

Environmental Review Process

UTAH COUNTY **Community**
Development BLOCK GRANT

Why an Environmental Review?

- **Avoid/mitigate harm to environment**
- **Avoid/mitigate harm to people**
- **Secure the value of public investment**
- **Avoid litigation that could stop the project**
- **Build higher quality projects**
- **Avoid findings and sanctions**
- **Required by law: NEPA & related authorities**

Importance of an Early Start

- You may begin the review process before you have a contract – so start now!
 - The environmental review should be part of the planning process.
 - Typical times required to complete the review range from **30 to 120 days**.
 - Allow time for periods of consultation and public comment.
 - Don't procrastinate – **NOTHING** on your project can move forward before the Environmental Review Process is complete.

NO Choice-limiting actions

HUD's regulations at 24 CFR 58.22 prohibit grant recipients and their partners from committing or spending HUD or non-HUD funds on any activity that could have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of an environment review once a project has become "federal." This prohibition on "choice-limiting actions" prohibits physical activity, including acquisition, rehabilitation, and construction, as well as contracting for or committing to any of these actions.

Consider ALL potential impacts

- **Direct impact:** occurs at the same time and same place as the project
- **Indirect impact:** occurs later in time or farther removed in distance yet is reasonably foreseeable
- **Cumulative impact:** results from incremental effect of the action when added to other past, present and reasonably foreseeable future actions

Important Tips

- A change in the project scope could change the review required.
- DON'T SPEND A DIME until your ERR is complete and you have received clearance from MAG to proceed.
- Acceptance of CDBG money commits your entire project to regulations (not just the parts being paid for with CDBG Funds).
- Your Environmental Review Record (ERR) should be able to stand on its own, so be thorough and complete.
- **When in doubt – contact us!**

Steps in the Environmental Review Process

- Create the Environmental Review Record which includes:
 - Project description and each activity comprising the project
 - The appropriate ERR Guide containing the record of determination
 - Supporting documentation
- Notify State/Federal agencies for comment.
- Publish required notices for your level of review.
- Submit a Request for Release of Funds to HUD.
- Obtain “Authority to Release Grant Funds” from HUD.
- Proceed with the project.
- Implement any necessary mitigation and monitor.
- Maintain documentation of compliance in the Environmental Review Record.

Environmental Review Record

- Written record of all environmental compliance documentation.
- Must be available for public inspection.
- Should be able to stand on its own—tell the story.
- May contain the following:
 - Description of project and each activity (required)
 - Appropriate ERR guide (required)
 - Written determination of findings as evidence of review, decision making, and action (required)
 - Maps
 - Photographs
 - Site plans
 - Correspondence
 - Studies
 - Public notices (required depending on level of review)
 - RROF/FONSI (required depending on level of review)
 - Copies of comments and responses

DOCUMENT, DOCUMENT, DOCUMENT

- Source documentation should be credible, qualified, verifiable, and relevant to the analysis.
- Support Documentation:
 - Field observation (include photos, date, notes)
 - Interview (include name, title, date)
 - Correspondence (letters, emails, phone log including name, title, date)
 - Plans
 - Maps
 - Aerials
 - Reports, studies and analyses
 - photographs
- Sources:
 - Federal
 - State
 - Local oversight agency
 - City of County land use plans and comprehensive plans
 - Floodplain maps, zoning maps, USGS topographical maps
 - Historic registers
 - Aerial photographs

Levels of Environmental Review

- **Categorically Excluded SUBJECT to laws and authorities at 24 CFR Part 58.5 (CEST)**
 - Activities excluded from NEPA requirements but subject to other federal laws.
 - Cedar Hills City, Habitat for Humanity, Spanish Fork Senior Center, Springville Senior Center, Cedar Fort
- **Environmental Assessment (EA)**
 - Required if project activities are not determined to be Exempt or Categorically Excluded.
 - Self Help Homes, American Fork, Spanish Fork, Genola, Utah County

Defining the Project

- What is the scope?
- What activities will be included?
- What is the location and what areas will it affect?

Get maps:

- Planning area map or zoning map
- Wetlands map
- Floodplain map
- USDA-SCS soil survey map and report
- Farmland conservation map
- Historical districts map

Process for Categorically Excluded Subject To (CEST)

- Complete ERR Guide #3 with statutory checklist for CEST activities.
- If activities occur in a floodplain or wetlands, conduct the 8-step decision making process.
- Submit Section 106 project information and concurrence letter to SHPO/THPO Certifying Officer.
- Make determination:
 - Convert to exempt
 - Submit the complete Environmental Review Record to MAG including project description, completed ERR guide, and supporting documentation.
 - The ERR must be signed by Utah County's Certifying Officer.
 - Proceed with the project once clearance is received from MAG.

Process for Categorically Excluded Subject To (CEST) (continued)

- Do not convert to exempt
 - Publish NOI/RROF with accompanying comment period
 - Submit RROF to HUD
 - Receive “Authority to Release Grant Funds from HUD”
 - Submit the complete Environmental Review Record to MAG, including project description, completed ERR guide, supporting documentation, record of NOI/RROF, any comments, RROF, Authority to Release Grant Funds.
 - The ERR must be signed by Utah County’s Certifying Officer.
 - Proceed with the project once clearance is received from MAG.

ERR Guide #3

ERR GUIDE #3

ENVIRONMENTAL REVIEW RECORD

Documentation of a Categorical Exclusion for Projects/Activities Found at **24 C.F.R. Part 58.35(a)**, Which Are Subject to the Federal Laws and Authorities Found at 24 C.F.R. Part 58.5 and Other Requirements found at 24 C.F.R. Part 58.6

1 Project/Activity Information:

Project Name and Description:

HUD Program and Loan or Grant Number: Utah County CDBG

(Use the questions below to classify the proposed project/activity in compliance with HUD regulations found at 24 C.F.R. Part 58.35(a).)

(Use this checklist only for HUD projects/activities determined Categorically Excluded pursuant to HUD regulations found at 24 C.F.R. Part 58.35(a).)

(24 C.F.R. Part 58.32 discusses that a responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions. This is termed, "project aggregation", and its purpose is to address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected, and closely related, or that are dependent upon other activities and actions. When attempting to classify projects/activities as categorically excluded, environmental reviewers should be cautious that the provisions of 24 C.F.R. Part 58.32 should be considered and the end result may be the required type of environmental review should actually be the preparation of an environmental assessment pursuant to 24 C.F.R. Parts 58.36 and Subpart E.)

(Complete all parts of this document for all 24 C.F.R. Part 58.35(a) projects and activities.)

2 Classification of Project/Activity:

- 24 CFR Part 58.35(a)(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)
- 24 CFR Part 58.35(a)(2): Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons

ERR GUIDE #3

Checklist Instructions). Compliance documentation must contain verifiable source documents and relevant base data. Attach reviews, consultations, and special studies as needed.

Compliance Factors	Status	Compliance Finding and Documentation
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(Statutes, Executive Orders, and regulations listed at 24 C.F.R. Part 58.5)

(A or B)

Historic Properties <ul style="list-style-type: none"> 36 CFR Part 800 regulations National Historic Preservation Act of 1906 Executive Order 11563, Protection and Enhancement of the Cultural Environment 		
Floodplain Management <ul style="list-style-type: none"> Executive Order 11988 24 CFR Part 55 regulations 		"A" applies when the Responsible Entity and the SHPO/THPO agree that there are No Historic Properties Affected per 36 CFR 800.4 OR the SHPO has not objected within 30 days to such a fully documented determination. "A" also applies when the Responsible Entity and the SHPO/THPO, as appropriate, agree that there are No Adverse Effects to historic properties per 36 CFR 800.5 OR the SHPO/THPO has not objected within 30 days to such a fully documented determination. "B" applies when the proposal has an effect on historic properties. Consult with SHPO et al., per 36 CFR Part 800.5 et seq., to resolve or mitigate adverse effects on historic properties.
Wetland Protection <ul style="list-style-type: none"> Executive Order 11990 		
Coastal Zone Management <ul style="list-style-type: none"> Coastal Zone Management Act of 1972 	A	See attached map.
Sole Source Aquifers <ul style="list-style-type: none"> Safe Drinking Water Act of 1974 40 CFR Part 149 regulations 	A	
Endangered Species <ul style="list-style-type: none"> Endangered Species Act of 1973 		
Wild and Scenic Rivers <ul style="list-style-type: none"> Wild and Scenic Rivers Act of 1968 	A	No effect. There is only one mile of River under this act. It is nowhere near the project site and it is only classified as a "Recreational River Area". It is American Fork Creek stretching from Timpanogos Cave National Monument boundary to the mouth of American Fork Canyon.
Air Quality <ul style="list-style-type: none"> Clean Air Act of 1970 40 CFR Parts 6, 51, & 93 regulations 		
Farmland Protection Policy Act <ul style="list-style-type: none"> Farmland Protection Policy Act of 1981 7 CFR Part 658 regulations 		
Environmental Justice <ul style="list-style-type: none"> Executive Order 12898 		
HUD ENVIRONMENTAL STANDARDS		
Noise Abatement and Control <ul style="list-style-type: none"> 24 CFR Part 51B regulations 		

Statutory Checklist Instructions and Resources

Statutory Checklist Instructions

Visit [HUD Exchange](#) for additional guidance

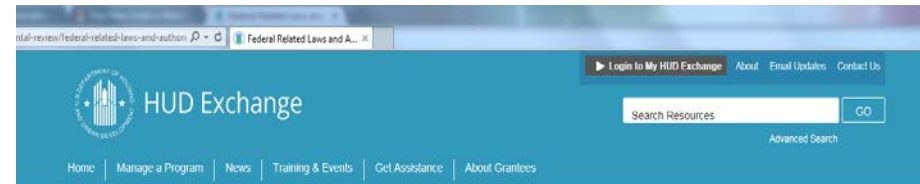
NOTE: These instructions are a brief description of essential findings needed to establish compliance and ARE NOT INTENDED TO REPLACE THE APPLICABLE REGULATIONS. Applicable regulations take precedence over these brief instructions. The preparer of the "Statutory Worksheet" must always document and/or attach reliable information/sources used in making these environmental determinations.

HISTORIC PROPERTIES

HUD programs support and facilitate the use of historic properties for affordable housing, economic development, and community revitalization. HUD encourages the rehabilitation of historic buildings and the preservation of irreplaceable resources like archeological sites that convey centuries of human cultural activity. The National Historic Preservation Act ([NHPA](#)), 16 U.S.C. 470 et seq., directs each Federal agency, and those Tribal, State, and Local governments that assume Federal agency responsibilities, to protect historic properties and to avoid, minimize, or mitigate possible harm that may result from agency actions. The review process, known as Section 106 review, is detailed in [36 CFR Part 800](#). Early consideration of historic places in project planning and full consultation with interested parties are key to effective compliance with Section 106. The State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) are primary consulting parties in the process. A qualified historic preservation consultant may assist with the technical components of the Section 106 review process.

Historic properties are those that are listed in or eligible for listing in the [National Register of Historic Places \(NR\)](#). The National Register is a list of districts, sites, buildings, structures, and objects that have been determined by the National Park Service to be significant in American history, architecture, archeology, engineering, and culture, at the local, state or national level. Generally, a property must be at least 50 years old to qualify, but there are exceptions. The grantee should consult the National Register database, existing state and local inventories, local historical and preservation organizations, and local planning departments to identify properties that are listed in or eligible for the National Register

What do I do?



[Environmental Review Main](#)

Related Federal Laws and Authorities

Choose a topic below to learn more about HUD environmental review compliance with Federal related laws and authorities listed at 24 CFR 50.4, 58.5, and 58.6.

Find by Topic



[Air Quality](#)



[Airport Hazards](#)



[Coastal Barrier Resources](#)



[Coastal Zone Management](#)



[Endangered Species](#)



[Environmental Justice](#)



Process for Environmental Assessment

- Complete ERR Guides #4 and #10, including statutory checklist and environmental assessment checklist.
- For projects in floodplains or wetlands, conduct the 8-Step decision making process.
- Consult with other experts as necessary to comply with other laws and authorities.
- Make a Finding of No Significant Impact (FONSI) or Finding of Significant Impact (FOSI).
- If determination is FOSI, contact CDBG staff.

Process for Environmental Assessment (continued)

- If determination is FONSI, publish a combined NOI-RROF/FONSI with accompanying comment period.
- Submit RROF/FONSI to HUD
- Receive “Authority to Release Grant Funds” from HUD.
- Submit completed Environmental Review Record to MAG, including project description, completed ERR guide, supporting documentation, record of NOI/RROF, any comments, RROF, Authority to Release Grant Funds.
- The ERR must be signed by Utah County’s Certifying Officer.
- Proceed with the project once clearance is received from MAG.

ERR Guide #4

ERR GUIDE #4

ENVIRONMENTAL REVIEW RECORD

Documentation of an Environmental Assessment for Projects/Activities Found at **24 C.F.R. Part 58.36**, Which Are Subject to the Federal Laws and Authorities Found at 24 C.F.R. Part 58.5 and Other Requirements found at 24 C.F.R. Part 58.6

1 Project/Activity Information, Executive Summary, Determinations, and Certification:

Project Name: [Redacted]

Project Location: [Redacted]

Project Funding Program: CDBG Project Location

Project Loan or Grant Number: Utah County

Project Total Development Cost (provide best estimate): \$ [Redacted]

Project HUD assistance: \$ [Redacted]

Grant Recipient: [Redacted]
[24 C.F.R. Part 58(a)(5)]

Grant Recipient's Address: [Redacted]

Project Representative: [Redacted]

Project Representative's Telephone Number: [Redacted]

Responsible Entity (RE): Utah County
[24 C.F.R. Part 58.2(a)(7)]

Certifying Official: Utah County Commission Chair
[24 C.F.R. Part 58.2(a)(2)]

[Redacted]

2 Statutory Checklist (ref.: 24 C.F.R. Part 58.5 – Related Federal laws and authorities)

(For each listed statute, executive order (E.O.), or regulation, record the determinations made. Summarize all reviews and consultations completed as well as any applicable permits or approvals obtained. Attach supporting evidence that all required actions have been accomplished. Summarize any conditions or mitigation measures required. Then, state a determination of compliance or consistency.)

Factors	Summary of consultations, supporting documentation, determinations, & mitigation measures
Historic Preservation [36 C.F.R. Part 800]	[Redacted]
Floodplain Management [24 C.F.R. Part 55, E.O. 11988]	[Redacted]
Wetlands Protection [E.O. 11990]	[Redacted]
Coastal Zone Mgt. Act [Sections 307 (c), (d)]	Not applicable in CO, MT, ND, SD, UT, and WY
Sole Source Aquifers [40 C.F.R. Part 149]	Not applicable. There are no Sole Source Aquifers located in Utah County. See attached map.
Endangered Species Act [50 C.F.R. Part 402]	[Redacted]
Wild & Scenic Rivers Act [Sections 7 (b), (c)]	No effect. There is only one mile of River under this act. It is nowhere near the project site and it is classified as a "Recreational River Area". It is American Fork Creek stretching from Timpanogos Cave National Monument boundary to the mouth of American Fork Canyon.
Air Quality [Clean Air Act, Sections 176 (c) & (d), & 40 C.F.R. Part 6, 51, & 93]	[Redacted]

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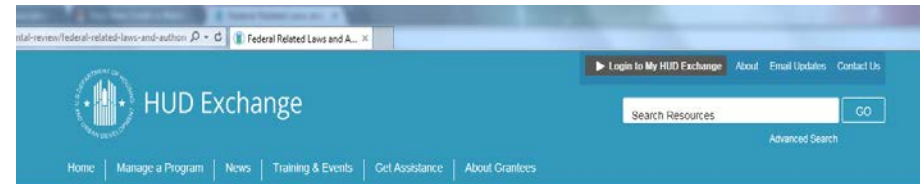
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[Airport Hazards](#)



[Coastal Barrier Resources](#)



[Coastal Zone Management](#)



[Endangered Species](#)



[Environmental Justice](#)



ERR Guide #4 and #10

3 Environmental Assessment Checklist (ref.: Environmental Review Guide HUD CPD 782, 24 C.F.R. Part 58.40, 40 C.F.R. Parts 1508.8 & 1508.27)

(Evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. Enter relevant base data and verifiable source documentation to support the finding. Then enter the appropriate impact code from the following list to make a finding of impact. **Impact Codes:** (1) – No impact anticipated; (2) Potentially beneficial; (3) Potentially adverse; (4) – Requires mitigation; (5) – Requires project modification. Note names, dates of contact, telephone numbers, and page references. Attach additional materials as needed.)

LAND DEVELOPMENT	Code	Summary of consultations, supporting documentation, determinations, & mitigation measures
Conformance with Comprehensive Plans & Zoning 1 - No Impact Anticipated -		
Compatibility Impact 1 - No Impact Anticipated -		
Slope 1 - No Impact Anticipated -		
Soil Suitability 1 - No Impact Anticipated -		
Hazards & Nuisances Including Site Safety 1 - No Impact Anticipated -		
Energy Consumption 1 - No Impact Anticipated -		
Noise – Contribution to community noise levels 1 - No Impact Anticipated -		
Air Quality – Effects of Ambient air quality on Project & contribution to		

ERR GUIDE #10

Instructions for completing the “Environmental Assessment Checklist”

For HUD-funded projects that require the preparation of an environmental assessment (EA) pursuant to 24 CFR Part 58.36, the Responsible Entity (RE) must evaluate the significance of the effects of the proposal on the character, features, and resources of the project area. Enter relevant base data and verifiable source documentation to support the finding. Then enter the appropriate impact code from the following list to make a finding of impact. Impact Codes: (1) – No impact anticipated; (2) Potentially beneficial; (3) Potentially adverse; (4) – Requires mitigation; (5) – Requires project modification. Note names, dates of contact, telephone numbers, and page references. Attach additional materials as needed.

LAND DEVELOPMENT

Conformance with Comprehensive Plans & Zoning

Is the project in conformance with established local government Comprehensive planning and zoning practices? Yes No

Compatibility & Urban Impact

Is the project compatible with the surrounding area in terms of:

	Yes	No	Yes	No
Land use	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Height, bulk, mass	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Building density	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Population density	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Setback	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
			Texture, materials	<input type="radio"/>
			Building type (lo/hi rises)	<input type="radio"/>
			Building arrangement	<input type="radio"/>
			Light/shadow and ventilation	<input type="radio"/>
			Landscaping	<input type="radio"/>

Comments:

Slope

Slopes: Not Applicable Steep Moderate Slight

Historic Properties Process

Section 106 of the National Historical Preservation Act

- Start the Section 106 process as early as is feasible.
- Submit determination/concurrence letter and supporting documentation to the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO).
- SHPO/THPO will either concur with determination of no impact to historical properties or will advise if a Cultural Resource Assessment, Memorandum of Agreement, or other mitigation method is required.

Floodplains/Wetlands and the 8-Step Decision Making Process

1. Determine if project area is located in a floodplain or wetland.
2. Publish early notice of proposal to allow public to consider and comment on action (15 day comment period).
3. Evaluate practicable alternatives to locating the project in a floodplain or wetland.
4. Identify potential direct and indirect impacts associated with project occupancy and modification of floodplain or wetland.
5. Design or modify actions to minimize adverse impacts and preserve the floodplain/wetlands.
6. Reevaluate whether the proposed action is practicable/feasible in light of flood hazards and costs of minimization.
7. Publish final notice of decision, identify why there is no practicable alternative and mitigation measures adopted (can be combined with FONSI notice).
8. Obtain approval and implement action with mitigation.

Site Contamination

- **3 Components to Site contamination evaluation:**
 - **Field Inspection**
 - Site visit
 - Google Earth/maps
 - **Historic Land Use Search**
 - Land Use Directory
 - Sanborn Fire Insurance Rate Map
 - Local Planning Department
 - **Environmental Compliance Search**
 - Governmental online databases: federal, state/local, tribal

Reminders

- You need to explain your process and rationale for each conclusion in the ERR (Guide 3 or 4). Your answer should state the determination and explain what analysis you did to get to that determination. “See appendix” is NOT sufficient.
 - Who did you consult with? What plans did you look at? Who did a site visit and when?
 - Your appendix should be documentation to backup the body of your ERR.
- Provide documentation.

Final Notes

- You will receive ERR Guides, instruction and technical assistance (as needed) on an individual basis.
- We are here to help, so don't hesitate to contact us with any questions!