- (i) Public Housing Programs under Title I of the United States Housing Act of 1937, including HOPE VI grants authorized under section 24 of the Act for Fiscal Year 2000 and later, in accordance with section 26 (42 U.S.C. 1437x);
  - (ii) Grants for the revitalization of severely distressed public housing (HOPE VI) for Fiscal Year 1999 and prior years, in accordance with Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, approved October 21, 1998); and
  - (iii) Assistance administered by a public housing agency under section 8 of the United States Housing Act of 1937, except for assistance provided under part 886 of this title, in accordance with section 26 (42 U.S.C. 1437x);
- (7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading “Annual Contributions for Assisted Housing” in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);
- (8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note);
- (9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104–120, 110 Stat. 834), in accordance with section 11(m));
- (10) Assistance provided under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), in accordance with:
- (i) Section 105 for Indian Housing Block Grants and Federal Guarantees or Financing for Tribal Housing Authorities (25 U.S.C. 4115 and 4226); and
  - (ii) Section 806 for Native Hawaiian Housing Block Grants (25 U.S.C. 4226);
- (11) Indian Housing Loan Guarantees authorized by section 184 of the Housing and Community Development Act of 1992, in accordance with section 184(k) (12 U.S.C. 1715z–13a(k)); and
- (12) Grants for Housing Opportunities for Persons with AIDS (HOPWA) under the AIDS Housing Opportunity Act, as follows: competitive grants beginning with Fiscal Year 2001 and all formula grants, in accordance with section 856(h) (42 U.S.C. 12905(h)); all grants for Fiscal Year 1999 and prior years, in accordance with section 207(c) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105–276, approved October 21, 1998).
- (c) When HUD assistance is used to help fund a revolving loan fund that is administered by a recipient or another party, the activities initially receiving assistance from the fund are

subject to the requirements in this part. Future activities receiving assistance from the revolving loan fund, after the fund has received loan repayments, are subject to the environmental review requirements if the rules of the HUD program that initially provided assistance to the fund continue to treat the activities as subject to the Federal requirements. If the HUD program treats the activities as not being subject to any Federal requirements, then the activities cease to become Federally-funded activities and the provisions of this part do not apply.

- (d) To the extent permitted by applicable laws and the applicable regulations of the Council on Environmental Quality, the Assistant Secretary for Community Planning and Development may, for good cause and with appropriate conditions, approve waivers and exceptions or establish criteria for exceptions from the requirements of this part.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56127, Sept. 29, 2003]

### § 58.2 Terms, abbreviations and definitions.

- (a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:
  - (1) **Activity** means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.
  - (2) **Certifying Officer** means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of § 58.13.
  - (3) **Extraordinary Circumstances** means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:
    - (i) Actions that are unique or without precedent;
    - (ii) Actions that are substantially similar to those that normally require an EIS;
    - (iii) Actions that are likely to alter existing HUD policy or HUD mandates; or
    - (iv) 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.
  - (4) **Project** means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.
  - (5) **Recipient** means any of the following entities, when they are eligible recipients or grantees under a program listed in § 58.1(b):
    - (i) A State that does not distribute HUD assistance under the program to a unit of general local government;
    - (ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;

- (iii) A unit of general local government;
  - (iv) An Indian tribe;
  - (v) With respect to Public Housing Programs under § 58.1(b)(6)(i), fiscal year 1999 and prior HOPE VI grants under § 58.1(b)(6)(ii) or Section 8 assistance under § 58.1(b)(6)(iii), a public housing agency;
  - (vi) Any direct grantee of HUD for a special project under § 58.1(b)(7);
  - (vii) With respect to the FHA Multifamily Housing Finance Agency Program under 58.1(b)(8), a qualified housing finance agency;
  - (viii) With respect to the Self-Help Homeownership Opportunity Program under § 58.1(b)(9), any direct grantee of HUD.
  - (ix)
    - (A) With respect to NAHASDA assistance under § 58.1(b)(10), the Indian tribe or the Department of Hawaiian Home Lands; and
    - (B) With respect to the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), the Indian tribe.
  - (x) With respect to the Shelter Plus Care and Supportive Housing Programs under § 58.1(b)(3)(ii), nonprofit organizations and other entities.
- (6) **Release of funds.** In the case of the FHA Multifamily Housing Finance Agency Program under § 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter. In the case of the Section 184 Indian Housing Loan Guarantee program under § 58.1(b)(11), Release of Funds refers to HUD's issuance of a commitment to guarantee a loan, or if there is no commitment, HUD's issuance of a certificate of guarantee.
- (7) **Responsible Entity.** Responsible Entity means:
- (i) With respect to environmental responsibilities under programs listed in § 58.1(b)(1), (2), (3)(i), (4), and (5), a recipient under the program.
  - (ii) With respect to environmental responsibilities under the programs listed in § 58.1(b)(3)(ii) and (6) through (12), a state, unit of general local government, Indian tribe or Alaska Native Village, or the Department of Hawaiian Home Lands, when it is the recipient under the program. Under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) listed in § 58.1(b)(10)(i), the Indian tribe is the responsible entity whether or not a Tribally Designated Housing Entity is authorized to receive grant amounts on behalf of the tribe. The Indian tribe is also the responsible entity under the Section 184 Indian Housing Loan Guarantee program listed in § 58.1(b)(11). Regional Corporations in Alaska are considered Indian tribes in this part. Non-recipient responsible entities are designated as follows:
    - (A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

- (B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;
  - (C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;
- (8) **Unit Density** refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.
  - (9) **Tiering** means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.
  - (10) **Vacant Building** means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

- (1) CDBG—Community Development Block Grant;
- (2) CEQ—Council on Environmental Quality;
- (3) EA—Environmental Assessment;
- (4) EIS—Environmental Impact Statement;
- (5) EPA—Environmental Protection Agency;
- (6) ERR—Environmental Review Record;
- (7) FONSI—Finding of No Significant Impact;
- (8) HUD—Department of Housing and Urban Development;
- (9) NAHA—Cranston-Gonzalez National Affordable Housing Act of 1990;
- (10) NEPA—National Environmental Policy Act of 1969, as amended;
- (11) NOI/EIS—Notice of Intent to Prepare an EIS;
- (12) NOI/RROF—Notice of Intent to Request Release of Funds;
- (13) ROD—Record of Decision;
- (14) ROF—Release of Funds; and
- (15) RROF—Request for Release of Funds.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

**§ 58.4 Assumption authority.**

- (a) **Assumption authority for responsible entities: General.** Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in § 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form

7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

(b) ***Particular responsibilities of the States.***

- (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.
- (2) States must exercise HUD's responsibilities in accordance with § 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the state. Approval by the state of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in § 58.5.

(c) ***Particular responsibilities of Indian tribes.*** An Indian tribe may, but is not required to, assume responsibilities for environmental review, decision-making and action for programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a). The tribe must make a separate decision regarding assumption of responsibilities for each of these Acts and communicate that decision in writing to HUD. If the tribe assumes these responsibilities, the requirements of this part shall apply. If a tribe formally declines assumption of these responsibilities, they are retained by HUD and the provisions of part 50 of this title apply.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003]

**§ 58.5 Related Federal laws and authorities.**

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

(a) ***Historic properties.***

- (1) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), particularly sections 106 and 110 (16 U.S.C. 470 and 470h–2).
- (2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971–1975 Comp., p. 559, particularly section 2(c).
- (3) Federal historic preservation regulations as follows:

- (i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and
- (ii) 36 CFR part 801 with respect to UDAG.

(4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C. 469a-1).

**(b) *Floodplain management and wetland protection.***

- (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see § 55.10 of this subtitle A.)
- (2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, as interpreted in HUD regulations at 24 CFR part 55, particularly sections 2 and 5 of the order.

(c) ***Coastal Zone Management.*** The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

(d) ***Sole source aquifers.***

- (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).
- (2) Sole Source Aquifers (Environmental Protection Agency—40 CFR part 149).

(e) ***Endangered species.*** The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536).

(f) ***Wild and scenic rivers.*** The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

(g) ***Air quality.***

- (1) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).
- (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93).

**(h) *Farmlands protection.***

- (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).
- (2) Farmland Protection Policy (Department of Agriculture—7 CFR part 658).

(i) ***HUD environmental standards.***

- (1) Applicable criteria and standards specified in part 51 of this title, other than the runway clear zone notification requirement in § 51.303(a)(3).
- (2)
  - (i) Also, it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.
  - (ii) The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in paragraph (i)(2)(i) of this section.
  - (iii) Particular attention should be given to any proposed site on or in the general proximity of such areas as dumps, landfills, industrial sites, or other locations that contain, or may have contained, hazardous wastes.
  - (iv) The responsible entity shall use current techniques by qualified professionals to undertake investigations determined necessary.
- (j) ***Environmental justice.*** Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56128, Sept. 29, 2003; 78 FR 68734, Nov. 15, 2013]

#### **§ 58.6 Other requirements.**

In addition to the duties under the laws and authorities specified in § 58.5 for assumption by the responsible entity under the laws cited in § 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under § 58.34(a)(12) and/or the applicability of § 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under § 58.34 or categorically excluded under § 58.35(a) or (b).

- (a)
  - (1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001–4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

- (i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and
  - (ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.
- (2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.
  - (3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.
  - (4) Flood insurance requirements cannot be fulfilled by self-insurance except as authorized by law for assistance to state-owned projects within states approved by the Federal Insurance Administrator consistent with 44 CFR 75.11.
- (b) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:
    - (1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and
    - (2) The person failed to obtain and maintain flood insurance.
  - (c) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.
  - (d) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall 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.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998; 78 FR 68734, Nov. 15, 2013]

## **Subpart B—General Policy: Responsibilities of Responsible Entities**

### **§ 58.10 Basic environmental responsibility.**

In accordance with the provisions of law cited in § 58.1(b), except as otherwise provided in § 58.4(c), the responsible entity must assume the environmental responsibilities for projects under

programs cited in § 58.1(b). In doing so, the responsible entity must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part.

[68 FR 56128, Sept. 29, 2003]

#### **§ 58.11 Legal and performance.**

- (a) A responsible entity which believes that it does not have the legal authority to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal authority will be made on a case-by-case basis.
- (b) If a public housing, special project, HOPWA, Supportive Housing, Shelter Plus Care, or Self-Help Homeownership Opportunity recipient that is not a responsible entity objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.
- (c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with § 58.77(d)(1).
- (d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

#### **§ 58.12 Technical and administrative.**

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

#### **§ 58.13 Responsibilities of the certifying officer.**

Under the terms of the certification required by § 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in § 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in § 58.5. The Certifying Officer must also:

- (a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and
- (b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

#### **§ 58.14 Interaction with State, Federal and non-Federal entities.**

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

[63 FR 15271, Mar. 30, 1998]

#### **§ 58.15 Tiering.**

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible, and a more narrow or focused analysis is better done at a later date. The site-specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

#### **§ 58.17 [Reserved]**

#### **§ 58.18 Responsibilities of States assuming HUD environmental responsibilities.**

States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The state must:

- (a) Designate the state agency or agencies that will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:

- (1) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.
  - (2) Receive public notices, RROFs, and certifications from recipients pursuant to §§ 58.70 and 58.71; accept objections from the public and from other agencies (§ 58.73); and perform other related responsibilities regarding releases of funds.
- (b) Fulfill the state role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

[68 FR 56129, Sept. 29, 2003]

### **Subpart C—General Policy: Environmental Review Procedures**

#### **§ 58.21 Time periods.**

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

#### **§ 58.22 Limitations on activities pending clearance.**

- (a) Neither a recipient nor any participant in the development process, including public or private nonprofit or for-profit entities, or any of their contractors, may commit HUD assistance under a program listed in § 58.1(b) on an activity or project until HUD or the state has approved the recipient's RROF and the related certification from the responsible entity. In addition, until the RROF and the related certification have been approved, neither a recipient nor any participant in the development process may commit non-HUD funds on or undertake an activity or project under a program listed in § 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives.
- (b) If a project or activity is exempt under § 58.34, or is categorically excluded (except in extraordinary circumstances) under § 58.35(b), no RROF is required and the recipient may undertake the activity immediately after the responsible entity has documented its determination as required in § 58.34(b) and § 58.35(d), but the recipient must comply with applicable requirements under § 58.6.
- (c) If a recipient is considering an application from a prospective subrecipient or beneficiary and is aware that the prospective subrecipient or beneficiary is about to take an action within the jurisdiction of the recipient that is prohibited by paragraph (a) of this section, then the recipient will take appropriate action to ensure that the objectives and procedures of NEPA are achieved.
- (d) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option

by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

- (e) ***Self-Help Homeownership Opportunity Program (SHOP)***. In accordance with section 11(d)(2)(A) of the Housing Opportunity Program Extension Act of 1996 (42 U.S.C. 12805 note), an organization, consortium, or affiliate receiving assistance under the SHOP program may advance non-grant funds to acquire land prior to completion of an environmental review and approval of a Request for Release of Funds (RROF) and certification, notwithstanding paragraph (a) of this section. Any advances to acquire land prior to approval of the RROF and certification are made at the risk of the organization, consortium, or affiliate and reimbursement for such advances may depend on the result of the environmental review. This authorization is limited to the SHOP program only and all other forms of HUD assistance are subject to the limitations in paragraph (a) of this section.
- (f) ***Relocation***. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

[68 FR 56129, Sept. 29, 2003]

#### **§ 58.23 Financial assistance for environmental review.**

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in § 58.5 and § 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

#### **Subpart D—Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification**

#### **§ 58.30 Environmental review process.**

- (a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with § 58.32.
- (b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

#### **§ 58.32 Project aggregation.**

- (a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis or are logical parts of a composite of contemplated actions.
- (b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: *functional aggregation* when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; *geographic aggregation* when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of

water, sewer and street improvements and economic development activities); or *a combination of aggregation approaches*, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

- (c) The purpose of project aggregation is to group together related activities so that the responsible entity can:
- (1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).
  - (2) Consider reasonable alternative courses of action.
  - (3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.
  - (4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) ***Multi-year project aggregation*** —

- (1) ***Release of funds.*** When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.
- (2) When one or more of the conditions described in § 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

**§ 58.33 Emergencies.**

- (a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.
- (b) If funds are needed on an emergency basis and adherence to separate comment periods would prevent the giving of assistance during a Presidentially declared disaster, or during a local emergency that has been declared by the chief elected official of the responsible entity who has proclaimed that there is an immediate need for public action to protect the public safety, the combined Notice of FONSI and Notice of Intent to Request Release of Funds (NOI/RROF) may be disseminated and/or published simultaneously with the submission of the RROF. The combined Notice of FONSI and NOI/RROF shall state that the funds are needed on an emergency basis due to a declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to ensure that these comments will receive full consideration.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56129, Sept. 29, 2003]

**§ 58.34 Exempt activities.**

- (a) Except for the applicable requirements of § 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in § 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:
- (1) Environmental and other studies, resource identification and the development of plans and strategies;
  - (2) Information and financial services;
  - (3) Administrative and management activities;
  - (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;
  - (5) Inspections and testing of properties for hazards or defects;
  - (6) Purchase of insurance;
  - (7) Purchase of tools;
  - (8) Engineering or design costs;
  - (9) Technical assistance and training;
  - (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;
  - (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
  - (12) Any of the categorical exclusions listed in § 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in § 58.5.
- (b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

**§ 58.35 Categorical exclusions.**

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is required, except in extraordinary circumstances (see § 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal

environmental laws and authorities listed in § 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

- (a) ***Categorical exclusions subject to § 58.5.*** The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in § 58.5:
- (1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).
  - (2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.
  - (3) Rehabilitation of buildings and improvements when the following conditions are met:
    - (i) In the case of a building for residential use (with one to four units), the density is not increased beyond four units, and the land use is not changed;
    - (ii) In the case of multifamily residential buildings:
      - (A) Unit density is not changed more than 20 percent;
      - (B) The project does not involve changes in land use from residential to non-residential; and
      - (C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.
    - (iii) In the case of non-residential structures, including commercial, industrial, and public buildings:
      - (A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and
      - (B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.
  - (4)
    - (i) An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
    - (ii) An individual action on a project of five or more housing units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four housing units on any one site.
    - (iii) Paragraphs (a)(4)(i) and (ii) of this section do not apply to rehabilitation of a building for residential use (with one to four units) (see paragraph (a)(3)(i) of this section).

- (4) Acquisition (including leasing) or disposition of, or equity loans on an existing structure, or acquisition (including leasing) of vacant land provided that the structure or land acquired, financed, or disposed of will be retained for the same use.
  - (5) Combinations of the above activities.
- (b) ***Categorical exclusions not subject to § 58.5.*** The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in § 58.5. When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under § 58.6.
- (1) Tenant-based rental assistance;
  - (2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
  - (3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;
  - (4) 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;
  - (5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.
  - (6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.
  - (7) Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under this part, if the approval is made by the same responsible entity that conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under § 58.47.
- (c) ***Circumstances requiring NEPA review.*** If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.
- (d) The Environmental Review Record (ERR) must contain a well-organized written record of the process and determinations made under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998; 68 FR 56129, Sept. 29, 2003; 78 FR 68734, Nov. 15, 2013]

#### **§ 58.36 Environmental assessments.**

If a project is not exempt or categorically excluded under §§ 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under § 58.37, the responsible entity should proceed directly to an EIS.

#### **§ 58.37 Environmental impact statement determinations.**

- (a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.
- (b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:
  - (1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.
  - (2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under § 58.35), 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.
  - (3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.
- (c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.
- (d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where § 58.53 is applicable.
- (e) ***Recommended EIS Format.*** The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

#### **§ 58.38 Environmental review record.**

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the “Environmental Review Record” (ERR) and shall be available for public review. The Departmental Environmental Clearance Officer (DECO) shall establish a prescribed format that the responsible entity shall use

to prepare the ERR. The DECO may prescribe alternative formats as necessary to meet specific program needs.

- (a) ***ERR Documents.*** The ERR shall contain all the environmental review documents, public notices and written determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. The document shall:
  - (1) Describe the project and the activities that the recipient has determined to be part of the project;
  - (2) Evaluate the effects of the project or the activities on the human environment;
  - (3) Document compliance with applicable statutes and authorities, in particular those cited in § 58.5 and 58.6; and
  - (4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).
  
- (b) ***Other documents and information.*** The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

[61 FR 19122, Apr. 30, 1996, as amended at 79 FR 49229, Aug. 20, 2014]

#### **Subpart E—Environmental Review Process: Environmental Assessments (EA's)**

##### **§ 58.40 Preparing the environmental assessment.**

The DECO shall establish a prescribed format that the responsible entity shall use to prepare the EA. The DECO may prescribe alternative formats as necessary to meet specific program needs. In preparing an EA for a particular proposed project or other action, the responsible entity must:

- (a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.
- (b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.
- (c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in § 58.5 and § 58.6.
- (d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

- (e) Discuss the need for the proposal, appropriate alternatives where the proposal involves unresolved conflicts concerning alternative uses of available resources, the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.
- (f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in §§ 58.5 and 58.6.
- (g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:
  - (1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to § 58.43.
  - (2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

[61 FR 19122, Apr. 30, 1996, as amended at 79 FR 49229, Aug. 20, 2014]

**§ 58.43 Dissemination and/or publication of the findings of no significant impact.**

- (a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within the project area or in accordance with procedures established as part of the citizen participation process.
- (b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by § 58.70. If the notices are released as a combined notice, the combined notice shall:
  - (1) Clearly indicate that it is intended to meet two separate procedural requirements; and
  - (2) Advise the public to specify in their comments which “notice” their comments address.
- (c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

#### **§ 58.45 Public comment periods.**

Required notices must afford the public the following minimum comment periods, counted in accordance with § 58.21:

- (a) Notice of Finding of No Significant Impact (FONSI) 15 days when published or, if no publication, 18 days when mailing and posting
- (b) Notice of Intent to Request Release of Funds (NOI-RROF) 7 days when published or, if no publication, 10 days when mailing and posting
- (c) Concurrent or combined notices 15 days when published or, if no publication, 18 days when mailing and posting

[68 FR 56130, Sept. 29, 2003]

#### **§ 58.46 Time delays for exceptional circumstances.**

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- (a) There is a considerable interest or controversy concerning the project;
- (b) The proposed project is similar to other projects that normally require the preparation of an EIS; or
- (c) The project is unique and without precedent.

#### **§ 58.47 Re-evaluation of environmental assessments and other environmental findings.**

- (a) A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:
  - (1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;
  - (2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or
  - (3) The recipient proposes the selection of an alternative not in the original finding.
- (b)
  - (1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.
  - (2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

- (3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

## **Subpart F—Environmental Review Process: Environmental Impact Statement Determinations**

### **§ 58.52 Adoption of other agencies' EISs.**

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in § 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

### **§ 58.53 Use of prior environmental impact statements.**

Where any final EIS has been listed in the Federal Register for a project pursuant to this part, or where an areawide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

- (a) The ERR contains a decision based on a finding pursuant to § 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:
  - (1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;
  - (2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;
  - (3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;

- (4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.
- (b) The prior final EIS has been filed within five (5) years, and updated as follows:
  - (1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;
  - (2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.
- (c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

### **Subpart G—Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements**

#### **§ 58.55 Notice of intent to prepare an EIS.**

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

#### **§ 58.56 Scoping process.**

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings under § 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

#### **§ 58.57 Lead agency designation.**

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

#### **§ 58.59 Public hearings and meetings.**

- (a) ***Factors to consider.*** In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:
  - (1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.
  - (2) The degree of interest in or controversy concerning the project.

- (3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.
  - (4) The extent to which public involvement has been achieved through other means.
- (b) ***Procedure.*** All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:
- (1) State the date, time, place, and purpose of the hearing or meeting.
  - (2) Describe the project, its estimated costs, and the project area.
  - (3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.
  - (4) State the responsible entity's name and address and the name and address of its Certifying Officer.
  - (5) State what documents are available, where they can be obtained, and any charges that may apply.

**§ 58.60 Preparation and filing of environmental impact statements.**

- (a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.
- (b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:
  - (1) Five copies to EPA Headquarters;
  - (2) Five copies to EPA Regional Office;
  - (3) Copies made available in the responsible entity's and the recipient's office;
  - (4) Copies or summaries made available to persons who request them; and
  - (5) FEIS only—one copy to State, HUD Field Office, and HUD Headquarters library.
- (c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.
- (d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.
- (e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

**Subpart H—Release of Funds for Particular Projects**

**§ 58.70 Notice of intent to request release of funds.**

The NOI/RROF must be disseminated and/or published in the manner prescribed by § 58.43 and § 58.45 before the certification is signed by the responsible entity.

**§ 58.71 Request for release of funds and certification.**

- (a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in § 58.1(b). The RROF and certification must be in a form specified by HUD.
- (b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in § 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.
- (c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

**§ 58.72 HUD or State actions on RROFs and certifications.**

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

- (a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.
- (b) HUD (or the state) may disapprove a certification and RROF if it has knowledge that the responsible entity or other participants in the development process have not complied with the items in § 58.75, or that the RROF and certification are inaccurate.
- (c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated § 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

### **§ 58.73 Objections to release of funds.**

HUD (or the State) will not approve the RROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to § 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in § 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

### **§ 58.74 Time for objecting.**

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

### **§ 58.75 Permissible bases for objections.**

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

- (a) The certification was not in fact executed by the responsible entity's Certifying Officer.
- (b) The responsible entity has failed to make one of the two findings pursuant to § 58.40 or to make the written determination required by §§ 58.35, 58.47 or 58.53 for the project, as applicable.
- (c) The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.
- (d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.
- (e) The recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by this part before release of funds and approval of the environmental certification by HUD (or the state).
- (f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

[61 FR 19122, Apr. 30, 1996, as amended at 68 FR 56130, Sept. 29, 2003]

### **§ 58.76 Procedure for objections.**

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

- (a) Include the name, address and telephone number of the person or agency submitting the objection and be signed by the person or authorized official of an agency.
- (b) Be dated when signed.
- (c) Describe the basis for objection and the facts or legal authority supporting the objection.

- (d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

**§ 58.77 Effect of approval of certification.**

- (a) **Responsibilities of HUD and States.** HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at § 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in § 58.1(b).
- (b) **Public and agency redress.** Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.
- (c) **Implementation of environmental review decisions.** Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.
- (d) **Responsibility for monitoring and training.**
  - (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:
    - (i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;
    - (ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;
    - (iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;
    - (iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;
    - (v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

- (2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under § 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.

**ATTACHMENT B**

**SUMMARY OF LEVELS OF  
ENVIRONMENTAL REVIEW &  
DOCUMENTATION REQUIRED IN ERR**

**SUMMARY OF LEVELS OF ENVIRONMENTAL REVIEW & DOCUMENTATION REQUIRED IN ERR**

<b>LEVEL OF ENVIRONMENTAL REVIEW</b>				
58.34 Exempt	58.35(b) Categorically Excluded NOT subject to 58.5	58.35(a) Categorically Excluded AND subject to 58.5 "A" checked for all on Statutory Worksheet	58.35(a) Categorically Excluded AND subject to 58.5 statutory authorities: "B" checked for one or more on Statutory Worksheet	58.36 NEPA Environmental Assessment
<b>TYPES OF ACTIVITIES</b>				
<p>Environmental and other studies</p> <p>Resource Identification</p> <p>Development of plans and strategies</p> <p>Information and financial services</p> <p>Administrative and Management Activities</p> <p>Public services, i.e., employment, crime prevention, childcare, health, drug abuse, education, counseling, energy conservation, welfare, recreational needs</p> <p>Inspections and testing for hazards or defects</p> <p>Purchase insurance and tools Engineering or design costs</p>	<p>Tenant-based rental assistance</p> <p>Supportive services such as health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent, mortgage, or utilities, assistance in gaining access to government benefits.</p> <p>Operating costs including maintenance, furnishings, security, equipment, operation, supplies, utilities, staff training and recruitment</p> <p>Economic development activities including equipment purchase, inventory financing, interest subsidy, operating costs, and other expenses not associated with construction or expansion</p> <p>Activities to assist homeownership of existing dwelling units or units</p>	<p>Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are already in place and will be retained in the same use without change in size or capacity of more than 20%</p> <ul style="list-style-type: none"> <li>• Replacement of water or sewer lines</li> <li>• Reconstruction of curbs &amp; sidewalks</li> <li>• repaving of streets</li> </ul> <p>Special projects directed toward the removal of material and architectural barriers that restrict the mobility of and accessibility to the elderly and handicapped.</p> <p>Single Family Housing Rehab</p> <ul style="list-style-type: none"> <li>• Unit density is not increased beyond 4 units,</li> <li>• Project doesn't involve change in land use from residential to non-residential</li> <li>• The footprint of the building in not increased in a floodplain or a wetland.</li> </ul> <p>Multifamily Housing Rehab</p> <ul style="list-style-type: none"> <li>• Unit density change is not more than 20%</li> <li>• Project doesn't involve change in land use from residential to non-residential</li> <li>• Cost of rehabilitation is less than 75% of the estimated cost of replacement after rehab</li> </ul> <p>Non-Residential Structures</p>	<p>Activities not exempt or categorically excluded.</p> <p>Generally, new construction of 5 or more homes, and conversion from one type of land use to another.</p>	

<p>Technical assistance and training</p> <p>Temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities to control or arrest the effects from disasters or imminent threats to public safety, including those resulting from physical deterioration.</p> <p>Payments of principal and interest on loans or obligations guaranteed by HUD</p>	<p>under construction, including closing costs and down payment assistance to homebuyers, interest buy downs or other actions resulting in transfer of title.</p> <p>Affordable housing pre-development costs: legal consulting, developer and other site-option costs, project financing, administrative costs for loan commitments, zoning approvals, and other activities which don't have a physical impact.</p> <p>Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if: approval is by same the RE, and re-evaluation is not required, per 58.47</p>	<ul style="list-style-type: none"> <li>• Facilities and improvements were in place and will not be changed in size or capacity by more than 20%</li> <li>• Activity does not involve change in land use from non-residential to residential, commercial to industrial, or one industrial use to another</li> </ul> <p>Individual action (e.g., disposition, new construction, demolition, acquisition) on a 1 to 4 family dwelling; or individual action on five or more units scattered on sites more than 2000 feet apart and no more than 4 units per site.</p> <p>Acquisition (including leasing) or disposition of, or equity loans on an existing structure or acquisition (including leasing) of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.</p> <p>Combinations of the above activities</p>	
---	---	--	--

**DOCUMENTATION REQUIRED IN ERR**

<p>Describe activity and make a written determination of exemption.</p> <p>Also, determine compliance with 58.6:</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program</li> <li>• Coastal Barrier Resource Act</li> <li>• Runway Clear Zones</li> </ul>	<p>Describe activity and make a written 58.35(b) determination.</p> <p>Also, determine compliance with 58.6:</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program (NFIP)</li> <li>• Coastal Barrier Resource Act (CBRA)</li> <li>• Runway Clear Zones</li> </ul>	<p>Complete Statutory Worksheet, (sec. 58.5) and indicate converts exempt.</p> <p>Also, determine compliance with 58.6</p> <ul style="list-style-type: none"> <li>• NFIP</li> <li>• CBRA</li> <li>• Runway Clear Zones</li> </ul>	<p>Complete Statutory Worksheet (sec. 58.5)NOI/RROF notification RROF &amp; Certification (form 7015.15) Authority to Use Grant Funds (form 7015.16)</p> <p>Also, determine compliance with 58.6</p> <ul style="list-style-type: none"> <li>• National Flood Insurance Program</li> <li>• Coastal Barrier Resource Act</li> <li>• Runway Clear Zones</li> </ul>	<p>Environmental Assessment (including Statutory Checklist)* FONSI and NOI/RROF notification Form 7015.15 Form 7015.16</p> <p>Also, determine compliance with 58.6</p>
---	---	---	---	--

\*HUD recommended format

\*\* Subject to change based on scope of work

**ATTACHMENT C**

**CERTIFICATION OF EXEMPTION**



**U.S. Department of Housing and Urban  
Development**

451 Seventh Street, SW  
Washington, DC 20410  
www.hud.gov

espanol.hud.gov

## **Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 Pursuant to 24 CFR Part 58.34(a) and 58.35(b)**

This is a suggested format that may be used by Responsible Entities to document completion of an Exempt or Categorically Excluded Not Subject to Section 58.5 environmental review.

### **Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Consultant** (if applicable):

**Project Location:**

**Description of the Proposed Project** [24 CFR 58.32; 40 CFR 1508.25]:

### **Level of Environmental Review Determination:**

Activity/Project is Exempt per 24 CFR 58.34(a): \_\_\_\_\_

Activity/Project is Categorically Excluded Not Subject To §58.5 per 24 CFR 58.35(b):  
\_\_\_\_\_

**Funding Information**

Grant Number	HUD Program	Funding Amount

**Estimated Total HUD Funded Amount:**

**This project anticipates the use of funds or assistance from another Federal agency in addition to HUD in the form of (if applicable):**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

**Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6</b>		
<b>Airport Runway Clear Zones and Accident Potential Zones</b>  24 CFR Part 51 Subpart D	Yes   No <input type="checkbox"/> <input type="checkbox"/>	
<b>Coastal Barrier Resources</b>  Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes   No <input type="checkbox"/> <input type="checkbox"/>	
<b>Flood Insurance</b>  Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes   No <input type="checkbox"/> <input type="checkbox"/>	

**Mitigation Measures and Conditions [40 CFR 1505.2(c)]**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

Responsible Entity Agency Official Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**ATTACHMENT D**

**CERTIFICATION OF CATEGORICAL  
EXCLUSION  
(NOT SUBJECT TO 58.5)**



## **Environmental Review for Activity/Project that is Exempt or Categorically Excluded Not Subject to Section 58.5 Pursuant to 24 CFR Part 58.34(a) and 58.35(b)**

This is a suggested format that may be used by Responsible Entities to document completion of an Exempt or Categorically Excluded Not Subject to Section 58.5 environmental review.

### **Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Consultant** (if applicable):

**Project Location:**

**Description of the Proposed Project** [24 CFR 58.32; 40 CFR 1508.25]:

### **Level of Environmental Review Determination:**

Activity/Project is Exempt per 24 CFR 58.34(a): \_\_\_\_\_

Activity/Project is Categorically Excluded Not Subject To §58.5 per 24 CFR 58.35(b):  
\_\_\_\_\_

## **Funding Information**

<b>Grant Number</b>	<b>HUD Program</b>	<b>Funding Amount</b>

**Estimated Total HUD Funded Amount:**

**This project anticipates the use of funds or assistance from another Federal agency in addition to HUD in the form of (if applicable):**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

## **Compliance with 24 CFR §50.4 and §58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4 and 58.6	Are formal compliance steps or mitigation required?	Compliance determinations
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.6</b>		
<b>Airport Runway Clear Zones and Accident Potential Zones</b>  24 CFR Part 51 Subpart D	Yes   No <input type="checkbox"/> <input type="checkbox"/>	
<b>Coastal Barrier Resources</b>  Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes   No <input type="checkbox"/> <input type="checkbox"/>	
<b>Flood Insurance</b>  Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes   No <input type="checkbox"/> <input type="checkbox"/>	

**Mitigation Measures and Conditions [40 CFR 1505.2(c)]**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

Responsible Entity Agency Official Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**ATTACHMENT E**

**CERTIFICATION OF CATEGORICAL  
EXCLUSION (SUBJECT TO 58.5)**



**U.S. Department of Housing and Urban  
Development**

451 Seventh Street, SW  
Washington, DC 20410  
www.hud.gov

espanol.hud.gov

## **Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 Pursuant to 24 CFR 58.35(a)**

This is a suggested format that may be used by Responsible Entities to document completion of a  
Categorically Excluded Subject to Section 58.5 environmental review.

### **Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Grant Recipient** (if different than Responsible Entity):

**Consultant** (if applicable):

**Direct Comments to:**

**Project Location:**

**Description of the Proposed Project** [24 CFR 50.21 & 58.32]:

### **Level of Environmental Review Determination:**

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at  
§58.5: \_\_\_\_\_

**Funding Information**

<b>Grant Number</b>	<b>HUD Program</b>	<b>Funding Amount</b>

**Estimated Total HUD Funded Amount:**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

**Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 &amp; 58.6</b>		
<b>Airport Hazards</b>  24 CFR Part 51 Subpart D	Yes    No <input type="checkbox"/> <input type="checkbox"/>	
<b>Coastal Barrier Resources</b>  Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes    No <input type="checkbox"/> <input type="checkbox"/>	
<b>Flood Insurance</b>  Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes    No <input type="checkbox"/> <input type="checkbox"/>	

**STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5**

<p><b>Clean Air</b></p> <p>Clean Air Act, as amended, particularly section 176(c) &amp; (d); 40 CFR Parts 6, 51, 93</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Coastal Zone Management</b></p> <p>Coastal Zone Management Act, sections 307(c) &amp; (d)</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Contamination and Toxic Substances</b></p> <p>24 CFR Part 50.3(i) &amp; 58.5(i)(2)</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Endangered Species</b></p> <p>Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Explosive and Flammable Hazards</b></p> <p>24 CFR Part 51 Subpart C</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Farmlands Protection</b></p> <p>Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Floodplain Management</b></p> <p>Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Historic Preservation</b></p> <p>National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Noise Abatement and Control</b></p> <p>Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<p>Yes No</p> <p><input type="checkbox"/> <input type="checkbox"/></p>	
<p><b>Sole Source Aquifers</b></p>	<p>Yes No</p>	

Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	<input type="checkbox"/> <input type="checkbox"/>	
<b>Wetlands Protection</b>  Executive Order 11990, particularly sections 2 and 5	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Wild and Scenic Rivers</b>  Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No <input type="checkbox"/> <input type="checkbox"/>	

**Field Inspection** (Date and completed by):

**Summary of Findings and Conclusions:**

**Mitigation Measures and Conditions**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure

**Determination:**

- This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR
- This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain**

**“Authority to Use Grant Funds”** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR

- This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

\_\_\_\_\_

Responsible Entity Agency Official Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**ATTACHMENT F**

**ENVIRONMENTAL ASSESSMENT  
DETERMINATION & STATUTORY  
COMPLIANCE CHECKLIST**



**U.S. Department of Housing and Urban  
Development**

451 Seventh Street, SW  
Washington, DC 20410  
www.hud.gov

[espanol.hud.gov](http://espanol.hud.gov)

## **Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58**

This is a suggested format that may be used by Responsible Entities to document completion of an Environmental Assessment.

### **Project Information**

**Project Name:**

**Responsible Entity:**

**Grant Recipient** (if different than Responsible Entity):

**State/Local Identifier:**

**Preparer:**

**Certifying Officer Name and Title:**

**Grant Recipient** (if different than Responsible Entity):

**Consultant** (if applicable):

**Direct Comments to**

**Project Location:**

**Description of the Proposed Project [24 CFR 50.21 & 58.32]:**

**Statement of Purpose and Need for the Proposal:**

**Existing Conditions and Trends [24 CFR 58.40(a)]:**

**Funding Information**

<b>Grant Number</b>	<b>HUD Program</b>	<b>Funding Amount</b>

**Estimated Total HUD Funded Amount:**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

**Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities**

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

<b>Compliance Factors:</b> Statutes, Executive Orders,	Are formal compliance steps or	Compliance determinations
---	--------------------------------------	---------------------------

and Regulations listed at 24 CFR §58.5 and §58.6	mitigation required?	
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 and 58.6</b>		
<b>Airport Hazards</b> 24 CFR Part 51 Subpart D	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Coastal Barrier Resources</b> Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Flood Insurance</b> Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 &amp; 58.5</b>		
<b>Clean Air</b> Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Coastal Zone Management</b> Coastal Zone Management Act, sections 307(c) & (d)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Contamination and Toxic Substances</b> 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Endangered Species</b> Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No <input type="checkbox"/> <input type="checkbox"/>	
<b>Explosive and Flammable Hazards</b> 24 CFR Part 51 Subpart C	Yes No <input type="checkbox"/> <input type="checkbox"/>	

<p><b>Farmlands Protection</b></p> <p>Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	
<p><b>Floodplain Management</b></p> <p>Executive Order 11988, particularly section 2(a); 24 CFR Part 55</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	
<p><b>Historic Preservation</b></p> <p>National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	
<p><b>Noise Abatement and Control</b></p> <p>Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	
<p><b>Sole Source Aquifers</b></p> <p>Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	
<p><b>Wetlands Protection</b></p> <p>Executive Order 11990, particularly sections 2 and 5</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	
<p><b>Wild and Scenic Rivers</b></p> <p>Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<p>Yes    No</p> <p><input type="checkbox"/>   <input type="checkbox"/></p>	

**Environmental Assessment Factors** [24 CFR 58.40] Recorded below is the qualitative and quantitative significance of the effects of the proposal on the character, features and resources of the project area. Each factor has been evaluated and documented, as appropriate and in proportion to its relevance to the proposed action. Verifiable source documentation has been provided and described in support of each determination, as appropriate. Credible, traceable and supportive source documentation for each authority has been provided. Where applicable, the necessary reviews or consultations have been completed and applicable permits of approvals have been obtained or noted. Citations, dates/names/titles of contacts, and page references are clear. Additional documentation is attached, as appropriate. **All conditions, attenuation or mitigation measures have been clearly identified.**

**Impact Codes:** Use an impact code from the following list to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement

Environmental Assessment Factor	Impact Code	Impact Evaluation
<b>LAND DEVELOPMENT</b>		
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design		
Soil Suitability/ Slope/ Erosion/ Drainage/ Storm Water Runoff		
Hazards and Nuisances including Site Safety and Noise		

Environmental Assessment Factor	Impact Code	Impact Evaluation
<b>SOCIOECONOMIC</b>		
Employment and Income Patterns		
Demographic Character Changes, Displacement		

Environmental Assessment Factor	Impact Code	Impact Evaluation
<b>COMMUNITY FACILITIES AND SERVICES</b>		
Educational and Cultural Facilities		
Commercial Facilities		

Health Care and Social Services		
Solid Waste Disposal / Recycling		
Waste Water / Sanitary Sewers		
Water Supply		
Public Safety - Police, Fire and Emergency Medical		
Parks, Open Space and Recreation		
Transportation and Accessibility		

Environmental Assessment Factor	Impact Code	Impact Evaluation
<b>NATURAL FEATURES</b>		
Unique Natural Features, Water Resources		
Vegetation, Wildlife		
Other Factors		

Environmental Assessment Factor	Impact Code	Impact Evaluation
<b>ENERGY</b>		
Energy Efficiency		

**Additional Studies Performed:**

**Field Inspection** (Date and completed by):

**List of Sources, Agencies and Persons Consulted:**

**List of Permits Obtained:**

**Public Outreach** [24 CFR 50.23 & 58.43]:

**Cumulative Impact Analysis** [24 CFR 58.32]:

**Alternatives** [24 CFR 58.40(e)]

**No Action Alternative** [24 CFR 58.40(e)]:

**Summary of Findings and Conclusions:**

**Mitigation Measures and Conditions**

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure


**Determination:**

**Finding of No Significant Impact** [24 CFR 58.40(g)(1)]  
 The project will not result in a significant impact on the quality of the human environment.

**Finding of Significant Impact** [24 CFR 58.40(g)(2)]  
 The project may significantly affect the quality of the human environment.

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

\_\_\_\_\_

Certifying Officer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s)

**ATTACHMENT G**

**NOTICE OF INTENT TO REQUEST A  
RELEASE OF FUNDS**

## Sample Notice of Intent to Request a Release of Funds

The sample language below is HUD’s recommended wording of the Notice of Intent to Request a Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects [24 CFR Part 58, Section 58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity. The minimum comment period is seven days following publication or ten days if posting and mailing without publication is used

-----

### NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

*Date of Notice*

*Name of Responsible Entity [RE]*

*Address (e.g., Street No. or P.O. Box)*

*City, State, Zip Code*

*Telephone Number of RE*

**On or about** *at least one day after the end of the comment period* **the name of RE will if the RE is not also the grant recipient, insert the following language here:** “authorize the [name of grant recipient] to” **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [ ] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

**The activities proposed** *alternative #1: are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements or alternative #2: comprise a project for which a Finding of No Significant Impact on the environment was [published/posted] on [date of Finding publication/posting].* **An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays \_\_A.M to \_\_P.M.**

### PUBLIC COMMENTS

**Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments**

**received by if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.**

### **ENVIRONMENTAL CERTIFICATION**

**The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use Program funds.**

### **OBJECTIONS TO RELEASE OF FUNDS**

**HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.**

*Name and Title of RE Certifying Officer*

---

Note: The seven or ten-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of Funds and Certification [form HUD-7015.15] to HUD/State. The Responsible Entity may choose to allow a longer comment period. The fifteen-day objection period following submission of the request is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

Following completion of the comment period recipients may FAX the form HUD-7015.15 to HUD/State together with a copy of the public notice and a cover letter stating whether comments were received and, if so, how the recipient responded to the comment. The Request for Release of Funds and Certification should not be

submitted before the recipient has responded. If the request is sent by FAX, the original signed form should be mailed to HUD/State. The date of receipt by FAX will be counted as the submission date. However, HUD will not issue the 7015.16 “Authority to Use Grant Funds” until after the original signed form is received.

## **ATTACHMENT H**

# **COMBINED NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND INTENT TO REQUEST RELEASE OF FUNDS**

## Sample Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds

The sample language below is HUD's recommended wording of the combined Notice of Finding of No Significant Impact and Notice of Intent to Request a Release of Funds. This Notice is used for projects requiring an Environmental Assessment (24 CFR Part 58, Section 58.36). Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity.

-----

### NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

*Date of Notice*

*Name of Responsible Entity [RE]*

*Address (e.g., Street No. or P.O. Box)*

*City, State, Zip Code*

*Telephone Number of RE*

**These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the *name of RE or grant recipient*.**

### REQUEST FOR RELEASE OF FUNDS

**On or about** *at least one day after the end of the comment period* **the name of RE will** *if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"* **submit a request to the HUD/State administering agency for the release of name of grant program funds under Title/Section [ ] of the name of the Act of [year], as amended, to undertake a project known as project title for the purpose of nature/scope of project, estimated funding (include non-HUD funding sources if applicable) and project location if applicable.**

### FINDING OF NO SIGNIFICANT IMPACT

**The *name of RE* has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information**

is contained in the Environmental Review Record (ERR) on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may be examined or copied weekdays \_\_A.M to \_\_P.M.

## PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: publication date plus fifteen days; if notice is mailed and posted: mailing and posting date plus eighteen days will be considered by the name of RE prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

## ENVIRONMENTAL CERTIFICATION

The name of RE certifies to HUD/State that name of Certifying Officer in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use Program funds.

## OBJECTIONS TO RELEASE OF FUNDS

HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.

*Name and Title of RE Certifying Officer*

---

Note: The fifteen or eighteen-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of Funds and Certification (form HUD-7015.15) to HUD/State. The Responsible Entity may choose to allow a longer comment period. 24 CFR Part 58 requires, at Section 58.46,

“Time delays for exceptional circumstances,” a 30-day comment period for controversial or unique projects or those similar to projects normally requiring preparation of an Environmental Impact Statement. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

Following completion of the comment period recipients may FAX the form HUD-7015.15 to HUD/State together with a copy of the public notice and a cover letter stating whether comments were received and, if so, how the recipient responded to the comment. The Request for Release of Funds and Certification should not be submitted before the recipient has responded. If the request is sent by FAX, the original signed form should be mailed to HUD/State. The date of receipt by FAX will be counted as the submission date. However, HUD will not issue the 7015.16 “Authority to Use Grant Funds” until after the original signed form is received.

**ATTACHMENT I**

**REQUEST FOR RELEASE OF FUNDS AND  
CERTIFICATION**

# Request for Release of Funds and Certification

## U.S. Department of Housing and Urban Development Office of Community Planning and Development

OMB No. 2506-0087  
(exp. 04/30/2027)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

### Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	

**The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following**

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
--	--

11. Program Activity/Project Description

---

---

**Part 2. Environmental Certification** (to be completed by responsible entity)

---

**With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:**

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did  did not  require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity  <b>X</b>	Title of Certifying Officer <input type="text"/>
	Date signed <input type="text"/>
Address of Certifying Officer <input type="text"/>	

---

---

**Part 3. To be completed when the Recipient is not the Responsible Entity**

---

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient	Title of Authorized Officer <input type="text"/>
--	---

---

Date signed
<input type="text"/>

**X**

We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §3729, 3802)

---

**ATTACHMENT J**

**AUTHORITY TO USE GRANT FUNDS**

# Authority to Use Grant Funds

**U.S. Department of Housing  
and Urban Development**  
Office of Community Planning  
and Development

**To:** (name & address of Grant Recipient & name & title of Chief Executive Officer)

**Copy To:** (name & address of Subrecipient)

We received your Request for Release of Funds and Certification, form HUD-7015.15 on

Your Request was for HUD/State Identification Number

All objections, if received, have been considered. And the minimum waiting period has transpired.  
You are hereby authorized to use funds provided to you under the above HUD/State Identification  
Number. File this form for proper record keeping, audit, and inspection purposes.

Typed Name of Authorizing Officer

Signature of Authorizing Officer

Date (mm/dd/yyyy)

Title of Authorizing Officer

X

Previous editions are obsolete.

form **HUD-7015.16** (2/94)  
ref. Handbook  
6513.01

**ATTACHMENT K**

**TIERING PROCEDURE & SAMPLE  
NOTICES FOR MULTI-YEAR REVIEWS**

**St. Clair County, Illinois**  
**Community Development Division Tiering**  
**Procedures**

24 CFR Part 58 states that a responsible entity may tier its environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate when there is a requirement to evaluate a policy or proposal in the early stages of development or when site specific analysis or mitigation is not currently feasible, and a more narrow or focused analysis is better done at a later date.

The following procedures constitute the tiering process:

- (1) A program description should be provided. (describe timing and staff responsibility)
  
- (2) A broad environmental review (the strategy) of the program must be completed. The broad review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site-specific review and include the following:
  - a. A complete project description (including: contract number, total cost and HUD funds used, how funds will be used, target population, number receiving assistance, amount per individual, location, size, function, existing and future need, and an evaluation of the effects)
  - b. Determine classification (level of review) for project (unspecified sites)
  - c. Complete the applicable environmental review based on classification. Identify and evaluate issues ripe for decision
  - d. Establish the policy, standard or process to be followed in the site-specific review and develop the site-specific checklist.
  - e. Complete the Public Notice, Finding of No Significant Impact (FONSI) (summary of the assessment), and RROF procedures. The FONSI with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site-specific reviews.
  
- (3) After each location is determined the staff must:
  - a. Describe activity for that location
  - b. Summarize the issues addressed in the broader review
  - c. Complete site-specific review checklist and certify
  - d. File site-specific review checklist and any supporting documentation in the environmental review record.



## **Broad-Level Tiered Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 Pursuant to 24 CFR Part 58.35(a)**

This is a suggested format that may be used by Responsible Entities to document completion of a tiered Categorically Excluded Subject to Section 58.5 environmental review.

### **Project Information**

**Project Name:**

**Responsible Entity (RE):**

**State/Local Identifier:**

**RE Preparer:**

**Certifying Officer:**

**Grant Recipient** (if different than Responsible Entity):

**Point of Contact:**

**Consultant** (if applicable):

**Point of Contact:**

**Project Location:**

**Additional Location Information:**

**Direct Comments to:**

**Description of the Proposed Project [24 CFR 50.21 & 58.32]**

**Approximate size of the project area:**

**Length of time covered by this review:**

**Maximum number of dwelling units or lots addressed by this tiered review:**

**Level of Environmental Review Determination:**

Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5: \_\_\_\_\_

**Funding Information**

Grant Number	HUD Program	Program Name	Funding Amount

**Estimated Total HUD Funded Amount:**

**Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]:**

**Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities and Written Strategies**

<b>Compliance Factors:</b> Statutes, Executive Orders, and Regulations listed at 24 CFR 50.4, 58.5, and 58.6	Was compliance achieved at the broad level of review?	<b>If Yes:</b> Describe compliance determinations made at the broad level. <b>If No:</b> Describe the policy, standard, or process to be followed in the site-specific review.
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 &amp; 58.6</b>		
<b>Airport Hazards</b> 24 CFR Part 51 Subpart D	Yes No	
<b>Coastal Barrier Resources</b> Coastal Barrier Resources Act, as amended by the Coastal Barrier	Yes No	

Improvement Act of 1990 [16 USC 3501]		
<b>Flood Insurance</b>  Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No	
<b>STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §58.5</b>		
<b>Clean Air</b>  Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No	
<b>Coastal Zone Management</b>  Coastal Zone Management Act, sections 307(c) & (d)	Yes No	
<b>Contamination and Toxic Substances</b>  24 CFR Part 50.3(i) & 58.5(i)(2)]	Yes No	
<b>Endangered Species</b>  Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes No	
<b>Explosive and Flammable Hazards</b>  24 CFR Part 51 Subpart C	Yes No	
<b>Farmlands Protection</b>  Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes No	
<b>Floodplain Management</b>  Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes No	
<b>Historic Preservation</b>  National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes No	

<b>Noise Abatement and Control</b>  Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes No	
<b>Sole Source Aquifers</b>  Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes No	
<b>Wetlands Protection</b>  Executive Order 11990, particularly sections 2 and 5	Yes No	
<b>Wild and Scenic Rivers</b>  Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes No	

Attach supporting documentation as necessary, including a site-specific checklist.

**Determination:**

Extraordinary circumstances exist and this project may result in significant environmental impact. This project requires preparation of an Environmental Assessment (EA); OR  
There are no extraordinary circumstances which would require completion of an EA, and this project may remain CEST.

Preparer Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name/Title/Organization: \_\_\_\_\_

Responsible Entity Agency Official Signature:

\_\_\_\_\_ Date: \_\_\_\_\_

Name/Title: \_\_\_\_\_

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

**This document represents the Tier 1 or Broad-Level review *only*. As individual sites are selected, this review must be supplemented by individual Tier 2 or Site-Specific reviews for each site. All laws and authorities requiring site-specific analysis will be addressed in these individual reviews.**



## Notice of Intent to Request Release of Funds [Tiered Reviews]

The sample language below is HUD's recommended wording of the Notice of Intent to Request Release of Funds. This Notice is used to request the environmental release of funds for Categorically Excluded projects (24 CFR Part 58, §58.35(a)] or for projects for which a Notice of Finding of No Significant Impact was previously issued. Words in **bold type** are required language. Words in *italics* are to be replaced by language appropriate to the particular project and Responsible Entity.

-----

### NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS FOR TIERED PROJECTS AND PROGRAMS

**Date of Publication:** *[date published]*

*Name of Responsible Entity (RE)*

*Address (e.g., Street No. or P.O. Box)*

*City, State, Zip Code*

*Telephone Number of RE*

**On or after** *at least one day after the end of the comment period* **the name of RE will** *if the RE is not also the grant recipient, insert the following language here: "authorize the [name of grant recipient] to"* **submit a request to the HUD Program Office/State administering agency for the release of name of grant program funds under Title/Section [xx] of the name of the appropriation Act of [year], as amended, to undertake the following project:**

**Tier 1 Broad Review Project/Program Title:** *State the project/program name.*

**Purpose:** *Summarize purpose and need for the project/program.*

**Location:** *Give the general idea of the location and state specific addresses will be assessed in the site specific reviews.*

**Project/Program Description:** *Describe what the project/program does, what is going to be done and how.* **Tier 2 site specific reviews will be completed for those laws and authorities not addressed in the tier 1 broad review for each address under this program when addresses become known.**

**Level of Environmental Review Citation:** *Give the specific categorical exclusion citation under which the program falls. For example, for a Rehabilitation Program of home-owner occupied single family homes, state: "24 CFR Part 58.35(a)(3)(i)"*

**Tier 2 Site Specific Review:** **The site specific reviews will cover the following laws and authorities not addressed in the Tier 1 broad review:** *List the laws and authorities that were not addressed in the tier 1 broad review and will be addressed in the tier 2 site specific review.*

**Mitigation Measures/Conditions/Permits (if any):** *For each of the laws and authorities listed in the tier 2 site specific review, describe how issues will be addressed, and how mitigation measures, conditions or permits required will be implemented.*

**Estimated Project Cost:** *Include HUD funding & total estimated project cost.*

**The activity/activities proposed are categorically excluded under HUD regulations at 24 CFR Part 58 from National Environmental Policy Act (NEPA) requirements per give citation listed above. An Environmental Review Record (ERR) that documents the environmental determinations for this project is on file at name and address of RE office where ERR can be examined and name and address of other locations where the record is available for review and may**

be examined or copied weekdays \_\_A.M to \_\_P.M. or if the review was completed in HEROS at <https://www.hudexchange.info/programs/environmental-review/environmental-review-records/>.

## PUBLIC COMMENTS

**Any individual, group, or agency may submit written comments on the ERR to the RE designated office responsible for receiving and responding to comments. All comments received by if notice is published: notice date plus seven days; if notice is mailed and posted: mailing and posting date plus ten days will be considered by the name of RE prior to authorizing submission of a request for release of funds.**

## ENVIRONMENTAL CERTIFICATION

**The name of RE certifies to HUD/State that name of Certifying Officer, Certifying Officer, in his/her capacity as Official Title consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's/State's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the name of grant recipient to use HUD program funds.**

## OBJECTIONS TO RELEASE OF FUNDS

**HUD/State will accept objections to its release of fund and the RE's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the name of RE; (b) the RE has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD/State; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD/State administration office at address of that office. Potential objectors should contact HUD/State to verify the actual last day of the objection period.**

*Name and Title of RE Certifying Officer, Certifying Officer*

Note: The seven or ten-day public comment periods are the minimum time periods required by regulation prior to submission of a Request for Release of funds and Certification (form HUD-7015.15 to HUD/State. The Responsible Entity may choose to allow a longer comment period. The fifteen-day objection period is a statutory requirement. The objection period follows the submission date specified in the Notice or the actual date of receipt by HUD/State, whichever is later.

**ATTACHMENT L**

**IHPA SAMPLE LETTER**



# St. Clair County

## INTERGOVERNMENTAL GRANTS DEPARTMENT

August 15, 2014

Deputy State Historic Preservation Officer  
Illinois Historic Preservation Agency  
1 Old State Capitol Plaza  
Springfield, IL 62701-1507  
[hpa.projectsbox@illinois.gov](mailto:hpa.projectsbox@illinois.gov)

Dear:

In compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations 36 C.F.R. part 800, we are submitting the following projects for your consideration:

Street Resurfacing	23 <sup>rd</sup> Street from State to MLK, East St. Louis, IL
Street Resurfacing	Summit Avenue from 29 <sup>th</sup> to Post Place, East St. Louis, IL
Street Resurfacing	Lynch Avenue from 9 <sup>th</sup> Street to 25 <sup>th</sup> Street, East St. Louis, IL

The above-mentioned address(es) are:

Listed on the National Register:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Within a Local Historic District:	<input type="checkbox"/> Yes	<input type="checkbox"/> No
A Local Landmark:	<input type="checkbox"/> Yes	<input type="checkbox"/> No

These projects will be funded by Community Development Block Grant (CDBG) funds from the Department of Housing and Urban Development (HUD). In addition, we are enclosing maps indicating the locations of these projects, along with original photos showing their present state.

Should you have any questions or need any additional information, please feel free to contact me at 618.825.3217 or via e-mail.

Sincerely,

Community Development Group

Enclosure(s)

---

19 Public Square, Suite 200 • Belleville, Illinois 62220 • Phone (618) 277-6790 • Fax (618) 236-1190

An Equal Opportunity Employer. Auxiliary aids and services are available upon request.

## **ATTACHMENT M**

# **FEDERALLY RECOGNIZED TRIBES: TRIBAL LETTER SAMPLE & UNANTICIPATED DISCOVERIES INFORMATION**



# Tribal Directory Assessment Information



[Download Excel](#)

## Contact Information for Tribes with Interests in St. Clair County, Illinois

Tribal Name	County Name
+ Menominee Indian Tribe of Wisconsin	St. Clair
+ Miami Tribe of Oklahoma	St. Clair
+ Osage Nation	St. Clair
+ Peoria Tribe of Indians of Oklahoma	St. Clair
+ Quapaw Nation	St. Clair
+ Seneca-Cayuga Nation	St. Clair

1 - 6 of 6 results

« < 1 > » 10 ▾

[Download Excel](#)



St. Clair County  
INTERGOVERNMENTAL GRANTS DEPARTMENT

---

August 23, 2021

Dr. Andrea A. Hunter, Director and THPO  
Osage Nation  
627 Grandview Avenue  
Pawhuska, OK 74056

**Re: City of Belleville – New Sidewalk Construction**  
**Caseyville Township - Replace Sanitary Sewer Main**  
**Village of Fayetteville – Sidewalk/Storm Sewer Construction**  
HUD Program – Community Development Block Grant (CDBG)

Dear Dr. Hunter,

The St. Clair County Intergovernmental Grants Department (IGD) is considering funding the projects listed above with federal funds from the U.S. Department of Housing and Urban Development (HUD). Under HUD regulation 24 CFR 58.4, the St. Clair County IGD has assumed HUD's environmental review responsibilities for these projects, including tribal consultation related to historic properties. Historic properties include archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association.

St. Clair County IGD will conduct a review of these projects to comply with Section 106 of the National Historic Preservation Act and its implementing regulations 36 CFR Part 800. We would like to invite you to be a consulting party in this review to help identify historic properties in the project area that may have religious and cultural significance to your tribe, and if such properties exist, to help assess how the project might affect them. If the project might have an adverse effect, we would like to discuss possible ways to avoid, minimize or mitigate potential adverse effects.

To meet project timeframes, if you would like to be a consulting party on any of these projects, can you please let us know of your interest within 30 days? If you have any initial concerns with impacts of the projects on religious or cultural properties, can you please note them in your response?

Enclosed is a map and photos that show the project areas. Also enclosed are full project descriptions which have also been sent to the Illinois Department of Natural Resources - Historic & Preservation Office.

## Unanticipated Discoveries During Construction:

*Objectives:* The following procedures will be used in the event that previously unreported and unanticipated historic properties or human remains are found during construction activities. The procedures differ depending on whether unanticipated cultural materials (see Section C.2.) or human remains (see Section C.3.) are encountered. The plan is intended to ensure that the project is in compliance with all applicable Federal and State laws and regulations, including but not limited to Section 106 of the NHPA of 1966 (36 CFR 800), the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420), the National Environmental Policy Act (NEPA) (42 USC 4321 et seq.

(1) *Procedures for an Unanticipated Discovery of Historic Properties:* In the event of an unanticipated discovery of historic properties during construction activities, County/Contractor will follow these procedures:

- (a) The construction contractor must immediately stop all construction activity within a 150-foot radius of the discovery, notify County/Architect/Engineer of the discovery, and implement interim measures to protect the discovery from looting and vandalism. Within 48 hours of receipt of this notification of the discovery, County shall:
  - inspect the work site to determine the extent of the discovery and ensure that construction activities have halted;
  - clearly mark the area of the discovery;
  - implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
  - notify the Illinois SHPO, and the Tribes who have identified the location as within their ancestral homelands, of the discovery.
- (b) The County will have seven business days following notification to determine the NRHP eligibility of the discovery after considering the filed comments of the Illinois SHPO, interested Tribes, and other consulting parties. The County may assume the newly discovered property to be eligible for the NRHP for the purposes of Section 106 pursuant to 36 CFR§ 800.13(c)
- (c) If the find is determined to be potentially significant, County will consult with the Illinois SHPO, the Tribes, and other interested parties regarding appropriate measures for site treatment. For properties determined eligible for the NRHP, County will notify the Illinois SHPO, interested Tribes, and other consulting parties, of those actions for which it proposes to resolve adverse effects. Interested Tribes and other consulting parties will have seven business days to provide their views on the proposed actions. The County will ensure that the recommendations of interested Tribes and other consulting parties are considered prior to granting approval of the measures that will be implemented to resolve adverse effects. These measures may include:
  - i. formal archaeological evaluation of the site;

- ii. visits to the site by the Illinois SHPO, the Tribes, and other interested parties;
  - iii. exploration of potential alternatives to avoid the site;
  - iv. preparation of a mitigation plan by County in consultation with the Tribes for approval by the Illinois SHPO;
  - v. implementation of a mitigation plan; and
  - vi. County approval to resume construction following completion of the fieldwork component of the mitigation plan.
- (d) If the find is determined to be either isolated or completely disturbed by construction activities, County will consult with the Illinois SHPO, the Tribes, and other interested parties prior to resuming construction.
- (e) Dispute Resolution: The County will seek and consider the recommendations of the SHPO/Tribes in resolving any disagreements that may arise regarding determination of effects.
- (2) *Procedures for an Unanticipated Discovery of Human Remains and Burials*: In the case of an unanticipated discovery of human remains or burials on Federal land, County will follow the procedures outlined by the Native American Graves Protection and Repatriation Act, as amended (43 CFR 10, Subpart B), and pursuant to the Archaeological Resources Protection Act of 1979 (43 CFR 7). In the event of an unanticipated discovery of human remains or burials on non-Federal lands during construction activities, the County will comply with the Illinois Human Skeletal Remains Protection Act (20 ILCS 3440) as administered by the Illinois Historic Preservation Agency (IHPA) and will follow these procedures:
- (f) Upon encountering human remains or an unmarked human burial during ground disturbing construction activities, County will ensure that the construction contractor immediately stops work within a 150-foot radius from the point of discovery. The County will ensure that the construction contractor Implements interim measures to protect the discovery from vandalism and looting but must not remove or otherwise disturb any human remains or other items in the immediate vicinity of the discovery.
  - (g) The County will notify the County Coroner, IHPA, the Tribes, and other interested parties within 48 hours of the discovery. The County will contact by phone or email the point of contact for each interested Tribe of the discovery.
  - (h) Within 72 hours after notification the County Coroner will determine jurisdiction. If the remains are older than 100 years, the County Coroner will transfer jurisdiction to IHPA.
  - (i) In coordination with IHPA, County will determine if the skeletal remains are human, the degree to which they were disturbed, and if possible, assess their potential age and cultural affiliation without any further disturbance.

- (j) The County is responsible for notifying the Tribes within 24 hours of IHPA's findings.
- (k) If it is determined by IHPA that intact or fragmented human remains are present and they are Native American, the County will consult with the IHPA, Illinois SHPO, the Tribes, and other interested parties regarding additional measures to avoid, and protect or mitigate, the adverse effect of the project on the human remains and burial site. These measures may include:
  - i. formal archaeological evaluation of the site;
  - ii. if the remains are determined to be Native American, consultation with the Tribes will be required;
  - iii. visits to the site by the Illinois SHPO, the Tribes, and other interested parties; exploration of potential alternatives to avoid the human remains or burial;
  - iv. for Native American remains, implementation of a mitigation plan by County in consultation with IHPA and the Tribes, including procedures for disinterment and re-interment;
  - v. implementation of the mitigation plan; and
  - vi. IHPA and Tribes approval to resume construction following completion of the fieldwork component of the mitigation plan.

**This document will be included in County pre construction Packages.**

## REVISION HISTORY

Event	Date
Adopted	September 2023
Adopted revisions (Lead, Radon, Asbestos)	March 18, 2024
Adopted Revisions (full review with TA and revisions)	March 10, 2026