

**NATIONWIDE PROGRAMMATIC AGREEMENT AMONG THE U.S.  
DEPARTMENT OF AGRICULTURE RURAL DEVELOPMENT  
PROGRAMS, NATIONAL CONFERENCE OF STATE HISTORIC  
PRESERVATION OFFICERS, AND THE ADVISORY COUNCIL ON  
HISTORIC PRESERVATION FOR SEQUENCING SECTION 106**

**WHEREAS**, the United States Department of Agriculture's (USDA) Rural Development (RD) programs offer low interest loans, grants, and loan guarantees to support essential services such as housing, economic development, health care, first responder services and equipment, and water, electric, and telecommunications infrastructure; and promote economic development by supporting loans to businesses through banks, credit unions, and community-managed lending pools; and

**WHEREAS**, RD has a loan portfolio of more than \$220 billion to bring enhanced economic opportunity to the Nation's rural communities; and

**WHEREAS**, RD is authorized under the Rural Electrification Act of 1936, as amended; the Consolidated Farm and Rural Development Act of 1961, as amended; the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2000; the Agriculture Risk Protection Act of 2000, as amended; the Farm Security and Rural Investment Act of 2002, as amended; the Food, Conservation, and Energy Act of 2008; the Agricultural Act of 2014; the Food Security Act of 1985; the Housing Act of 1949, as amended; and 7 U.S.C. §§ 2008u, 8103, 8104, 8105, and 8107 to carry out 59 programs and services in support of its borrower or applicant's (applicant) activities, by providing financial assistance in rural America that provides much-needed infrastructure or infrastructure improvements to rural communities, in the areas of business-cooperative services, housing, water and waste treatment, electric power, and telecommunications services; and

**WHEREAS**, RD is divided into the Rural Utilities Service, Rural Business-Cooperative Service, and Rural Housing Service with unique missions to bring prosperity and opportunity to rural areas; and

**WHEREAS**, the USDA Rural Utilities Service (RUS) administers programs that provide much-needed infrastructure or infrastructure improvements to rural communities. These programs include water and waste treatment through the Water and & Environmental Programs (WEP), electric power (Electric) and telecommunications (Telecom) services. All of these services play a critical role in helping to expand economic opportunities and improve the quality of life for rural residents; and

**WHEREAS**, the USDA Rural Business–Cooperative Service (RBS) offers programs to support business development and job training opportunities for rural residents. RBS programs help provide capital, technical support, educational opportunities, and entrepreneurial skills that can help rural residents start and grow businesses or access jobs in agricultural markets and in the bio–based economy. RBS programs connect rural residents to the global economy by: supporting business growth and development; facilitating sustainable renewable energy development; developing regional food systems; generating and retaining jobs through recreation and natural resource restoration, conservation, and management; and increasing access to broadband. These investments support the nation’s long–term prosperity by ensuring that rural communities are self–sustaining, repopulating, and thriving economically; and

**WHEREAS**, the USDA Rural Housing Service (RHS) offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for facilities such as single– and multi–family housing, child care centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. RHS provides technical assistance loans and grants in partnership with non–profit organizations, Indian tribes, state and federal government agencies, and local communities; and <sup>1</sup>

**WHEREAS**, RD has determined that projects receiving financial assistance under RD programs are undertakings subject to review under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 300101 et seq., and its implementing regulations (36 CFR Part 800); and

**WHEREAS**, due to the distinct nature of RD’s three (3) main agencies RUS, RHS, and RBS, and those RD agencies and programs with similar mission areas that may be amended or added in the future, the appendices have been divided by each agency for undertakings, programs, and services that do not have the potential to cause effects on historic properties, based upon consultation with the signatories of this agreement, assuming such historic properties were present. These appendices will address program efficiencies, tribal engagement, public outreach, and the conclusion of the Section 106 four step process; and

**WHEREAS**, the appendices are separated as follows: RUS (Appendix A); RBS (Appendix B); RHS (Appendix C); and

**WHEREAS**, each appendix will be completed in consultation with the appropriate RD Federal Preservation Officer (FPO), Advisory Council on Historic Preservation (ACHP), National

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<sup>1</sup> Rural Development may hold title to foreclosed properties but reserves the right, in consultation with the Secretary and the Advisory Council on Historic Preservation, to determine the extent of federal ownership and control for the reasonable application of 36 CFR 800.5(a)(2)(vii).

Conference of State Historic Preservation Officers (NCSHPO), Indian tribes and Native Hawaiian organizations as appropriate, and other consulting parties, to make an amendment to the executed Nationwide Programmatic Agreement (NPA). This consultation for the appendices will occur subsequently following the execution of the NPA. Until these appendices are approved as an amendment to the NPA, the activities and programs that they address will follow the four step Section 106 process as set forth in 36 CFR Part 800, or as outlined in existing state agreements; and

**WHEREAS**, the resulting consultations on the appendices will only cover the information in a given appendix; and

**WHEREAS**, each appendix will be developed and completed by 2020; and

**WHEREAS**, the nature of RD funding means that costs for environmental reviews such as for the National Environmental Policy Act (NEPA) and NHPA, are incurred by RD applicants and passed to their customers in utility/usage costs, and are limited to the allocation of the overall project budget; and

**WHEREAS**, RD defines “obligation” as the approval of financial assistance and each RD program has the authority to de-obligate funding prior to or after award or construction if certain conditions are not met in the RD program’s legally binding agreement documents; and

**WHEREAS**, the schedule for RD projects may span one to five years or longer, and can be composed of multiple projects that are rarely staked or precisely located, and the nature of the undertaking is often unclear, prior to the obligation of funds; and

**WHEREAS**, RD applicants often do not have the financial wherewithal to fund Section 106 reviews, or the analysis of alternatives, without some level of confidence that RD’s low interest funding or grants will be available to assist them; and

**WHEREAS**, RD applicants are legally bound to apply project funding as stipulated by the conditions of the loan or grant; and

**WHEREAS**, the current sequencing of the Section 106 process necessitates that RD execute a NPA pursuant to 36 CFR 800.14(b), to obligate funds for borrower assurance prior to the completion of the Section 106 process and to tailor the process to better align with the timing of obligation and completion of the program’s Section 106 review, which does not typically synchronize with the normal four step Section 106 process as set forth in 36 CFR Parts 800.3 through 800.7; and

**WHEREAS**, RD has delegated authority to their applicants pursuant to 36 CFR § 800.2(c)(4) and 7 CFR § 1970.5(b)(2) of the regulations, “Environmental Policies and Procedures” (7 CFR

Part 1970), to comply with the 4 step Section 106 process and advocates for the direct interaction between its borrowers and the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer (THPO), and Indian tribes, including federally recognized Indian tribes, Native Hawaiian organizations, and Alaska Native Corporations (Indian tribe) to support and encourage the consideration of impacts to historic properties early in project planning; and

**WHEREAS**, Indian tribe means an Indian tribe, band, nation, or other organized group or community, including a native village, regional corporation, or village corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

**WHEREAS**, Native Hawaiian organization (NHO) means any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose in the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians; and

**WHEREAS**, this delegation does not include tribal consultation where the tribe specifically asks for government-to-government consultation with RD; and

**WHEREAS**, Industry, NCSHPO, THPOs, Indian tribes, NHOs, and other stakeholders are invited to be consulting parties, and sign the NPA as an Invited signatory or Concurring party, as appropriate; and <sup>2</sup>

**WHEREAS**, the public outreach process has been coordinated through information on RD program/agency websites and to RD applicant's communities via their newsletters, and other outlets etc.; and

**WHEREAS**, RD uses and coordinates the National Environmental Policy Act public participation requirements under 7 CFR Part 1970.14(b) to assist the agency in satisfying the public involvement requirements under Section 106 of the NHPA pursuant to 36 CFR Part 800.2(d)(3); and

**NOW, THEREFORE**, RD, NCSHPO, the ACHP, and others agree that RD will comply with the provisions of this NPA in order to take into account the effects of these undertakings on historic properties and afford the ACHP an opportunity to comment.

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<sup>2</sup> Industry means Telecommunications, Electric, Water, Housing and Business applicants and the groups that represent them.

## **STIPULATIONS**

RD, in coordination with its applicants, will ensure that the following stipulations are carried out by someone who meets Secretary of the Interior's (SOI) Professional Qualification Standards (62 FR 33707, June 20, 1997) where appropriate:

### **I. Conditions of Obligation**

RD may approve financial assistance (obligate) for undertakings as defined in 36 CFR 800.16(y) covered by this NPA and its appendices prior to completion of Section 106 review so long as RD agrees to:

- A. Condition obligations in RD program's legally binding agreement documents, to ensure that no federal funds for construction are released prior to completion of Section 106 review.
- B. Retain the ability to de-obligate RD funding and withdraw RD awards for an undertaking until completion of the Section 106 review.
- C. Require applicants to initiate Section 106 no later than ninety (90) business days after the announcement of their obligation if they have not done so already; and to notify the appropriate RD agency that Section 106 has been initiated in accordance with 36 CFR Part 800.2(c)(4), and 7 CFR Part 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970).
- D. Require applicants to submit Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 (d)), as amended in 1998 (508 compliant) hard copy or electronic Section 106 documentation to SHPOs, THPOs, Indian tribes, and NHOs based on the preference of the receiving party.
- E. Encourage RD applicants to initiate consultation early in the planning process when the greatest number of options are available to avoid historic properties.
- F. Ensure applicants comply with the anticipatory demolition requirements, as set forth in Section 110(k) of NHPA as failure to comply may lead to the de-obligation of RD funds.

### **II. Deobligation of Funding**

- A. It is imperative that applicants who intend to receive funding from RD do not engage in activities that could be interpreted to be in violation of Section 110(k) of the NHPA. Violation of Section 110(k) applies to any applicant who, with the intent to avoid the requirements of Section 106, has intentionally, significantly adversely affected a historic property to which the grant or loan would relate, or having the legal power to prevent it, allowed such significant adverse effects to occur.

- B. Violation of Section 110k includes anticipatory demolition. Anticipatory demolition occurs when an applicant intentionally destroys a historic property in order to avoid compliance with Section 106 of NHPA. Section 110(k) of the NHPA that was adopted in 1992 to discourage anticipatory demolition by prohibiting Federal agencies from providing grants, loans, permits, or other assistance to any applicant who intentionally destroys a historic property in order to avoid compliance with Section 106 of NHPA, unless the agency consulted with the Council to determine whether such assistance was nevertheless justified. If the applicant is in violation of Section 110(k) of the NHPA, their RD funding may be revoked and the applicant may be unable to receive RD funds to reimburse them for project activities that were done upfront.

### **III. Roles and Responsibilities**

- A. The SHPO shall follow those roles and responsibilities established through the NHPA and 36 CFR Part 800.2. The SHPO shall work with RD applicants who contact them through RD's delegation of authority pursuant to 36 CFR § 800.2(c)(4) and 7 CFR § 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970) (Appendix D). The applicant should refer to RD's applicant guidance as well as the respective SHPO guidance regarding submissions to consulting parties.
- B. THPOs, Indian tribes, and NHOs shall follow those roles and responsibilities established through the NHPA and 36 CFR Part 800.2. The THPO, Indian tribes, and NHOs are encouraged to coordinate with RD applicants who contact them through our delegation of authority pursuant to 36 CFR § 800.2(c)(4) and 7 CFR § 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970) to engage tribes and NHOs early in the planning process and so that THPOs, Indian tribes, and NHOs shall be engaged in the Section 106 process in the same manner that SHPOs are engaged. The delegation of authority set out in RD's Environmental Policies and Procedures 7 CFR § 1970.5(b)(2) allows RD applicants to coordinate, not consult, with THPOs and does not include tribal consultation where the tribe specifically asks for government-to-government consultation with RD.
1. RD recognizes that THPOs, Indian tribes, and NHOs have consultative roles in the Section 106 process pursuant to 36 CFR 800.2(c)(2).
  2. RD acknowledges that THPOs, Indian tribes, and NHOs may prefer to work with the identified RD agency contact person(s) rather than RD applicants.

- C. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate, pursuant to the NHPA, 54 U.S.C. § 300101 et seq. and 36 CFR 800.2(b).
- D. RD Loan Technicians and Specialists generally work with RD applicants in the RUS–WEP, RBS, and RHS programs to do loan originating, processing, and servicing. They may also assist the applicant in their outreach.
- E. RD State Engineers, are responsible for controlling program costs, managing risks, assisting applicants and borrowers to develop and maintain technical capabilities and project sustainability, and ensuring regulatory requirements like modesty in size, cost, and design are met where required.<sup>3</sup>
- F. RD State Architects, review projects for architectural design logic, harmony and integration of all building design and construction elements, compliance with regulations, building construction codes, handicap accessibility and standards applicable to the specific building type, program/scope of project and location /site. Project reviews include a review of all phases of the project from conception to completion.
- G. RD State Environmental Coordinators (SECs) are responsible for the state environmental review processes for RUS–WEP, RBS, and RHS. The SEC may often also be the State Engineer or Architect. The environmental review includes Section 106 consultation with the SHPO and engagement with THPOs, Indian tribes, NHOs and other consulting parties as appropriate.
- H. RD General Field Representatives (GFRs) provide information and support relating to the programs to a broad range of existing and potential borrowers in assigned areas within the RUS Electric and Telecom programs on a regional level.
- I. The Engineering and Environmental Staff (EES) are responsible for reviewing all RUS–Electric and RUS Telecom program projects and RUS WEP projects that meet certain internal criteria. The EES staff includes the RUS FPO, Archaeologists, and Environmental Protection Specialists, and Scientists.
- J. The Program Support Staff (PSS) completes environmental reviews and provides expert management and technical consulting services to continuously improve the effectiveness of RD business functions which create prosperity and self–sustainability for all rural Americans. The FPOs for both RHS and RBS work within PSS.

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<sup>3</sup> The titles of the RD staff and their duties are subject to change.

- K. As National Office staff, which includes the agencies FPOs and other staff that also meets the Secretary of the Interior's (SOI) Professional Qualification Standards for Archaeology and Historic Preservation is responsible for overseeing their respective programs administration at the regional, state, and local level. In accordance with 36 CFR 800, RD recognizes they are responsible for conducting government-to-government consultation for their programs. The responsibility of government-to-government consultation may not be delegated to any other staff, nor carried out on behalf of RD by an applicant, or another federal agency. This does not preclude an applicant from early coordination with Indian tribes if they agree to participate in such discussions. Further, in accordance with 36 CFR 800.2(c)(2)(ii)(E), a tribal nation can enter into a two party agreement with RD to establish tribal consultation protocols with their nation.
- L. The applicant is the party submitting an application for financial assistance from RD. The applicant shall provide technical historic property information to RD for use in Section 106 findings and determinations, after appropriate consultations with the SHPO, engagement with Indian tribes and NHOs, and discussions with the landowner. RD will provide the applicant with Section 106 template documents and guidance to ensure they know what Section 106 information should be submitted to consulting parties.
1. Applicants may use professional cultural resources contractors or consultants who meet the SOI Professional Qualification Standards to prepare Section 106 information, analyses, and recommendations and contact and submit information on their behalf per the delegation of authority pursuant to 36 CFR § 800.2(c)(3) and (4) and 7 CFR § 1970.5(b)(2).
  2. RD applicants must involve the FPO for the RD program which they are applying when:
    - i. The project crosses Federal land so RD can coordinate with that agency.
    - ii. The project crosses tribal lands so RD can coordinate with the THPO or Cultural Resources staff.
    - iii. The SHPO and RD agree there will be adverse effects to historic properties or a program alternative needs to be created.
    - iv. The SHPO, THPO, Indian tribe, and/or NHO disagrees with a recommended effect finding or determination of eligibility.
    - v. A THPO or Indian tribe requests government-to-government consultation.



- vi. An inadvertent discovery is made.

#### **IV. Professional Qualifications and Documentation Standards**

- A. RD shall ensure that identification, evaluation, treatment, assessment and resolution of adverse effects are carried out by persons meeting the SOI Professional Qualification Standards in the appropriate discipline.
- B. Indian tribes and NHOs have special expertise in identifying historic properties that may possess religious and cultural significance to them (36 CFR § 800.4(c)(1)), and the National Register of Historic Places (NRHP) considers the information obtained from a tribe or NHO's recognized expert to be a valid line of evidence in considering determinations of significance and eligibility. Therefore, the requirements for SOI Professional Qualification Standards may be waived or amended in recognition of this special expertise.
- C. Submissions from applicants must identify the RD agency and contact. Submissions should follow the project description and APE guidelines provided in RD National Office guidance.

#### **V. Lead Federal Agency**

- A. For any undertaking, as defined in 36 CFR 800.19(y), that has multiple Federal agencies excluding land managing agencies, RD is the designated lead federal agency for compliance with the requirements of Section 106 pursuant to 36 CFR 800.2(a)(2) and the ACHP's *Frequently Asked Questions About Lead Federal Agencies in Section 106 Review*. RD staff shall follow the terms of this NPA.
- B. In cases where RD agency is not the lead agency, but is funding the project in whole or in part, RD funds may be obligated under the terms of this NPA prior to the completion of the Section 106 review and consistent with Stipulation I on state and private lands.

#### **VI. Use of the NPA by Other Federal Agencies**

- A. For any undertaking where a federal agency other than RD is considering funding, permitting, licensing or approving a portion of a project funded in whole or in part by RD, that agency may use the terms of this NPA to obligate funds or grant a permit, license, or other approval prior to the completion of Section 106 review when the agency has the authority to de-obligate or retract the permit, license, or approval through regulation or a letter of conditions.

- B. If a federal agency determines it is appropriate for the terms of this NPA to apply to their actions, they will notify the RD, FPOs, SHPOs, THPOs, Indian tribes, NHOs, and the ACHP.
- C. If the federal agency decides to use only portions of the NPA rather than the document in its entirety, the federal agency will consult with RD, the respective SHPO, THPOs, Indian tribes, and the ACHP to develop an MOA or PA. The federal agency will circulate the MOA or PA for signature as an amendment to the NPA as appropriate in accordance with Stipulation XIV.

## **VII. Consultation on Federal Lands**

- A. The terms of this NPA do not apply to undertakings which will be located or constructed on federally managed lands, including national parks, wildlife refuges, forests, conservation areas, monuments, wildernesses, historic sites, memorials, military parks, battlefields, battlefield sites, recreation sites, wild and scenic rivers, seashores, lakeshores, and trails.
- B. Federal Land managing agencies who act as the lead federal agency, other than RD, may use the full terms of this NPA to obligate funds before Section 106 is complete for an RD funded undertaking if the agency has the authority to de-obligate or retract funding either through regulation or a letter of conditions.
- C. If a federal land managing agency, determines it is appropriate for the terms of this NPA to apply to actions on their managed lands, they will notify the RD, FPOs, SHPOs, THPOs, Indian tribes, NHOs, and the ACHP in writing that they agree to adhere to the terms of the NPA.

## **VIII. Consultation on Tribal Lands**

- A. The terms of this NPA do not apply to undertakings that will be located or constructed on tribal lands as defined pursuant to 36 CFR § 800.16(x).
- B. If an Indian tribe, determines it is appropriate for the terms of this NPA to apply to actions on those lands, the THPO or official representative of the tribe will notify the RD FPOs and the ACHP.
- C. If the Indian tribe, chooses, they may sign a two party agreement which uses as a basis, this NPA and RD will submit it to the ACHP for their records. This allows the agreement to be tailored to tribal protocols 36 CFR § 800.2(c)(ii)(E).
  - 1. If the tribe has no THPO designated pursuant to 101(d)(2) of NHPA, the SHPO office located in the state of their tribal office, may execute the agreement on

behalf of the tribe pursuant to 36 CFR 800.2(c)(2)(b), and RD will submit it to the ACHP.

2. Indian tribes and THPOS as appropriate will participate in inadvertent discovery situations.

## **IX. Emergency and Disaster Management Procedures (Response to Emergencies)**

RD agencies will follow the procedures set forth in 36 CFR 800.12 and 7 CFR 1970.18 in responding to emergencies.

- A. RD agencies shall follow established state, tribal, county, and/or local procedures related to emergency and disaster management.
- B. RD agencies shall coordinate with other federal agencies to assist in the Unified Federal Review (UFR) process when applicable for emergencies and disaster management activities.
- C. RD shall adhere to these provisions when carrying out emergency activities under supplemental appropriations provided to RD agencies under The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).
- D. Expedited review for emergency undertakings
  1. Determining need for expedited review
    - i. Pursuant to 36 CFR § 800.12(d), RD may conduct expedited review of emergency undertakings within thirty (30) days from the beginning of the incident period.
    - ii. Should RD determine that it is necessary to extend the expedited review period for emergency undertaking beyond the initial thirty (30) days, RD shall, in thirty (30)-day increments, as needed, notify in writing the applicant, SHPO and ACHP.
  2. Conducting expedited reviews:
    - i. If the emergency undertaking is an immediate rescue and salvage operation conducted in response to an event to preserve life and property, RD has no Section 106 consultation responsibilities in accordance with 36 CFR § 800.12(d); or

- ii. If the emergency undertaking meets one or more of the exemptions in Appendices A–C of this Agreement, RD shall consider the Section 106 review process complete.
- iii. If RD determines that the undertaking would adversely affect a historic property during this expedited review period:
  - 1. To the extent practicable RD shall propose treatment or mitigation measures that would address adverse effects to historic properties during implementation, and request the comments of the SHPO and appropriate THPOs, Indian tribes, and NHOs within three (3) business days of receipt of this information unless RD determines the nature of the emergency warrants a shorter time period.
  - 2. RD may provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, RD shall clarify that an “expedited review” is being requested for the undertaking.
  - 3. RD shall take into account any timely comments provided by the SHPO, appropriate THPOs, Indian tribes, and NHOs in making a decision on how to proceed.
  - 4. Should the SHPO and appropriate THPOs, Indian tribes, and NHOs not comment within three (3) business days, RD shall complete Section 106 for the undertaking based on the available information.
  - 5. RD shall notify the SHPO and appropriate THPOs, Indian tribes, or NHOs of the final decision, indicating how any comments received were considered in reaching that decision.

## **X. Training**

- A. RD shall require its staff who have active roles in the Section 106 review process to take Section 106 training through the National Office, ACHP webinars and other on-site training, e-learning, or other reputable sources.
- B. RD shall provide training and guidance to each program to develop their appendices and use the NPA.

- C. RD shall continue to provide guidance and training to new and continuing staff regarding RD environmental review processes and working with SHPO, Indian tribe, and NHO staffs.
- D. RD shall prepare a training on the release of funds under the terms of the NPA.
- E. RD may invite the SHPOs, Indian tribes, NHOs or staff to participate in presentations at agency classrooms or field trainings.
- F. RD shall encourage all personnel conducting or overseeing cultural resources work to take additional specialized training provided by the SHPO, Indian tribes, NHOs, the ACHP, National Park Service, or other agencies, as feasible and relevant.
- G. RD shall work on a training that collects and presents case studies and best management practices.

## **XI. Dispute Resolution**

Should any signatory or concurring party to this NPA object at any time to any actions proposed or the manner in which the terms of this NPA or how Section 106 review is implemented for undertakings covered under this NPA, RD shall consult with such party to resolve the objection. If RD determines that such objection cannot be resolved, RD will:

- A. Forward all relevant documentation of the dispute, including RD's proposed resolution, within 30 business days to the ACHP. The ACHP shall provide RD with its advice on the resolution of the objection within 30 business days of receiving adequate documentation. Prior to reaching a final decision on the dispute, RD shall prepare a written response within 30 business days that takes into account any timely advice or comments regarding the dispute from the ACHP. Signatories, invited signatories, and concurring parties will be provided a copy of the written response from RD. RD may then proceed with the undertaking in accordance with their final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the 30 business days, RD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, RD shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories, invited signatories, and concurring parties to the NPA. A copy of the written response will be provided to all consulting parties and the ACHP.
- C. RD's responsibilities to carry out all other actions subject to the terms of this NPA that are not the subject of the dispute remain unchanged.

## **XII. Duration of Programmatic Agreement**

This NPA will be in effect for 10 years from the date of execution, and can be extended an additional 10 years by amending the NPA in accordance with Stipulation XI, if signatories agree in writing.

## **XIII. Reporting and Monitoring**

- A. RD will submit an annual report to the signatories, National Association of Tribal historic Preservation Officers (NATHPO) and the National Trust, which summarizes the number of projects reviewed under this NPA by state within that calendar year, a summary of metrics and public-private partnerships and effect determinations; disputes; two party agreements and interagency work; number of cases where funds will be deobligated; the number of projects that fell under each of the Appendices A, B, and C; as well as the number of activities that resulted in adverse effects to historic properties. The annual report also will indicate whether any agreements regarding the applicability of this NPA on tribal lands have been developed in the past calendar year, and which THPOs and Indian tribe(s) is a signatory. Annual reports will be submitted January 15<sup>th</sup> of each year, commencing in 2019.
- B. RD will schedule a meeting to discuss the yearly report if any signatory requests one.

## **XIV. Amendment**

- A. This NPA may be amended if agreed to in writing by all signatories within 30 business days or other agreed upon time period. The amendment will be effective on the date the document is signed by all of the signatories, including RD, NCSHPO, THPOs, Indian tribes, or NHOs as appropriate, and the ACHP.
- B. Amendments to add the appendices will not reopen consultation on the main body of the PA.
- C. Consultation to amend the NPA to add the appendices may begin without requiring the written notification of all of the signatories. RD should notify the ACHP, however.

## **XV. Termination.**

- A. If within 30 business days, or other time period agreed upon by the signatories, an amendment cannot be agreed upon, any signatory or the ACHP may terminate the agreement upon written notification to the other signatories. Once the NPA is terminated, RD must either 1) execute another NPA pursuant to 36 CFR 800.14(b); 2) proceed in accordance with any applicable alternative process under 36 CFR 800.14 or 3) proceed in accordance with 36 CFR 800.3 through 800.7 on a project by project basis and cannot use

the efficiencies outlined in this PA. RD shall notify the other signatories, NCSHPO, NATHPO, and consulting parties as to the course of action they will pursue.

- B. If the NPA is terminated after the completion of the appendices, the terms of the appendices may be converted to be used as a statewide protocol if agreed to in writing by the respective SHPO and RD. RD will be responsible for notifying all consulting parties.
- C. If this NPA is terminated, or expires without being extended via the amendment process described above, and prior to continuing work on any undertaking, RD shall comply with the requirements of 36 CFR Part 800 for all individual undertakings covered by the NPA.

Execution of this NPA and implementation of its terms is evidence that RD has taken into account the effects of RD federally-funded or assisted undertakings on historic properties and afforded the ACHP an opportunity to comment on them.

Signatory Pages follow.

**SIGNATORY PAGE**

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ADVISORY COUNCIL ON HISTORIC PRESERVATION FOR SEQUENCING  
SECTION 106**

**Signatory**

UNITED STATE DEPARTMENT OF AGRICULTURE –RURAL UTILITIES SERVICE

Signature: Kellie M. Kubena Date: 7/2/18  
Kellie M. Kubena  
Director, Engineering and Environmental Staff, RUS



**SIGNATORY PAGE**

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**Signatory**

UNITED STATE DEPARTMENT OF AGRICULTURE -- RURAL BUSINESS--  
COOPERATIVE SERVICE AND RURAL HOUSING SERVICE

Signature: EDWARD DUVAL Digitally signed by EDWARD DUVAL  
Date: 2018.07.02 14:48:49 -04'00'  
Edward G. Duval  
Director, Program Support Staff, RBS and RHS

Date: \_\_\_\_\_

**SIGNATORY PAGE**

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SECTION 106**

**Signatory**

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

Signature: mark wolfe Date: 7/2/18  
Mark Wolfe  
President, NCSHPO

**SIGNATORY PAGE**

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SECTION 106**

**Signatory**

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Signature: John M. Fowler Date: 7/3/18  
John M. Fowler  
Executive Director, ACHP

## APPENDIX A: RURAL UTILITIES SERVICE (RUS) PROGRAM EFFICIENCIES

The NPA and this appendix cover the following RUS programs and those that may be amended or added in the future.

### **Rural Utilities Service – Telecommunications Programs**

- Community Connect Grants
- Distance Learning & Telemedicine Grants
- Farm Bill Broadband Loans & Loan Guarantees
- Telecommunications Infrastructure Loans & Guarantees

### **Rural Utilities Service – Electric Programs**

- Denali Commission High Energy Cost Grants
- Distributed Generation Energy Project Financing
  - Electric Infrastructure Loan & Loan Guarantee Program (FFB)
  - Energy Efficiency & Conservation Loans
  - High Energy Cost Grants
  - Rural Energy Savings Program
  - State Bulk Fuel Revolving Loan Fund
  - Energy Resource Conservation

### **Rural Utilities Service – Water & Environmental Programs**

- Circuit Rider Program
- Emergency Community Water Assistance Grants
- Grants for Rural and Native Alaskan Villages
- Household Water Well System Grants
- Individual Water & Wastewater Grants
- SEARCH - Special Evaluation Assistance for Rural Communities and Households
- Solid Waste Management Grants
- Water & Waste Disposal Grants to Alleviate Health Risks on Tribal Lands and Colonias
- Water & Waste Disposal Loans & Grants
- Water & Waste Disposal Loan Guarantees
- Water & Waste Disposal Predevelopment Planning Grants
- Water & Waste Disposal Revolving Loan Funds
- Water & Waste Disposal Technical Assistance & Training Grants

## APPENDIX B: RURAL BUSINESS–COOPERATIVE SERVICE (RBS) PROGRAMS EFFICIENCIES

The NPA and this appendix cover the following RBS programs and those that may be amended or added in the future.

### **Rural Business–Cooperatives Service**

- Business & Industry Loan Guarantees
- Intermediary Relending Program
- Rural Business Development Grants
- Rural Business Investment Program
- Rural Economic Development Loan & Grant Program
- Rural Microentrepreneur Assistance Program
- Socially–Disadvantaged Groups Grants
- Value Added Producer Grants
- Delta Health Care Services Grants
- Rural Cooperative Development Grants
- Advanced Biofuel Payment Program
- Repowering Assistance Program
- Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program
- Rural Energy for America Program (REAP) Energy Audits & Renewable Energy Development Grants
- Rural Energy for America Program (REAP) Renewable Energy & Energy Efficiency Loans & Grants
- Strategic Economic and Community Development

## APPENDIX C: RURAL HOUSING SERVICE (RHS) PROGRAMS EFFICIENCIES

The NPA and this appendix cover the following RBS programs and those that may be amended or added in the future.

### **Rural Housing Service – Community Facilities**

- Community Facilities Direct Loans & Grants
- Community Facilities Loan Guarantees
- Community Facilities Relending Program
- Community Facilities Technical Assistance and Training Grant
- Economic Impact Initiative Grants
- Rural Community Development Initiative Grants
- Tribal College Initiative Grants

### **Rural Housing Service – Multi-Family Housing**

- Farm Labor Direct Loans & Grants
- Housing Preservation & Revitalization Demonstration Loans & Grants
- Housing Preservation Grants
- Multi-Family Housing Direct Loans
- Multi-Family Housing Loan Guarantees
- Multi-Family Housing Rental Assistance
- Rural Housing Site Loans

### **Rural Housing Service – Single-Family Housing**

- Mutual Self-Help Housing Technical Assistance Grants
- Single Family Housing Direct Home Loans
- Single Family Housing Home Loan Guarantees
- Single Family Housing Repair Loans & Grants

## APPENDIX D: 7 CFR 1970

### RD 1970 Environmental Policies and Procedures

- 1970–A Environmental Policies
- 1970–B NEPA Categorical Exclusions
- 1970–C NEPA Environmental Assessments
- 1970–D NEPA Environmental Impact Statements
- 1970–E Guidance for Conducting Environmental Justice and Socioeconomic Analyses
- 1970–F Floodplain Management
- 1970–G Wetland Protection
- 1970–H Historic and Cultural Resources
- 1970–I Intergovernmental Review
- 1970–J Environmental Risk Management
- 1970–L Land Use and Formally Classified Land
- 1970–N Biological Resources
- 1970–O Miscellaneous Resources