



**Homes and
Community Renewal**

CDBG Orientation Webinar Series

2. Environmental Review

December 6, 2022

The Orientation Webinar Series

1. Getting Started – November 29, 2022 (Completed)
2. Environmental Review – Today
3. Financial Management – December 13, 2022
4. Program Administration – December 20, 2022
5. Lead Based Paint Compliance – January 4, 2023



Grant Agreement Reminder

- Must execute within 45 days of OCR issuing the Grant Agreement
- 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 and PUBLIC INFRASTRUCTURE AND PUBLIC FACILITIES PROJECTS

Grant Agreements are due back by

Thursday, January 12, 2023

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
- ✓ Section 3 Compliance Plan
- ✓ Form 7-2 Program Schedule
- ✓ Form 8-1 Project Team
- ✓ Required insurance documentation
- ✓ [Executive Order 16 documentation](#)



Objectives This Webinar

- Familiarize recipients with the federal & state requirements for environmental review (ER)
- Identify the role of Recipients in ER
- 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

The screenshot displays a web page for the Community Development Block Grant. The header is purple with the text 'TOP ^ Community Development Block Grant'. On the right side of the header, there are 'Previous' and 'Next' navigation links. A dark sidebar on the left contains a menu with the following items: 'SECTIONS', 'Overview', 'Forms and Documents' (highlighted in orange), 'Program Guidelines', 'Grant Administration Manual', 'Funding Round Materials', and 'Resources'. The main content area is titled 'Environmental Review Forms' and includes a search box. Below the search box is a table with two columns: 'Fillable Forms:' and 'Instructions:'. The table lists various forms and their corresponding instructions, such as '2-1 Designation of Certifying Officer' and '2-3 Certification of NEPA Classification'. At the bottom right of the table, there are 'Previous', '1', and 'Next' navigation links.

Fillable Forms:	Instructions:
2-1 Designation of Certifying Officer	
2-3 Certification of NEPA Classification	2-3 Certification of NEPA Classification
2-3A Certification of SEQRA Classification	2-3A Certification of SEQRA Classification
2-4 NEPA Classification Checklist	2-4 NEPA Classification Checklist
Form 2-5 Statutory Checklist	Form 2-5 Statutory Checklist
Form 2-5A Statutory Checklist	Form 2-5A Statutory Checklist
2-6 Environmental Assessment Checklist	2-6 Environmental Assessment Factors Guidance
1-3 Request for Release of Funds Form	1-3 Instructions for Request for Release of Funds

Resources

- OCR GAM Chapter 2 related web links:
 - Exhibit 2-13 Links to Outside Agency Forms
 - SEQR Short Form ([Part 1](#)) ([Part 2 & 3](#))
 - SEQR Full EAF ([Part 1](#)) ([Part 2](#)) ([Part 3](#))
 - [DOS Coastal Assessment Form](#)
 - [Acceptable Separation Distance Guidebook](#)
- HUD Resources: <https://www.hudexchange.info/programs/environmental-review/>
 - [WISER web-based training](#)
 - [HEROS online](#)

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

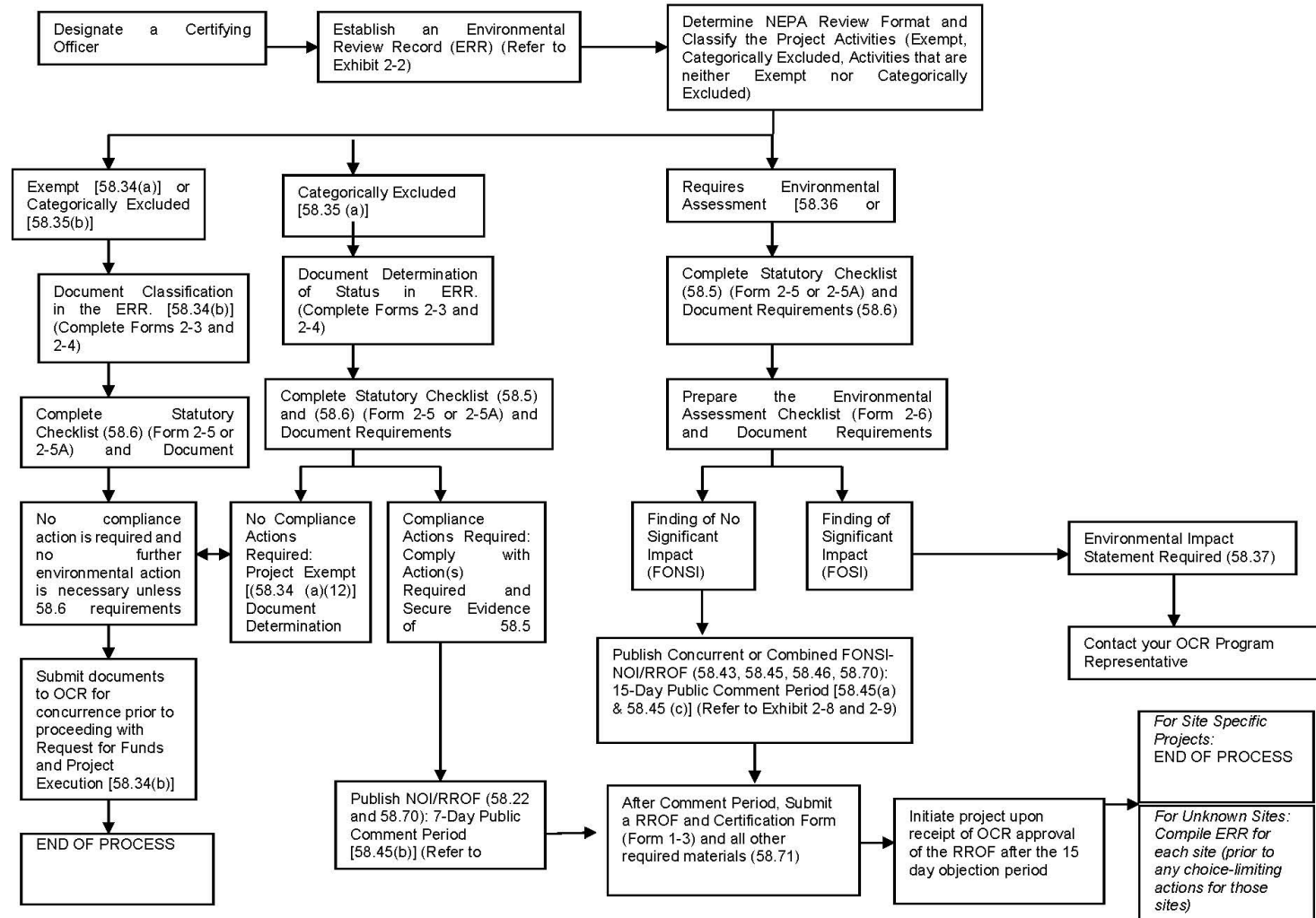
Recipient can incur planning and other exempt costs prior to release, but at their risk



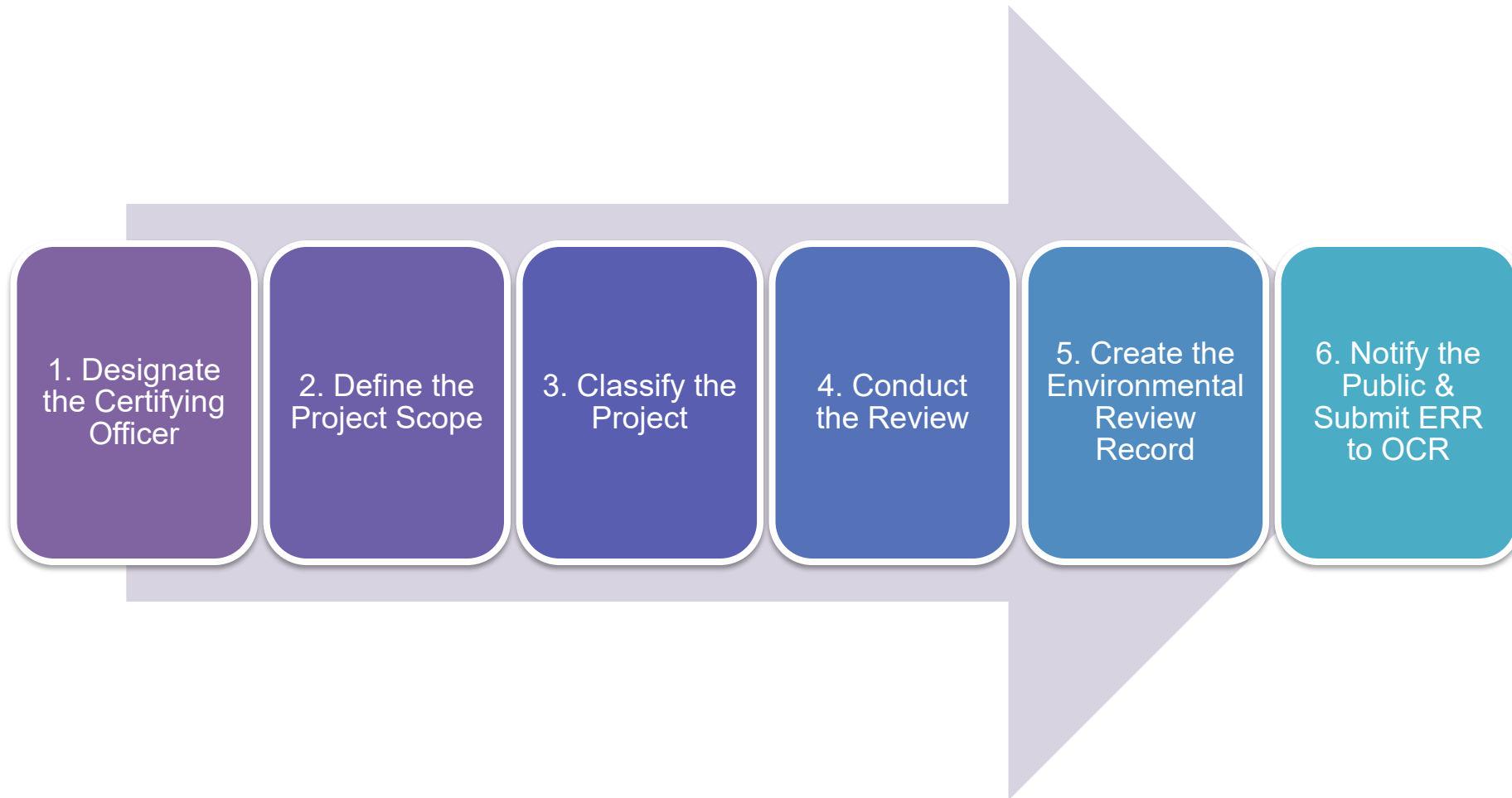
Steps in the Process

The Environmental Review Process

**EXHIBIT 2-7
ENVIRONMENTAL REVIEW PROCESS FLOW CHART**



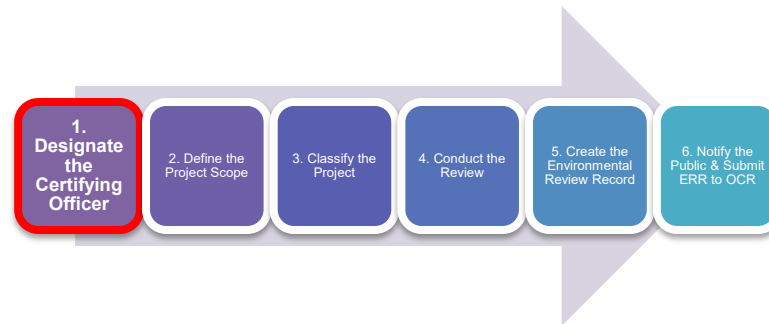
Key Steps



1. Designate the Certifying Officer

Recipient must designate Certifying Officer

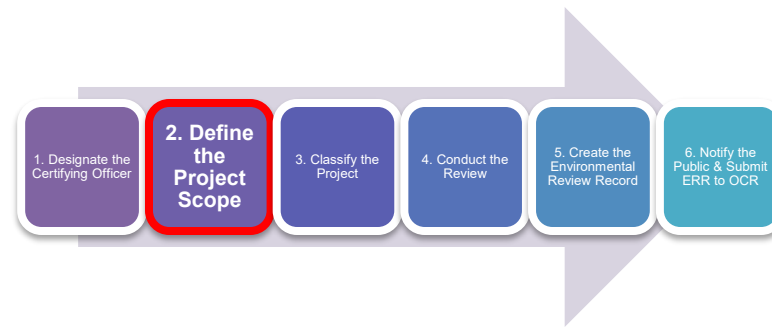
- Must be Recipient employee or elected official
- May not be a consultant or engineer
- Designate by resolution if the Designated Certifying Officer is not the CEO – complete Exhibit 2-1



2. Define Project

Aggregation - Group integrally related activities into single ER

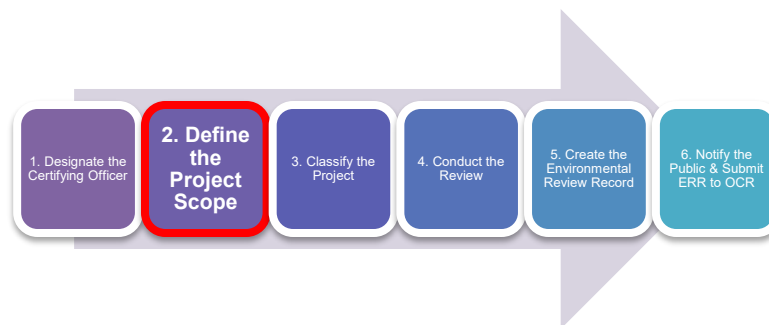
- All funding sources/activities, not just CDBG activities
- Also, aggregate activities part of multi-year project



2. Define Project

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

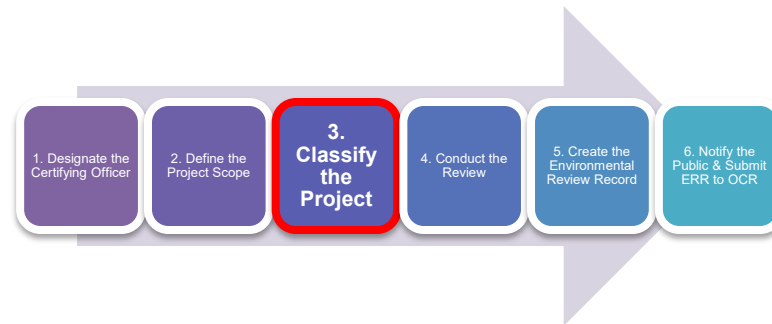
- Common for many housing & microenterprise programs
- Tier I - establishes parameters to be followed as sites are identified; Request for Release of Funds processed
- Tier II - site-specific reviews; no notices or a Request for Release of funds if no impacts beyond Tier 1.
- No choice limiting actions, 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

- Unlisted Action
 - SEQR Short Form required

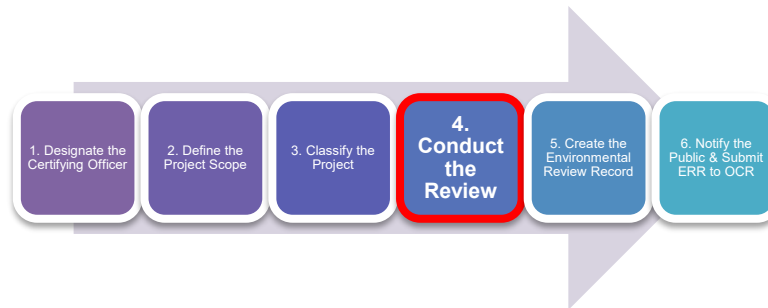


4. Conduct the Review

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



Categorically Excluded – 58.35(a)

Compliance with asbestos required under NYS DOL Part 56

➤ Tier I

- Primarily for infrastructure, facility and site specific large multi-unit housing rehabilitation

➤ Tier II

- For most 1–4-unit housing rehabilitation, non-site specific at the time the ERR is submitted
- A Tier II Checklist template will be available on the OCR website by January 2, 2023



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/> and the 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



Environmental Impact Statement – 58.37

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

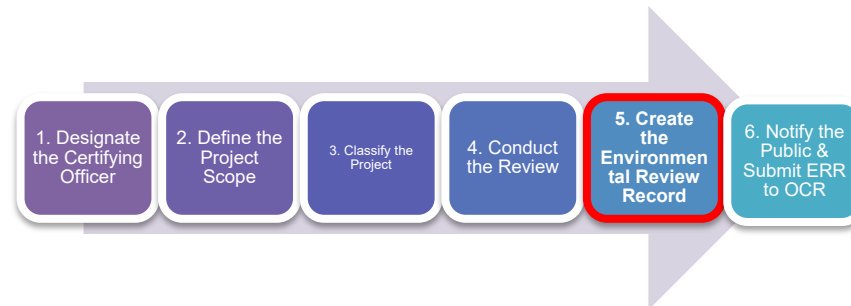


5. Create the Environmental Review Record

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

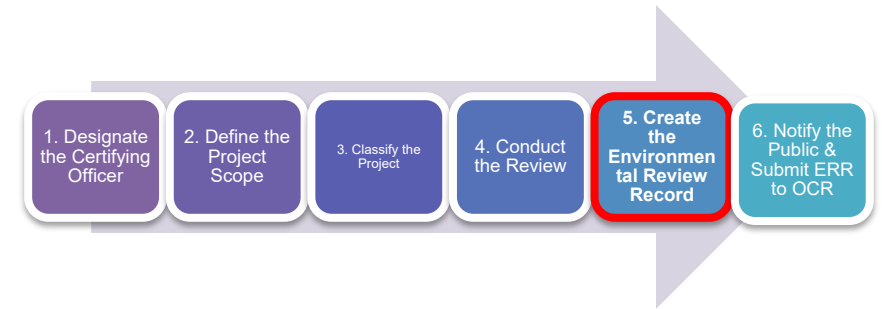


5. Create the Environmental Review Record

Submit ERR and RROF to OCR within 90 days of OCR issuing the Grant Agreement

**The Final ERR and RROF
for all projects must be submitted by
January 27, 2023.**

**If you cannot meet this deadline, contact your
Community/Economic Developer**

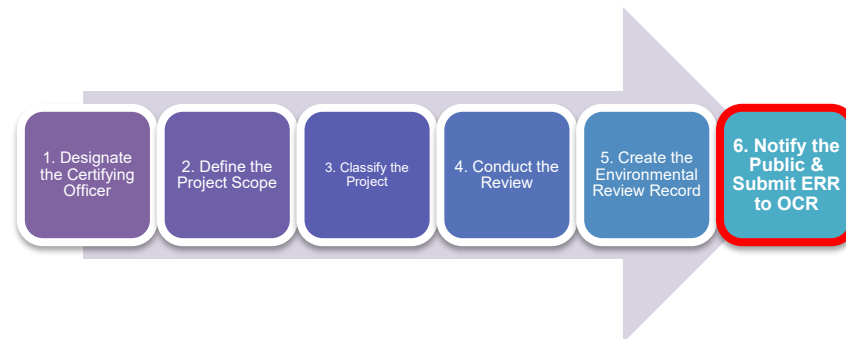


6. Notify the Public and Submit to OCR

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.

Mark your calendar, RROF is due January 27, 2023



Request for Release of Funds

HOUSING and PUBLIC INFRASTRUCTURE AND PUBLIC FACILITIES PROJECTS

Submission of Request for Release of Funds is due by January 27, 2023

For projects preparing a Notice of Intent to Request Release of Funds

Last day to publish and meet this deadline is January 19, 2023

For projects preparing a Finding of No Significant Impact Notice of Intent to Request Release of Funds last day to publish and meet this deadline is January 11, 2023

If this date cannot be met, contact your
Community Developer



**Homes and
Community Renewal**

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**



Question and Answer



Question

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:

1. Financial Management – December 13, 2022
2. Program Administration – December 20, 2022
3. Lead Based Paint Compliance – January 4, 2023



NYS CDBG Program Implementation Webinar

Q & A

Q: Is the Local Recipient Administrative Plan still required?

A: Yes, the Local Administrative Plan is required for all awardees. Guidance on how to complete this can be found in [Chapter 1](#) of the OCR Grant Administration Manual. The [form is available](#) on the CDBG website with [instructions](#).

Q: What Executive Order 16 documentation needs to be submitted with the grant agreement?

A: There is certification form that must be filled out and returned with any new grant agreement. This is part of the schedule A Conditions in the Grant Agreement. The [Certification Under Executive Order No. 16](#) can be found on the OCR website.

Q: Does the awardee need to prepare a new environmental review record (ERR) and not use the forms we supplied with the application?

A: No, the ERR that was prepared for the application may need to be updated to include the CDBG project number or may need to be signed. The assigned Community Developer is performing a comprehensive review of the documents submitted at this time and supply you with a list of revisions, if any to the ERR that are identified.

Q: In determining potential exemption from NEPA review, what is the definition of 'Unit'? I assume a unit a dwelling unit. If so, a single project/site with a couple of multi-bedroom dwelling units in a duplex configuration would qualify for an exemption I believe. What if we have multiple sites in this configuration?

A: The OCR would require additional information. For most housing activities, the Environmental Review Record is conducted as Tier I, which is non-site specific. As individual sites are selected, a Tier II environmental is completed. Housing would typically not be exempt under an ERR.