



Department of
**Economic &
Community Development**

2024 CDBG Environmental Review Training

(2023 Regular Round CDBGs)

February 7, 2024

Manual Information

- [CDBG online manual](#) Chapter B: Environmental Review is updated as of February 1, 2024
- **Significant updates - several new forms and documents**
 - Revisions to worksheets, instructional documents and manual chapter narrative
 - Updated contact information and consulting procedures for various agencies, Tribes, and NEPA categories
 - **Always** go to the [online manual](#) for ERR forms, worksheets, and instructions. Submissions on old forms will not be accepted.

2023 Reg. Round Adjusted ERR Submission Schedule

- Award letter date: December 14, 2023
- HUD Grant number (2023 reg round): **B-23-DC-47-0001**

Environmental Review Type

Submission Deadline

- | | |
|--|-------------------|
| • Exempt (15 days) | December 29, 2023 |
| • Categorically Excluded converting to Exempt (<i>usually 60 days</i>) | March 31, 2024 |
| • Categorically Excluded Subject To (<i>usually 90 days</i>) | April 30, 2024 |
| • Environmental Assessment (<i>usually 120 days</i>) | May 31, 2024 |

Limitations / ERR clearance

- Environmental Review must be complete and approved before CDBG funds are released
 - **LOREC** (Letter of Removal of Environmental Condition)
 - Issued when ERR is approved; provides environmental clearance
 - Lists any agency responses that require mitigation or items to be considered during construction
 - **FNORCC** (Final Notice of Removal of Contract Conditions)
 - Issued when ERR is approved *AND* CDBG contract is fully executed; allows release of grant funds (requests for payment can be submitted)
- [24 CFR 58.22](#) Limitations on activities pending clearance
 - No choice-limiting actions should occur before the ERR is approved

Rules and Regulations

- Federally funded projects require National Environmental Policy Act (NEPA) compliance
- [24 CFR Part 58.5](#) & [58.6](#) are the primary regulations for all ERRs
 - Historic Preservation
 - Floodplain Management*
 - Wetland Protection
 - Coastal Zones*
 - Sole Source Aquifers
 - Endangered Species
 - Wild and Scenic Rivers
 - Air Quality
 - Farmland Protection
 - Explosives/Flammable Hazards
 - Noise Abatement
 - Airport Clear Zones*
 - Contamination/Toxic Substances
 - Environmental Justice

* *Apply to all levels of environmental review*

Determining Environmental Review Level

- Environmental Review level is determined by the project activities. HUD's rule of "project aggregation" necessitates that the environmental review take into account all planned project activities, regardless of funding source(s).
- Project Descriptions should be very specific, listing all planned activities and the nature of all planned construction activities.
- **If you have any doubt about which ER level should be completed, please contact ECD before starting your ERR!**

HUD Environmental Review Levels

- **Exempt**
 - Equipment purchase
- **Categorically Excluded Not Subject To {24 CFR Part 58.5} (CENST)***
- **Categorically Excluded Subject To {24 CFR Part 58.5} (CEST)**
 - rehabilitation of existing facilities with no new construction and no capacity increase
- **Environmental Assessment (EA)**
 - New construction or Substantial Improvements to existing facilities
- **Environmental Impact Statement (EIS)***

*will not be used often, if at all, for regular round CDBG projects

Exempt Activities

- Exempt activities are listed at [24 CFR 58.34](#)
- For 2023 regular round, most Exempt ERR worksheets were submitted with the application
- Use Exhibit [B-4 Exempt Worksheets](#)
 - ERR Checklist
 - Certification of Exemption for HUD funded projects
- For **equipment purchase** projects:
 - check box 7 on the 'Certification of Exemption for HUD funded projects'
 - Complete the questions in Sections 1 and 2

Categorically Excluded Not Subject To... (CENST)

- Applies mostly to TN Placemakers and some CDBG-CV projects
- CENST activities are listed at [24 CFR 58.35 \(b\)](#)
- Use Exhibit [B-13 CENST Worksheets](#)
 - ERR Checklist
 - Environmental Review for HUD funded projects Categorically Excluded Not Subject To Section 58.5
- Check with ECD to determine whether an activity/ERR should be classified as Exempt or CENST

Categorically Excluded Subject To... (CEST)

- Categorically excluded activities are explained at [24 CFR 58.35 \(a\)](#)
- Projects that include:
 - Property acquisition
 - Repair or rehabilitation of existing public facilities
 - » as long as the facilities are being retained for the same use and there is no 20%+ capacity increase
 - Building rehabilitation – residential or commercial
 - » as long as there is no increase in footprint, no change in land use/building function, no 20%+ capacity increase

★ **If the project includes any new construction/new ground disturbance, an Environmental Assessment level ERR is required.**

Categorically Excluded Subject To... (CEST)

- Use Exhibit [B-3 CEST Worksheets](#)
 - Environmental Review Record Checklist
 - Categorically Excluded Subject To 58.5 narrative pages
 - Statutory Worksheet with all compliance documentation
 - 8-Step or (5-Step) Decision Making Process Documentation (work in floodplain and wetland areas), *if applicable*
 - Publish or Post Notice of Intent to Request a Release of Funds (NOI-RROF)
 - Send copy of notice to all parties on the Distribution List
 - Request for Release of Funds and Certification (RROF)

Categorically Excluded Converted to Exempt

- Use **B-3 CEST Worksheets**
 - Environmental Review Record Checklist
 - Categorically Excluded narrative pages
 - Statutory Worksheet with all compliance documentation
 - Certification of Exemption for HUD funded projects (check box 12)
 - **NOI-RROF and RROF are not required**
- Conversion to Exempt is determined only after Statutory Worksheet is complete
 - Requires no mitigation, permits, or licenses
 - Status “A” for all categories/authorities

Environmental Assessment (EA)

- Required for activities that involve new construction or substantial improvements to existing facilities
- New Construction
 - New building on vacant site (i.e. new fire station, new treatment plant, new water tank, etc.)
 - Building addition that increases footprint
 - Water/sewer line extension or new force main installation
 - Generally, 'new moving of dirt'
- Substantial Improvements
 - Significantly increasing the footprint of an existing building
 - Changing land use
 - Capacity increase (typically 20% or more) –related to utility line capacity, building capacity, or employment
 - Based on project area, not entire system (utilities)
 - Major rehabilitation

Environmental Assessment (EA)

- Use Exhibit [B-2 EA Worksheets](#)
 - Environmental Review Record Checklist
 - Environmental Assessment Narrative pages
 - Statutory Worksheet with all compliance documentation
 - 8-Step or (5-Step) Decision Making Process Documentation, (work in floodplain and wetland areas), *if applicable*
 - NEPA Environmental Assessment Checklist with all documentation
 - Publish or post Concurrent Notice
 - Send copy of notice to all parties on the Distribution List
 - Request for Release of Funds and Certification (RROF)
 - Mayor shouldn't sign until public comment period ends

Environmental Impact Statement (EIS)

- The project is determined to have a potentially significant impact on the human environment;
 - The project would provide a site(s) for hospitals and nursing homes containing a total of 2,500 or more beds;
 - The project would remove, demolish, convert, or substantially rehabilitate 2,500 or more existing housing units; or
 - The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units.
- **Contact ECD before moving forward!**

Use of a Previous ERR

- **Aggregate**

- For activities that are geographically or functionally similar, grantees may reuse a previous ERR if the previous ERR:
 - Is less than 5 years old
 - Covers the same project area
 - Has the same scope
- Submit the previously approved ERR, a map, Addendum of Validity and RROF

- **Addenda**

- Required if a project location changes, new work is proposed, or there is any change from what was approved in the initial ERR
- Must complete a new Statutory Worksheet
- Check with ECD to determine whether an addendum or a full new ERR is needed after a scope change

Statutory Worksheet

- Use Exhibit [B-8 Statutory Worksheet Directions](#) and CDBG Manual for reference
- Significant Updates to some consultation/documentation processes!
- In the final ERR, all Statutory Worksheet compliance documentation should appear in the order listed on the Statutory Worksheet
- Statutory Worksheet must be complete before NOI-RROF or Concurrent Notice can be published.
 - “Complete” means that tribes have been given the required 30 or 35-day response period, responses have been received from all required agencies, etc.

Statutory Worksheet – Historic Preservation

- **Historic Preservation - State Historic Preservation Office (SHPO)**
 - [e106 online review portal](#)
- **Historic Preservation - Tribal Consultations**
 - Use [B-6 Required Tribal Consultation by County](#) and [B-7 Tribal Consultation Process & Contacts](#) as a guide
 - Significant updates – two new tribes listed and many THPO and other contact updates
 - Must use B-6 and B-7 2023 updated versions for all ERRs started after 12/21/23
- Complete SHPO consultation before sending tribal consultation requests (include SHPO response in tribal requests)
 - Send consult request to all contacts listed for a particular tribe on the B-7; draft a separate letter to each contact
 - Consult request letters must be on City/County letterhead
 - Email consultation requests must be sent by City/County staff; email should be used if the B-7 states that the tribe prefers email contact

Statutory Worksheet – Historic Preservation

- HUD's "When to Consult with Tribes Under Section 106" checklist is now part of our process (found on last page of [B-7](#))
- Remember: tribes must also be contacted every time there is a newspaper publication (they are on the Distribution List). **Distribution List letters must be hardcopy letters sent by mail.**
 - EN-PR (Early Notice-Public Review)
 - FN-PE (Final Notice-Public Explanation)
 - Concurrent Notice or Notice of Intent to Request a Release of Funds

Statutory Worksheet – Floodplain Management

- **Floodplain Management**
 - [24 CFR Part 55](#)
 - New **Floodplain Management Worksheet** added to B-2 and B-3 worksheets
 - FEMA FIRM panel map with project area delineated required
 - Entire property parcel must be delineated for building/non-linear infrastructure projects
 - 8-Step (or 5-Step) Decision Making Process Required for:
 - » Most activities in a 100-year floodplain
 - » Critical activities in a 500-year floodplain (Hospitals, Emergency operations facilities, most utilities)
 - Publish Early and Final floodplain notices (for 8-Step process) and send notices to Distribution List
 - Review [Exhibit B-14](#) for inapplicability of 24 CFR Part 55 to certain categories of proposed actions

Statutory Worksheet – Floodplain Management

- **Floodway**

- HUD funds can not be used on projects that include construction or existing improvements in the Regulatory Floodway
- Check FEMA floodplain maps before submitting a CDBG application to avoid proposing projects on sites that contain a floodway

- **Incidental Floodplain**

- Floodplain on project property but no existing or planned improvements occupy or modify the floodplain; review criteria at [24 CFR 55.12\(c\)\(7\)](#)

- **Flood Insurance**

- required for buildings in a floodplain; must be FEMA/NFIP-compliant
- Review [HUD Flood Insurance guidelines](#)

Statutory Worksheet – Wetland Protection

- **Wetland Protection**

- Consideration of wetlands required for any project with ground disturbance (including water/sewer rehab)
- New **Wetland Protection Worksheet** added to B-2 and B-3 Worksheets
- [National Wetlands Inventory Map](#)
- [USDA NRCS Web Soil Survey](#)
 - If wetland areas or hydric soils are indicated, contact US Fish and Wildlife Service Wetland Inventory Coordinator for more information and next steps
- 8-Step (or 5-Step) Decision Making Process Required for most activities including construction in a wetland area
 - Publish Early and Final floodplain notices (for 8-Step process) and send notices to Distribution List
 - Review [Exhibit B-14](#) for inapplicability of 24 CFR Part 55 to certain categories of proposed actions

Statutory Worksheet – Endangered Species Act

- **Endangered Species Act**
 - [USFWS online review system](#) – Self-Certification Process
 - Must also include the email showing the Self-Certification package was sent to USFWS directly
 - The [USFWS “Clearance to Proceed with Projects” letter](#) can be used for some (few) projects if they meet the listed criteria. A confirmation email from USFWS is needed to confirm compliance.

Statutory Worksheet – Farmland Protection

- **Farmland Protection Checklist**
 - Updated to reflect Farmland Protection Policy Act exemptions
 - Most CDBG projects are exempt from the FPPA

Statutory Worksheet – Contamination & Toxic Substances

- **Contamination & Toxic Substances worksheets**
 - Site Contamination Worksheet - Only fill out if a Phase 1 ESA was completed
 - Envirofacts report
 - Make sure all results are showing; defaults to 10 per page
 - Include compliance reports (ECHO) for SEMS, ACRES, RAD sites, if applicable
 - For buildings, HUD guidance must be followed for Lead-Based Paint, Asbestos
- **Phase 1 Environmental Site Assessments (ESA)**
 - Required for:
 - Non-residential property (commercial and public buildings, parks)
 - Multi-family housing with 5 or more dwelling units
 - [24 CFR 58.5 \(i\) \(2\)](#) states:
 - “it is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.”
 - “The environmental review of multifamily housing with five or more dwelling units (including leasing), or non-residential property, must include the evaluation of previous uses of the site or other evidence of contamination on or near the site, to ensure that the occupants of proposed sites are not adversely affected by any of the hazards listed in [paragraph \(i\)\(2\)\(i\)](#) of this section.”

Statutory Worksheet – Noise Abatement & Control

- **Noise Abatement & Control**

- B-8 directions now indicate that project property should be reviewed for civil and military airports within 15 miles
- DNL Calculations over the 65-decibel limit – reach out to me for assistance determining allowable mitigation measures
- To obtain accurate highway traffic data for DNL calculations, you need access to the **TDOT E-TRIMS** system. Request access from the following:
 - » Irina Ponarovskaya - irina.ponarovskaya@tn.gov
 - » Randall Emilaire - randall.emilaire@tn.gov
- Reach out to Allison if you need assistance obtaining the correct traffic data from TDOT E-TRIMS

NEPA Checklist

- Significant Updates in 2022 based on the [HUD Environmental Assessment Factors and Categories eGuide](#)
- **New EA Factors on NEPA checklist** (updated in 2022):
 - **Environmental Justice**
 - Run EJ Screen report; Mayor can provide Impact Code; Environmental Justice Memo from Statutory Worksheet may be used to document Impact Code
 - **Climate Change Impacts**
 - **Energy Efficiency**
 - **Unique Natural Features** (separate from Water Resources factor)

NEPA Checklist

- Use Exhibit [B-9 NEPA Checklist Directions](#) for appropriate contacts and required documentation
 - Contact ECD for approval of any consultants not listed on the B-9
 - Mayor is not an acceptable expert unless approved by ECD
- Impact Codes are as follows:
 - (1) Minor beneficial Impact
 - (2) No impact anticipated
 - (3) Minor Adverse Impact - may require mitigation
 - (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement
 - » **Expert consulted should provide the numeric Impact Code**

NEPA Checklist

- New consultation process for the following EA Factors:
 - **Vegetation** – [TDEC Environmental Review Tool](#) (ERT)
 - Upcoming trainings on the ERT are listed here:
<https://tnstateparks.com/parks/events/division-of-natural-areas>
 - Must do training to gain access to the system
 - Self-Certification can be done by:
 - ER preparer – best for projects on existing structures, interiors of buildings, occurring exclusively in mown lawns or ag fields where no rare plants are known from those habitat types, etc.
 - Emailing ERT report to TDEC DNA (environmental.review@tn.gov) for review and self-certification by TDEC on behalf of ER preparer/DD staff (may be in the form of a concurrence letter)
 - Environmental Consultant
 - Further action may be required on some projects as indicated in the ERT report or by TDEC staff
 - **Wildlife** – [TWRA Env. Review Request Form](#)

Publications and Notices

- Publish notices in local newspaper
- Postings in public places (minimum 5 places):
 - Photos of postings
 - Locations of postings
 - Start and end dates
 - ***Cannot post for floodplain projects**
- Early floodplain notice: published with 15-day comment period
- Final floodplain notice: published with 7-day comment period
- NOI/RROF published with 7-day comment period, posted for 10 days
- Concurrent Notice published with 15-day comment period, posted for 18 days
- Use [**B-10 Comment Period Calendar Calculator**](#) to plan publication and comment period end dates

Housing

- Use Exhibit [B-3 CEST Worksheets](#)
- A tiered review is possible if project sites aren't identified
 - Tier 1: Non- site-specific items on the Statutory Worksheet
 - Tier 2: Site-specific items on the Statutory Worksheet
 - Contact ECD if you need assistance conducting a Tiered Environmental Review.

Reminders/Common Issues

- Check with ECD if you have questions about which ERR level is needed
- Use ERR Exhibits currently posted in the manual online (Chapter B) – submissions on old forms will not be accepted and will have to be redone
- Project descriptions should be very detailed; explain exactly what is taking place (construction activities, etc.)
- Project area must be clearly and accurately delineated on maps
- Use the correct HUD Grant Number – entered on multiple pages of the ERR
- **Follow B-8 Statutory Worksheet Directions closely!**
 - use the provided compliance determination language
 - Do not leave out required items listed
- Complete SHPO consultation/receive response before sending initial tribal consultation requests
- Initial tribal consultations - tribes must be given 30 days to respond (if emailed); 35 days (if postal mail) – the Statutory Worksheet is not complete until that response window has passed

Reminders/Common Issues

- **Submit documents in order**
 - SHPO and THPO are attachments to the Statutory Worksheet; all Statutory Worksheet documentation should follow the Statutory Worksheet in the order listed
 - Other documentation should be in the order listed on the ERR Checklist
- Mitigation measures must be listed on narrative pages, NEPA, and 8-Step Decision Making Process documentation
- All required agency responses must be received/all compliance documentation complete (Statutory Worksheet and NEPA Checklist) before publishing the NOI-RROF or Concurrent Notice
- Use the B-10 Comment Period Calendar Calculator to determine comment period end dates for publications
- Submit complete ERRs to your ECD project rep and cc Allison Fox
- Request Extension letters before the submission deadline has passed (one-week window on submission deadline)

We're here to help!

- Our office will schedule a few informal 'ERR troubleshooting' sessions in the next couple of months
- We can also conduct training sessions for your team to clarify processes or troubleshoot specific ERR issues
- **Please read [CDBG Manual Chapter B](#) narrative, review exhibits, and familiarize yourself with ERR forms and instructions before requesting additional training 😊**

Helpful Resources

- [TNECD CDBG Manual – Environmental Review Chapter](#)
- [HUD Environmental Guidance for Tennessee](#)
- [Consultation Resource Useful Web Links](#)
- [HUD Environmental Review Orientation](#)
- [HUD WISER Training Modules](#)

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