Supplemental Guidance: Environmental Review Compliance for SLFRF Title I Projects

Department of the Treasury, Office of Capital Access, State and Local Fiscal Recovery Funds

Introduction

The Consolidated Appropriations Act, 2023 (2023 CAA) granted authority for recipients of State and Local Fiscal Recovery Funds (SLFRF) to use their award funds for projects eligible under Title I of the Housing and Community Development Act of 1974 (HCDA) (Title I projects). The 2023 CAA also provided that, except as otherwise determined by the Secretary, the requirements of Title I of the HCDA and the National Environmental Policy Act of 1969 (NEPA) apply to SLFRF funds used for Title I projects. In the 2023 Interim Final Rule, Treasury determined that recipients using SLFRF funds for Title I projects must satisfy NEPA environmental review requirements in accordance with the procedures set forth in section 104(g) of the HCDA, as implemented by the regulations of the U.S. Department of Housing and Urban Development (HUD) at 24 CFR Part 58 and as adapted to the SLFRF program by Treasury.

As such, all SLFRF recipients pursuing Title I projects must satisfy environmental review requirements set forth in HUD's regulations at 24 CFR part 58, except as provided otherwise by Treasury.

HUD's Office of Environment and Energy has developed an online system, the HUD Environmental Review Online System (HEROS), to facilitate the environmental review process for projects conducted under Title I across all levels of review and provides approvals of their recipients' certifications that they have conducted the necessary level of environmental review to satisfy requirements. SLFRF recipients must use this system with respect to their satisfaction of environmental review requirements applicable to the use of SLFRF funds for Title I projects.

This document outlines how SLFRF recipients must (1) use HUD's HEROS to address their satisfaction of environmental review requirements, (2) submit a certification regarding the completion of such requirements to Treasury for approval, and (3) report to Treasury on their use of SLFRF funds for Title I projects.

In general, this document focuses on documenting the procedural steps required to conduct environmental review in HEROS, and highlights where Treasury procedures deviate from HUD procedures. This document leverages existing HUD documents, such as the HEROS User Guide, for screenshots and additional details on the use of HEROS. Furthermore, the HEROS screens themselves provide the necessary instructions and regulatory references to complete the environmental review process and thus this document does not dictate the granular requirements.

HUD's regulations at 24 CFR part 58 apply to Title I projects funded using SLFRF funds except as provided below and in the 2023 Interim Final Rule. Provisions in HUD's regulations referring to HUD shall instead be read to refer to Treasury, unless otherwise provided below. All SLFRF recipients are considered "responsible entities" for purposes of the application of HUD's regulations to the use of SLFRF funds for Title I projects. As

such, all SLFRF recipients engaging in Title I projects using SLFRF funds are responsible 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 58.5, and must also comply with the requirements identified in 24 CFR 58.6.

Applicability of Environmental Review Requirements

No certification and approval required. Under the 2023 Interim Final Rule, **recipients may expend SLFRF funds for a Title I project without submitting certifications and receiving approval from Treasury** if the project is:

- An "exempt activity" as contemplated by 24 CFR 58.34(a); or
- A "categorically excluded" activity not subject to 24 CFR 58.5 (CENST), as contemplated by 24 CFR 58.35(b), provided that the extraordinary circumstances described in 24 CFR 58.35(c) are not present.[1]

If a project meets either of the two criteria above, the recipient may begin using SLFRF funds for the project right away. Recipients pursuing such Title I projects still must maintain adequate written records of their determinations that the activity or project is either exempt or categorically excluded and not subject to 24 CFR 58.5, and without the presence of extraordinary circumstances, as further described in the 2023 Interim Final Rule. **Recipients pursuing such projects must also address the requirements identified in HUD's regulations at 24 CFR 58.6.**

Certification and approval required. **If a project does not meet either of the two criteria above, recipients must submit a certification to Treasury that they have satisfied the relevant requirements of 24 CFR part 58 ("Environmental Certification") and receive approval from Treasury prior to using SLFRF funds for Title I projects.**

This document provides further detail as to how SLFRF recipients are to use HEROS to facilitate the required environmental review and to complete the Environmental Certification to be submitted to Treasury for such projects. Treasury has adapted certain HUD materials to conform with the different structure and requirements of the SLFRF program. For example, SLFRF recipients are not required to request a release of funds to use their SLFRF funds for projects eligible under the 2023 Interim Final Rule, as recipients already have received their SLFRF award funds. Instead, SLFRF recipients must post Notices of Intent to Request Approval from Treasury, which will be reviewed as part of the approval process. Recipients with projects requiring an Environmental Impact Statement (EIS) under 24 CFR 58.37 should contact Treasury via email at OCA-SLFRF-EnvCertApproval@Treasury.gov for further guidance.

[1] *See* 88 FR 64986, 65019 (Sept. 20, 2023). HUD's regulations define extraordinary circumstances as a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required but, due to unusual conditions, an EA or EIS is appropriate. 24 CFR 58.2(a)(3). Indicators of unusual conditions are: (i) actions that are unique or without precedent; (ii) actions that are substantially similar to those that normally require an EIS; (iii) actions that are likely to alter existing HUD policy or HUD mandates; or (iv) actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.

In the case of SLFRF recipients seeking to direct funds to existing HUD projects that qualify as a Title I project, recipients' environmental review certifications and approval from HUD would satisfy the requirements of 24 CFR part 58 for the project if they cover the full scope of the project to be funded with SLFRF. Prior to using SLFRF funds for such projects, recipients must submit to Treasury documentation of HUD approvals of environmental review certifications for the given project. For existing HUD projects that qualified as an exempt activity or a CENST project for which extraordinary circumstances described in 24 CFR 58.35(c) are not present, the responsible entity (RE) can provide their determination signature pages from the project's HEROS environmental review record (ERR) to Treasury. For existing HUD projects that qualified as a categorically excluded activity subject to 24 CFR 58.5 (CEST) or that required an environmental assessment (EA), the responsible entity may provide a copy of the authorization to use government funds (AUGF) issued by HUD. Treasury will review whether HUD approval has been granted and confirm that it applies to the scope of the SLFRF project.

Even when recipients are not required to conduct a new environmental review to add SLFRF funds to a previously approved HUD project that qualifies as a Title I project, they should update their existing review in HEROS to reflect SLFRF as an additional source of funds pursuant to the HUD requirements that apply to the previously approved HUD project.

The following sections provide details on the specific actions required at each level of environmental review by recipients. Table 1 on the following page summarizes these required actions:

Table 1: Summary of required actions for Environmental Review:

	Exempt Activities	CENST[2]	CEST[3]	Environmental Assessment
Document that Title I project is exempt or CENST	Yes	Yes	No	No
Use SLFRF funds right away on Title I project	Yes	Yes	No	No
Complete Environmental Review in HEROS	Yes	Yes	Yes	Yes
Complete Environmental Review Record (ERR)	Yes	Yes	Yes	Yes
Maintain signed ERR	Yes	Yes	Yes	Yes
Publish ERR to HUD webpage	No	No	Yes	Yes
Collect public comments	No	No	Yes	Yes
Post Public Notice to Request Treasury Approval	No	No	Yes	Yes
Post Public Finding of No Significant Impact	No	No	No	Yes
Submit Environmental Certification and Public Notice to Treasury	No	No	Yes	Yes
Receive Treasury approval of Environmental Certification before using SLFRF funds	No	No	Yes	Yes

[2] CENST means projects that do not require Treasury's approval, which include exempt activities and categorically excluded activities not subject to 24 CFR 58.5 and for which no extraordinary circumstances described in 24 CFR 58.35(c) are present.

[3] CEST means a "categorically excluded" activity subject to 24 CFR 58.5 (CEST) as contemplated by 24 CFR 58.35(a), and that does not convert to an exempt activity pursuant to 24 CFR 58.34(a)(12). CESTs that are found, during the process of completing the ERR, to not implicate any Federal laws as outlined in 24 CFR 58.5 are converted to exempt activities pursuant to 24 CFR 58.34(a)(12), and therefore are only required to satisfy the activities required of Exempt Activities as outlined above.

Recipients with projects requiring an Environmental Impact Statement (EIS) under 24 CFR 58.37 or requiring an EIS as the result of a finding of significant impact upon completion of an EA should contact Treasury at OCA-SLFRF-EnvCertApproval@Treasury.gov.

SLFRF Recipients' Conduct of Environmental Reviews for Title I Projects

Treasury and HUD have partnered to allow SLFRF recipients to utilize HEROS to conduct environmental reviews for Title I projects. **Treasury is requiring all SLFRF recipients pursuing Title I projects to conduct and document all levels of required environmental review within HEROS**. Further, SLFRF recipients pursuing Title I projects must serve as "responsible entities" for the purposes of environmental review requirements and, therefore, are required to conduct their environmental reviews in HEROS. This section outlines the steps that recipients are to take to gain access to HEROS, execute their environmental reviews, and submit certifications to Treasury to receive approval for the use of SLFRF funds on certain Title I projects.

Recipients may refer to HUD's HEROS User Guide for further support in navigating the 24 CFR part 58 environmental review process in HEROS. This document will reference the relevant pages in the HEROS User Guide that correspond with a given level of review.

How to request access to HEROS

All SLFRF recipients pursuing Title I projects must gain access to HEROS to conduct environmental reviews, including for projects, as described below, that do not require Treasury's approval prior to using SLFRF funds for Title I projects. Recipients that are already HEROS users for purposes of another HUD program are not required to seek further access.

Recipients that are not existing HEROS users should request access to HEROS through the online HEROS Access Form. In the form, SLFRF recipients must identify themselves as a Treasury recipient. HUD will require at least three weeks to review and approve these requests.

Using HEROS (for all levels of review)

Once an SLFRF recipient is able to access HEROS, they should follow the instructions listed below to start the appropriate level of environmental review. All Title I projects will require these initial steps.

1. Follow the "Logging into HEROS" section on page 16 the HEROS User Guide to access HEROS.
2. Start a new review by following the instructions in the "Navigating a Part 58 Review" section starting on page 30 of the HEROS User Guide.
3. Follow the "Setting Up a Part 58 Review" starting on page 32 of the HEROS User Guide, taking care to specifically:
    a) Select "Part 58" for Screen 1101 – Review Type. SLFRF recipients may *not* select "Part 50" for the review type.
    b) On Screen 1105, recipients should
        i) Select "Department of Treasury" for the "HUD Program" field.
        ii) Select "State and Local Fiscal Recovery Funds (SLFRF)" for the "Program Name Field.
        iii) Leave the "Grant/Project Identification Number" blank.

iv) Enter the anticipated amount of SLFRF funds used for the project for the field "Estimated Total HUD Funded, Assisted, or Insured Amount($)."
    - *Note that the amount added here should match the recipient's reported amount for the same project to Treasury in the required Project and Expenditure reporting.*
v) Enter the "Estimated Total Project Cost $."
vi) If the project is funded with Federal funding sources outside of SLFRF, select "Yes" to the question "Does this project anticipate the use of funds or assistance from another Federal agency in addition to HUD?", otherwise select "No."

4. Complete Screens 1120, 1122, 1125, and 1311 (users that select "not sure" will be prompted to complete screen 1320).
5. Confirm that the project falls into the level of review category indicated by the screen, on Screens 1341, 1342, 1344, 1346, or 1348 depending on the level of review.

Based on the level of review, HEROS will customize the screens and process as summarized on page 44 of the HEROS User Guide. This document outlines the actions that recipients are to take within and outside of HEROS to fulfill Treasury's requirements for Title I projects, based on the level of review.

Using HEROS for projects that do not require Treasury approval

As described above and in the 2023 Interim Final Rule, recipients are not required to submit environmental certifications or receive Treasury's approval before using SLFRF funds on certain Title I projects. Such projects that do not require Treasury's approval include exempt activities and categorically excluded activities not subject to 24 CFR 58.5 and for which no extraordinary circumstances are present (CENST).

Certain categorically excluded activities subject to 24 CFR 58.5 (CEST) Title I projects ultimately convert to exempt activities and therefore also do not require Treasury's approval or submission of an environmental certification.

SLFRF recipients must maintain written records of their determinations that the project required a certain level of review in order to satisfy environmental review requirements. The following section details the process that recipients are required to undertake in HEROS to satisfy such requirements for projects that do not require Treasury's approval and where recipients may use their SLFRF funds for such projects right away.

Exempt Activities and CENST (does not require Treasury's approval)

Recipients whose Title I projects are exempt activities or CENSTs must complete the following screens in HEROS to satisfy environmental review requirements. Recipients may refer to pages 44-85 of the HEROS User Guide for additional instructions on how to complete the relevant HEROS screens, and they are listed below:

1. Screen 2005–Related Laws and Authorities
2. Screen 5000–Mitigation Measures and Conditions

3. Screen 6220–Package Screen
4. Screen 6222–Exempt and CENST Signature Page
5. Screen 7000–Mitigation Follow-up (*as relevant*)
6. Screen 1161–Reevaluation of a Completed Review (*as relevant*)

Upon completion of these screens, recipients undertaking these types of Title I projects are not required to submit anything further to Treasury. Recipients should, for documentation and audit purposes, keep the final, signed ERR that is downloadable at Screen 6220 by clicking the "Generate preview of environmental review record" for their own records and maintain the ERR as required by 24 CFR part 58.

CEST converting to exempt activity (does not require Treasury approval):

Recipients pursuing CEST projects with SLFRF funds that are converted to exempt activities must complete the following screens in HEROS to satisfy environmental review requirements. Recipients may refer to pages 44-85 of the HEROS User Guide for additional instructions on how to complete the relevant HEROS screens. As described above, recipients should complete the following screens which will help them determine whether the project converts to exempt, and would satisfy environmental review requirements:

1. Screen 2005–Related Laws and Authorities
2. Screen 5000–Mitigation Measures and Conditions
3. Screen 6210–CEST Determination
4. Screen 6220–Package Screen
5. Because the CEST is converting to an Exempt Activity:
   a) Screen 6224–Conversion to Exempt Signature Screen
6. Screen 7000–Mitigation Follow-up (*as relevant*)
7. Screen 1161–Reevaluation of a Completed Review (*as relevant*)

Upon completion of these screens, recipients undertaking CEST projects that convert to exempt activities are not required to submit anything further to Treasury. Recipients should, for documentation and audit purposes, keep the final, signed ERR that is downloadable at Screen 6220 by clicking the "Generate preview of environmental review record" button for their own records and maintain the ERR as required by 24 CFR part 58.

Using HEROS for projects that do require Treasury approval

Recipients pursuing Title I projects that are CEST projects that do not convert to exempt activities pursuant to 24 CFR 58.34(a)(12), as well as projects that require an EA, are required to submit Environmental Certifications and receive approval from Treasury before using SLFRF funds on their projects.

Notably and as outlined in the 2023 Interim Final Rule, SLFRF recipients pursuing Title I projects are not required to submit a Request for Release of Funds (RROF), and therefore also are not required to post a Notice of Intent to Request for Release of Funds (NOI-RROF).

Recipients are required to submit an Environmental Certification (as outlined below) to Treasury and must receive approval prior to use SLFRF funds for Title I projects that are CESTs. In lieu of the RROF process, Treasury is requiring that SLFRF recipients post public notices, depending on the level of review, that convey the recipient's intention to request Treasury approval of the Title I project, and that publicize the recipient's Finding of No Significant Impact (FONSI). The sections below outline where specific public notices are required, and the appendix includes template versions of forms that recipients are required to use to satisfy these requirements.

CEST not converting to exempt (requires Treasury approval):

Recipients pursuing Title I projects that are CESTs that do not convert to exempt activities must complete the following screens in HEROS to satisfy environmental review requirements. Recipients may refer to pages 44-85 of the HEROS User Guide for additional instructions on how to complete the relevant HEROS screens. Recipients should follow the outlined processes in order to use SLFRF funds for their Title I projects:

Recipients are required to complete the following screens in HEROS:

1. Screen 2005–Related Laws and Authorities
2. Screen 5000–Mitigation Measures and Conditions
3. Screen 6210–CEST Determination
4. Screen 6220–Package Screen
5. Because the CEST is not converting to an Exempt Activity:
    a) Screen 6226–CEST Signature and Posting for Public Comment Screen
        i) Note: The public notice and commenting process occurs outside of HEROS and recipients must still publish or post public notice separately. Public notices should reference the link of the HUD Exchange webpage where the Environmental Review Record is posted.
6. Screen 7000–Mitigation Follow-up (*as relevant*)
7. Screen 1161–Reevaluation of a Completed Review (*as relevant*)

Recipients are *not* required to complete the following screens in HEROS:

- Screen 6230-Notice of Intent to Request Release of Funds
- Form 7015.15–Request for Release of Funds
- Form 7015.16–Authority to Use Grant Funds
- Screen 6600–Complete and Archive Review

Screen 6230 is not required because, per the 2023 Interim Final Rule, SLFRF recipients are not required to complete the RROF process. Furthermore, Forms 7015.15 and 7015.16 are not required as SLFRF recipients should follow the process below to complete their Environmental Certification and submit to Treasury for approval separately from HEROS. Screen 6600 is not required because recipients will be submitting their completed reviews directly to Treasury.

Recipients are required to complete the following outside of HEROS:

Post Public Notice of Intent to Request Treasury Approval and Solicit Public Comments: Upon completion of Screen 6226 that will post the ERR to the HUD webpage for public review, the recipient must post a public notice that the recipient will seek approval from Treasury of its certification that it has satisfied environmental review requirements and to use SLFRF funds for this Title I project. Recipients must follow the template in Appendix A: Sample Public Notice of Intent to Request Treasury Approval Template when publishing the notice. Recipients should follow instructions on how to post the public notice in accordance with 24 CFR 58.43(a). As outlined there, recipients may publicize their notice in two ways: 1) mail the notice to certain entities while simultaneously displaying the notice prominently in public buildings (mail and post) or 2) publish the notice in a newspaper of general circulation in the affected community (publish). In addition to publishing or posting/mailing the notice, the recipient must also distribute the notice to interested parties, local news media, appropriate local, state and Federal agencies, and the relevant Regional Office of the Environmental Protection Agency (EPA),in line with 24 CFR 58.43. If the Title I project in question is receiving both Treasury and HUD funding, recipients should also mail the notice to their HUD field office.

Required notices must afford the public the minimum comment periods provided by the HUD regulations at 24 CFR 58.21 and 24 CFR 58.45(b), which must elapse before the recipient submits the Environmental Certification for approval as described below: 7 days when the notice is published in a newspaper or 10 days when mailing and posting the notices. As noted above, the public notice and commenting process happen separately from HEROS.

Complete the Environmental Certification: Following completion of the public comment period, the recipient should prepare and submit the Environmental Certification (see Appendix B) to Treasury. The Environmental Certification certifies that the recipient is in compliance with all the environmental review requirements. The Environmental Certification must be signed by the Certifying Officer.[4]

Submit the Environmental Certification and supporting documents to Treasury: Once the Environmental Certification is signed and completed, recipients are required to submit the following documents to OCA-SLFRF-EnvCertApproval@Treasury.gov:

1. Completed Environmental Certification
2. Copy of Notice of Intent to Request Treasury Approval
3. Proof of publication / posting of Notice of Intent to Request Treasury Approval

Treasury will provide recipients with Authority to Use Grant Funds (AUGF), at which point recipients may begin using SLFRF funds towards their Title I projects. Recipients should, for documentation and audit purposes, keep the final, signed ERR that is downloadable at Screen

[4] The recipient must designate a Certifying Officer -- the "responsible Federal official" -- to ensure compliance with NEPA and the Federal laws and authorities cited at section 58.5 has been achieved. This person is the chief elected official, chief executive official, or other official designated by formal resolution of the governing body. The certifying officer must have the authority to assume legal responsibility for certifying that all environmental requirements have been followed. This function may not be assumed by administering agencies or consultants.

6220 by clicking the "Generate preview of environmental review record" for their own records and maintain the ERR as required by 24 CFR part 58.

Environmental Assessments (requires Treasury approval)

Title I projects requiring Environmental Assessments (EA) must prepare an EA in accordance with 24 CFR Part 58 subpart E. Recipients may refer to pages 44-85 of the HEROS User Guide for additional instructions on how to complete the relevant HEROS screens. Recipients are required to submit an Environmental Certification (as outlined below) to Treasury and must receive approval prior to using SLFRF funds for Title I projects requiring EAs. The steps to comply with such requirements are outlined below.

Recipients are required to complete the following screens in HEROS:

1. Screen 1365–Cooperating Agency
2. If the project does not anticipate using federal funds or assistance from another agency other than Treasury:
   a) Screen 1366–Project Justification
   b) Screen 2005–Related Laws and Authorities
   c) Screen 4010–Environmental Assessment Factors
   d) Screen 4100–Environmental Assessment Analysis
   e) Screen 5000–Mitigation Measures and Conditions
3. Screen 6310–EA Determination
   a) If during the EA the review indicates a Finding of Significant Impact, the User is instructed to archive the review and reach out to Treasury.
4. Screen 6220–Package Screen
5. Screen 6320–EA Signature and Posting Screen
6. Screen 6330–Notice of Intent to Request Release of Funds (NOI-RROF) and Notice of Finding of No Significant Impact (FONSI) for EA projects only
   a) Recipients should complete this screen following the Notice of FONSI and after the completion of the public comment period.
   b) As mentioned above, SLFRF recipients are not required to complete the RROF process, and accordingly are not required to post an NOI-RROF.
7. Screen 7000–Mitigation Follow-up (*as relevant*)
8. Screen 1161–Reevaluation of a Completed Review (*as relevant*)

Recipients are *not* required to complete the following screens in HEROS:

- Form 7015.15–Request for Release of Funds
- Form 7015.16–Authority to Use Grant Funds
- Screen 6600–Complete and Archive Review

Forms 7015.15 and 7015.16 are not required because SLFRF recipients should follow the process below to complete their Environmental Certification and submit to Treasury for approval

separately from HEROS. Screen 6600 is not required because recipients will be submitting their completed reviews directly to Treasury.

Recipients are required to complete the following outside of HEROS:

Post Combined Public Notice of Intent to Request Treasury Approval and Notice of Finding of No Significant Impact and Solicit Public Comments: Upon completion of Screen 6320 that will post the ERR to the HUD webpage for public review, the recipient must post a public notice that the recipient will seek approval from Treasury of its certification that it has satisfied environmental review requirements, and a notice of its Finding of No Significant Impact for this Title I project. To do so, recipients must complete and post a public notice in the form provided in Appendix C: Sample Public Notice of Finding of No Significant Impact and Notice of Intent to Request Treasury Approval Template. Recipients should follow the instructions on how to post the public notice provided in 24 CFR 58.43(a). As outlined there, recipients may publicize their notice in two ways: 1) mail the notice to certain entities while simultaneously displaying the notice prominently in public buildings (mail and post) or 2) publish the notice in a newspaper of general circulation in the affected community (publish).

Required notices must afford the public the minimum comment periods provided by the HUD regulations at 24 CFR 58.21 and 24 CFR 58.45(c), which must elapse before the recipient submits the Environmental Certification for approval as described below: 15 days when the notice is published in a newspaper or 18 days when mailing and posting the notices. As noted above, the public notice and commenting process require action to be taken by the recipient outside of HEROS.

Complete the Environmental Certification: Following completion of the public comment period, the recipient must prepare and submit the Environmental Certification (see Appendix B) to Treasury. The Environmental Certification certifies that the recipient is in compliance with all the environmental review requirements. The Environmental Certification must be signed by the Certifying Officer.[5]

Submit the Environmental Certification and supporting documents to Treasury: Once the Environmental Certification is signed and completed, recipients are required to submit the following documents to OCA-SLFRF-EnvCertApproval@Treasury.gov:

1. Completed Environmental Certification
2. Copy of Combined Notice of Intent to Request Treasury Approval and Notice of Finding of No Significant Impact
3. Proof of publication / posting of Notice of Intent to Request Treasury Approval

[5] The recipient must designate a Certifying Officer -- the "responsible Federal official" -- to ensure compliance with NEPA and the Federal laws and authorities cited at section 58.5 has been achieved. This person is the chief elected official, chief executive official, or other official designated by formal resolution of the governing body. The certifying officer must have the authority to assume legal responsibility for certifying that all environmental requirements have been followed. This function may not be assumed by administering agencies or consultants.

Treasury will provide recipients with an AUGF, at which point recipients may begin using SLFRF funds towards their Title I projects. Recipients should, for documentation and audit purposes, keep the final, signed ERR that is downloadable at Screen 6220 by clicking the "Generate preview of environmental review record" for their own records and maintain the ERR as required by 24 CFR part 58.

Environmental Review Reporting to Treasury

Receiving Treasury Approval and Recipient Notification

As described above, certain Title I projects will require that the recipient submit an Environmental Certification (along with supporting documentation) to Treasury. Within Treasury's Office of Capital Access (formerly known as the Office of Recovery Programs, or ORP), the SLFRF program team will monitor the inbox to review the Environmental Certifications as they are submitted. The SLFRF program team will also monitor the inbox for any objections submitted regarding specific projects and can reject the Environmental Certification if any of the objections are on grounds set forth in 24 CFR 58.75. Treasury will not approve any Environmental Certification before 15 calendar days have elapsed from either the time of receipt of the Environmental Certification or from the time specified in the public notice, whichever is later.

Reporting required by Recipients

Apart from following the steps outlined in the *Conducting Environmental Reviews for Recipients* section, SLFRF recipients must continue to report their projects to Treasury in line with the existing reporting requirements outlined in the SLFRF Compliance and Reporting Guidance.

SLFRF recipients undertaking Title I projects that required approval of Environmental Certification must also do the following:

1. Ensure that their project name under the Environmental Certification matches the project name in the recipient's Project & Expenditure reporting to Treasury.
2. Upload the documents submitted to Treasury for approval regarding Title I projects, including
    a) Approved Environmental Certification
    b) Approved Public Notice
    c) Approved proof of posting of public notice
    d) Authorization of Grant Funds (AUGF) provided to the recipient by Treasury]

Treasury's monitoring of recipient use of SLFRF funds for Title I projects will be conducted as part of its general administration of the SLFRF program with respect to the provision for HUD's monitoring of recipients as provided in 24 CFR 58.77(d)(1).

Appendix A: Sample Public Notice of Intent to Request Treasury Approval Template

Sample Public Notice of Intent to Request Treasury Approval
for Categorical Exclusions Subject to 24 CFR 58.5 (CEST)

All items below in bold are required to be replaced or inserted by the SLFRF Recipient

Notice of Intent to Request Treasury Approval

(Date of Notice)

(Name of recipient)

(Address)

(City, State, Zip Code)

(Telephone Number of recipient (i.e., Environmental Specialist, Project Director or Program Manager))

(Email address of recipient)

On or about **(cite date, which must be at least 8 days following publication date of this notice)** the **(name of recipient)** will submit a request to the U.S. Department of the Treasury (Treasury) for the approval to use State and Local Fiscal Recovery Funds (SLFRF) for the following Title I project: **(cite your particular project),** for the purpose of **(briefly describe nature/scope of project, estimated funding (include non-Treasury funding sources if applicable) and project location if applicable)**. The **(cite name of recipient)** is requesting approval to use **(cite amount of SLFRF funding intended to be spent towards this project through September 30, 2026)**. **(Name of recipient)** has made an environmental review record (ERR) for the project that can be examined at **(Insert link of the HUD Exchange webpage where the Environmental Review Record is posted).**

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the **(cite recipient designated office responsible for receiving and responding to comments)**. All comments received by **(cite date, which is at least 8 days following publication of this notice)** will be considered by **(recipient)** prior to requesting approval of environmental certification from Treasury.

APPROVAL OF CERTIFICATION

The **(recipient**) certifies to Treasury that **(provide name of Certifying Officer)** in (**his/her)** official capacity as **(cite Certifying Officer's Official Title),** consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. Treasury's approval of the certification satisfies its

responsibilities under NEPA and related laws and authorities and allows the **(recipient)** to utilize federal funds and implement the project.

OBJECTIONS TO APPROVAL OF CERTIFICATION

Treasury will consider objections to its approval of **(recipient)'s** certification for a period of fifteen days following either the anticipated submission date (cited above) or Treasury's actual receipt of the request (whichever is later) only if the objections are on one of the following bases: (a) that the Certification was not executed by the Certifying Officer of the **(recipient**); (b) the **(recipient)** has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the **(recipient)** has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of the environmental certification by Treasury; (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to Treasury by sending an email to OCA-SLFRF-EnvCertApproval@Treasury.gov, with the subject line "Objection to SLFRF Title I Project Undertaken by [RECIPIENT NAME]." Potential objectors may contact Treasury directly to verify the actual last day of the objection/comment period.

(Cite name and title of recipient Certifying Officer)

Appendix B: Environmental Certification Template

Environmental Certification

U.S. Department of the Treasury, Office of Capital Access (formerly known as Office of Recovery Programs, ORP), State and Local Fiscal Recovery Funds (SLFRF) Program

Recipient Name:

Recipient UEI Number:

Recipient SLFRF Grant Agreement Number:

Program Activity(ies)/Project Name(s):

Location (Street address, city, county, State):

Program Activity / Project Description:

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described above, I have found that the proposal did ☐ did not ☐ require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published a Notice of Intent to Request Treasury Approval and, for Title I projects requiring an Environmental Assessment, satisfied the

requirements outlined by Treasury as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.

6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.

As the duly designated certifying official of the responsible entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the Treasury responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity	Title of Certifying Officer
X	Date Signed
Address of Certifying Officer	

Appendix C: Sample Public Notice of Finding of No Significant Impact and Notice of Intent to Request Treasury Approval Template

The sample language below is the U.S. Department of the Treasury's (Treasury) recommended wording of the combined Notice of Finding of No Significant Impact and Notice of Intent to Request Treasury Approval. This Notice is used for projects requiring an Environmental Assessment (24 CFR Part 58, Section 58.36]. Words in **bold type** are to be replaced by language appropriate to the particular project and Responsible Entity.

NOTICE OF FINDING OF NO SIGNFICANT IMPACT AND
NOTICE OF INTENT TO REQUEST TREASURY APPROVAL

(Date of Notice)

(Name of Recipient/Responsible Entity (RE))

(Address (e.g., Street No. or P.O. Box))

(City, State, Zip Code)

(Telephone Number of RE)

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the **(name of recipient***).*

REQUEST FOR TREASURY APPROVAL

On or about **(at least one day after the end of the comment period)** the **(name of Recipient)** will submit a request to Treasury for the approval to use State and Local Fiscal Recovery Funds (SLFRF) for the following Title I project: **(project title)** for the purpose of **(nature/scope of project, estimated funding (include non-Treasury funding sources if applicable) and project location if applicable).**

FINDING OF NO SIGNIFICANT IMPACT

The **(name of Recipient)** has determined that the project will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy

Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at **(name and address of Recipient office where ERR can be examined and name and address of other locations where the record is available for review)** and may be examined or copied weekdays **(__)**A.M to **(__)**P.M.

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the **(Recipient designated office responsible for receiving and responding to comments)**. All comments received by **(if notice is published: publication date plus fifteen days; if notice is mailed and posted: mailing and posting date plus eighteen days)** will be considered by the **(name of Recipient)** prior to authorizing submission of a request for Treasury approval. Comments should specify which Notice they are addressing.

ENVIRONMENTAL CERTIFICATION

The **(name of Recipient)** certifies to Treasury that **(name of Certifying Officer)** in **(his/her)** capacity as **(Official Title)** consents to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. Treasury's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the **(name of recipient)** to use SLFRF funds for the given Title I project**.**

OBJECTIONS TO RELEASE OF FUNDS

Treasury will accept objections to its approval and the **(Recipient's)** certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the **(name of Recipient)***;* (b) the **(Recipient)** has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by Treasury; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to Treasury by sending an email to OCA-SLFRF-EnvCertApproval@Treasury.gov, with the subject line "Objection to SLFRF Title I Project Undertaken by (**Recipient Name)**". Potential objectors should contact Treasury to verify the actual last day of the objection period.

(Name and Title of RE Certifying Officer)

Revision Log

Date Published	Summary of Changes
July 5, 2024	Initial Publication
August 23, 2024	Changed the email address from SLFRF-EnvCertApproval@Treasury.gov to OCA-SLFRF-EnvCertApproval@Treasury.gov.