

# Environmental Review

CDBG/HOME Guidebook



Section F



## Environmental Review

### Introduction to the Environmental Review

CDBG and HOME regulations require the preparation of a project Environmental Review Record (ERR) and environmental clearance from HUD before *any* funds (federal or otherwise) are expended or costs incurred. The environmental review process covers all phases of the project, whether the project is funded in whole or in part by CDBG or HOME funds. The overall governing regulation is the National Environmental Policy Act (NEPA).

Some activities, such as public services that will not have a physical impact or result in any physical change to the environment, are Exempt. The environmental review for these types of activities will be completed by staff at the beginning of the program year so projects may begin to incur costs.

All other types of activities will require some level of review and the organization carrying out the project may be asked to assist in the development of the ERR by providing additional information, maps, site data or specialized study or site assessment. The level of review will depend on the type of activity.

Some capital projects which require permits through the County or one of the Cities may also trigger an environmental review under the State Environmental Policy Act (SEPA). For these types of projects special conditions and mitigation measures required by the SEPA will be included in the NEPA review. These reviews can run concurrently however the NEPA requires additional time for public comment and issuance of an Authority to Use Grant Funds notice from HUD before the project can proceed.

### Federal Regulation

The environmental review process consists of all the actions that a Responsible Entity must take to determine compliance with federal regulations at 24 CFR Part 58. HUD requires that Responsible Entities (RE) shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in 24 CFR Part 58.5. Kitsap County is the Responsible Entity for HOME projects and Kitsap County CDBG projects.

Under HUD regulation, there are four types of environmental review:

#### 1. Exempt Activities (24 CFR 58.34)

Exempt activities include such things as:

- Environmental and other studies, resource identification, and the development of plans and strategies;
- Information and financial services;
- Administrative and management activities;
- Public services that will not have a physical impact or result in any physical changes;
- Inspections and testing of properties for hazards or defects;
- Purchase of insurance;
- Purchase of tools;

- Engineering or design costs;
- Technical assistance and training;
- Other activities that will not have a physical impact or result in physical changes, as determined by HUD.

The most common type of environmental review exemption is that of public services. So long as your organization's public service project or program funded by CDBG will not have a physical impact or result in any physical changes, staff will complete an environmental review exemption and your project will be able to begin incurring costs upon such notification.

Conversely, all capital projects funded by CDBG or HOME will require an environmental review at some level, depending on the scope of the project, as described below.

## 2. Categorical Exclusion (24 CFR 58.35)

Categorical exclusion refers to a category of activities for which no Environmental Impact Statement (EIS) or Environmental Assessment (EA) and finding of no significant impact under NEPA is required, except in extraordinary circumstances in which a normally excluded activity may have a significant impact. There are two types of categorical exclusions, those that are subject to part 24 CFR 58.5 and those that are not subject to part 24 CFR 58.5.

Activities that are categorically excluded under NEPA, but may still be subject to review under 24 CFR 58.5 include actions such as acquisition, repair, improvement, reconstruction, or rehabilitation of facilities and improvements, so long as the use remains the same and the size or capacity is not changed by more than 20%. Other actions that are subject to this type of review include: removal of architectural barriers restricting mobility of and accessibility to elderly and disabled persons, rehabilitation of buildings and improvements under certain circumstances, and any individual action on up to four dwelling units.

The following activities are categorically excluded under NEPA and **not** subject to review under 24 CFR 58.5:

1. Tenant-based rental assistance
2. Supportive Services
3. Operating Costs
4. Economic Development Activities (not associated with construction or expansion)
5. Activities to assist homeownership of existing or dwelling units under construction not assisted with Federal funds including closing costs and down payment assistance to homebuyers and interest buydowns or other actions resulting in transfer of title
6. Affordable housing pre-development costs
7. Approval of supplemental assistance (including insurance or guarantee) to a project previously approved under Part 58, if:

- a. the same responsible entity conducted the environmental review on the original project and re-evaluation of the environmental findings is not required under Section 58.47

Since these projects are not subject to review under 24 CFR 58.5, the project will not be reviewed for the same environmental impacts as would be required of projects that are subject to 24 CFR 58.5. However, the project must still be reviewed for its potential impact on the environment as described under “Other Federal Requirements” at 24 CFR 58.6. These categories include flood disaster protection, coastal barrier resources, and airport runway clear zones. If there are no potential impacts to these categories, or if potential impacts can be appropriately mitigated, your organization will be sent a “Notice to Proceed,” at which point you may begin to incur costs related to the project. No public comment period is required.

### **3. Environmental Assessment (24 CFR 58.36)**

If a project is not exempt or categorically excluded, as described above, an Environmental Assessment (EA) must be conducted. An EA is a much more in-depth review of the project and examines all of the project’s potential impact on environmental conditions, including socioeconomic impact, community facilities and services, and natural features. This review is triggered when there are federal funds in a project involving:

- Acquisition of vacant land;
- Construction of a new public facility or housing; or
- Acquisition and/or major rehabilitation, reconstruction or improvement to an existing building.

The EA is the most common type of review for these types of projects, vary rarely is an EIS required. This type of review is often conducted concurrently with a SEPA review which is performed by the local jurisdiction when an application for permit is submitted. The agency carrying out the project is then responsible for implementing any specific mitigation measures included in the review to lessen an environmental impact and the RE is responsible for ensuring that such mitigation is implemented appropriately.

### **4. Environmental Impact Statement (24 CFR 58.37)**

In such instances where the complexity of the project exceeds the scope of an EA, or the project has potentially significant impacts on the surrounding environment, an Environmental Impact Statement (EIS) may be required according to 24 CFR 58.37. An EIS is a detailed written statement for a proposed major Federal action significantly affecting the quality of the human environment. Since an EIS deals with a project that may potentially significantly affect the environment, the review is understandably much more in-depth and comprehensive. An EIS is generally prepared by a third party environmental consultant offering expertise in the area, since the capacity needed to prepare the EIS is greater than either the County or the City Block Grant Programs.

### Satisfactory fulfillment of NEPA and Timelines

In order to proceed with your project you must receive written environmental clearance from the County and/or City, proving that the environmental review has fulfilled the requirements under NEPA. The type of clearance will differ depending on the level of environmental review.

### Exempt Activities and Categorically Excluded Activities

Due to the nature of projects falling under the exempt or categorically excluded reviews, fulfillment of NEPA requirements is relatively straightforward and expeditious. Once the review is complete your organization will receive a “Notice to Proceed” which will allow you to begin to incur costs.

The timeline for these types of reviews will vary depending on the type of project from a few days for a public service activity to several weeks for a typical project involving minor rehabilitation.

### Environmental Assessment Activities

The more in-depth review required of the Environmental Assessment (EA) is indicative of its more rigorous requirements for fulfillment of NEPA. Additionally, for this type of review there is a required public comment period and subsequent response to public comments if received.

The timeline for the EA will depend on several factors including:

- Completion of project appropriate site studies such as a Phase I Environmental Site Assessment, Geotechnical Report, Traffic Analysis, Habitat Management Plan, Wetland Review, etc;
- Submission of project application to the local jurisdiction triggering a SEPA review;
- Additional requirements for further studies as determined through the environmental review process (i.e. Traffic Impact Study, Cultural Site Assessment).
- Public comment periods.

The EA will require two public comment periods; a 15-day comment period when the Block Grant office issues a Determination and another 15-day comment period published by HUD for the release of funds. Typically an EA will take about 4 months from the time of initiation of the review (assuming all necessary documentation such as a Phase I ESA has been provided to our office) until we have the Release of Funds notification from HUD and can issue a Notice to Proceed.

### Environmental Impact Statement

Like the EA, the more in-depth review required of the Environmental Impact Statement (EIS) will require additional time as well as a required public comment period and subsequent response to public comments if received. The timeline for completion of an EIS is difficult to estimate and depends on the complexity of the project. Projects that trigger an EIS will need to allow a significant amount of time for completion based on estimates provided by qualified professionals with experience in the preparation of this type of review. As mentioned previously, most projects funded will not require this level of review.

## Record Keeping

All documents that are a part of the environmental review record (ERR) are required to be kept by the County as documentation of the process that was undertaken. Your organization will be provided a Notice to Proceed which should be maintained in the project file.