

Grantee's Guide to Obtaining Environmental Release Clarification & Updates to the RROF/C Process

Overview of Environmental Review for Exempt & CENST Projects

Environmental Reviews are required for every HUD-assisted project to ensure the proposed project does not negatively impact the surrounding environment and that the proposed site will not negatively impact physical environmental or health of people. The National Environmental Policy Act (NEPA), Code of Federal Regulations, and other related federal/state environmental regulations and laws dictate the minimum compliance standards for environmental review projects. However, the level of environmental review will vary based on the nature and complexity of a project.

Projects categorized as Exempt or Categorical Excluded (from NEPA), Not Subject to §58.5 (CENST) have minimal to no impact on the physical environmental or people's health. This means the level of review required for these projects is minimal. Grantees or their Responsible Entity only need to determine and document compliance with the following laws and authorities:

1. Airport Runway Clear Zones & Accident Potential Zones (ACZ/APZ)
2. Coastal Barrier Resources
3. Floodplain Management/National Floodplain Insurance Program Verification

Grantees complete ER Form 1: Certification of Exemption and the accompanying compliance worksheet (Exempt Projects), or ER Form 2: Certification of CENST and the accompanying compliance worksheet (CENST Projects). The completed form, compliance worksheet, and supporting documentation is submitted at application or at FEPS. There is no requirement to publish a Finding of No Significant Impact, observe public comment periods, or submit a Request for Release of Funds/Certification. Grantees can proceed with FEPS, ROF, and any other applicable processes.

Overview of Environmental Review for CEST and Environmental Assessment (EA) Projects

CEST and EA activities must be in compliance with NEPA and applicable federal/state regulations, laws, and authorities. Grantees determine compliance through conducting a tiered CEST review or a full EA review. If applicable, Grantees may be required to complete the HUD 8-Step Decision Making Process and publish applicable floodplain activity notices. Specific information about the floodplain management process can be found in the OCRA CDBG Handbook.

Upon completing a CEST or EA review, Grantees must make a determination of whether the proposed activities will have a negative impact on the environment and publish the determination. Grantees can make one of two determinations:

- Finding of No Significant Impact (FONSI); or,
- Finding of Significant Impact (FSI).

Once a FONSI determination has been made, Grantees must publish the FONSI in the local paper of circulation and observe a local comment period. If making a FSI determination, Grantees MUST contact Grant Services for further instruction on how to proceed. Grantees must then publish a Notice of Intent to Request Release of Funds (NOI-ROFF) and observe an additional local comment period. If Grantees have already received an award, they may publish a combined FONSI/NOIRROF and observe a combined local comment period.

(a) Notice of Finding of No Significant Impact (FONSI)	15 days when published or, if no publication, 18 days when mailing and posting
(b) Notice of Intent to Request Release of Funds (NOI-ROFF)	7 days when published or, if no publication, 10 days when mailing and posting
(c) Concurrent or combined notices	15 days when published or, if no publication, 18 days when mailing and posting

Submitting the RROF/C & Obtaining Environmental Release

After the NOI-RROF or Combined Notice has been published and the local comment period expires, the Grantee must fill out the ER status report in GMS, upload the relevant ER form – Form 4: Statutory Worksheet for CEST projects, Form 8: Format II ERR for EA projects – supporting documentation including maps and agency letters, and upload the signed Form 6: Request for Release of Funds/Certification (RROF/C). Upon uploading the RROF/C to GMS, a state comment period of 15 calendar days begins. Upon expiration of the state comment period, Grant Services can issue a Notice of Environmental Release.

Clarification on Notice Periods, Comment Periods, Submitting the RROF/C, & What “Timely” Means

Calendar Days or Business Days?

Publication and comment periods are counted in calendar days. If a comment period ends on a Saturday or Sunday, the comment period is automatically extended to Monday or the next day the State is open.

How Do I Count Publication or Comment Periods? When Do They Begin?

Comment periods must be observed for a full 7 or 15 calendar days, depending on the type of publication or activity. Therefore, a comment period cannot begin until one (1) day after the FONSI, NOI-RROF, or Combined Notice has been published. The date of publication does NOT count as Day 1. Likewise, a Grantee cannot submit the RROF/C to Grant Services until one (1) day after the local comment period expires.

When Can I Submit the RROF/C? What is Considered Timely? What is This 10-Day Rule?

The RROF/C must be submitted to Grant Services not sooner than one (1) day after the local comment period expires and no later than 10 days after the local comment period expires. *Remember, the date the comment period expires is NOT considered as Day 1; the day after it expires is Day 1.* The RROF/C cannot be submitted before the local comment period expires because Grantees must provide any/all received written public comments in the ER status report.

HUD & OCRA interpret “timely” as 10 calendar days. If the 10-day submission window ends on a Saturday or Sunday, it will automatically be extended to Monday or the next day the State is open.

In order to ensure timely submission of the RROF/C, grantees must upload the RROF/C to the ER status report in GMS within 10 calendar days (not sooner than one (1) day after local comment period and no later than 10 days after it expires) and submit the status report for review.

The 10-Day Rule & How It May Affect My Environmental Release Request

Grantees are strongly encouraged to upload the RROF/C and submit the ER status report to Grant Services no later than 10 days after the local comment period expires. This is to ensure the state comment period can begin and occur within a reasonable amount of time after the FONSI determination has been made. Failure to timely submit the RROF/C and obtain Environmental Release will create unnecessary project delays.

Grantees who fail to timely submit the RROF/C will be notified by the Grant Services Environmental Officer and instructed to upload a written explanation for the delay with the RROF/C to the ER status report. The written explanation must meet the following criteria:

1. Must be written on community letterhead and **cannot** be written or signed by the Grant Administrator;
2. Must explain why the RROF/C was not timely submitted;
3. Reaffirm the project has not undergone a material change which would necessitate additional environmental review;
4. Reaffirm that the environmental conditions on which the FONSI determination was made have not changed; and,
5. Be signed by the Chief Elected Official (CEO) for the community.

Grantees will **not** be required to republish their FONSI, NOI-RROF, or Combined Notice as long as project has not undergone a material change (e.g., scope, location) **AND** the environmental conditions on which the FONSI determination was made have not changed. *See 24 CFR §58.47 for more information.*