

# **I. OTHER FEDERAL REQUIREMENTS**

## **8. ENVIRONMENTAL REVIEW**

This Chapter is being provided as guidance on the environmental review requirements pertaining to HOME and other HUD funds. While this is a summary of the categories and process of environmental review, readers are encouraged to review the HUD regulation 24 CFR Part 58 and the environmental review web page at:

<https://www.hudexchange.info/programs/environmental-review/>

### **8.1 Introduction**

Environmental Review is the examination of a project relative to the National Environmental Policy Act of 1969 (NEPA) and its related laws. NEPA was established to ensure environmental protection for federally funded projects.

HOME funded projects are subject to the provisions of NEPA [24 USC 432-14347] and the HUD regulations implementing NEPA [24 CFR Part 58]. Awardees of HOME funds are required to complete an environmental review prior to receiving environmental clearance from the Nebraska Department of Economic Development. The type of project an awardee is completing will determine the level of environmental review and the necessary documentation that will be required.

For every environmental review, three basic steps must be followed in order to correctly complete the review. These steps include:

- 1) **Define the Project/Project Aggregation**—The awardee should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. Defining the project should include determining all integrally related activities designed to accomplish a specific objective. For housing projects this could include direct home buyer subsidy, down payment and closing cost assistance, land acquisition, rehabilitation, new construction, infrastructure development, demolition, and any other appropriate activity that would be necessary to complete the HOME funded project.
- 2) **Determine the Level of Review**—The awardee must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. A Determination of Level of Review (DLR) Form must be completed which provides a complete description of the project and the level of environmental review that will be completed. Upon completion, submit the DLR to your program representative for review. For HOME projects, DED is the Responsible Entity (RE). Your program representative will act as the first reviewer and submit to the RE for final signature.

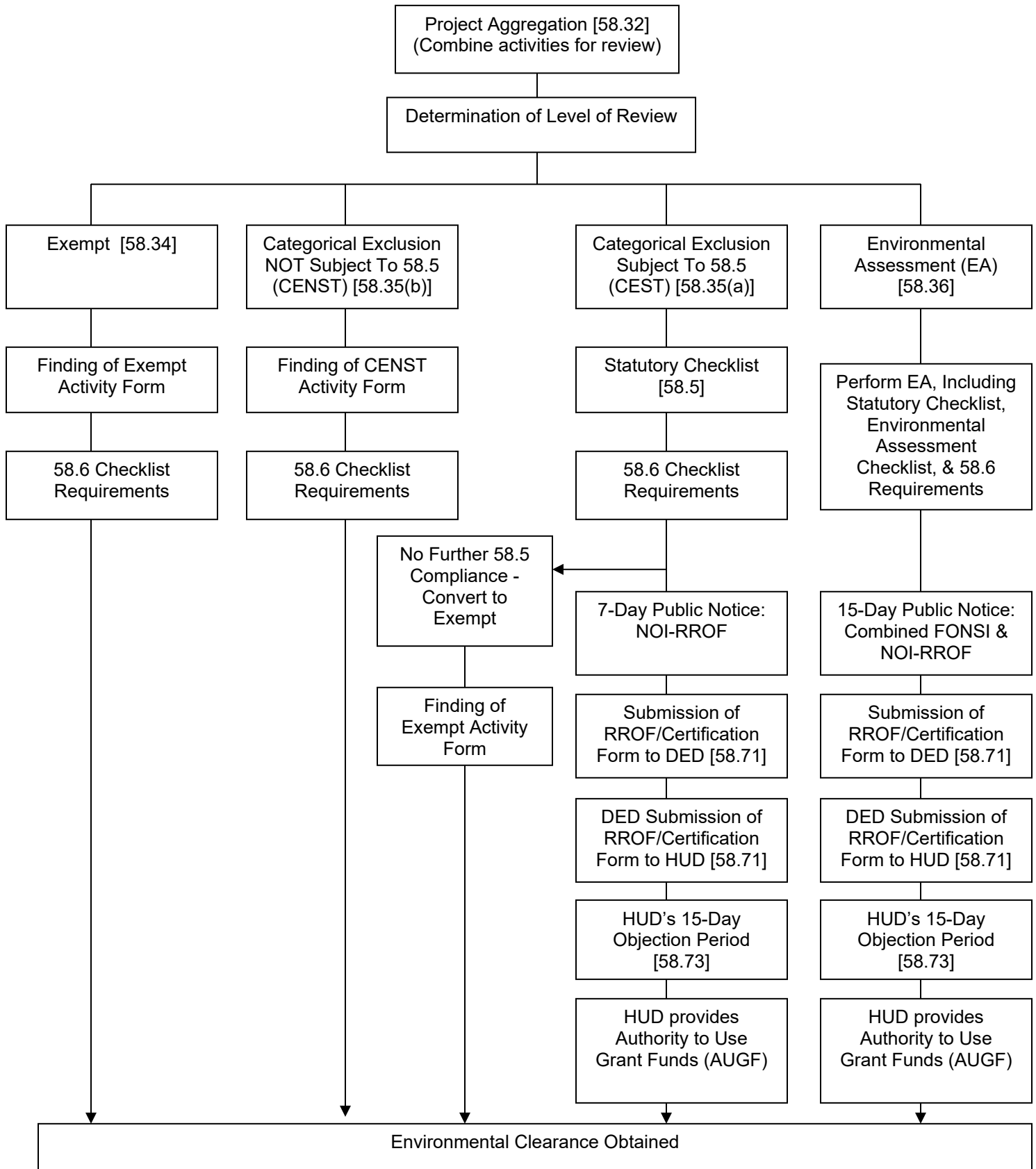
NOTE: due to the nature and purpose of the determination, the awardee completes (including signatures) the DLR **prior** to undertaking of the balance of the Environmental Review Record (ERR). To illustrate, in the case of a non-exempt project, it would be inappropriate for the date of the DLR to be the same as that of the statutory checklist because it is unlikely that – if done properly – the work to complete these items was done on the same day.

- 3) **Documentation:** The awardee must complete the ERR and provide the necessary information that is required to fully document the environmental review. The ERR will vary in size. The project aggregation and the determination of level of review will help determine the ERR documentation.

**IMPORTANT NOTE:** Timing of events when completing the ERR is critical. Give careful review of the *Timing Considerations* section and make use of the appropriate timing worksheet(s). Also within this section is the location of the timing worksheets.

On the following two pages, included are a process flow chart and a table describing an overview of the environmental review process.

# ENVIRONMENTAL REVIEW PROCESS: HOME PROJECTS



<b>LEVEL OF ENVIRONMENTAL REVIEW</b>			
24 CFR 58.34 Exempt	24 CFR 58.35(a) Categorically Excluded AND subject to 58.5 "No" checked for all on Statutory Worksheet	24 CFR 58.35(a) Categorically Excluded AND subject to 58.5 "Yes" checked for one or more on Statutory Worksheet	24 CFR 58.36 NEPA Environmental Assessment
<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</p> <p>Purchase insurance and tools</p> <p>Engineering or design costs</p> <p>Technical assistance and training</p> <p>Temporary or permanent improvements that do not alter environmental conditions and are limited to activities to protect, repair or arrest the effects of disasters, imminent threats, or physical deterioration</p> <p>Payments of principal and interest on loans or obligations guaranteed by HUD</p> <p>Combinations of the above activities</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>Repairing 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 is 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> <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>	<p>Activities not exempt or categorically excluded.</p> <p>Generally, any new construction activity and construction of 5 or more homes, and conversion from one type of land use to another.</p> <p>To be able to start work on the Exempt Activities associated with any project, the WVD/O needs to have the following documentation prior to issuing a Notice to Proceed:</p> <ul style="list-style-type: none"> <li>Finding of Exemption letter on the Grantee's letterhead listing which Activities are Exempt.</li> <li>Other Requirements Checklist with source documentation.</li> <li>Both documents shall be dated and signed by the Certifying Officer.</li> </ul>	
<b>TYPE OF ACTIVITIES</b>			
<b>DOCUMENTATION REQUIRED IN ERR</b>			
<p>Written determination of exemption.*</p> <p>Other Requirements Checklist (Sec. 58.6)</p>	<p>Complete Statutory Worksheet (Sec. 58.5) and indicate <b>converts exempt</b>.*</p> <p>Other Requirements Checklist (Sec. 58.6)</p>	<p>Complete Statutory Worksheet (Sec. 58.5)*</p> <p>NOI/RROF notification RROF &amp; Certification (HUD Form 7015.15) Authority to Use Grant Funds (HUD Form 7015.16) Other Requirements Checklist (Sec. 58.6)</p>	<p>Environmental Assessment (including Statutory Worksheet)</p> <p>FONSI and NOI/RROF notification Form 7015.15 Other Req. Checklist (Sec. 58.6)</p>
<p>*Use: Environmental Review for Activity/Project that is Exempt or Cat Ex Not Subject to Section 58.5</p>	<p>*Use: Environmental Review for Activity/Project that is Cat Ex Subject to Section 58.5</p>	<p>*Use: Environmental Review for Activity/Project that is Cat Ex Subject to Section 58.5</p>	<p>*Use: Environmental Assessment Determinations and Compliance Findings</p>

### 8.1.1 Environmental Review Terms & Acronyms

There are several key terms that an awardee must familiarize themselves with in order to understand environmental review and the Table 1 Environmental Review Process Flow Chart.

A few main terms are noted below.

- **8-Step Process:** A process that relates to projects within a floodplain.
- **24 CFR 58:** The Code of Federal Regulations Section that details the HUD regulations for the environmental review process.
- **58.6 Checklist:** The Department's form that must be completed for all environmental review projects.
- **AUGF—Authority to Use Grant Funds Form** that is completed by HUD for projects that require a CEST or EA review. Also referred to as HUD Form 7015.16. The AUGF is completed after proper public notice and after the submission of the RROF/Certification and supporting documentation. The AUGF provides the awardee with environmental clearance. This Form is sent to DED for HOME projects only.
- **Combined Notice (FONSI/NOI-RROF):** A public notice used for an EA review that combines the Finding of No Significant Impact notice and the Notice of Intent to Request Release of Funds (NOI-RROF) notice. Both notices are generally combined into a single publication for EA projects
- **CEST:** Categorical Exclusion Subject To the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(a)
- **CENST:** Categorical Exclusion Not Subject To the requirements of 24 CFR 58.5 as defined under 24 CFR 58.35(b)
- **Certification of Continued Environmental Compliance (Re-Evaluation):** necessary where project conditions, scale, scope, etc. have changed since ERR received environmental clearance.
- **Certifying Officer:** The Responsible Entity (RE) Agency official responsible for completing the ERR
- **Environmental Assessment:** The Department's form and other necessary documentation that must be completed for a project that is not considered Exempt, CENST, or CEST as noted on the Determination of Level of Review.
- **Environmental Review:** NEPA Review of a project.
- **Environmental Review Record (ERR):** A well-organized written record of review, decision making, and action as required by 24 CFR 58.38. This includes the Department required forms and other required documentation.
- **Exempt:** A project that is defined under 24 CFR 58.34
- **FONSI—Finding of No Significant Impact** is a determination that must be made by the Responsible Entity for projects that require an EA review.
- **NOI-RROF:** Notice of Intent to Request Release of Funds—A public notice that is completed for projects that require a CEST or EA review.
- **Project:** An activity or group of activities regardless of funding source.

- **Recipient**—The entity receiving assistance from HUD. In the case of the State HOME Program, the Recipient is the Department of Economic Development on behalf of the State.  
**Responsible Entity (RE):** State, Indian Tribe, or Unit of General Local Government. A Non-Profit Awardee is not the RE for HOME funded projects. DED is the RE for HOME funded projects.
- **RROF/Certification:** Request for Release of Funds/Certification Form that is completed for projects that require a CEST or EA review. Also referred to as HUD Form 7015.15.
- **Statutory Checklist:** The Department’s form and other necessary documentation that must be completed for a project that requires a CEST level of environmental review. This form includes an evaluation of 14 additional environmental review items.

### 8.1.2 Limitation on Actions Pending Clearance

Completion of the environmental review process is mandatory before taking a physical action on a site or making a commitment or expenditure of HUD or non-HUD funds for property acquisition, rehabilitation, conversion, lease, repair or construction activities. ("Non-HUD funds" means any other federal, state, local, private, or other funds.)

Completion of the environmental review process includes:

- Completion of the appropriate level of environmental review,
- Publication of required public notices, when applicable,
- Submission of a Request for Release of Funds and Certification form (HUD-7015.15) to HUD (or DED in the case of a local RE), when applicable, and
- Approval of the request for release of funds and related certification by HUD (or DED in the case of a local RE), when applicable (HUD form 7015.16 – Authority to Use Grant Funds) or equivalent letter.

Further, the State and its local awardees may not:

- Commit (i.e., execute legally binding agreements) or expend HOME funds;
- Commit or expend non-HUD funds (except for exempt activities); or
- Undertake a “choice limiting” action, including acquisition, demolition/movement, construction/rehab.

For purposes of the environmental review process, commitment means the expenditure of private or public funds, or a legally binding agreement by the recipient or any parties involved in the project, including subrecipients, contractors, or owners/developers for project activities such as property acquisition, construction, conversion, demolition, movement, rehabilitation, or repair.

Under certain circumstances, a conditional commitment of HOME funds may be made, subject to the HUD requirements as stated in Notice CPD-01-11 (p.10) and CPD-15-09 (p.14).

Awardees may incur costs for exempt activities prior to the release of funds or submittal of the environmental review documentation provided that the awardee has fully documented that the activities are exempt from environmental review requirements. However, the Department cannot provide HOME reimbursement of such costs until a release of funds occurs and project proceed. Awardees incur costs for exempt activities at their own risk.

## 8.2 The Environmental Review Process

The basic environmental review process is described below and divided into stages. Follow the stages and refer to the Environmental Review Process Flow Chart for further information.

### 8.2.1 Stage 1 - Project Aggregation and Project Description

The awardee should evaluate the entire scope of the project and include all funding sources that may be used in conjunction with the project. The scope is not limited to just the activity funded by HOME. Defining the project scope must include all integrally related activities designed to accomplish a specific objective. This includes evaluating the entire project area, regardless of the funding source for any project activities, also known as project aggregation.

Write an appropriate Project Description that includes the following information:

- Purpose and need for the project.
- Exact geographic location of the project includes common address.
- Geographic footprint of the project (may be included as a map).
- Estimated area of ground disturbance.
- General summary of the surrounding area (e.g., land use) where the project is proposed.
- Specific numbers related to the project (e.g., the number of dwelling units involved, linear feet of pipeline to be installed, new service connections to be installed, etc.).
- Brief description of the activities.
  - o Identify if demolition, acquisition, construction, relocation, remodeling interior, etc. will be involved.
  - o Indicate if and how activities effect the general public (e.g., road closures, noise, dust, cranes, change in traffic, etc.).
- Total estimated project cost including total estimated HOME funds and non-HOME amounts and their source (e.g., LB840, bank financing, bond, TIF, grant, etc.).
- Identify the applicant, the owner or manager of the project.
- Statement indicating that no residents, businesses, or farms will be displaced with this project; and
- If the sites have not been identified, the project description must include a statement that a Tier II environmental review will be conducted upon site selection

For housing projects this could include direct homebuyer subsidy, down payment and closing cost assistance, land acquisition, rehabilitation, new construction, infrastructure development, demolition, and any other appropriate activity that would be necessary to complete the HOME funded project. Some examples include direct homebuyer assistant or closing costs funded with HOME funds that also includes rehabilitation using USDA funds or infrastructure development using other funding for a new construction project using HOME funds.

Aggregation also requires consideration of future phases of a multi-year or multi-phase project.

### 8.2.2 Stage 2—Identifying Environmental Review Responsibilities

Entities eligible to receive HOME funds from the State are local governments, non-profit organizations, public housing agencies, non-profit and for-profit developers. DED assumes the role of Responsible Entity (RE) with respect to environmental reviews.

- **Local governments** – For HOME awards to local governments, the chief elected official assumes the role of environmental “certifying officer” and accepts full responsibility for the completeness and accuracy of the reviews. The chief elected official must sign all certifications and findings. This environmental duty may not be delegated, although local staff, consultants, and/or State resources may provide technical assistance to support local efforts.
- **Developers and other non-governmental awardees** – For HOME awards to non-profits, public housing agencies, and other non-governmental awardees, the State must assume the role of environmental “certifying officer”. Non-governmental awardees, however, assist the State by supplying all relevant information needed to perform an environmental review and carrying out all mitigating measures required. Awardees that are not units of local government (cities, villages or counties) are compiling the environmental review information for DED. The required documents must be sent to the Department as soon as the awardee completes it so that the RE Certifying Officer can sign the necessary forms and certify the environmental record.

### 8.2.3 Stage 3—Determination of Level of Review

The awardee must determine which level of environmental review is appropriate for the project in order to correctly complete the necessary documentation for the project. The awardee must review the HUD regulations to determine which category of review the project should be classified under in order to determine which Environmental Review Packet must be completed. Templates to complete the Environmental Review can be found in the Forms & Templates section of the website/Environmental Review Record by Level of Review.

<https://opportunity.nebraska.gov/program/home/#forms>

Each level of environmental review is defined within the HUD regulations found at 24 CFR 58.

The four main levels of review that may apply to the funded activity are:

- Exempt – 24 CFR 58.34
- Categorical Exclusion Not Subject To (CENST) – 24 CFR 58.35(b)
- Categorical Exclusion Subject To (CEST) – 24 CFR 58.35(a)
- EA – All other projects that are not classified under 24 CFR 58.34, 58.35(b), or 58.35(a),

In addition to the four classifications, there is also an Environmental Impact Statement (EIS). This comprehensive review is for those projects that are larger in scope and will have a significant environmental impact. These projects are beyond the scope of those completed by awardees working in conjunction with DED.

The awardee should review the HUD regulations (24 CFR Part 58) to determine the most appropriate level of environmental review for a project. Awardees that are not local governments must consult with DED to confirm the classification of the project.



The DLR form is dated and signed on the date of determination and prior to completing any other required components of the ERR process (e.g., statutory checklist, 58.6, publication(s), etc.). Refer to the timing worksheets for additional guidance.

#### **8.2.4 Stage 4—Environmental Review Completion (Special Conditions for Release of Funds Forms)**

Once an awardee has determined the scope of a project through project aggregation and determined the appropriate level of review, the awardee must complete the appropriate Environmental Review for every project.

- **Exempt Project** - Projects that have been categorized under 24 CFR 58.34 must complete an ERR that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Exempt Activity Form, and a 58.6 Checklist.
- **CENST Project** - Projects that have been categorized under 24 CFR 58.35(b) must complete an ERR that includes a Cover Sheet, a Determination of Level of Review Form, a Finding of Categorical Exclusion Not Subject to Form, and a 58.6 Checklist.
- **CEST Project** – Projects that have been categorized under 24 CFR 58.35(a) must complete an ERR that includes a Cover Sheet, a Determination of Level of Review Form, a Statutory Checklist Form, Timing Summary Worksheet, and a 58.6 Checklist. In addition, appropriate source documentation must include maps; records of review of websites, consulted agencies, including letters to and from those agencies; and other sources, as identified.
  - When a project’s area can be defined, but specific site locations cannot be identified until later (e.g., projects involving housing or commercial rehabilitation), a Tiered Review (“Tier II”) is required. The Tiered Review format will include only those items from the Statutory Checklist that cannot be completed until a site-specific location is known. Examples include housing or commercial projects with unknown addresses that lie within an area covered under the broad-level review.
  - A Tiered Review requires a special NOI-RROF Tiered Review publication notice format. A project description must include a reference to a Tiered Review, if applicable.
  - If applicable, a CEST may convert to Exempt and a “Finding of Exempt Activity” form needs to be completed
- **EA Project** - —Projects that cannot be categorized as Exempt, CENST, or CEST must complete an ERR that includes a Cover Sheet, a Determination of Level of Review Form, and an Environmental Assessment Form, and Timing Summary Worksheet. In addition, appropriate source documentation must include maps; records of review of websites, consulted agencies, including letters to and from those agencies; and other sources, as identified.

See also the Overview of the Environmental Review Record Items section for more information on the items needed for each Environmental Review Record.

### **8.2.5 Stage 5—Publication/Posting**

Only those projects that require a CEST or EA review will be required to provide a NOI/RROF (CEST Projects) or Combined Notice for FONSI/NOI-RROF (EA Projects) public notice which needs to be completed through either publication or posting. Projects that are Exempt, CENST, or those CEST projects that convert to Exempt do not require any publication or posting.

Projects that require a CEST review will have a 7- (publish) or 10- (posting) day public comment period. Projects that require an EA review will have a 15- (publish) or 18- (posting) day public comment period.

NOTE: The Department has Timing Summary Worksheet available on the website, <http://opportunity.nebraska.gov/CDBG>. To ensure the responsible entity meets the timing requirements identified in federal register.

IMPORTANT: Errors within the timing of the public notice may require republishing and potentially delay the project.

Obtain evidence of publication and include within the Environmental Review Record.

For more information, see Publication, RROF/Certification Form, & HUD Objection Period section.

### **8.2.6 Stage 6—Completion of RROF/Certification Form and Affidavit of Publication/Posting**

Only those projects that require a CEST or EA review will be required to complete a RROF/Certification Form. The most current HUD 7015.15 Form must be used. The form is available on the Department's website.

The RROF/Certification must be completed, an original affidavit of publication, and a copy of the publication must be sent to DED after the ERR is completed and sent no earlier than the day after the publication period has ended.

A failure to complete RROF/Certification Form correctly will result in DED requesting that the Form be revised and resubmitted. Until the RROF/Certification Form is accurate, it will not be submitted to the CRD Director for signature, and it will not be submitted to the HUD office to begin the HUD 15 day objection period.

### **8.2.7 Stage 7—HUD 15 Day Objection Period**

Once the RROF/Certification Form, the affidavit of publication, and the copy of the publication notice are received (no earlier than the day after the publication period has ended), the RROF/Certification is given to the CRD Director for his/her signature. Once signed, the RROF and all supporting documentation are emailed to the HUD Office. The 15-day objection period

begins the day after HUD (or DED, for projects with a local government RE) receives the RROF and correct supporting documentation.

### **8.2.8 Stage 8—Obtaining Environmental Clearance**

After the end of the HUD 15-day comment period, HUD will send DED an AUGF Form (7015.16). Once this Form is received by DED, the project will have environmental clearance. The Department will provide a Release of Funds/Environmental Clearance letter or email to the awardee which provides environmental clearance and clearance to use grant funds.

**NOTE:** In some instances, circumstances surrounding a project change (e.g., change in scope, scale, environmental conditions, etc.). This requires re-evaluation for a project having previously received environmental clearance. For more information, see Re-Evaluation and Certification of Continued Environmental Compliance of Previously Cleared Projects (24 CFR 58.47).

**COMPREHENSIVE OVERVIEW OF ENVIRONMENTAL PROJECTS** For an overview of the four levels of review, see Overview of Environmental Review Record (ERR) Items.

## **8.3 Tiered Review**

A tiered review is a process in which the awardee completes a CEST or EA Project review, but has not identified any or all the sites where the project activities will be completed.

Within this two-step process, the awardee first completes their CEST or EA Project Packet by identifying and evaluating those issues that can be reviewed without having sites identified. For those issues that cannot be evaluated without having a site identified, it would be proper to note that a Tier II evaluation will be conducted as sites are identified.

The second step would be for the awardee to complete a Site-Specific Tier II environmental review once sites are identified. The awardee would identify and evaluate those issues that were noted in the Statutory Checklist, the Environmental Assessment Checklist, and 58.6 Checklist that required further evaluation once a site had been identified.

For housing projects, this may include, but is not limited to, Air Quality, Contamination and Toxic Substances, Floodplain Management, Historic Preservation, Noise Control, and Flood Disaster Protection.

The Tier II review should follow the recommended format and will be part of the ERR that is retained in the awardee's project files at an awardee's office. This Tier II review must reference the CEST or EA Project packet that was completed previously and the ERR that was completed and received environmental clearance should be retained in a separate, master file, for the project.

The Tier II review should supplement the previous review.

Discussing the tiered review is most appropriate in the description of the project in the Determination of Level of Review Form, the Statutory Checklist, the Environmental Assessment Checklist, and 58.6 Checklist.

Many housing activities require the completion of a tiered review including purchase, rehabilitation, resale and owner-occupied rehabilitation. In addition, if direct buyer subsidy, closing costs, down payment assistance is provided (whichever is applicable), and the project also provides rehabilitation for the home that are assisted, then it would also be appropriate to complete a tiered review as the project would be considered CEST.

An additional public comment period (NOI-RROF), FONSI, RROF/Certification, or HUD Objection Period is not required for a site-specific review after the awardee has already received environmental clearance.

Completion of a Tier II needs to be mailed/or emailed to you program representative prior to signing a purchase agreement or proceeding with the activity. Tier II template can be found in the forms and templates section of the HOME website:

<https://opportunity.nebraska.gov/program/home/#forms>

For more information refer to 24 CFR 58.15.

## **8.4 Comprehensive Overview of Environmental Projects**

### **8.4.1 Exempt Projects**

A project that has been classified under 24 CFR 58.34 is considered Exempt and requires a limited environmental review.

An Exempt project is a project classified under one of the following categories below. See 24 CFR 58 for the official and complete list of categories.

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, childcare, 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; or

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.

If a project cannot be classified under any of the above mentioned categories, then the project is not Exempt and a higher level of environmental review will need to be completed.

The ERR for an Exempt project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Exempt Activity Form
- 58.6 Checklist

An awardee does not have to publish a NOI/RROF, does not have to submit an RROF/Certification Form, and does not have to require a 15 day HUD Comment Period for Exempt Projects.

#### **8.4.2 CENST Projects**

A project that has been classified under 24 CFR 58.35(b) is considered a Categorical Exclusion Not Subject to the requirements of 24 CFR 58.5 and requires a limited environmental review.

A CENST project is a project classified under one of the following categories below. See 24 CFR 58 for the official and complete list of categories:

- (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 buy downs, 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.

If a project cannot be classified under any of the above-mentioned categories, then the project is not CENST and a higher level of environmental review will need to be completed.

The ERR for a CENST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Finding of Categorical Exclusion Not Subject To Form
- 58.6 Checklist

An awardee does not have to publish a NOI/RROF, does not have to submit an RROF/Certification Form, and does not have to require a 15-day HUD Comment Period for CENST Projects.

### **8.4.3 CEST Projects**

A project that has been classified under 24 CFR 58.35(a) is considered a Categorical Exclusion Subject to the requirements of 24 CFR 58.5 and requires the completion of a Statutory Checklist which evaluates 14 separate environmental laws.

A CEST project is classified under one of the following categories below. See 24 CFR 58 for the official and complete list of categories:

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, 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 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).
- (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.
- (6) Combinations of the above activities.

If a project cannot be classified under any of the above mentioned categories, then the project is not CEST and an EA will need to be completed.

The ERR for a CEST project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Statutory Checklist
- 58.6 Checklist
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist
- Finding of Exempt Activity (if applicable)
- NOI/RROF Publication, complete one of two types depending upon the nature of the project:
  - NOI/RROF Publication, completed where known are all sites for project activities.
  - NOI/RROF Tiered Review Publication, completed only where specific sites unknown (e.g., projects involving housing or commercial rehabilitation) but the broad review is complete.
- Tier II Template (if applicable)
  - Timing Summary Worksheet
  - Affidavit of Publication or Proof of Posting
  - RROF/Certification Form

An awardee does have to publish a NOI/RROF, does have to submit an RROF/Certification Form, and does have to require a 15 day HUD Comment Period for CEST Projects unless the project converts to Exempt.

**NOTE:** For CEST Projects (except where the project converts to Exempt), the awardee must publish a NOI/RROF, submit an RROF/Certification Form, and a 15-day HUD objection period is required. Where a CEST project converts to Exempt, see section below.

**NOTE:** While completing the Statutory Checklist, if it is determined the project is within a floodplain, the awardee will need to conduct the 8-Step Process for Compliance with Floodplain Management unless there are specific exceptions to this requirement. For additional information, see also 24 CFR 55 and consult with your DED program representative.

#### **8.4.4 CEST Project Converting to Exempt**

In some instances, a CEST Project may convert to an Exempt Project. This may occur if the awardee has completed the Statutory Checklist and has marked all authorities as Status “A”.

If Box “A” has been selected within the Determination Section of the Statutory Checklist, the awardee would be confirming that the project does not require any further compliance measure (e.g. consultation, mitigation, permit, approval, or any other additional measure) with respect to any law or authority cited at 24 CFR 58.5.

When a project converts to Exempt, it will be necessary for the awardee to have completed the Determination of Level of Review, the Statutory Checklist, and the 58.6 Checklist, and provide the necessary source documentation for the project. After this information has been included in the ERR, the awardee then must complete a Finding of Exempt Activity Form and note that the project is converting to Exempt according to 24 CFR 58.34(a)(12). The Finding of Exempt Activity Form should be incorporated into the ERR and sent to DED.

A NOI/RROF Publication, RROF/Certification, and 15 day HUD Comment Period are not required for CEST projects that have converted to Exempt.

#### **8.4.5 EA Projects**

A project that cannot be classified as Exempt, CENST, CEST, but is classified under 24 CFR 58.36 requires the completion of an Environmental Assessment (EA). An EA includes a FONSI Determination, a Statutory Checklist, an Environmental Assessment Checklist, a 58.6 Checklist, and all other required information as noted in the Environmental Review Record.

The ERR for an EA project must include the completion of the following items:

- Cover Sheet
- Determination of Level of Review
- Environmental Assessment (EA) Form
- Source Documentation [including, but not limited to, a FIRM Map, an aerial map, letters sent to any agencies, agency websites consulted, agency responses, and any other relevant information that provides support for your findings within the Statutory Checklist]
- Combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request a Release of Funds (NOI/RROF)
  - NOI/RROF Publication, complete one of two types depending upon the nature of the project:
    - NOI/RROF Publication, completed where known are all sites for project activities.



- NOI/RROF Tiered Review Publication, completed only where specific sites unknown (e.g., projects involving housing or commercial rehabilitation) but the broad review is complete.
  - Tier II Template (if applicable)
  - Timing Summary Worksheet
  - Affidavit of Publication or Proof of Posting
  - RROF/Certification Form –Original must be submitted to DED

See also information below on how to complete these individual forms and the HUD website for further information.

**NOTE:** For EA Projects, the Awardee must publish a Combined Notice (FONSI/NOI-RROF), submit an RROF/Certification Form, and a 15-day HUD objection period is required.

**NOTE:** While completing the Environmental Assessment Statutory Checklist, if it is determined the project is within a floodplain, the Awardee will need to conduct the **8-Step Process for Compliance with Floodplain Management** unless there are specific exceptions to this requirement. For additional information, see also 24 CFR 55 and consult with your DED program representative.

See also information below titled Completing the Statutory Checklist, Completing the Environmental Assessment Checklist, Completing the 58.6 Checklist, and the HUD Guide for further information.

See also the Source Documentation Section for further information.

An awardee does have to publish a FONSI & NOI/RROF, does have to submit an RROF/Certification Form, and does have to require a 15 day HUD Objection Period for EA Projects.

## 8.5 Completing the Review Checklists

### 8.5.1 Completing the Statutory Checklist or Environmental Assessment Checklist

The Statutory Checklist evaluates 14 separate environmental issues and impacts. Each of these 14 items must be evaluated for every project. Within the Statutory Checklist, the awardee must follow instructions detailed in the Checklist and select either Status A or Status B for each and every of the 14 items. <https://www.hudexchange.info/programs/environmental-review/federal-related-laws-and-authorities/>

These regulations include:

1. Air Quality
2. Airport Hazards
3. Coastal Zone Management
4. Contamination and Toxic Substances

5. Endangered Species
6. Environmental Justice
7. Explosive and Flammable Operations
8. Farmlands Protection
9. Floodplain Management (includes Flood Insurance)
10. Historic Preservation (State Historical Preservation Office and Tribal Historical Preservation Office)
11. Noise Control
12. Water Quality (Sole Source Aquifers)
13. Wetlands Protection
14. Wild and Scenic River

By selecting Status A, the awardee is documenting that the project is in compliance either because 1) the nature of the project does not implicate the authority under consideration or 2) supporting information documents that the project compliance has been achieved. If Status A is marked, the awardee is noting that no further compliance is needed, and no further consultation, permitting, or additional evaluation are needed in regard to the Item evaluated.

By selecting Status B, the awardee is documenting that the project requires additional compliance. This includes an additional compliance step or action, including but not limited to, consultation with or approval from an oversight agency, performance of a study or analysis, completion of remediation or mitigation measures, or obtaining a license or permit, or the specific project site has not been identified.

**Note:** All of the 14 environmental regulations must be evaluated for the project. Unacceptable responses including leaving anything blank or providing a “not applicable” response. A failure to review all 14 items will result in the awardee having to correct the Statutory Checklist and resubmit the information to DED.

An awardee should consult the appropriate statutes, authorities, executive orders, regulations, or policies as noted in each of the 14 items. 24 CFR 58.5 provides more information on the Related Federal laws and authorities that must be reviewed.

In addition, awardees should refer to the appropriate guidance at the Environmental Review web page at the HUD Exchange: <https://www.hudexchange.info/programs/environmental-review/>

For example, in providing a proper evaluation for Item 3 Coastal Zone Management, the awardee could note within the Compliance Documentation Section of the Statutory Checklist, that a project in Nebraska is not located in a state having a Coastal Zone Management (CZM) Program as provided by the National Oceanic & Atmospheric Administration at web site: <http://coastalmanagement.noaa.gov/mystate/welcome.html>. Providing this information, along with a copy of the website would provide sufficient source documentation for this item.

The goal of the evaluation is to obtain environmental compliance with each of the 14 items. Compliance can be obtained in some instances by the Awardee providing an appropriate narrative and source documentation within the Compliance Documentation section of the

Statutory Checklist. In other instances, it is necessary to provide additional source documentation, including referencing agency website information, letters sent to agencies, agency responses, and any other relevant information.

The RE must retain all documentation (letters, maps, notes on comments of authorities contacted, etc.) to support the Compliance Documentation in the ERR. The awardee should use the best available information in order to achieve compliance.

Federal or State Agency consultation may be necessary to provide a proper environmental evaluation. Agency responses may concur with an awardee's findings and result in no need for further action, may place conditions on the project prior to environmental clearance, or may halt the project until mitigating measures are identified, and steps have been taken to achieve compliance.

If permits are required, a listing of the specific permits needed and the procedures by which they will be obtained should be attached to the ERR. If mitigating actions are required, the RE should fully describe the actions the awardee will take to assure compliance.

The Statutory Checklist must be prepared and signed by the Preparer **prior** to being signed by the RE Certifying Officer. A failure to have the Preparer sign the Statutory Checklist **before** the RE Certifying Officer will result in the awardee having to correct the Statutory Checklist and resubmit the information to DED.

### **8.5.2 Statutory Checklist or Environmental Assessment Checklist Process**

The Environmental Assessment Checklist must be completed for EA Projects. This Checklist is incorporated into the Environmental Assessment and must be completed.

The Environmental Checklist evaluates several impact categories to evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. This evaluation includes the area surrounding the project site and the reference of the site to other resources in the community. Each of the impact categories must be evaluated for every project.

Note that leaving any Compliance Documentation Section blank or providing a "not applicable" response to any of the items is not acceptable. A failure to review all items will result in the awardee having to correct the Environmental Assessment Checklist and resubmit the information to DED.

An example for providing a proper evaluation for the impact category Community Facilities and Services in relation to Public Safety and Fire, an awardee may provide information on the location and distance of the nearest fire station in relation to the project site. If the station is near the site, then it may be appropriate to note that the anticipated or potential impact was Beneficial to the project.

### **8.5.3 Special Considerations for Projects Involving Housing Activities**

Additional requirements apply for projects involving housing activities, in particular those triggering Environmental Site Assessments (ESA) Phase I, which are required for multi-family

residential, but strongly recommended for other residential situations. However, if project involves housing activities and an ESA is not ordered, the ERR preparer must document evidence of taking Minimum Review Steps as described below.

An ESA is recommended when 1) acquiring property for residential or commercial purposes, or 2) when converting a property from non-residential to residential use. In addition, an ESA may limit legal liability from a release of hazardous substances or a range of contaminants found within the scope of the Comprehensive Environmental Response, Compensation and Liability Act (or “CERCLA”). An ESA is considered an appropriate inquiry and accepted as good commercial standards and practice. Remember, there are serious public health and legal implications to the potential or current property owners pertaining to CERCLA rules, and the developer should seek legal counsel to assess all possible issues.

An ESA is an engineering report assessing known and potential risks associated with a particular site. The standard for such reports has changed over time. The current standard follows ASTM E1527-13, which more clearly identifies circumstances meeting Recognized Environmental Conditions (REC):

- Controlled Recognized Environmental Conditions (CRECs) are defined as a site with risk-based closure of contamination and no further remediation is required, but with residual contamination that still exists above residential levels, hence the property becomes subject to land-use restrictions.
  - o A CREC property is limited to commercial and industrial use only.
  - o A CREC property has contamination and no residential development is allowed.
- The new standard requires more review of vapor encroachment issues.
- The new report can be ordered in cases where the old standard was used. When reviewing ESAs, be sure to look for the new standard and any CRECs, which would prohibit residential land-use. Depending upon the project and the entity completing the ESA may be based on outmoded standards. An ESA report is considered outmoded where it follows ASTM E1527-05 (the “old standard”) and does not identify potential problems that call for a non-residential land-use restriction. Rather than CRECs, the old standard identifies Historical Recognized Environmental Conditions (HRECs), which may (now) require further evaluation (and are considered convoluted) as there was no clarification of continuing risk of exposure from HRECs.

### **Minimum Review Steps**

If an ESA is not ordered, the ERR preparer must **document evidence** of taking these minimal review steps:

1. Conduct a site visit/inspection.
2. Describe Historical Use using Sandborn maps or any other available resources as appropriate.
3. Review the EPA’s website for contaminant neighbors, noting nearby business with toxic contamination issues that have continuing violations. Further, additional assessment is required for businesses having remediation and/or fines. Conclude as nearby contamination risk.
4. Request an ESA if any situations make the preparer uncomfortable or suspicious of underlying contamination issues.
5. Conclude with stated explanations and reasons for why an ESA is not needed. Radon Mitigation for Projects Involving Housing Activities Radon mitigation is included under

Contamination and Toxic Substances of the Statutory Checklist. Designated by the nature of the housing activities, guidance below extends into the impact of the ERR on project implementation. A proactive approach will reduce liability potential for all vested parties.

For further information on source documentation, see Section 8.7.

#### **8.5.4 Completing the 58.6 – Other Requirements (58.6 Checklist) Form**

The 58.6 Checklist must be completed for every project. For Exempt, CENST, or CEST projects the 58.6 Checklist is a separate form that must be completed. For EA projects the 58.6 Checklist is incorporated into the Environmental Assessment and must be completed.

There are three main sections of the 58.6 Checklist that must be reviewed:

1. **Airport Runway Clear Zones and Clear Zone Notification** [24 CFR Part 51.303(a)(3)]
2. **Coastal Barrier Resources Act** [Coastal Barrier Improvement Act of 1990 (16 USC 3501)]
3. **Flood Disaster Protection Act** [Flood Disaster Protection Act of 1973, as amended (42 USC 4001-4128)]

The 58.6 Checklist provides a set of “yes” or “no” questions that have to be answered and must be supplemented with proper source documentation. Source Documentation may include an aerial map, FIRM map, Agency website information, and any other relevant information that would substantiate the information provided in the 58.6 Checklist.

For the Flood Disaster Section, if “No” is answered for the first question, then it is not appropriate to answer the remaining questions.

In addition, for Section 3 pertaining to the Flood Disaster Protection Act it may be necessary to attach an applicable FIRM Map when it is necessary to provide evidence that a project is not being located within a Special Flood Hazard Area (SFHA). If a FIRM map is attached, then it would be necessary to cite the appropriate year and panel number of the FIRM map. (See FEMA.gov for more information on FIRM maps).

If “Yes”, the awardee must provide an applicable FIRM Map when it is necessary to provide evidence that a project is being located within a Special Flood Hazard Area (SFHA). If a FIRM map is attached then it would be necessary to cite the appropriate year and panel number of the FIRM map. Flood Insurance is required in order to receive HUD Funds and use those funds within the Special Flood Hazard Area. A copy of the flood insurance policy declaration must be kept on file in the ERR.

If a project site is not mapped, then the best available information should be used to ascertain whether a project is located within a SFHA. In this instance it may be necessary to contact the Department of Natural Resources for this information. Consult with your program representative for additional alternatives.

### **8.5.5 Process for Flood Plains & Wetlands**

If a project has been determined to be located within a Special Flood Hazard Area (SFHA) as indicated on a Flood Insurance Rate Map (FIRM) or located in a wetland as determined by consultation with the Natural Resources Conservation Service and/or U. S. Army Corps of Engineers, then it will be necessary for the awardee to complete the 8 Step Process as required by 24 CFR 55.20. This process must be completed prior to finalizing the Statutory Checklist for CEST projects and prior to a FONSI for EA projects.

Complete the 8 Step Process Form and instructions. Complete the required publications including the Notice for Early Public Review and the Notice and Public Explanation.

For further information on the requirements of the 8 Step Process review 24 CFR 55.20 at the Electronic Code of Federal Regulations website [<http://ecfr.gpoaccess.gov>].

## **8.6 Publication & Release of Funds**

The HUD regulations at 24 CFR 58 define the publication requirements for HOME projects and the process for receiving environmental clearance after the awardee's environmental review packet has been completed for CEST or EA Projects and has been signed by the RE Certifying Officer.

This process includes a public comment period publication (Notice of Intent to Request Release of Funds, NOI-RROF), a FONSI publication for EA Projects only, the completion of a RROF/Certification Form with documentation, and a HUD Objection period. This process must be completed in the correct order or republishing may be necessary.

24 CFR 58.21 defines time periods in regard to determining when a publication or objection period begins. Time Periods are defined as:

“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.”

24 CFR 58.43 further notes that the RE must consider the comments and make modifications, if appropriate, in response to the comments from the publication *before* completing the RROF/Certification Form. This process and undertaking must be documented and submitted with the completed ERR.

### **8.6.1 Publication Requirements for CEST Projects**

For CEST Projects the awardee is required to complete the following:

- Timing Summary Worksheet (Submit to the Department)
- Publication of the NOI-RROF
- A public comment period
- RROF/Certification Form with documentation
- Timing Summary Worksheet
- The HUD 15-Day Objection Period.

The NOI-RROF cannot be published until **after** the RE Certifying Officer has signed the ERR. For HOME projects, this means that the ERR must be either emailed or mailed to DED for the CRD Director's signature **at least one day before** publication. Once the RE Certifying Officer (CRD Director) signs the ERR the awardee will be notified by email that it is proper to publish/post the NOI-RROF. Publication cannot be completed until at **least one day after** the RE Certifying Officer signs the ERR.

The NOI-RROF Notice is published or posted for a period of time defined at 24 CFR 58.45, 7 days when published or, if no publication, 10 days when mailing and posting.

A FONSI Notice is not required for CEST Projects. Only a NOI-RROF Notice is required. See Sample NOI-RROF Publication for the language that must be provided in the notice.

No earlier than the day after the public comment period has ended, the awardee completes the RROF/Certification Form and emails or mails it to DED along with the appropriate documentation. This documentation includes an affidavit of publication (or posting) and a copy of the publication notice.

**NOTE:** To begin the 15-day objection period, it is acceptable practice to send an electronic version of the completed NOI-RROF Notice to the Department. However, prior to the Department issuing Notice of Release of Funds/Environmental Clearance, The Responsible Entity's ERR must retain a copy of the NOI-RROF Notice.

### **8.6.2 Publication Requirements for EA Projects**

For EA Projects the awardee is required to complete the following:

- Timing Summary Worksheet (submit to the Department)
- Publication of the Combined Notice of Finding of No Significant Impact (FONSI) and Notice of Intent to Request a Release of Funds (NOI/RROF)
  - NOI/RROF Publication, complete one of two types depending upon the nature of the project (see above)
- Public Comment Period
- RROF/Certification Form with documentation
- The HUD Objection Period.

The FONSI notice and NOI-RROF publication process can be completed concurrently using a Combined FONSI/NOI-RROF Publication. See Sample Combined FONSI/NOI-RROF Publication for the language that must be provided in the notice.

The Combined FONSI/NOI-RROF cannot be published until at **least one day after** the RE Certifying Officer has signed the ERR. For HOME projects, this means that the ERR must be sent to DED for the CRD Director's signature **before** publication. Once the RE Certifying Officer (CRD Director) signs the ERR the awardee will be notified by email that it is proper to publish/post the NOI-RROF.

The NOI-RROF Notice is published or posted for a period of time defined at 24 CFR 58.45 [7 days when published or, if no publication, 10 days when mailing and posting].

The FONSI Notice is published or posted for a period of time defined at 24 CFR 58.45 [15 days when published or, if no publication, 18 days when mailing and posting].

To begin the 15-day objection period, it is acceptable practice to send an electronic version of the completed combined FONSI/NOI-RROF Notice to the Department. However, prior to the Department issuing Notice of Release of Funds/Environmental Clearance, the original form must be provided to the Department. The Responsible Entity's ERR must retain a copy of the combined FONSI/NOI-RROF Notice.

**NOTE:** While it is not recommended, if publishing the FONSI Notice and NOI-RROF separately (not combined), then two separate 15-day public comment periods must be provided when publishing and two separate 18-day public comment periods must be provided when posting. These notices could not run concurrently. No earlier than the day after the public comment period has ended, the awardee completes the RROF/Certification Form and sends it to DED along with the appropriate documentation.

Appropriate documentation includes:

- an affidavit of publication (or posting), and
- a copy of the publication notice.

As the example demonstrates, it will take at least 33 days in order to complete the publication process for CEST Projects. Additional time may be necessary to account for weekends and holidays when staff is not available and to account for additional time for the RE Certifying Officer to sign the required documentation and have the documentation sent to HUD. Failure to provide the necessary documentation including an affidavit of publication (or posting) and a copy of the publication notice, will add additional days to the process.

## 8.7 Documentation

Source Documentation is used to supplement the ERR and provide justification for the information that has been detailed in the Compliance Documentation Section of the Statutory Checklist, the Environmental Assessment Checklist, and any other section of the ERR. The ERR must be a standalone document that will provide a complete picture of the environmental impacts of the project for a reviewer.

Some examples of Source Documentation that must be included in CEST and EA Project reviews include:

- Aerial map of site (when sites have been identified)
- FIRM map (when sites have been identified and mapped)
- Agency websites reviewed
- Letters to Agencies
- Responses from Agencies



The RE may use an environmental review from another agency to help supplement the ERR for DED. A copy of the review should be incorporated into the ERR and referenced in the Compliance Documentation Section of the Statutory Checklist or the Source Documentation Section of the Environmental Assessment Checklist.

In addition, any Engineering Reports, Phase I Reports, Phase II Reports, and any other relevant information should be included in the ERR. Consult with the Department for additional guidance.

## **8.8 Changes to Project or Additional Funding**

In some projects, the awardee may decide to 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. In such circumstances, these instances it is necessary for the RE to re-evaluate its environmental findings as required by 24 CFR 58.47.

The RE should re-evaluate its environmental findings when:

- The awardee 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. If the original finding is still valid, the RE must affirm the original findings by completing the Certification of Continued Environmental Compliance Form and update its ERR. Under these circumstances, if a FONSI notice has already been published, no additional FONSI notice is required.

However, if the re-evaluation is the result of a change in the scope, scale, nature, magnitude and/or location of a project, or additional funds are being added to a project with previous environmental clearance, then the RE must submit a Certification of Continued Environmental Compliance with its request to the Department for amendment approval.

If the RE determines that the original finding is no longer valid, it must re-initiate an additional CEST or EA review process if its evaluation indicates potentially significant impacts. The project must stop work until the updated environmental review is complete.

When an awardee is only completing a contract amendment in which no new activities are anticipated or no additional funds are being added to total amount of grant funds received, it is not necessary to complete the Certification of Continued Environmental Compliance.