

**Michigan State Housing Development Authority
Housing Initiatives Division**

**ENVIRONMENTAL REVIEW
MANUAL**

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All fillable forms, instructions, and templates referenced in this manual can be found on the webpage at http://www.michigan.gov/mshda/0,4641,7-141-5564_46919-170905--00.html

SECTION I: OVERVIEW

BACKGROUND

The National Environmental Policy Act (NEPA) was enacted in 1969 to ensure that federal agencies consider and address potential environmental impacts that result from projects they sponsor. NEPA regulations (24 CFR Parts 1500-1508) mandate that each federal agency must implement policies and procedures in accordance with the provisions of NEPA. HUD's implementing regulations for NEPA ([24 CFR Part 58](#)) apply to all HUD-funded programs and are mandated to ensure that projects do not pose a negative impact on the environment or expose communities to adverse environmental conditions.

NEPA and HUD regulations cover housing projects and activities funded in whole or part with federal funds granted through the Michigan State Housing Development Authority's (MSHDA) Housing Initiatives Division (HID). HID grants using MSHDA funds only without federal sources do not require compliance with 24 CFR Part 58 as outlined in this manual, although other environmental laws not covered extensively in this guide may still apply.

This manual focuses on review procedures for single family (1-4 unit) housing programs only. Economic development activities, commercial or industrial projects and multi-family developments generally require a more detailed level of analysis (e.g. Phase I Environmental Site Assessment, Environmental Impact Statement) not addressed in this publication.

A Phase I Environmental Site Assessment (ESA), meeting MSHDA's [multi-family environmental review requirements](#), is required for all multi-family (>4 units), non-residential and mixed use buildings. A Phase I ESA involves an investigation that determines the potential for contamination of soil, water, buildings, etc. on a property by looking at current and past uses of the site as well as the surrounding structures/environment. See HUD's [website](#) for more information about Phase I ESAs and how they relate to housing projects.

IMPORTANT: Compliance with Part 58 as explained in this manual according to the appropriate level of review must be completed **PRIOR** to committing any federal or nonfederal program funds:

Neither the recipient nor any participant (public or private nonprofits or for-profit entities and their contractors) may commit or expend any federal or nonfederal project funds prior to approval of the Request for Release of Funds (RROF) and related certification unless otherwise stated in 24 CFR Part 58.

ACRONYMS AND DEFINITIONS ([24 CFR 58](#) and [CPD Notice 01-11](#))

Activity (58.2(a)(1)) – An action that a subgrantee or recipient puts forth as part of a federally assisted project regardless of whether its cost is to be borne by the HUD assistance or it is an eligible expense under the HUD program. Examples: rehabilitation, demolition, acquisition, new construction, downpayment assistance.

Certifying Officer (58.2(a)(1), 58.13) – The official authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of Sec. 58.13. The Certifying Officer should be the Responsible Entity's highest elected official or other qualified (legally responsible) RE employee designated in writing. All local units of government function as Responsible Entities for their grants and designate a Certifying Officer. MSHDA is the responsible entity for all its nonprofit subgrantees and functions as their Certifying Officer.

Choice-Limiting Actions – The environmental review process limits the actions/activities that can occur prior to a finalized release of funds from HUD/MSHDA (See 58.22 for complete text). Neither the subgrantee nor any participant in the development process may commit project funds (federal and private) prior to the release of funds. Examples of choice-limiting actions include but are not limited to: acquisition of land, closing on loans, signing a contract, or commencing construction/rehabilitation. The purchase of a real estate **option** prior to the release of funds is not considered a choice-limiting action, as long as it explicitly provides that the agreement to provide funds to the project is conditioned on the responsible entity's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review. See [HUD CPD 01-11 Notice](#), p. 10, for draft language that must be used for a purchase option.

Compliance Officer – Representative from a nonprofit receiving MSHDA HOME funds who either serves as the highest executive officer of the organization or is designated by the highest executive officer and accepts responsibility for completing the environmental review process. Review records are prepared by the compliance officer, but MSHDA still ultimately serves as the Responsible Entity and Certifying Officer for the grant.

Conditional HOME commitment - Any contractual agreement signed prior to the completion of the environmental review process between the participating jurisdiction, insular area or state recipient, and a state recipient, subrecipient, contractor, owner or developer, to use a specific amount of HOME funds to produce affordable housing or provide tenant-based rental assistance; or an executed written agreement reserving a specific amount of funds to a community housing development organization or nonprofit entity which explicitly indicates that the agreement to provide funds to the project is conditioned on the responsible entity's determination to proceed with, modify or cancel the project based on the results of a subsequent environmental review.

DEQ - Department of Environmental Quality. The Michigan department responsible for issuing environmental permits, licenses, or approvals of a permit-like nature that may be needed for a project. The DEQ can assist with the identification of specially designated areas such as floodplains, wetlands, coastal zones, and Clean Air Act attainment areas.

ERR – Environmental Review Record (Sec. 58.38). The ERR is the file containing all environmental review documents, public notices and written determinations or environmental findings required by Part 58 as evidence of review, decision making and actions pertaining to a particular project. The ERR must be kept in a place accessible to the public for review and in a form easily transmitted to HUD or MSHDA.

FONSI - Finding of No Significant Impact -- A finding by the Responsible Entity, as a result of conducting an Environmental Assessment, that a proposed action will have no significant impact on the environment. This term only applies to the Environmental Assessment level of review.

Interested Parties – Individuals and groups known to be interested in the proposed activities including: local news media; appropriate tribal and local agencies; and other local entities (nonprofits, churches, historical groups, business associations, environmental organizations) who may be interested in the project and its environmental impact.

Individual action on up to four dwelling units – “Individual action” refers to any one or combination of activities (new construction, development, demolition, acquisition, disposition, or refinancing) related to a 1-4 unit structure, excluding rehabilitation.

Minor Rehabilitation. A home rehabilitation where the total cost of rehab is less than 75 percent of the value of the building before rehabilitation.

Major Rehabilitation – Actions affecting single family or multifamily buildings that will exceed the threshold for minor rehabilitation.

NEPA – The National Environmental Policy Act of 1969 and all amendments.

NOI-RROF - Notice of Intent to Request a Release of Funds. This notice must be mailed to all interested parties and published/posted as directed by Part 58.

Project (Sec. 58.2(a) (4)) – An activity or group of integrally related activities designed to accomplish, in whole or in part, a specific objective (Sec. 58.2(a)(4)). A single activity can be, for example, a targeted housing rehab program. Integrally related activities can be distinct housing activities (rehab, homebuyer assistance, demolition, etc.) proposed for a targeted neighborhood/location. A HID “project” refers to all of the activities associated with a particular HID grant.

Project Aggregation (Sec. 58.32) -- The action of grouping together and evaluating as a single project or program all individual activities which are related on a geographical or functional basis or are logical parts of a planned action. The strictest classification required by any of the individual activities is applied to the grant program as a whole. Multi-phased projects carried out by the same entity with several grants allocated over several program years may be grouped together into one environmental review process. The program description and classification must include all phases of the project. Examples of activities which should be aggregated may include but are not limited to: purchasing land which will then be used for new construction, purchasing a home which will be rehabilitated and sold, or demolishing a building on a lot where future new construction is planned, etc.

Program Description – The scope of the grant program including all grant activities, funding sources and amounts, number and income levels of individuals to be assisted, and location of project(s) or target area. If conducting a tiered review, it is advisable to describe as broad of a target area as is reasonable so all potential sites may be included, thus avoiding a re-evaluation of the environmental review if a grant amendment is needed.

Responsible Entity (RE) (Sec. 58.2(a) (7) (i)) -- A participating jurisdiction, a state recipient, or local unit of government that is responsible for an environmental review. The responsible entity (RE) is always a unit of local government or the state. All local governments receiving HUD federal funds function as the responsible entities for the environmental review of their grants. MSHDA is the responsible entity for all HUD nonprofit and for-profit subgrantees.

RROF - Request for Release of Funds. HUD form 7015.15, "Request for Release of Funds and Certification" is used by all HUD subgrantees and is sent to MSHDA (or HUD) when requesting the release of project funds based on the environmental analysis performed.

ROF - Release of Funds. The issuance of the "Authority to Use Funds" form or equivalent letter by HUD or the state for activities which require the participating jurisdiction, insular area or state recipient to submit a Request for Release of Funds and Certification form to HUD or the state. This action completes the environmental clearance process.

SHPO – Michigan’s State Historic Preservation Office (SHPO) is responsible for the historical clearance of all housing units assisted with federal funds that are **50 years of age or older**, any vacant property to be used for new construction, and demolition of structures that may be historically significant (or eligible for historical significance), or in a historic neighborhood.

Tiered Review (Sec. 58.15) – A tiered review is used when not all project sites have been identified at the time the environmental review process and Request for Release of Funds is initiated. Tiering may be appropriate to improve efficiency when HUD or the RE is evaluating a collection of projects that would fund the same or very similar activities repeatedly within a defined local geographic area and timeframe. Tier I deals with the grant’s overall broad target area and Tier II is a site specific review completed on each individual property as it is identified after publication and prior to commitment of funds to the project site. For more detail, see the “Getting Started on an Environmental Review” section of this manual.

GETTING STARTED ON AN ENVIRONMENTAL REVIEW

Proper timing is critical to maintaining compliance with NEPA and HUD environmental review requirements. Before you begin, consider the following requirements and options for structuring the most effective environmental review process for your grant.

Tiered Review vs. Non-tiered Review

Tiering is an optional strategy which can be used to improve efficiency of your environmental review process. The goal of tiering is to reduce repetitive data collection and public notice in situations where very similar activities are funded repeatedly within a defined geographic area with exact locations yet to be determined (e.g. home rehabilitations with addresses to be determined). To complete a tiered review, you first complete a Tier I for the project as whole which deals with the broad review of a grant program's whole target area. A public comment period for the whole target area is then initiated and public comments, if any, are taken into account in implementing the planned activities. Next, a release of funds from either HUD or MSHDA is received for the grant program as whole. Although the release of funds typically marks the last step of the environmental review process, tiered reviews still require one more step after release of funds, which is the Tier II checklist. The Tier II is a site specific review completed on each individual property as it is identified and prior to commitment of funds to each project site. The Tier II only addresses site-specific questions that could not be answered during Tier I.

If you are carrying out a variety of activity types as part of the same grant/project, tiering may still be advantageous as long as you ensure the level of review is conducted according to the strictest classification required for all of the activities in aggregation. As a general rule, tiering operates best in relatively small target areas typically not exceeding a city or a county in geographic scale. Tiering is generally most useful for the stricter levels of review that require more detail and a public comment period, so procedures have only been outlined for Categorical Exclusion Subject to 58.5 and Environmental Assessment levels of review in this manual. See the step-by-step procedures required for tiered reviews in Part II of this manual where indicated.

Non-tiered review is the completion of individual reviews (and individual publications if necessary) for each location where work will be completed. A non-tiered process is often best when target areas/project activities are subject to change because it provides greater flexibility in the scope of your environmental review. All other step-by-step procedures in Part II of this manual which are not labeled as tiered are written assuming the utilization of a non-tiered process.

When to Start your Environmental Review

Environmental review should begin as soon as an implementation address or target area (in the case of a tiered review) is identified and the project activities and funding sources are known. Once enough details are solidified to classify the level of environmental review which will be required, the review process should be initiated as soon as possible so that potential conflicts between program procedures and environmental requirements are resolved at an early stage.

Some levels of environmental review require public notice in a local newspaper. See the Environmental Review Process Flow Chart to determine whether your level of review will require publication. Publication, if necessary, cannot occur until the grant is awarded but that doesn't mean the initial steps of the environmental review process cannot be started even before a grant is officially awarded. In addition, some *specific* costs incurred prior to a grant award (e.g. administrative funds for completion of environmental review or environmental testing costs) may be reimbursed if they are eligible costs under the terms of the grant.

Choice-Limiting Actions

HUD's regulations at 24 CFR 58.22 prohibit grant recipients and their partners from committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environmental review once a project has become "federal." This prohibition on "[choice-limiting actions](#)" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions prior to the release of funds. **Failure to avoid commitments to particular sites prior to the completion of environmental review can result in significant audit findings and jeopardize HUD funding.**

ENVIRONMENTAL REVIEW CLASSIFICATIONS

Five possible compliance determinations (classifications) are generally applicable to projects utilizing Housing Initiatives Division-administered federal funds. Every activity and component (administration, demolition, homeowner rehabilitation, acquisition, construction, etc.) must be reviewed for its potential impact on the human environment and the potential significance of that impact. All grant activities/components must be aggregated into a single classification (the strictest) to be applied to the grant program as a whole (See definition for "Project Aggregation"). The responsible entity must document in writing its determination (classification) for each project.

The possible classifications, in the general order of least strict to strictest environmental review process, are the following:

1. **Exempt activities** (24 CFR sec. 58.34(a)1- (a)12). Activities that have no physical impact on the environment include, but are not limited to, administrative and management activities, environmental and other studies, engineering and design costs, technical assistance and training. Exempt activities are not subject to the section 58.5 authorities but are subject to section 58.6 authorities. Grants that are composed of exclusively exempt activities (pre-development) may draw down federal funds without publishing or ROF only after a written determination of exemption is documented, approved by MSHDA, and 58.6 checklists are completed. Subgrantees are encouraged to send the exempt determination form as soon as possible after executing the grant agreement.
2. **Categorically Excluded Not Subject to Sec. 58.5 authorities (CENST)** (24 CFR 58.35(b)). Activities that are categorically excluded from NEPA and not subject to section 58.5 authorities include tenant-based rental assistance, supportive services, operating costs, and down payment assistance. Activities that are categorically excluded not subject to sec. 58.5 authorities are still subject to sec. 58.6 authorities. Grants that are composed of exclusively categorically excluded from NEPA and not subject to section 58.5 activities may draw down federal funds without publishing or ROF only after a written determination of exemption is documented, approved by MSHDA, and 58.6 checklists are completed.
3. **Categorically Excluded Subject to Section 58.5 (CEST)** (24 CFR 58.35(a)). Activities that are categorically excluded from NEPA review and subject to the provisions of Sec. 58.5 typically involve modifications to physical structures (public facilities, residential units) where unit density is not increased by more than 20% and there is no change in land use. A complete list may be found in sec. 58.35(a). These activities are also subject to Sec. 58.6 authorities.
4. **Categorically Excluded Subject to Sec. 58.5 (CEST) activities that convert to exempt** (24 CFR 58.34(a)(12)). Activities that are listed in Section 58.35(a)(1)-(6) as categorical exclusions may be converted to exempt if, after completing a Statutory Checklist, it is determined that none of the proposed project sites will trigger compliance with any of the Federal laws and authorities in Sec. 58.5. This classification is possible only if all units to be assisted are identified in advance of grant implementation. All projects that are reclassified to exempt are still subject to sec. 58.6 authorities.
5. **Environmental Assessment** (24 CFR 58.36) is required when the activity is neither exempt nor categorically excluded from NEPA. Activities requiring an environmental assessment are also subject to sec. 58.6 authorities.

DETERMINING LEVEL OF REVIEW

Program Determination

The Responsible Entity (local unit of government subgrantee or MSHDA as RE for nonprofit subgrantees) must certify in writing its determination (classification) of the level of review required for the grant program as a whole. The Program Description should include the name of program, a listing of activities/components and the classification for each, all sources of program funding and amounts, total program cost, and location.

It is important to give the location in as much detail as possible using boundaries, cross streets, and map. After aggregating all program activities and the classification of each, the classification requiring the strictest environmental review process is applied to the total grant program to determine the compliance requirements for the environmental review of the grant program/project. Contact MSHDA environmental review staff if you are having difficulty determining your level of review.

The following chart lists some common HID housing activities and their likely project classifications:

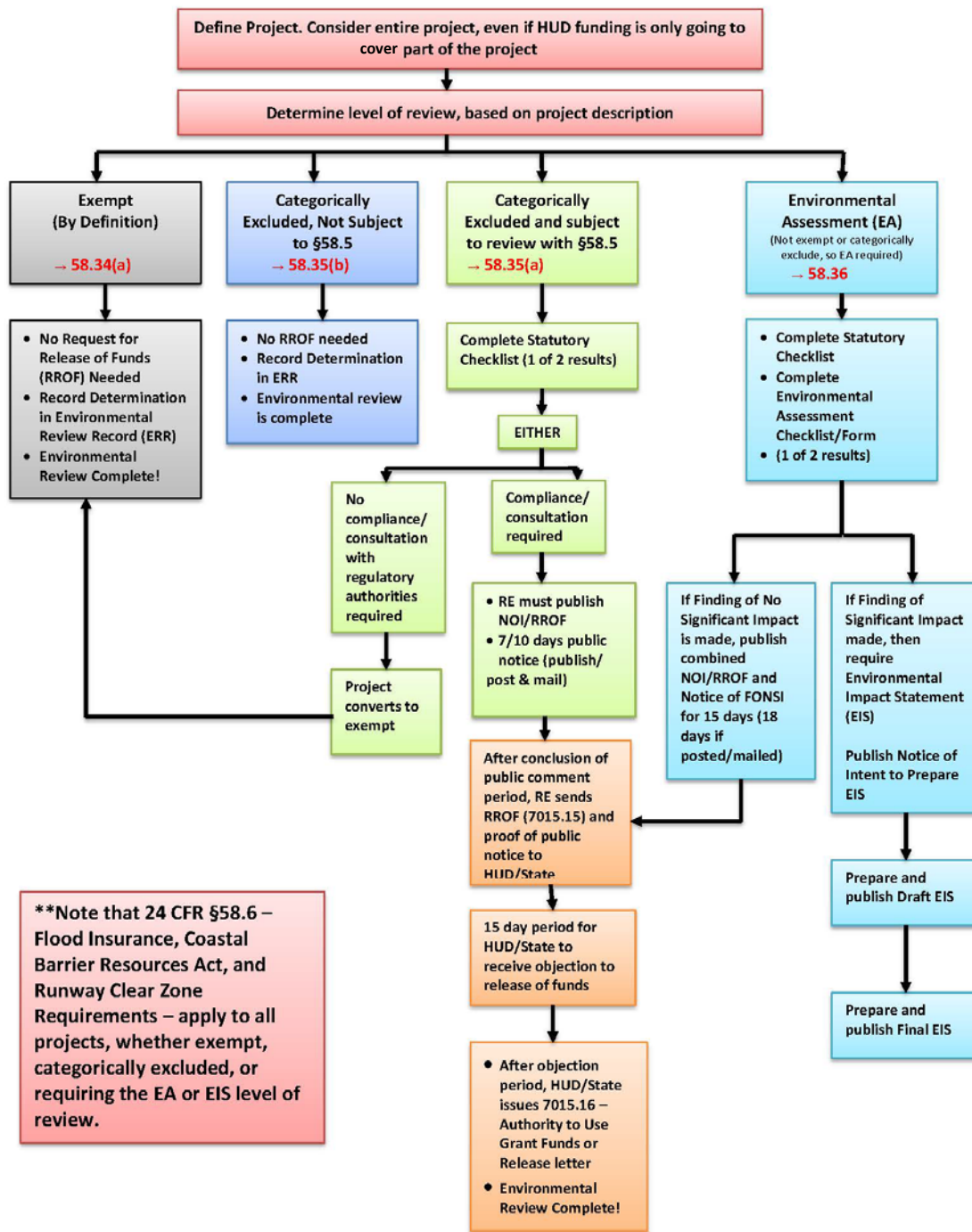
| Component/ Activity | <i>Classification Descriptions</i> | Exempt | Cat Ex not subject to 58.5 | Cat Excluded Subject to 58.5 | Environmental Assessment |
|---|--|--------|-------------------------------|---------------------------------|-----------------------------|
| Down payment Assistance only | A down payment assistance only program (or downpayment assistance combined with other CENST activities) is classified as categorically excluded from NEPA and not subject to section 58.5. Program is still subject to 58.6 requirements. If the project involves additional activities, a higher level of review may be needed. | | x | | |
| Homeowner Rehabilitation | Emergency repairs (imminent, documented threat to public safety -- 58.34a (10)). Program is still subject to 58.6 requirements. | x | | | |
| | Environmental and other studies, resource identification and the development of plans and strategies and inspections and testing of properties for hazards or defects -- 58.34a (1, 5). Program is still subject to 58.6 requirements. | x | | | |
| | Rehabilitation of any number of units if there is no change in unit density > 20%, no change in land use AND rehab cost < 75% replacement after rehab. | | | x | |
| | Replacement housing for four vacant seasonal cottages around a small lake. | | | | x |
| Homebuyer Acquisition, Development, and Resale (ADR) | 1-4 scattered site units, when units will be more than 2000 ft. apart and there are not more than 4 units on any one site. | | | x | |
| Homebuyer Purchase Rehabilitation (HPR) | 1-4 scattered site units, when units will be more than 2000 ft. apart and there are not more than 4 units on any one site. | | | x | |
| Homebuyer New Construction | 5 or more new homes in a city-wide target area with each site more than 2,000 feet apart and not more than four housing units on any one site; ADR program for 5 units once they are completed. | | | x | |
| | 5 or more new units on one city block (small target area) funded by two units of government: 2 using HID HOME \$ and 3 using city HOME \$, all are marketed at the same time as one program. This is 1 project with 2 separate sources of federal funds. | | | | x |

Determining Level of Review for Environmental Assessment vs. CEST

Sec. 58.36 states that an environmental assessment classification is used when the grant program cannot be classified as exempt (58.34) or categorically-excluded (58.35). This description can be difficult to follow, since one must go back to the categorical exclusions subject to 58.5 section (58.35(a)) and use a process of elimination as follows:

| Section # | Project activities | Categorically Excluded Subject to 58.5 | Environmental Assessment |
|------------------|--|---|--|
| 58.35(a)(1) | Acquisition, repair, improvement, reconstruction or rehab of public facilities when: ✓facilities and improvements are in place and retained for same use, and no change in size or capacity > 20% | x | x If change in use or increase in size or capacity >20% |
| 58.35(a)(2) | Removal of architectural barriers to improve accessibility for elderly and handicapped | x | |
| 58.35(a)(3) | <u>Rehabilitation</u> of buildings when following conditions are met: | | |
| (a)(3)(i) | Rehab of 1-4 unit residential buildings when: ✓density is not increased beyond 4 units ✓land use is not changed, and ✓footprint of the bldg is not increased in a floodplain or wetland | x | x If density increase>4, land use changed or increase footprint in floodplain/wetland |
| (a)(3)(ii) | Rehab of multi-family residential bldg when: ✓unit density not changed >20% ✓no change in land use from residential to non-residential and ✓est. cost of rehab < 75% of total est. cost of replacement after rehab | x | x If unit density change > 20%, change in land use or cost >75% of cost of replacement |
| (a)(3)(iii) | Rehab of non-residential structures, including commercial, industrial and public buildings when: ✓facilities/improvements in place and no change in size or capacity >20% and ✓no change in land use | x | x If change in size/capacity>20% or change in use |
| (a)(4)(i) | Individual action on 1-4 units where maximum of 4 units on any one site. Can be 4 1-unit buildings or 1 4-unit building or combination. | x | x If >5 units on any one site |
| (a)(4)(ii) | Individual action on 5 or more units developed on scattered sites when sites are >2000 ft. apart and no more than 4 units on any 1 site. | x | x If sites are <2000 ft. apart |
| (a)(4)(iii) | (a)(4)(i) and (ii) do NOT apply to rehab of a building for residential use with 1-4 units (see (a)(3)(i) of this section). | | |
| (a)(5) | 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. | x | x If land use will change |

Environmental Review Process (To Be Conducted by Responsible Entity)



****Note that 24 CFR §58.6 – Flood Insurance, Coastal Barrier Resources Act, and Runway Clear Zone Requirements – apply to all projects, whether exempt, categorically excluded, or requiring the EA or EIS level of review.**

| Typical Timelines for Review | | | |
|------------------------------|---------|--|---|
| Exempt | CENST | CEST | EA |
| <1 hour | <1 hour | 30-75 days depending upon consultations required | 45-100 days depending upon consultations required |

GRANT AMENDMENTS

Re-evaluating Environmental Findings (sec. 58.47)

In some instances the recipient may make changes to the activities in a project, change the project area, or receive additional funds for a project that has previously received environmental clearance (Release of Funds).

In these instances it is necessary for the RE to re-evaluate its environmental findings.

The RE should re-evaluate its environmental findings when:

- 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; or,
- There are new circumstances and environmental conditions that may affect the project or the environment, such as concealed or unexpected conditions discovered during implementation.

The purpose of the re-evaluation is to determine if the new circumstances still justify and support the environmental finding originally issued. Subgrantees are to complete the [Certification of Continued Environmental Compliance form](#) and certify that the project is either substantially changed or substantially unchanged from the original environmental review. **This form must be completed for all grant amendments.**

If the project has substantially changed or there are new activities or circumstances that invalidate the original environmental findings, subgrantees **must immediately stop** all grant activities until original findings are updated and, if necessary, another environmental review with checklists, publication and request for release of funds is completed. Please contact your HID Staff to confirm required procedures.

Examples of projects that may prompt another environmental review:

-Grant increase to increase number of homebuyer units in a subdivision from 4 to 5. Original finding was Categorically Excluded Subject to 58.5. Increasing the number of assisted units to 5 and all five units are within 2000 feet of each other changes the level of environmental review to Environmental Assessment.

-A change in target area (or assisting a property outside the original target area) requires a new environmental review process prior to the commitment of funds. Environmental analyses and determinations must be updated and another publication and ROF may be required. A change in activity does not always necessarily require a new environmental review; contact your HID Staff for guidance.

If the project has not substantially changed, a re-evaluation is not required and the subgrantee may simply complete the Certification of Continued Environmental Compliance form indicating no re-evaluation will need to occur and submit it to the MSHDA Specialist for approval, then file it in the ERR.

Example of a project that would not require another environmental review:

-A grant award that is increased to provide additional funding for activities previously released (with no changes to activities or target area), may classify the grant increase as Categorically Excluded Not Subject to 58.5, pursuant to 58.35(b)(7). As long as the original Release of Funds is from within the past 5 years, the full environmental review process is not required to be repeated prior to commencing activity.

SECTION II: ENVIRONMENTAL REVIEW PROCEDURES BY LEVEL OF REVIEW

ENVIRONMENTAL REVIEW PROCEDURES FOR EXEMPT ACTIVITIES (Sec. 58.34)

For HUD grant programs comprised exclusively of exempt activities as listed below.

Except for the applicable requirements of Sec. 58.6, the responsible entity does not have to comply with the other requirements of Part 58 or undertake any additional environmental review, consultation or other action under NEPA and the authorities cited in Sec. 58.5 for the following exempt activities:

- Environmental and other studies, resource identification and the development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- 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;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;
- Engineering or design costs;
- Technical assistance and training;
- 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 of arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration.
- Payment of principal and interest on loans made or obligations guaranteed by HUD;
- Any of the categorical exclusions listed in Sec. 58.35(a) provided that there are no circumstances requiring compliance with any other Federal laws and authorities cited in Sec. 58.5.

A recipient (subgrantee) does not have to submit a RROF to HUD/the state, and no public notices or further approval will be needed by the recipient to carry out exempt activities and projects. However, the Responsible Entity must document in writing its determination that each activity or project is exempt, meets the conditions specified for such exemption under 24 CFR 58.34(a), and demonstrates compliance with the 58.6 factors. **The RE still must document the level of review determination and comply with the requirements of Sec. 58.6 before committing funds to project sites.**

Step 1 Designate a [Certifying Officer](#) / [Compliance Officer](#) & complete the [Program Determination: Exempt form](#)

- For Local Units of Government, the Certifying Officer must be either the highest elected official of the municipality or a designee of the highest elected official.
- For nonprofits, a Board Chair or Executive Director designates a Compliance Officer to be responsible for completing the required review procedures.

Step 2 Send **Certifying Officer/Compliance Officer Designation and Program Determination to MSHDA staff for approval.** Once the Program Determination is approved, HUD staff will post the Authorization to Use Funds/Release of Funds (ROF) date on OPAL.

- For Local Units of Government, MSHDA does not need original copies
- For nonprofits, MSHDA needs original copies

Step 3 Complete a [58.6 Compliance Checklist](#) for every project site assisted with federal funds and send to MSHDA staff for approval.

Step 4 Incur project costs after approval of the 58.6 checklist for each assisted unit.

Step 5 Maintain the Environmental Review Record (ERR) that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record for a minimum of three years after grant closeout.

ENVIRONMENTAL REVIEW PROCEDURES FOR CATEGORICAL EXCLUSIONS NOT SUBJECT TO SEC. 58.5 AUTHORITIES (58.35(b))

For HUD grant programs comprised exclusively of Categorically Excluded Not Subject to 58.5 activities as listed below.

Activities classified as categorical exclusions not subject to Sec. 58.5 include:

- Tenant-based rental assistance
- 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
- Operating expenses including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs
- 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
- 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
- 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.

A recipient (subgrantee) does not have to submit a RROF to HUD/the state, and no public notices or further approval will be needed by the recipient to carry out Categorically Excluded Not Subject to 58.5 (CENST) activities and projects. However, the Responsible Entity must document in writing its determination that each activity or project is CENST, meets the conditions specified for such exemption under 24 CFR 58.34(a), and demonstrates compliance with the 58.6 factors. **The RE still must complete the “Program Determination: Categorically Excluded Not Subject to 58.5” form and comply with the requirements of Sec. 58.6.**

Step 1 Designate a [Certifying Officer](#) / [Compliance Officer](#) & complete the [Program Determination: Exempt form](#)

- For Local Units of Government, the Certifying Officer must be either the highest elected official of the municipality or a designee of the highest elected official.
- For nonprofits, a Board Chair or Executive Director designates a Compliance Officer to be responsible for completing the required review procedures.

Step 2 **Send Certifying Officer/Compliance Officer Designation and Program Determination to MSHDA staff for approval.** Once the Program Determination is approved, HUD staff will post the Authorization to Use Funds/Release of Funds (ROF) date on OPAL.

- For Local Units of Government, MSHDA does not need original copies
- For nonprofits, MSHDA needs original copies

Step 3 **Complete the [58.6 Compliance Checklist](#)** for every project site assisted with federal funds and send to MSHDA staff for approval.

Step 4 **Incur project costs** after approval of the 58.6 checklist for each assisted unit.

Step 5 **Maintain the Environmental Review Record (ERR)** that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record for a minimum of three years after grant closeout.

ENVIRONMENTAL REVIEW PROCEDURES FOR CATEGORICAL EXCLUSIONS SUBJECT TO SEC. 58.5 AUTHORITIES – LOCAL UNITS OF GOVERNMENT

NOTE: If you have identified a target area but site-specific project addresses are unknown, follow procedures for “Tiered Review for Categorical Exclusions Subject to 58.5”

Housing activities that are considered categorically excluded in 24 CFR 58.35(a) are typically improvements to existing structures without a change in land use. The following steps are to be completed by the subgrantee unless otherwise identified as a MSHDA responsibility.

- Step 1** Complete the [Certifying Officer Designation form](#). The certifying officer must be the highest elected official or be designated by the highest elected official of the municipality.
- Step 2** Complete the [Program Determination: Categorically Excluded Subject to 58.5 form](#).
- Step 3** Complete the [Statutory Checklist](#). It is highly recommended to review the [Statutory Checklist Samples](#) and [Screening for Statutory Compliance](#) as references while completing this step. Consultation may be needed with the local Fire Marshall or Planning & Zoning Department, the Army Corps of Engineers, Fish and Wildlife Service, SHPO, DEQ offices, or other appropriate authorities to obtain adequate information. Collect documentation to support determinations made for every environmental factor on the checklist. The completed checklist and all supporting documentation (letters, permits, maps, etc.) must be included as part of the Environmental Review Record.
- Step 4** **Determine if the review can convert to exempt.** If, after completing the statutory checklist, it is determined that none of the authorities on the statutory checklist require a permit, consultation or additional mitigation (including lead and asbestos inspections), the level of environmental review may be reclassified to exempt under 24 CFR 58.34(a)(12). If the exempt conversion applies, indicate this reclassification in the determination section of the [Statutory Checklist](#), complete a [Program Determination: Exempt form](#) and send both items as well as your [Certifying Officer Designation form](#) to MSHDA staff for review, along with the sample [“Reclassifying to Exempt” cover letter](#). If approved, HID staff will post the Authorization to Use Funds/Release of Funds (ROF) date on OPAL, send out a letter to the subgrantee documenting that date, and the environmental review is complete. If one or more of the authorities on the statutory checklist requires a permit, consultation or additional mitigation, continue to Step 5.
- Step 5** Prepare the [Notice of Intent to Request Release of Funds for Govt \(NOI\)](#) for publication in a local newspaper. The NOI must include a detailed description of the project location and the amount of federal funds in the project/program. Use the [Determining Dates for NOI](#) form to calculate the dates referenced in the NOI.
- Step 6** Prepare [Mailing List of Interested Parties](#) to whom a copy of the Notice will be sent by the subgrantee ON or BEFORE the date of the publication. Refer to the Overview section of this manual for a definition of “Interested Parties”.

NOTE: If tribal consultation is required for your project (as indicated on the [When to Consult with Tribes document](#) completed with the Statutory Checklist), the Mailing List to Interested Parties must include the names of the contacts for the Native American tribes that may have an interest in the program/project area. See: <https://egis.hud.gov/tdat/>

Step 7 Send copy of ERR documents as listed below to MSHDA for review prior to publication of Notice (mailing of originals is not required):

1. Certifying Officer Designation,
2. Program Determination: Categorically Excluded Subject to 58.5, with correct subsection checked,
3. Statutory Checklist, completed in its entirety, signed, and with all supporting documentation attached,
4. Draft of the Notice of Intent to Request Release of Funds with Determining Dates timeline
5. Mailing list of Interested Parties

Step 8 MSHDA reviews records for completeness/accuracy: wait for corrections and edits (as needed) from MSHDA, make needed improvements and return to MSHDA.

Step 9 Upon MSHDA clearance: Publish the approved (by MSHDA) NOI. See Section 24 CFR 58.43(a) for posting requirements. Contact a local newspaper to determine the exact date of publication and request an Affidavit of Publication or use the [Affidavit of Publication form](#).

NOTE: NOIs can NOT be published in Legal/Public Notice sections of newspapers because these areas are not in a prominent enough location to meet HUD's requirements for NEPA publishing. Instead, NOIs are required to be placed in the General News section.

Step 10 Send copy of final (approved by MSHDA) NOI to Interested Parties, with a cover letter, on or before the date of the publication. File a copy of the NOI and Mailing List to Interested Parties with date of mailing in the ERR.

Step 11 Track Comments. If any comments are received by the local unit of government during the 7-day comment period, they must be considered and modifications made, if appropriate, before completing the certification and submitting a Request for Release of Funds (RROF). All comments and modifications must be recorded in the ERR. (24 CFR 58.45)

Step 12 Prepare [HUD 7015.15, Request for Release of Funds and Certification](#). See also [7015.15 Instructions](#).

Step 13 On the "On or About Date", send copy of ERR documents as listed below to MSHDA (mailing of originals is not required):

1. [Cover letter addressed to MSHDA Staff](#) indicating that Steps 1-12 have been completed and all documentation is filed in the ERR,
2. Publication of the Notice of Intent to Request Release of Funds and Affidavit of Publication (required). Submit the entire page of the newspaper (tear sheet- can be electronic), which includes the name of the paper and date published,
3. List of Interested Parties with date of mailing,
4. Request for Release of Funds and Certification form signed by the Certifying Officer

Local Units of Government shall maintain the original Environmental Review Record (ERR) in their files and forward a copy of the ERR for MSHDA's grant files.

NOTE: Interested parties are allowed a full 7 business days to make comments. Do not fax or e-mail your request until the day after the 7th day. This is indicated on the [Determining Dates for NOI](#) form. If the notice is faxed or scanned and e-mailed after close of business on the 7th day, MSHDA offices are not open and the document will not be received until the next day. MSHDA will begin counting its 15-day comment period on the day after form 7015.15 and all other requested forms, checklists and supporting documentation have been received.

Step 14 To be completed by MSHDA Staff:

1. Thoroughly review the ERR for accuracy, legibility, validity (supporting documentation is not older the five years). Do not begin MSHDA's comment period until all information or clarification is received and found acceptable.
2. Prepare Release of Funds (HUD 7015.16):

MSHDA's 15 day comment period begins the day after the Request for Release of Funds is received in HID. The day after MSHDA's 15-day comment period ends is the release of funds date. On or within a day or two of the release of funds date, HID staff will:

- Prepare HUD form 7015.16 showing the release date in the bottom right hand corner of the form. (The previous letter format generated by OPAL is not to be used.)
- Obtain MSHDA's Certifying Officer's signature on HUD 7015.16.
- Post the release date on OPAL after the 15 day State comment period (if no objections or comments have been received).
- Mail a copy of the HUD form 7015.16 "[Authority to Use Grant Funds](#)" (signed by MSHDA Certifying Officer) to the subgrantee giving the release date.
- File the original of the 7015.16 in HID's grant file.

Step 15 Incur project costs on or after the Authorization to Use Funds/ROF date.

Step 16 Maintain the original Environmental Review Record (ERR) that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record for a minimum of three years after grant closeout.

ENVIRONMENTAL REVIEW PROCEDURES FOR CATEGORICAL EXCLUSIONS SUBJECT TO SEC. 58.5 AUTHORITIES -- NONPROFITS

NOTE: If you have identified a target area but project addresses are unknown, follow procedures for
"Tiered Review for Categorical Exclusions Subject to 58.5"

Housing activities that are considered categorically excluded in 24 CFR 58.35(a) are typically improvements to existing structures without a change in land use. The following steps are to be completed by the subgrantee unless otherwise identified as a MSHDA responsibility.

- Step 1** Complete the [Compliance Officer Designation form](#). The Compliance Officer is designated by the Board Chair or Executive Director of the nonprofit. MSHDA's Certifying Officer functions as the certifying officer for all nonprofit subgrantees and the nonprofit's environmental Compliance Officer is responsible for the accurate completion of the environmental review steps below.
- Step 2** Complete the [Program Determination: Categorically Excluded Subject to 58.5 form](#).
- Step 3** Complete the [Statutory Checklist](#). It is highly recommended to review the [Statutory Checklist Sample](#) and [Screening for Statutory Compliance](#) as references while completing this step. Consultation may be needed with the local Fire Marshall or Planning & Zoning Department, the Army Corps of Engineers, Fish and Wildlife Service, SHPO, Department of Environmental Quality offices, or other appropriate authorities to obtain adequate information. Collect documentation to support determinations made for every environmental factor on the checklist. The completed checklist and all supporting documentation (letters, permits, maps, etc.) must be included as part of the Environmental Review Record.
- Step 4** **Determine if the review can convert to exempt.** If, after completing the statutory checklist, it is determined that none of the authorities on the statutory checklist require a permit, consultation or additional mitigation (including lead and asbestos inspections), the level of environmental review may be reclassified to exempt under 24 CFR 58.34(a)(12). If the exempt conversion applies, indicate this reclassification in the determination section of the [Statutory Checklist](#), complete a [Program Determination: Exempt](#) form and send both items as well as your [Compliance Officer Designation form](#) to MSHDA staff for review, along with the sample ["Reclassifying to Exempt" cover letter](#). If approved, HID staff will post the Authorization to Use Funds/Release of Funds (ROF) date on OPAL, send out a letter to the subgrantee documenting that date, and the environmental review is complete. If one or more of the authorities on the statutory checklist requires a permit, consultation or additional mitigation, continue to Step 5.
- Step 5** Prepare a draft [Notice of Intent to Request Release of Funds for Nonprofits \(NOI\)](#) and send an **electronic copy to the MSHDA staff** for publication. The notice must include the project location or target area in which project activities will be undertaken and the amount of federal funds in the project/program. HID staff will insert the dates referenced in the NOI, once the publication date is determined.
- Step 6** Prepare [Mailing List of Interested Parties](#) to whom a copy of the Notice will be sent by the subgrantee ON or BEFORE the date of the publication. Refer to the Overview section of this manual for a definition of "Interested Parties".

NOTE: If tribal consultation is required for your project (as indicated on the [When to Consult with Tribes document](#) completed with the Statutory Checklist), the Mailing List to Interested Parties must include the names of the contacts for the Native American tribes that may have an interest in the program/project area. See: <https://egis.hud.gov/tdat/>

- Step 7** Send original copies of ERR documents as listed below to MSHDA for review prior to publication of Notice (retain copies of all documents for grant folders):
1. [Cover letter addressed to MSHDA Staff](#) indicating that Steps 1-6 have been completed and all documentation is filed in the ERR,
 2. Compliance Officer Designation,
 3. Program Determination: Categorically Excluded Subject to 58.5, with correct subsection checked,
 4. Statutory Checklist, completed in its entirety, signed, and with all supporting documentation attached,
 5. Draft of the Notice of Intent to Request Release of Funds (electronic copy only is acceptable)
 6. Mailing list of Interested Parties
- Step 8** MSHDA reviews records for completeness/accuracy: wait for corrections and edits (as needed) from MSHDA, make needed improvements and return to MSHDA
- Step 9** Upon approval, MSHDA will publish the NOI in a local newspaper. See Section 24 CFR 58.43(a) for posting requirements. MSHDA will contact the local newspaper to determine the exact date of publication and request an Affidavit of Publication.
- Step 10** MSHDA sends a copy of the final NOI to the nonprofit
- Step 11** Nonprofit sends a copy of the final NOI to interested groups and agencies ON or BEFORE the date of publication (Forms, Mailing List to Interested Parties Sample). Coordinate timing with MSHDA Staff in Step 11 to ensure that a final copy of the NOI is mailed to interested parties in the correct comment period. File a copy of the Notice and Mailing List to Interested Parties with date of mailing in the ERR and mail original *Interested Party Mailing List* with date of mailing to MSHDA staff.
- Step 12** MSHDA tracks public comments. If any comments are received by MSHDA during the 7-day comment period, they must be considered and modifications made, if appropriate, before completing the certification and submitting a Request for Release of Funds (RROF). All comments and modifications must be recorded in the ERR. (24 CFR 58.45)
- Step 13** MSHDA Staff posts the release date on OPAL after receiving HUD 7015.16 "Authority to Use Grant Funds" from HUD and mails a copy of 7015.16 to the subgrantee. The original 7015.16 is stored in MSHDA's grant file with a copy sent to the nonprofit.
- Step 14.** Incur project costs on or after the Authorization to Use Funds/ROF date.
- Step 15** Maintain the original Environmental Review Record (ERR) that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record for a minimum of three years after grant closeout.

TIERED REVIEW FOR CATEGORICAL EXCLUSIONS SUBJECT TO 58.5

HID grant programs that do not have all project sites identified at the time of the environmental review require a two-tiered environmental review. A tiered review (24 CFR 58.15) allows for a broad analysis of environmental impacts at the early stage of a project and a release of funds conditional upon completion of a second, site-specific review as project sites are chosen for assistance. Tier I requires a broad environmental review of a target area or neighborhood and a written Tiered Review Strategy; Tier II is a site-specific review of all environmental factors not cleared in Tier I.

- Step 1** Designate a [Certifying Officer/ Compliance Officer](#).
- For Local Units of Government, the Certifying Officer must be either the highest elected official of the municipality or a designee of the highest elected official.
 - For nonprofits, a Board Chair or Executive Director designates a Compliance Officer to be responsible for completing the required review procedures.

- Step 2** Complete the [Program Determination: Categorically Excluded Subject to 58.5 form](#).

- Step 3** Complete the [Statutory Checklist](#) for the target area as a whole (Tier I). It is highly recommended to review the [Statutory Checklist Sample](#) and [Screening for Statutory Compliance](#) as references while completing this step. For those environmental factors that cannot be evaluated without having a site identified, indicate the process that the future Tier II reviews will follow on sites as they are identified in the "Compliance Determination" column. Consultation may be needed with the local Fire Marshall or Planning & Zoning Department, the Army Corps of Engineers, Fish and Wildlife Service, SHPO, Department of Environmental Quality offices, or other appropriate authorities to obtain adequate information. Collect documentation to support determinations made for every environmental factor on the checklist. The completed checklist and all supporting documentation (letters, permits, maps, etc.) must be included as part of the Environmental Review Record.

NOTE: Initial classification as Categorically Excluded Subject to 58.5 with follow-up reclassification to exempt is not an option for tiered reviews. Tiered reviews will always require the Categorically Excluded Subject to 58.5 review process with publishing and release of funds.

- Step 4** Complete the [Tiered Review Strategy](#) form that describes your program and identifies which remaining environmental factors will be considered in the Tier II portion of the review.

- Step 5** Initiate the publishing and request for release of funds processes as described in steps 5-13 of the Categorically Excluded Subject to 58.5 procedures for Local Units of Government or Nonprofits, depending upon your organization type. Be cautious in drafting the target area for your publication – if your target area changes later in the grant you will need to re-publish. In addition, make sure to send your Tiered Review Strategy form along with your mailing to MSHDA in step 7.

- Step 6** After receiving your Authorization to Use Funds/ROF date, **conduct a site-specific review (Tier II) for each project site using the [Tier II Site-Specific Checklist](#)**. Environmental review factors cleared previously in the Tier I review may be deleted from the Tier II Checklist. The documentation for each compliance factor still needing review should be attached to this form and funds should not be committed to a project prior to the completion of the site-specific review for that site.

- Step 7** Incur project costs on or after the date that the Tier II checklist is approved by MSHDA for each assisted unit.

- Step 8** Maintain the original Environmental Review Record (ERR) that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record (composed of one grant file + individual project files) for a minimum of three years after grant closeout.

ENVIRONMENTAL REVIEW PROCEDURES FOR ENVIRONMENTAL ASSESSMENT BY LOCAL UNITS OF GOVERNMENT

NOTE: If you have identified a target area but project addresses are unknown, follow procedures for
“Tiered Review for Environmental Assessments”

Activities that are neither exempt from NEPA under Section 58.34 nor categorically excluded under Section 58.35 (or categorically excluded with “extraordinary circumstances” under Section 58.35(c)), require an Environmental Assessment (Section 58.36).

Step 1 Complete the [Certifying Officer Designation form](#). The Certifying Officer must be the highest elected official or be designated by the highest elected official of the municipality.

Step 2 Complete the [Program Determination: Environmental Assessment form](#).

Step 3 Complete the [Environmental Assessment Checklist](#). It is highly recommended to review the [Environmental Assessment Checklist Sample](#) and [Screening for Statutory Compliance](#) as references while completing this step. Consultation may be needed with the local Fire Marshall or Planning & Zoning Department, the Army Corps of Engineers, Fish and Wildlife Service, SHPO, Department of Environmental Quality offices, or other appropriate authorities to obtain adequate information. Collect documentation to support determinations made for every environmental factor on the checklist. The completed checklist and all supporting documentation (letters, permits, maps, etc.) must be included as part of the Environmental Review Record.

NOTE: EA projects cannot convert to exempt, even if all required factors and mitigation measures are met.

Step 4 Prepare the [Combined Notice](#) (Finding of No Significant Impact and Notice of Intent to Request Release of Funds) for publication in a local newspaper and mailing to interested parties. The Combined Notice must include a detailed description of project activities, the location in which project activities will be undertaken and the amount of federal funds which will be used. See the [Determining Dates for NOI](#) form to calculate the dates referenced in the NOI.

Step 5 Prepare [Mailing List of Interested Parties](#) to whom a copy of the Notice will be sent by the subgrantee ON or BEFORE the date of the publication. Refer to the Overview section of this manual for a definition of “Interested Parties”.

NOTE: If tribal consultation is required for your project (as indicated on the [When to Consult with Tribes document](#) completed with the Statutory Checklist), the Mailing List to Interested Parties must include the names of the contacts for the Native American tribes that may have an interest in the program/project area. See: <https://egis.hud.gov/tdat/>

Step 6 Send copy of ERR documents as listed below to MSHDA for review prior to publication of Notice (mailing of originals is not required):

1. Certifying Officer Designation,
2. Program Determination: Environmental Assessment
3. Environmental Assessment Checklist, completed in its entirety, signed, and with all supporting documentation attached,
4. Draft of the Notice of Intent to Request Release of Funds with Determining Dates timeline
5. Mailing list of Interested Parties

Step 7 MSHDA reviews records for completeness/accuracy: wait for corrections and edits (as needed) from MSHDA, make needed improvements and return to MSHDA.

Step 8 Upon MSHDA clearance: Publish the approved (by MSHDA) Combined Notice. See Section 24 CFR 58.43(a) for posting requirements. Contact a local newspaper to determine the exact date of publication and request an Affidavit of Publication or use the Affidavit of Publication form.

NOTE: NOIs can NOT be published in Legal/Public Notice sections of newspapers because these areas are not in a prominent enough location to meet HUD's requirements for NEPA publishing. Instead, NOIs are required to be placed in the General News section.

Step 9 Send copy of final (approved by MSHDA) NOI to Interested Parties, with a cover letter, on or before the date of the publication. File a copy of the Notice and Mailing List to Interested Parties with date of mailing in the ERR.

Step 10 Track Comments. If any comments are received by the local unit of government during the first 15-day comment period, they must be considered and modifications made, if appropriate, before completing the certification and submitting a Request for Release of Funds (RROF). All comments and modifications must be recorded in the ERR. (24 CFR 58.45)

Step 11 Prepare HUD 7015.15, Request for Release of Funds and Certification. See also 7015.15 Instructions.

Step 12 On the "On or About Date", send copy of ERR documents as listed below to MSHDA (mailing of originals is not required):

1. [Cover letter](#) addressed to MSHDA Staff indicating that Steps 1-11 have been completed and all documentation is filed in the ERR,
2. Publication of the Combined Notice and Affidavit of Publication (required). Submit the entire page of the newspaper (tear sheet), which includes the name of the paper and date published as well as proof of publication (affidavit).
3. List of Interested Parties with date of mailing
4. Request for Release of Funds and Certification form signed by the Certifying Officer

Local Units of Government shall maintain the original Environmental Review Record (ERR) in their files and forward a copy of the ERR for MSHDA's grant files.

NOTE: Interested parties are allowed a full 7 business days to make comments. Do not fax or e-mail your request until the day after the 7th day. This is indicated on the [Determining Dates for NOI](#) form. If the notice is faxed or scanned and e-mailed after close of business on the 7th day, MSHDA offices are not open and the document will not be received until the next day. MSHDA will begin counting its 15-day comment period on the day after form 7015.15 and all other requested forms, checklists and supporting documentation have been received.

Step 13 To be completed by MSHDA Staff:

1. Thoroughly review the ERR for accuracy, legibility, validity (supporting documentation is not older the five years). Do not begin MSHDA's comment period until all information or clarification is received and found acceptable.

2. Prepare Release of Funds (HUD 7015.16):

MSHDA's 15 day comment period begins the day after the Request for Release of Funds is received in HID. The day after MSHDA's 15-day comment period ends is the release of funds date. On or within a day or two of the release of funds date, HID staff will:

- Prepare HUD form 7015.16 showing the release date in the bottom right hand corner of the form. (The previous letter format generated by OPAL is not to be used.)
- Obtain MSHDA's Certifying Officer's signature on HUD 7015.16.
- Post the release date on OPAL after the 15 day State comment period (if no objections or comments have been received).
- Mail a copy of the HUD form 7015.16 "Authority to Use Grant Funds" (signed by MSHDA Certifying Officer) to the subgrantee giving the release date.
- File the original of the 7015.16 in HID's grant file.

Step 14 **Incur project costs** on or after the date that the Tier II checklist is approved by MSHDA for each assisted unit.

Step 15 **Maintain the original Environmental Review Record (ERR)** that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record for a minimum of three years after grant closeout.

ENVIRONMENTAL REVIEW PROCEDURES FOR ENVIRONMENTAL ASSESSMENT BY NONPROFITS

NOTE: If you have identified a target area but project addresses are unknown, follow procedures for “Tiered Review for Environmental Assessments”

Activities that are neither exempt from NEPA under Section 58.34 nor categorically excluded under Section 58.35 (or categorically excluded with “extraordinary circumstances” under Section 58.35(c)), require an Environmental Assessment (Section 58.36).

Step 1 Complete the [Compliance Officer Designation form](#). The Environmental Compliance Officer is designated by the Board Chair or Executive Director of the nonprofit. MSHDA’s Certifying Officer functions as the certifying officer for all nonprofit subgrantees; the nonprofit Environmental Compliance Officer is responsible for the accurate completion of the environmental review steps below

Step 2 Complete the [Program Determination: Environmental Assessment form](#).

Step 3 Complete the [Environmental Assessment Checklist](#). It is highly recommended to review the [Environmental Assessment Checklist Sample](#) and [Screening for Statutory Compliance](#) as references while completing this step. Consultation may be needed with the local Fire Marshall or Planning & Zoning Department, the Army Corps of Engineers, Fish and Wildlife Service, SHPO, Department of Environmental Quality offices, or other appropriate authorities to obtain adequate information. Collect documentation to support determinations made for every environmental factor on the checklist. The completed checklist and all supporting documentation (letters, permits, maps, etc.) must be included as part of the Environmental Review Record.

NOTE: EA projects cannot convert to exempt, even if all required factors and mitigation measures are met.

Step 4 Prepare a draft [Combined Notice](#) (Finding of No Significant Impact and Notice of Intent to Request Release of Funds) for publication in a local newspaper and mailing to interested parties. The notice must include the project location or target area in which project activities will be undertaken and the amount of federal funds in the project/program. MSHDA staff will insert the dates referenced in the FONSI once the publication date is determined

Step 5 Prepare Mailing List of Interested Parties to whom a copy of the Notice will be sent by the subgrantee ON or BEFORE the date of the publication. Refer to the Overview section of this manual for a definition of “Interested Parties”.

NOTE: If tribal consultation is required for your project (as indicated on the [When to Consult with Tribes document](#) completed with the Statutory Checklist), the Mailing List to Interested Parties must include the names of the contacts for the Native American tribes that may have an interest in the program/project area. See: <https://egis.hud.gov/tdat/>

Step 6 Submit original documents of the Environmental Review Record (ERR) to the HID Staff (copies of ERR documents should be maintained by nonprofit subgrantee) prior to publication:

1. [Cover letter](#) addressed to MSHDA Staff indicating that Steps 1-5 have been completed and all documentation is filed in the ERR,
2. Compliance Officer Designation,
3. Program Determination: Environmental Assessment
4. Environmental Assessment Checklist, completed in its entirety, signed, and with all supporting documentation attached,
5. Draft of Mailing list of Interested Parties.

Step 7 MSHDA reviews records for completeness/accuracy: wait for corrections and edits (as needed) from MSHDA, make needed improvements and return to MSHDA.

Step 8 Upon final MSHDA environmental review clearance: MSHDA Staff will publish the approved (by MSHDA) Combined Notice.

Step 9 MSHDA sends a copy of the final Combined Notice to the nonprofit

Step 10 Nonprofit sends copy of final (approved by MSHDA) NOI to Interested Parties, with a cover letter, on or before the date of the publication. File a copy of the *Notice and Mailing List to Interested Parties* with date of mailing in the ERR. Coordinate timing of this step with MSHDA staff as a publication date is determined in Step 8.

Step 11 MSHDA tracks comments. If any comments are received by MSHDA during the first 15-day comment period, they must be considered and modifications made. All comments and modifications must be recorded in the ERR. (24 CFR 58.45)

Step 12 MSHDA Staff posts the release date on OPAL after receiving HUD 7015.16 "Authority to Use Grant Funds" from HUD and mails a copy of 7015.16 to the subgrantee. The original 7015.16 is stored in MSHDA's grant file with a copy sent to the nonprofit.

Step 13 Incur project costs on or after the Authorization to Use Funds/ROF date.

Step 14 Maintain the original Environmental Review Record (ERR) that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record for a minimum of three years after grant closeout.

TIERED REVIEW FOR ENVIRONMENTAL ASSESSMENTS

HID grant programs that do not have all project sites identified at the time of the environmental review require a two-tiered environmental review. A tiered review (24 CFR 58.15) allows for a broad analysis of environmental impacts at the early stage of a project and a release of funds conditional upon completion of a second, site-specific review as project sites are chosen for assistance. Tier I requires a broad environmental review of a target area or neighborhood and a written Tiered Review Strategy; Tier II is a site-specific review of all environmental factors not cleared in Tier I.

- Step 1** Designate a [Certifying Officer/ Compliance Officer](#)
- For Local Units of Government, the Certifying Officer must be either the highest elected official of the municipality or a designee of the highest elected official.
 - For nonprofits, a Board Chair or Executive Director designates a Compliance Officer to be responsible for completing the required review procedures.
- Step 2** Complete the [Program Determination: Environmental Assessment form](#).
- Step 3** Complete the [Environmental Assessment Checklist](#) for the target area as a whole (Tier I). It is highly recommended to review the [Environmental Assessment Checklist Sample](#) and [Screening for Statutory Compliance](#) as references while completing this step. Consultation may be needed with the local Fire Marshall or Planning & Zoning Department, the Army Corps of Engineers, Fish and Wildlife Service, SHPO, Department of Environmental Quality offices, or other appropriate authorities to obtain adequate information. Collect documentation to support determinations made for every environmental factor on the checklist. The completed checklist and all supporting documentation (letters, permits, maps, etc.) must be included as part of the Environmental Review Record.
- NOTE: EA projects cannot convert to exempt, even if all required factors and mitigation measures are met.
- Step 4** Complete the [Tiered Review Strategy form](#) that describes your program and identifies which remaining environmental factors will be considered in the Tier II portion of the review.
- Step 5** Initiate the publishing and request for release of funds processes as described in steps 4-12 of the Environmental Assessment procedures for Local Units of Government or Nonprofits, depending upon your organization type. Make sure to send your Tiered Review Strategy form to MSHDA in addition to other the documents listed in step 7. Be cautious in drafting the target area for your publication – if your target area changes later in the grant you will need to re-publish.
- Step 6** After receiving your Authorization to Use Funds/ROF date, **conduct a site-specific review (Tier II) for each project site using the [Tier II Site-Specific Checklist form](#)**. Environmental review factors clearly previously in the Tier I review may be deleted from the Tier II Checklist. The documentation for each compliance factor still needing review should be attached to this form and funds should not be committed to a project prior to the completion of the site-specific review for that site.
- Step 7** Incur project costs on or after the Tier II checklist approval date for each assisted unit.
- Step 8** Maintain the original Environmental Review Record (ERR) that shall be available for public review (24 CFR 58.38). For monitoring and audit purposes, all subgrantees must maintain the Environmental Review Record (composed of one grant file + individual project files) for a minimum of three years after grant closeout.