2. Environmental Review
The Orientation Webinar Series

1. Getting Started – January 11, 2022 (Completed)
2. Environmental Review – Today
4. Program Administration – February 8, 2022
5. Lead Based Paint Compliance – February 15, 2022
Grant Agreement Reminder

Must execute within 45 days of award
Must be signed by the Chief Elected Official (CEO)
Any Applicable Schedule A Condition(s) must be met to the satisfaction of the OCR

HOUSING PROJECTS
Grant Agreements are due back by January 24, 2022

PROJECT AWARDED THROUGH THE CFA
Grant Agreements are due back by March 7, 2022

If this date cannot be met, contact your Community or Economic Developer
Grant Agreement Reminder

Go to https://hcr.ny.gov/community-development-block-grant

Select Grant Agreement Forms:
✓ Authorized Signature Form
✓ ACH/Direct Deposit
✓ Form 7-2 Program Schedule
✓ Form 8-1 Project Team
✓ Required insurance documentation
Objectives This Webinar

1. Familiarize recipients with the federal & state requirements for environmental review (ER)
2. Identify the role of Recipients in ER
3. Define the steps in the ER process, and the resources Recipients will use to document the review
Environmental Review Requirements, Roles & Resources
The Requirements and Roles

Applicable environmental review requirements

• Federal: National Environmental Policy Act (NEPA) & Other Federal laws & authorities: 24 CFR Part 58
  • Federal – Recipient is the “Responsible Entity”

• State: State Environmental Quality Review Act (SEQRA) 6NYCRR Part 617
  • SEQR – Recipient is the Lead Agency

• OCR is the review authority
Resources

Office of Community Renewal (OCR) Resources

- Office of Community Renewal (OCR) Resources
- Grant Administration Manual (GAM) Chapter 2
- Exhibit 2-2 Environmental Review Checklist
Resources

• OCR GAM Chapter 2 related web links:
  • Exhibit 2-13 Links to Outside Agency Forms
    • SEQR Short Form
    • SEQR Full EAF
    • DOS Coastal Assessment Form
    • Acceptable Separation Distance Guidebook

• HUD Resources:
  https://www.hudexchange.info/programs/environmental-review/
  • WISER web-based training
  • HEROS online – not yet open to State Programs
Prohibited Actions Prior to ER Completion

Until review is completed, and funds released, the Recipient (and its partners) may **not**: 

- Commit (execute legally binding agreements) or expend CDBG funds
- Commit or expend non-HUD funds
- Undertake a “choice limiting” action, e.g.:
  - Acquisition
  - Demolition/movement
  - Construction/rehabilitation/repair

Recipient can incur planning and other exempt costs prior to release, but at their risk
Steps in the Process
Key Steps

1. Designate the Certifying Officer
2. Define the Project Scope
3. Classify the Project
4. Conduct the Review
5. Create the Environmental Review Record
6. Notify the Public & Submit ERR to OCR
1. Designate the Certifying Officer

Recipient must designate Certifying Officer

• Must be Recipient employee or elected official
• May not be a consultant or engineer
• Designate by resolution if the Designated Certifying Officer is not the CEO – complete Exhibit 2-1
2. Define Project

Aggregation - Group integrally related activities into single ER

- All funding sources/activities, not just CDBG activities
- Also, aggregate activities part of multi-year project
2. Define Project

Tiered Review - 2-tier review if sites not yet selected

• Common for many housing & microenterprise programs

• Tier I - establishes parameters to be followed as sites are identified; Request for Release of Funds processed

• Tier II - site-specific reviews; no notices or a Request for Release of funds if no impacts beyond Tier 1.

• No choice limiting actions, including acquisition, until the Tier 2 review is completed.
3. Classify the Project

Identify the category of project to determine the type of review and public notice required:

- Part 58
- SEQR
Classify the Project – Part 58

**Exempt (58.34)**
- Environmental studies
- Fin services
- Admin
- Public services no physical changes
- Testing
- Engineering/design
- TA/training
- Improvements to address imminent threats

**Categorically Excluded (not subject to 58.5 – 58.35(b))**
- TBRA
- Supportive services
- Operating costs
- Homebuyer purchase assistance
- Housing pre-dev costs
- Supplemental assistance to approved project

**Categorically Excluded (subject to 58.5 – 58.35(a))**
- Existing public facilities & improvements
- Removal of architectural barriers
- Some 1-4 unit rehab (limits)
- Some 5+ unit rehab (limits)
- Individual action (not rehab) on 1-4 unit or 5+ scattered site
- Acquisition/disposition of existing structure or vacant land for same use

**Subject to NEPA (58.36)** – any activity not in 58.34 or 58.35, such as:
- Multi-family & non-residential new construction or substantial rehab
- Conversions or changes in land use
- New public facilities or improvements
Classify the Project - SEQR

Form 2-3A, Certification of SEQR Classification

- Type I Action
  - SEQR Long Form required
  - Coordinated Review; publication in Environmental Notices Bulletin (ENB)
- Type II Action – no SEQR Action (document)
- Unlisted Action
  - SEQR Short Form required
4. Conduct the Review

The Review varies by project classification. Generally, two main types of reviews for Part 58:

1. Compliance Determination – for projects that are Categorically Excluded, completion of Statutory Checklist(s)

2. Environmental Assessment – for projects not exempt or excluded, full environmental assessment plus Statutory Checklists
   - If finding of impact, Environmental Impact Statement (EIS) required
Exempt – 58.34

Activities that are Exempt under 58.34, e.g.:
• Environmental studies
• Administration
• Design/engineering
• Some public services
• Some purchases
• TA/training & loan payments

Requirements
• Does not require public notice
• Submit Form 2-5A Exempt Statutory Checklist
• OCR issues Concurrence letter
Categorically Excluded – 58.35(b)

Categorically Excluded 58.35(b) – activities that do not alter physical conditions, and can be converted to exempt

- Tenant Based Rental Assistance (TBRA)
- Supportive services
- Operating costs
- Some Economic Development (ED) activities not associated with construction
- Homebuyer financing assistance

Complete Form 2-5A Statutory Checklist (58.6)

No public notice, submit to OCR for Concurrence Letter
Categorically Excluded – 58.35(a)

Categorically excluded, subject to 58.5 & 58.6 authorities. e.g.:

- Replacement of existing infrastructure when capacity and size are not changed more than 20%
- Removal of architectural barriers
- Housing rehab when the land use and density not changed more than 20%

Requirements

- Complete Form 2-5 Statutory Checklist
- If no mitigation required, convert to exempt, no public notice, submit to OCR for concurrence
- If mitigation required, notice and Request for Release of Funds
Historic Review

Statutory Checklist

State Historic Preservation Office (SHPO)
- Electronic Submission at: https://cris.parks.ny.gov

Tribal Historical Preservation Office (THPO)
- Must be consulted for all ground disturbance projects https://egis.hud.gov/tdat/
- Certifying Officer MUST initiate THPO consultation
Environmental Assessment - 58.36

Projects that are not Exempt or Categorically Excluded 58.35(a) or (b) require an Environmental Assessment or EIS

Complete Forms 2-5 Statutory Checklist, and 2-6 Environmental Assessment Checklist

Publish FONSI/RROF (Form 2-4) or FOSI & proceed to EIS
An Environmental Impact Statement (EIS) may be required if project is large scale (affecting more than 2,500 beds or 2,500 housing units) or if the project is determined thru Environmental Assessment to have a potentially significant impact on the environment

• Don’t have to complete EA if EIS is indicated

If your project meets EIS thresholds or will result in significant impact, consult with OCR Community/Economic Developer
5. Create the Environmental Review Record

Compile ERR as complete record of the review; must contain:

• Description of activities
• Activity classification
• All documentation associated with environmental assessment or compliance determination, as applicable
• Public notices & comments/concerns

ERR checklist in GAM Exhibit 2-2
5. Create the Environmental Review Record

Submit ERR to OCR within 90 days of award

Housing projects with December 9, 2021, award date, the ERR is due by **Wednesday, March 9, 2022**

CFA projects with January 6, 2022, award date, the ERR is due by **Tuesday, April 19, 2022**
6. Notify the Public and Submit to OCR

Exempt and converted to exempt 58.35 activities do not require publication & request for release of funds

Required notice & Request for Release:

• Program Tier 1
• Categorically excluded requiring mitigation measures
• Environmental assessments & EIS
Public Notice

If not exempt or converted to exempt:
• Notice of Intent to Request Release of Funds
• 7-day recipient comment period
• Then 15-day OCR comment period.

If EA or EIS
• Finding of No Significant Impact and Notice of Intent to Request Release of Funds
• 15-day recipient comment period
• Then 15-day OCR comment period

Recipient must submit the affidavit of publication for the notices with the ERR

*DAY OF PUBLICATION IS DAY ONE*
Request for Release of Funds

Form 1-3, Request for Release of Funds and Certification (RROF)

- Cannot be authorized or dated by the Certifying Officer until the end of the comment period
- Must be submitted as an original copy.

Upon review and approval OCR will send out a Release of Funds letter.

Do not presume the Release of Funds has been approved until receipt of the Release of Funds letter has been received.
Release of Funds

OCR will issue a Release of Funds or Concurrence letter upon completion of review and comment period.

Prior to submitting a Request for Funds, the municipality must have received the Release of Funds letter.

DO NOT INCUR PROJECT COSTS UNTIL RELEASE OF FUNDS ISSUED BY OCR
ANY QUESTIONS?
Post your questions now in the Question box

Questions after this webinar:
• Email to ocrinfo@hcr.ny.gov or
• Contact your Community or Economic Developer at 518-474-2057

Please visit the OCR website at: https://hcr.ny.gov/community-development-block-grant
Upcoming Webinars

Webinar series:
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