

**AMENDMENT TO**  
**PROGRAMMATIC AGREEMENT**  
**BETWEEN**  
**THE U.S. DEPARTMENT OF ENERGY,**  
**THE OHIO DEPARTMENT OF DEVELOPMENT,**  
**AND THE**  
**OHIO STATE HISTORIC PRESERVATION OFFICE**  
**FOR THE ADMINISTRATION OF**  
**ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT,**  
**STATE ENERGY PROGRAM**  
**AND WEATHERIZATION ASSISTANCE PROGRAM FUNDS IN OHIO**

**WHEREAS**, on May 18, 2010, the United States Department of Energy (DOE), the Ohio Department of Development, and the Ohio State Historic Preservation Office (SHPO) entered into a Programmatic Agreement (Agreement) to fulfill the requirements of Section 106 of the National Historic Preservation Act for certain DOE-funded Undertakings in Ohio; and

**WHEREAS**, in 2010, as the result of unprecedented funding levels resulting from the implementation of the American Recovery and Reinvestment Act (Recovery Act), the DOE, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) developed a first-of-its-kind [Prototype Programmatic Agreement](#) (Prototype PA) for National Historic Preservation Act Section 106 reviews; and

**WHEREAS**, the intent of the Prototype PA was to provide the DOE, recipients of financial assistance under DOE's Weatherization Assistance Program (WAP), State Energy Program (SEP), and Energy Efficiency Conservation Block Grant (EECBG) program, as applicable, and State Historic Preservation Offices (SHPOs) with a tailored method for complying with Section 106 of the National Historic Preservation Act. DOE, recipients, and SHPOs negotiated and executed subsequent programmatic agreements (subsequent PAs; i.e. this Agreement) in accordance with the Prototype PA; and

**WHEREAS**, the Prototype PA originally provided that each subsequent PA would be valid for three years from the date of execution. As the result of ACHP's Program Comment dated March 11, 2013, however, all subsequent PAs, including this Agreement, were extended through December 31, 2020. (78 FR 16275, 16277); and

**WHEREAS**, the Ohio Department of Development is now known as the Ohio Development Services Agency; and

**WHEREAS**, by January 30 of each year that this Agreement is in force, each Direct Recipient (i.e. the Ohio Development Services Agency and eligible units of local governments) is required to submit to the SHPO a list of undertakings exempted from review in accordance with Stipulation III of the Agreement; and

**WHEREAS**, the ACHP, NCSHPO, and DOE recognize the Prototype PA and subsequent PAs

continue to provide great value to DOE, recipients, and SHPOs, notwithstanding expiration of most Recovery Act funding, this amendment extends the use of the Agreement for an additional 10 years to **December 31, 2030**; and

**WHEREAS**, the DOE will send a copy of this executed amendment to the ACHP.

**NOW, THEREFORE**, in accordance with Stipulation XI of the Agreement, the Signatories of this Amendment agree as follows:

1. Change all reference to the 'Ohio Department of Development' to the 'Ohio Development Services Agency';
2. Add Stipulation XII to include:

XVII: Termination of Agreement:

The DOE, the SHPO, or each Direct Recipient may terminate the PA, provided that the party proposing termination notifies the other signatories and the ACHP in writing explaining the reasons for termination and affording the other signatories at least thirty (30) days to consult and seek alternatives to termination. If the annual report is more than 6 months late, the SHPO may suspend the Agreement after providing 30 days' notice to the DOE and each Direct Recipient, after which time the Agreement will be formally suspended and all Section 106 undertakings will be submitted to the SHPO for review.

3. Amend Stipulation XI so the first sentence reads as follows:

This PA will be valid until December 31, 2030, as verified with DOE filing the PA with the ACHP.

This Amendment may be executed in counterparts, each of which when so executed shall be deemed an original, but all of which shall together constitute one and the same instrument, it being understood that all parties need not sign the same counterpart. This Amendment is not effective until each party executes the Amendment.

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**ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT,**  
**STATE ENERGY PROGRAM**  
**AND WEATHERIZATION ASSISTANCE PROGRAM FUNDS IN OHIO**

**SIGNATORY:**

E-SIGNED by Matthew McClellan  
on 2020-12-15 09:06:17 EST

2020-12-15 09:06:17 UTC

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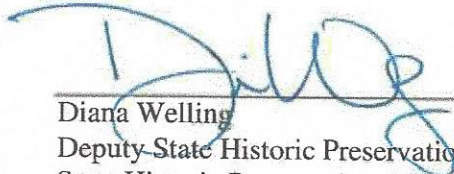
Matt McClellan  
Assistant Director  
Ohio Development Services Agency

Date

Contact:  
77 South High Street  
Columbus, Ohio 43215  
614.728.0961  
[Megan.Meadows@development.ohio.gov](mailto:Megan.Meadows@development.ohio.gov)

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**SIGNATORY:**



\_\_\_\_\_  
Diana Welling  
Deputy State Historic Preservation Officer for Resource Protection & Review  
State Historic Preservation Office  
Ohio History Connection

12/10/2020  
Date

Contact:  
800 East 17<sup>th</sup> Avenue  
Columbus, OH 43211  
614-298-2000  
[dwelling@ohiohistory.org](mailto:dwelling@ohiohistory.org)

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**SIGNATORY:**

**Derek  
Passarelli**

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Derek Passarelli  
Date: 2020.12.15  
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Derek G. Passarelli  
Director, Golden Field Office  
Office of Energy Efficiency and Renewable Energy  
United States Department of Energy

Date

Contact:  
U.S. Department of Energy  
15013 Denver West Pkwy  
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[\(303\) 275-3000](tel:(303)275-3000)  
[HistoricPreservation@ee.doe.gov](mailto:HistoricPreservation@ee.doe.gov)

**APPENDIX A: 2010 Programmatic Agreement**

**PROGRAMMATIC AGREEMENT**  
Between the  
**U.S. Department of Energy,**  
**the Ohio Department of Development,**  
and the  
**Ohio Historic Preservation Office**  
for the Administration of  
**Energy Efficiency and Conservation Block Grant, State Energy Program**  
**and Weatherization Assistance Program funds in Ohio**

**WHEREAS**, the U.S. Department of Energy (USDOE) has awarded the Ohio Department of Development (ODOD) federal funding from the Energy Efficiency and Renewable Energy (EERE) program, including Energy Efficiency Conservation Block Grant (EECBG) and State Energy Program (SEP) funds and from the Weatherization Assistance Program (WAP) for Low-Income Persons (EECBG, SEP and WAP, collectively, the "Programs"); and

**WHEREAS**, the USDOE has awarded funds directly to eligible units of local governments (Direct Recipients) through the EECBG program; and

**WHEREAS**, in a memorandum dated August 28, 2009, the USDOE delegated authority for compliance with certain requirements of Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) (NHPA), and its implementing regulations at 36 CFR Part 800, to ODOD and other Direct Recipients of funding from USDOE's Programs (see Appendix A); and

**WHEREAS**, USDOE has determined that the undertakings that ODOD and other Direct Recipients carry out using EECBG, SEP and WAP funds may affect historic properties that are listed in or eligible for listing in the National Register of Historic Places (National Register); and

**WHEREAS**, USDOE has consulted with the Ohio State Historic Preservation Office (SHPO) regarding the development of this agreement pursuant to 36 CFR Part 800; and

**WHEREAS**, ODOD, which is one of the Direct Recipients, has participated in the development of this agreement and has been invited to sign it as a concurring party; and

**WHEREAS**, USDOE and the SHPO agree that by following the procedures outlined in this agreement, USDOE and ODOD will be able to meet its obligations pursuant to 36 CFR Part 800 to take into account the effects of federally assisted projects on historic properties and provide the Advisory Council on Historic Preservation (ACHP) with an opportunity to comment.

**NOW, THEREFORE**, USDOE and the SHPO have agreed to carry out their respective responsibilities pursuant to Section 106 and Section 110(f) of the NHPA and the

regulations at 36 CFR Part 800, in accordance with the following stipulations, and ODOT agrees that the Programs shall be administered in accordance with the following stipulations to satisfy DOE's Section 106 responsibilities for all individual undertakings of the Programs:

## **STIPULATIONS**

### **I. Roles and Responsibilities**

- A. DOE shall be responsible for providing oversight of the PA, executing Memoranda of Agreement with SHPO, participating in the resolution of disputes between the SHPO and the Direct Recipients, and providing technical assistance and guidance as needed. DOE shall be responsible for government-to-government consultation with Indian tribes.
- B. The Direct Recipients shall be responsible for consulting with consulting parties and conducting Section 106 reviews in a timely manner, preparing documentation for the SHPO and DOE, and maintaining records on undertakings. The Direct Recipients are encouraged to use qualified professionals in conducting their Section 106 requirements for complex projects.
- C. The SHPO shall be responsible for reviewing project documentation and participation in consultation as set forth in this PA.
- D. The ACHP shall be responsible for providing technical guidance, participating in dispute resolutions if appropriate, and monitoring the effectiveness of this PA.

### **II. Archaeology**

In the event that the Direct Recipient plans any ground disturbance as part of an undertaking, the Direct Recipient will consult with the SHPO to determine whether the undertaking will affect an archaeological property eligible for or listed in the National Register. This shall not be interpreted to include a limited subset of ground-disturbing activities that are exempt from review, as described in Appendix B, Stipulation 2.

### **III. Exempt Activities**

- A. If the Direct Recipient determines that an undertaking only involves buildings that are less than fifty years old, or if the undertaking includes only exempt activities as defined by Appendix B or Appendix C, then the undertaking shall be deemed exempt from further review. Such undertakings will require no review by the SHPO under the terms of this agreement because these activities will typically not affect historic properties.



1. This stipulation may include the demolition of buildings less than fifty years old, so long as the building has not previously been determined to be eligible for listing or listed in the National Register of Historic Places.
2. The Direct Recipient will keep documentation of this decision to exempt specific undertakings in its files and compile a complete list of exempt undertakings annually, as required in Stipulation IX.
3. Direct Recipients of any of the Programs may utilize either Appendix B or Appendix C in identifying exempt undertakings, regardless of whether the Appendix on which the undertaking is listed relates to another federally-funded Program.

#### IV. Project Review

- A. If the Direct Recipient determines that an undertaking will involve any activities that are not exempt under Stipulation II, the Direct Recipient will, in accordance with 36 CFR Part 800, consult with the SHPO before starting the undertaking by submitting a completed Ohio Historic Preservation Office Project Summary Form (available for download at <http://www.ohiohistory.org/resource/histpres/services/s106-05.html>) and all associated documentation to the SHPO.
- B. Documentation included with the Project Summary Form may include, and the SHPO will consider, the following information if it explains the Direct Recipient's decisions regarding National Register eligibility and the effects of the project:
  1. Condition assessments for various historic elements;
  2. An explanation of the goals of the undertaking;
  3. Alternative treatments considered and cost estimates for each;
  4. Life cycle maintenance costs related to each alternative;
  5. Proposed measures to mitigate or minimize adverse effects;
  6. Available marketing studies; and
  7. Any other information that warrants consideration.
- C. The SHPO will respond, in accordance with 36 CFR Part 800, to the Direct Recipient within 30 days after receiving the project documentation by stating that (a) the SHPO concurs with the Direct Recipient's decision about eligibility and effect; (b) the SHPO disagrees with the Direct Recipient's decision about eligibility and effect; or (c) the SHPO needs more information in order to concur or disagree with the Direct Recipient's decision about eligibility or effect.
- D. If the SHPO and the Direct Recipient agree that the undertaking will have no effect on properties that are listed in or eligible for listing in the National Register, the Direct Recipient will retain the SHPO's letter in its project file and the review process, in accordance with 36 CFR Part 800, will be complete.

- E. If the SHPO and the Direct Recipient agree that the undertaking will have an effect on properties that are listed in or eligible for listing in the National Register, the Direct Recipient will follow standard process described in 36 CFR Part 800.5 to complete consultation.
- F. If the SHPO and the Direct Recipient agree that the undertaking will adversely affect properties that are listed in or eligible for the National Register, the adverse effect shall be resolved as described in 36 CFR Section 800.6. The Direct Recipient shall request that USDOE enter into consultation intended to resolve the adverse effect.

**V. Technical Assistance and Educational Activities**

A. Staff in the SHPO's Resource Protection and Review Department will provide technical assistance, consultation, and training of staff as requested by Direct Recipients or as proposed by the SHPO in order to assist Direct Recipients in carrying out the terms of this agreement. SHPO may also request that appropriate members of Direct Recipients' staff attend training specifically in the use and interpretation of this agreement, or the overall regulatory process described in 36 CFR Part 800.

**VI. Public Involvement and Participation**

- A. In accordance with citizen participation requirements for State-Administered EECBG and SEP programs (24 CFR Section 570.486), ODOD will seek public input and notify the public of proposed actions.
  - 1. ODOD will, at a minimum: (a) receive projects and program recommendations about implementation of the SEP and EECBG activities, (b) up until the funding opportunities are closed, will issue press releases when applications are submitted to the USDOE, and (c) when they are approved, issue requests for proposals that are publicly available, and (d) notify the public when projects are selected for funding, and (e) identify and document at the time of disbursement of funds the amount of funds dispersed to each Sub-Recipient.
  - 2. ODOD will have additional public input periods if the State-Administered EECBG or SEP programs are amended and will notify potential Sub-Recipients once amendments are finalized. The additional input periods will provide citizens with an opportunity to review and comment on a substantial change in the programs.
- B. Other Direct Recipients will be bound by the environmental delegation regulations that have been established by USDOE for the Programs and shall provide local summaries of the means that they use to facilitate public involvement upon request.

## **VII. Post-Review Discovery**

- A. In the event that historic properties are discovered or unanticipated effects on historic properties found after completion of the Section 106 process, the Direct Recipient will follow the process established at 36 CFR Section 800.13. In all cases of discovery or unanticipated effects, the Direct Recipient will contact SHPO as soon as practicable and provide sufficient information so that SHPO can provide meaningful comments and recommendations.
- B. In the event that human remains are discovered during the development or construction of any project subject to this agreement, construction will cease in the area of the discovery. The Direct Recipient will contact SHPO and the County Sheriff and/or County Coroner within 48 hours. The Direct Recipient will also consult with SHPO, USDOE, and the County Sheriff and/or Coroner to develop and carry out a treatment plan for the care and disposition of human remains.
- C. When the human remains are determined to be of Native American Indian origin, the treatment plan will also be developed in consultation with appropriate federally recognized Native American Indian Tribes. The Direct Recipient shall request assistance from official representatives of USDOE to conduct meaningful and respectful discussion with tribal representatives.

## **VIII. Dispute Resolution**

- A. Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, the Direct Recipient shall consult with such party to resolve the objection. If the Direct Recipient determines that such objection cannot be resolved, its staff will forward all documentation relevant to the dispute, including the Direct Recipient's proposed resolution, to USDOE. USDOE shall then consult with the objecting party to resolve the objection. If USDOE determines that the objection cannot be resolved, it will:
  - 1. Forward all documentation relevant to the dispute, including the resolution proposed by the Direct Recipient and USDOE, to the ACHP. The ACHP shall provide USDOE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, USDOE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written

response. USDOE will then advise the direct Recipient to proceed according to its final decision.

2. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, USDOE may make a final decision on the dispute and advise the Direct Recipient to proceed accordingly. Prior to reaching such a final decision, USDOE shall prepare a written response that takes into account any timely comments regarding the dispute, and provide them and the ACHP with a copy of such written response.
3. The responsibility of USDOE and the Direct Recipient to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remain unchanged.

#### **IX. Monitoring**

- A. Within 30 days after the end of each calendar year that this agreement is in force, each Direct Recipient will submit to the SHPO a list of undertakings exempted from review under Stipulation III of this agreement.
- B. For each exempted undertaking the list will include the project's address, the age of any buildings, and a brief description of the project's activities. The list will be organized in such a way that the specific exemptions applied to each undertaking are also recorded. The Direct Recipient should use a spreadsheet format including at least the minimum fields listed in this stipulation, which should be updated during the course of the year as projects are carried out under this agreement. SHPO may provide a template to be used for this reporting.
- C. SHPO may request information about individual project reviews carried out under the terms of this agreement at any time for the purposes of monitoring or resolving disputes.

#### **X. Definitions**

The definitions provided in the National Historic Preservation Act and the regulations at 36 CFR Part 800 apply to terms used throughout this agreement, such as "historic property" and "effect."

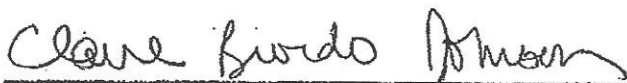
#### **XI. Amendment and Duration**

This agreement will continue in full force until December 31, 2013 and will be reviewed for modifications, termination or renewal before this date has passed. At the request of any signatory, this agreement may be reviewed for modifications at

any time. This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

Execution of this agreement by USDOE and SHPO and implementation of its terms evidence that USDOE has taken into account the effects of its undertakings on historic properties and afforded the ACHP an opportunity to comment.

**SIGNATORIES:**



UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY  
OFFICE OF WEATHERIZATION AND INTERGOVERNMENTAL PROGRAMS

5/18/10

Date

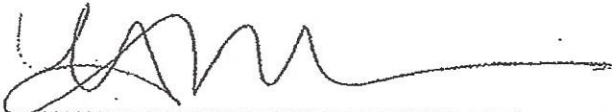


Mark J. Epstein, Department Head, Resource Protection and Review  
Ohio State Historic Preservation Office

5.2.10

Date

**Concurring parties:**



Lisa Patt-McDaniel, Director  
Ohio Department of Development

5/7/10

Date

**Appendix A**

**August 28, 2009, Memorandum from Catherine R. Zoi, U.S. Department of Energy  
Assistant Secretary for Energy Efficiency and Renewable Energy to the State  
Historic Preservation Officers and Tribal Historic Preservation Officers**

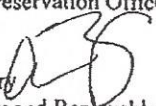


Department of Energy  
Washington, DC 20585

August 28, 2009

MEMORANDUM

TO: State Historic Preservation Officers  
Tribal Historic Preservation Officers

FROM: Catherine R. Zoi   
Assistant Secretary  
Energy Efficiency and Renewable Energy

SUBJECT: Memorandum from EERE Regarding Delegation of Authority for Section 106 Review of Undertakings, Assisted by the U. S. Department of Energy, Office of Energy Efficiency and Renewable Energy

The Department of Energy (DOE), through the Office of Energy Efficiency and Renewable Energy (EERE), provides financial assistance to states, U.S. territories, units of local government, and Indian Tribes through the Energy Efficiency and Conservation Block Grant (EECBG) Program, Weatherization Assistance Program (Weatherization), and State Energy Program (SEP). Attached hereto is a one-page summary of the three programs. Additional program information is available at the following links: <http://www.eecbg.energy.gov/>; <http://apps1.eere.energy.gov/wip/weatherization.cfm>; [http://apps1.eere.energy.gov/state\\_energy\\_program/](http://apps1.eere.energy.gov/state_energy_program/).

Through this memorandum, DOE intends to formalize the role of the States and DOE's award recipients (Applicants) to assist DOE in carrying out its Section 106 compliance responsibilities. In order to streamline DOE's compliance with Section 106 and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), EERE is authorizing its Applicants under the EECBG, Weatherization, and SEP programs to initiate consultation pursuant to 36 CFR § 800.2(c) (4). Effective immediately, EERE Applicants and their authorized representatives may consult with the State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs) to initiate the review process established under 36 CFR Part 800 and to carry out some of its steps. Specifically, EERE Applicants are authorized to gather information to identify and evaluate historic properties, and to work with consulting parties to assess effects. EERE retains responsibility to document its findings and determinations in order to appropriately conclude Section 106 review.

EERE also remains responsible for initiating government-to-government consultation with federally recognized Indian Tribes. EERE's responsibility to consult on a government-to-government basis with Indian Tribes as sovereign nations is established through specific authorities and is explicitly recognized in 36 CFR Part 800. Accordingly, EERE may not delegate this responsibility to a non-federal party without



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the agreement of the Tribe to do so. Where no such agreement exists, EERE will initiate tribal consultation.

Authorized Applicants must notify EERE whenever:

- Either the EERE Applicant or the SHPO/THPO believes that the Criteria of Adverse Effect pursuant to 36 CFR § 800.5, apply to the proposal under consideration by EERE;
- There is a disagreement between an Applicant, or its authorized representative, and the SHPO/THPO about the scope of the area of potential effects, identification and evaluation of historic properties and/or the assessment of effects;
- There is an objection from a consulting party or the public regarding their involvement in the review process established by 36 CFR Part 800, Section 106 findings and determinations, or implementation of agreed upon measures; or
- There is the potential for a foreclosure situation or anticipatory demolition as defined under 36 CFR § 800.9(b) and 36 CFR § 800.9(c), respectively.

EERE will participate in the consultation when such circumstances arise.

EERE expects its Applicants that are so authorized, to involve consulting parties in Section 106 findings and determinations and to carry out the exchange of documentation and information in a respectful, consistent and predictable manner. Technical assistance is available to Applicants from EERE regarding the coordination of Section 106 reviews, if needed.

If you have any questions, please contact Dr. F. G. (Skip) Gosling, DOE Federal Preservation Officer/Chief Historian, Office of History and Heritage Resources, (202) 586-5241 or [skip.gosling@hq.doe.gov](mailto:skip.gosling@hq.doe.gov) or Steven P. Blazek, NEPA Compliance Officer, (303) 275-4723 or [steve.blazek@go.doe.gov](mailto:steve.blazek@go.doe.gov).



**Appendix B**  
**SEP and EECBG Undertakings Exempt from Section 106 Review**

USDOE and the SHPO have agreed that the following undertakings do not have the potential to cause effects on historic properties per 36 CFR Section 800.3(a). Therefore, the following activities are excluded from individual review under the terms of this agreement. If ODOD or any other Direct Recipient determines that an undertaking constitutes only items on this list, ODOD or the Direct Recipient, as applicable, does not have to consult with the SHPO for that project.

**1. Non-Construction Work and Development**

- a. Public service program that does not physically impact buildings or sites.
- b. Architectural and engineering design fees and other non-construction fees and costs, including energy audits, commissioning, and retro-commissioning.
- c. Rental or purchase of equipment that does not physically impact buildings or sites.
- d. Above-code workshops, promotions, outreach, and trainings.
- e. Rebate programs for energy efficient lighting and energy star appliances to augment Ohio's State Energy Efficient Appliance Rebate Program.
- f. Conduct industrial assessments for energy efficiency and carbon mitigation opportunities. This will be part of an overall energy efficiency program that includes the implementation of energy efficient modifications to existing equipment or installation of new equipment that is more efficient than code or standard practice.
- g. Implementing demand reduction practices for industrial operations at existing facilities.
- h. Research and planning activities including the program "Setting the Stage for Ohio's Carbon Management Strategy." This initiative will develop an energy strategy for the next five to ten years that will assess the opportunities and risks for Ohio's economy around key energy issues including carbon policy and market options.
- i. Development and Implementation of Transportation Programs: Entities may develop and implement programs to conserve energy used in transportation, including but not limited to:
  - 1) Employee flex-time programs.
  - 2) Promoting use of satellite work centers. This does not include construction of new centers.
  - 3) Development and promotion of zoning guidelines or requirements that promote energy efficient development.
  - 4) Synchronization of traffic signals.
  - 5) State/local/regional integrated planning activities (i.e. transportation, housing, environmental, energy, land use) with

the goal of reducing greenhouse gas emissions and vehicle miles traveled.

- 6) Incentive programs to reduce commutes by single occupancy vehicles.
  - 7) Improvements in operational and system efficiency of the transportation system such as implementation of intelligent transportation system (ITS) strategies.
  - 8) Idle-reduction technologies and/or facilities to conserve energy, reduce harmful air pollutants and greenhouse gas emissions from freight movement.
- j. Working capital for companies that are establishing the production or expansion of commercially available, supply chain components in renewable energy industries and in energy efficient technologies, including:
- 1) Funding of receivables.
  - 2) Inventory materials for manufacturing.
  - 3) Operating expenses such as engineering & professional services.
  - 4) Software development.
  - 5) Industry certifications as related to the project.

## **2. Site Work**

- a. Maintenance and repair of existing landscape features, including planting, fences, retaining walls, and walkways.
- b. Installation of exterior lighting for individual properties, including parking lots, sidewalks, and freestanding yard lights, but excluding lighting types that are to be attached to a building greater than fifty years old. This exemption is not meant to include street lighting that will serve multiple properties.
- c. Repair, maintenance, and direct replacement of existing residential water and sanitary sewer service connections within the previously excavated trench.
- d. Excavating to gain access to existing underground utilities to repair or replace them. This exemption is limited to conventional excavations within the limits of previously excavated trenches and does not include the use of boring or mining methods.

## **3. Exterior Rehabilitation**

- a. Repair of porches, cornices, exterior siding, doors, balustrades, stairs or other trim as long as any new material matches existing features in composition, design, color, texture, and other visual and physical qualities.
- b. Foundation repair.
- c. Exterior scraping with non-destructive means and painting of wood siding, features, and trim; exterior painting of masonry, if existing surfaces are already painted. This does not apply to the use of lead encapsulant paint. No abrasive cleaning is permitted for any materials.

- d. Caulking, re-glazing, weather-stripping, and other air infiltration control measures on windows and doors, and installing thresholds in a manner that does not harm or obscure historic windows, doors or trim.
- e. Installation of screens and storm windows, provided that they:
  - 1) Completely fill the original window opening.
  - 2) Match the meeting rail or other major divisions.
  - 3) Interior storms must not cause damage to the original interior trim.
  - 4) Interior storms must be designed to seal completely so as to protect the primary window from condensation.
- f. Installation of storm doors, if they are undecorated and have a painted finish to match existing trim or the existing door.
- g. Repair or replacement of asphalt, fiberglass, and asbestos shingle roof covering with the same materials as long as the shape of the roof is not changed.
- h. Replacement of a flat roof not visible from a public right-of-way as long as the shape of the roof is not changed.
- i. Repair or replacement of metal gutters and downspouts; and relining, repainting, and repair of box gutters. This does not apply to the replacement of box gutters.
- j. Blown in wall insulation where no holes are drilled through exterior siding, or where holes have no permanent visible alteration to the structure.
- k. Removable film on windows (if the film is transparent), solar screens, or window louvers, in a manner that does not harm or obscure historic windows or trim.
- l. Repair of minor roof and wall leaks prior to insulating attics or walls, provided repairs closely resemble existing surface composite.

#### **4. Interior Rehabilitation**

- a. Repair or installation of new basement floors.
- b. Ventilation of crawl spaces.
- c. Installation of attic insulation; sealing, insulation, or replacement of ducts in unoccupied areas; Band joist ("Still Box") insulation; Water heater and pipe insulation; Installation of insulation in floors or ceilings when one side is not heated or cooled
- d. Wall insulation
  - 1) Any insulation that does not require the removal or enclosure of any historic plaster or wood walls, provided that it has a vapor barrier on the warm (interior) side of the wall.
  - 2) Wall insulation that consists of a pre-expanded foam panel insulation that is installed in open wall cavities, with vapor barrier.
- e. Repair of existing interior walls, floors, ceilings, decorative plaster, or woodwork, provided the work is limited to repainting, in-kind patching, refinishing, or repapering.
- f. Kitchen and bathroom remodeling if no walls, windows, or doors are removed or relocated so as to alter the floor plan. This includes the use of conservation

measures like low flow faucets, toilets, showerheads, urinals and distribution device controls.

- g. Installation of new furnace, boiler or water heater, and heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment; cleaning, tuning, or repair of heating systems, including furnaces, oilers, heat pumps, vented space heaters, and wood stoves; installation of insulation on water heater tanks and water heating pipes; and installation of solar water heating systems, provided the structure is not visible from the public right of way.
- h. Installation or repair of all electrical, plumbing, heating, ventilation, and air conditioning systems, including adding adjustable speed drives such as fans on air handling units, cooling tower fans, and pumps, as long as no alteration is made to structural or decorative features, and repair or replacement of electric motors and motor controls, like variable speed drives.
- i. Asbestos abatement activities that do not involve removal or alteration of structural or decorative features.
- j. Lead paint hazard abatement such as HEPA cleaning and HUD approved paint removal or stabilization. Any decorative features shall be treated with care and retained for re-installation after treatment.
- k. e. Sealing air leaks using weather stripping, door sweeps, and caulk and sealing major air leaks associated with bypasses, ducts, air conditioning units, etc.
- l. Cleaning, tuning, repair or replacement of cooling systems, including central air conditioners, window air conditioners, and heat pumps.

##### **5. Other Energy Efficiency Measures**

- a. Purchase and installation of Energy Star appliances, and rebate programs for Energy Star appliances.
- b. Purchase and installation of efficient interior and exterior lighting, including: Compact Fluorescent Light Bulbs; Ballasts, Energy Efficient Light Fixtures (Replacement of existing modern fixtures or retrofit of any fixtures); LED Light Fixtures and Exit Signs (Replacement of existing fixtures).
- c. Replacement of existing thermostat (Programmable thermostat).
- d. Adding or replacing existing building controls systems including HVAC control systems and the replacement of building-wide pneumatic controls with digital controls, thermostats, dampers, and other individual sensors like smoke detectors and carbon monoxide detectors (wired or non-wired).
- e. New installation of non-hard wired devices including photo-controls, occupancy sensors, carbon dioxide, thermostats, humidity, light meters and other building control sensors, provided the work conforms with applicable state and local permitting requirements.
- f. Purchase and installation of distributed energy resource technologies that significantly increase energy efficiency, that are appropriately sized to the building or facility (produces less power, electricity, or heat annually than the building or facility consumes annually), including: District heating and cooling

- systems; Combined heat and power systems; Cogeneration systems; Absorption chillers; Desiccant humidifiers.
- g. Replacement of equipment located within existing buildings with more efficient equipment, including: Motors, Process heat equipment; Steam traps; industrial equipment.
  - h. Replacement of traffic signals and street lighting with energy efficient lighting technologies, including light emitting diodes; and any other technology of equal or greater energy efficiency.
  - i. Installation of solar panels on interstate rights-of-way to conserve energy in highway operations and maintenance activities.
  - j. Purchase and installation of equipment within existing buildings to manufacture commercially available, supply chain components in the renewable energy, energy storage, and fuel cell industries; or in the energy efficient technology industry.
  - k. Purchase and installation of small renewable energy sources on existing buildings or at existing facilities. This exemption includes:
    - 1) Integrated shingle-style or thin film solar systems on the rear roof of the structure, behind the parapet or not visible from the public right of way.
    - 2) Roof-mounted solar systems (including photovoltaic and solar thermal) not visible from the public right of way that do not require additional roof reinforcement.
    - 3) Ground mounted wind turbines – 20kW or less and 40 feet or smaller. Also, wind turbines mounted on buildings less than 50 years of age.
  - l. Purchase and installation of exterior mechanical system components, including condensing units, heat exchangers, service boxes, air handling units, or cooling towers. Whenever possible, these components will be installed out of public view or may be screened from view. Purchase and installation of small fuel cells (interior and exterior installation).
  - m. Rebates to photovoltaics, wind turbines, solar thermal hot water systems not to exceed 30% of the value of the system installed.
  - n. Rebates to photovoltaics, wind turbines, solar thermal hot water systems not to exceed 25% of the value of the system installed.
  - o. Rebates to photovoltaics, wind turbines, solar thermal hot water systems not to exceed 20% of the value of the system installed.
  - p. Efficiency improvements on heating and cooling systems, including replacing standing pilot lights with electronic ignition devices and installing vent dampers.
  - q. Modify duct and pipe systems so heating and cooling systems operate efficiently and effectively, including adding return ducts, replace diffusers and registers, replace air filters, install thermostatic radiator controls on steam and hot water heating systems.

**Appendix C**  
**WAP Undertakings Exempt from Section 106 Review**

USDOE and the SHPO have agreed that the following undertakings do not have the potential to cause effects on historic properties per 36 CFR Section 800.3(a). Therefore, the following activities are excluded from individual review under the terms of this agreement. If ODOD or any other Direct Recipient determines that an undertaking constitutes only items on this list, ODOD or the Direct Recipient, as applicable, does not have to consult with the SHPO for that project.

**1. Exterior Rehabilitation**

- a. Caulking, re-glazing, weather-stripping, and other air infiltration control measures on windows and doors, and installing thresholds in a manner that does not harm or obscure historic windows, doors or trim.
- b. Installation of screens and storm windows, provided that they:
  - a. Completely fill the original window opening.
  - b. Match the meeting rail or other major divisions.
  - c. Interior storms must not cause damage to the original interior trim.
  - d. Interior storms must be designed to seal completely so as to protect the primary window from condensation.
- c. Installation of storm doors, if they are undecorated and have a painted finish to match existing trim or the existing door.
- d. Repair or replacement of asphalt, fiberglass, and asbestos shingle roof covering with the same materials as long as the shape of the roof is not changed.
- e. Repair or replacement of metal gutters and downspouts; and relining, repainting, and repair of box gutters. This does not apply to the replacement of box gutters.
- f. Blown in wall insulation where no holes are drilled through exterior siding, or where holes have no permanent visible alteration to the structure.
- g. Removable film on windows (if the film is transparent), solar screens, or window louvers, in a manner that does not harm or obscure historic windows or trim.
- h. Reflective roof coating in a manner that closely resembles the historic materials and form, or with materials that restore the original feature based on historic evidence, and in a manner that does not alter the roofline, or where not on a primary roof elevation or visible from the public right-of-way.
- i. Repair of minor roof and wall leaks prior to insulating attics or walls, provided repairs closely resemble existing surface composite.

**2. Interior Rehabilitation**

- a. Repair or installation of new basement floors.
- b. Ventilation of crawl spaces.
- c. Installation of attic insulation; sealing, insulation, or replacement of ducts in unoccupied areas; Band joist ("Still Box") insulation; Water heater and pipe

insulation; Installation of insulation in floors or ceilings when one side is not heated or cooled

d. Wall insulation

i. Any insulation that does not require the removal or enclosure of any historic plaster or wood walls, provided that it has a vapor barrier on the warm (interior) side of the wall.

ii. Wall insulation that consists of a pre-expanded foam panel insulation that is installed in open wall cavities, with vapor barrier.

e. Repair of existing interior walls, floors, ceilings, decorative plaster, or woodwork, provided the work is limited to repainting, in-kind patching, refinishing, or repapering.

f. Kitchen and bathroom remodeling if no walls, windows, or doors are removed or relocated so as to alter the floor plan. This includes the use of conservation measures like low flow faucets, toilets, showerheads, urinals and distribution device controls.

g. Installation of new furnace, boiler or water heater, and heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment; cleaning, tuning, or repair of heating systems, including furnaces, oilers, heat pumps, vented space heaters, and wood stoves; installation of insulation on water heater tanks and water heating pipes; and installation of solar water heating systems, provided the structure is not visible from the public right of way.

h. Installation or repair of all electrical, plumbing, heating, ventilation, and air conditioning systems, including adding adjustable speed drives such as fans on air handling units, cooling tower fans, and pumps, as long as no alteration is made to structural or decorative features, and repair or replacement of electric motors and motor controls, like variable speed drives.

i. Asbestos abatement activities that do not involve removal or alteration of structural or decorative features.

j. Lead paint hazard abatement such as HEPA cleaning and HUD approved paint removal or stabilization. Any decorative features shall be treated with care and retained for re-installation after treatment.

k. e. Sealing air leaks using weather stripping, door sweeps, and caulk and sealing major air leaks associated with bypasses, ducts, air conditioning units, etc.

l. Cleaning, tuning, repair or replacement of cooling systems, including central air conditioners, window air conditioners, and heat pumps.

**3. Other Energy Efficiency Measures**

a. Purchase and installation of Energy Star appliances, and rebate programs for Energy Star appliances.

b. Purchase and installation of efficient interior and exterior lighting, including: Compact Fluorescent Light Bulbs; Ballasts, Energy Efficient Light Fixtures (Replacement of existing modern fixtures or retrofit of any fixtures); LED Light Fixtures and Exit Signs (Replacement of existing fixtures).

- c. Replacement of existing thermostat (Programmable thermostat).
- d. Adding or replacing existing building controls systems including HVAC control systems and the replacement of building-wide pneumatic controls with digital controls, thermostats, dampers, and other individual sensors like smoke detectors and carbon monoxide detectors (wired or non-wired).
- e. New installation of non-hard wired devices including photo-controls, occupancy sensors, carbon dioxide, thermostats, humidity, light meters and other building control sensors, provided the work conforms with applicable state and local permitting requirements.
- f. Purchase and installation of small renewable energy sources on existing buildings or at existing facilities. This exemption includes:
  - 4) Integrated shingle-style or thin film solar systems on the rear roof of the structure, behind the parapet or not visible from the public right of way.
  - 5) Roof-mounted solar systems (including photovoltaic and solar thermal) not visible from the public right of way that do not require additional roof reinforcement.
  - 6) Ground mounted wind turbines – 20kW or less and 40 feet or smaller. Also, wind turbines mounted on buildings less than 50 years of age.
- g. Purchase and installation of exterior mechanical system components, including condensing units, heat exchangers, service boxes, air handling units, or cooling towers. Whenever possible, these components will be installed out of public view or may be screened from view. Purchase and installation of small fuel cells (interior and exterior installation).
- h. Efficiency improvements on heating and cooling systems, including replacing standing pilot lights with electronic ignition devices and installing vent dampers.
- i. Modify duct and pipe systems so heating and cooling systems operate efficiently and effectively, including adding return ducts, replace diffusers and registers, replace air filters, install thermostatic radiator controls on steam and hot water heating systems.

#### **4. Health and safety measures**

- a. Installing fire, smoke or carbon dioxide detectors / alarms.
- b. Repair or replace vent systems on fossil-fuel-fired heating systems and water heaters to ensure that combustion gasses draft safely to outside .
- c. Install mechanical ventilation, in a manner not visible from the public right of way, to ensure adequate indoor air quality if house is air-sealed to building tightness limit.

**Special Note:** Weatherization measures undertaken on either the exterior or interior of mobile and/or manufactured homes do not have the potential to cause effects on historic properties per 36 CFR Section 800.3(a). Therefore, such activities are excluded from individual review under the terms of this agreement.