

**PROGRAMMATIC AGREEMENT**  
 among  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
 and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
 and  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
 and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
 for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
 in  
**THE STATE OF IDAHO**

**WHEREAS**, the U.S. Department of Housing and Urban Development (“HUD”) through various offices, including the Offices of the Assistant Secretaries for Housing—Federal Housing Commissioner (Housing), Public and Indian Housing (PIH), Community Planning and Development (CPD), and Office of Lead Hazard Control and Healthy Homes (OLHCHH) provides grant funding, mortgage insurance and other assistance (“HUD Programs”) to a range of entities within the State of Idaho; and

**WHEREAS**, HUD Programs are authorized by various statutes that require environmental compliance under one of two HUD environmental regulations, 24 CFR Part 50 or 24 CFR Part 58; and

**WHEREAS**, 24 CFR Part 50 requires HUD program officials to conduct environmental review of the activities it proposes to assist and ensure compliance with Section 106 of the National Historic Preservation Act of 1966 (hereinafter NHPA; 54 U.S.C. § 306108), and its implementing regulations 36 CFR Part 800; and

**WHEREAS**, HUD has the legal responsibility to defend the process and outcomes of the Section 106 review of individual undertakings subject to 24 CFR Part 50 before a court of law; and

**WHEREAS**, HUD programs that are subject to Part 50 include, but are not limited to: mortgage insurance per Sections 203(b), 207, 211, 213, 220, 221(d)(3), 221(d)(4), 223(a)(7), 223(f), 231, 232, 241(a) and 242 of the National Housing Act of 1934, Section 202 of the Housing Act of 1959, Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990; Project Based Rental Assistance Renewal and Transfer programs; Rental Assistance Demonstration Programs, HUD administered programs under the American Recovery and Investment Act of 2009 that require accelerated processing timelines; programs authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (25

U.S.C. 4101 *et seq.*) (other than title VIII) or section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) when the tribe declines Part 58 assumption authority; and projects subject to Part 58 where the Responsible Entity does not have the capacity, or where HUD takes over the environmental review as per 24 CFR 58.11; and

**WHEREAS**, 24 CFR Part 58 authorizes over 3,000 State, local and tribal governments to assume HUD's environmental compliance responsibilities as Responsible Entities, including obligations as agency official under Section 106 of the NHPA and its implementing regulations 36 CFR Part 800, and the state of Idaho and certain units of general local government in the state of Idaho have assumed those responsibilities for the projects and programs included in this Programmatic Agreement (Agreement); and

**WHEREAS**, Participating REs have the legal responsibility to defend the process and outcomes of the Section 106 review of individual undertakings subject to 24 CFR Part 58 before a court of law; and

**WHEREAS**, HUD programs that are subject to Part 58 include, but are not limited to: the Community Development Block Grant (CDBG) Program, under Title I of the Housing and Community Development Act of 1974, as amended; Community Development Block Grant - Disaster Recovery (CDBG-DR) and Community Development Block Grant - Coronavirus (CDBG-CV) under various acts including the Disaster Relief Appropriations Act of 2013, Further Continuing and Security Assistance Appropriations Act, 2017, Consolidated Appropriations Act, 2017, Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017, Bipartisan Budget Act of 2018, Additional Supplemental Appropriations for Disaster Relief Act, 2019; Coronavirus Aid, Relief, and Economic Security (CARES) Act; HOME Investment Partnerships (HOME) Program, under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 (HOME Investment Partnership Act); Emergency Solutions Shelter Grant (ESG) Program and Continuum of Care (CoC) Program, under Subtitles B and C, respectively, of Title IV of the Stewart B. McKinney-Vento Homeless Assistance Act; Housing Opportunities for Persons with AIDS (HOPWA) program, under the AIDS Housing Opportunity Act, as amended by the Housing and Community Development Act of 1992; and Projects financed with competitive awards of Supportive Housing Program (SHP) funds, under former Title IV, subtitle C, of the Stewart B. McKinney-Vento Act; Self-Help Homeownership Opportunity Program (SHOP) under Section 11 of the Housing Opportunity Program Extension Act of 1996; and the Neighborhood Stabilization Program (NSP) established under the Housing and Economic Recovery Act of 2008 (P.L. 110-289) (HERA) and continued under the American Recovery and Reinvestment Act of 2009 (P.L. 111-005) (Recovery Act) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) (Dodd-Frank); public housing and the Project-based Voucher Program under Public and Indian Housing with an assumption provision under Section 26title 1 of the United States Housing Act of 1937 (42 U.S.C §1437x); Programs authorized by the 1937 Housing Act; ; the Indian Community Development Block Grant (ICDBG) under the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 *et seq.*), also known as; the Indian Housing Block Grant (ICDBG);IHBG) Program under the Native American Housing and Self Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 *et seq.*), also known as the; loan guarantees for Indian housing Block Grant (IHBG);under Updated Idaho 50-58 PA March 15, 2022 Working Draft- Sample Part 50/58 Programmatic Agreement 12-18-20

Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z-13a) ; the Risk Share Program under Section 542(c);) of the Housing and Community Development Act of 1992; and other programs that may be authorized from time to time; and

**WHEREAS**, HUD program officials and Responsible Entities review activities that include, but are not limited to, acquisition, leasing, repair, rehabilitation, improvement, demolition, conversion, new construction, lead hazard reduction, accessibility improvements, land-banking, and disposition of residential and non-residential properties, streetscape and landscape improvements, and infrastructure repair, replacement and new construction, each of which is an undertaking (Undertaking) as defined pursuant to 36 C.F.R. 800.16(y); and

**WHEREAS**, the implementation of HUD Programs may have an effect upon properties listed in or eligible for listing in the National Register of Historic Places (National Register); and

**WHEREAS**, many HUD-assisted activities have minimal or no potential to adversely affect historic properties; and

**WHEREAS**, HUD, through its Office of Environment and Energy, may coordinate development of a statewide Agreement on behalf of itself and participating Responsible Entities that covers undertakings subject to 24 CFR Part 50 and 24 CFR Part 58.; and

**WHEREAS**, HUD and Responsible Entities in the State of Idaho have participated in development of the Agreement and, pursuant to 36 CFR 800.14(b)(2), have determined that development of a single PA for all HUD Programs in the state of Idaho would foster consistency and efficiency in review of undertakings unlikely to cause adverse effects and allow more time for consideration of projects with a potential for adverse effects; and

**WHEREAS**, HUD, the Responsible Entities, and SHPO agree that when the Agreement would supersede a previously executed PA that addressed only Part 58 or Part 50 programs, they will terminate the previous PA according to its termination stipulation to avoid confusion. This commitment does not apply to HUD Addendum agreements to the FEMA PA for Presidentially declared disasters; and

**WHEREAS**, HUD, on behalf of itself and participating Responsible Entities has invited the [Federally recognized tribes ] to consult in the development of this Agreement, in recognition of the unique government-to-government relationship between the Federal government and federally-recognized Indian tribes, and all those tribes who participated in the consultation to develop this agreement are invited to be concurring parties; and [##] tribes accepted the invitation to participate in this agreement; and

**WHEREAS**, this agreement is not applicable to undertakings located on or affecting historic properties on tribal lands; and

**WHEREAS**, HUD and Responsible Entities will continue to conduct outreach and will actively seek and request the comments and participation of Indian tribes that attach religious and cultural significance

to historic properties that may be affected by Undertakings assisted under the terms of this Agreement; and

**WHEREAS**, HUD and the participating Responsible Entities acknowledge that Indian tribes possess special expertise in assessing the National Register eligibility of properties with religious and cultural significance to them; and

**WHEREAS**, HUD, on behalf of itself and participating Responsible Entities, has invited [name(s) of organizations] to consult in the development of this Agreement, and [name(s) of organization] accepted or not the invitation to consult; and

**WHEREAS**, HUD, on behalf of itself and participating Responsible Entities has invited the public to comment, taking into account the nature and complexity of the undertaking and its effects on historic properties, and the likely interest of the public in the undertaking; and

**WHEREAS**, the Advisory Council on Historic Preservation (ACHP) issued in 1995 and revised in 2006 a ["Policy Statement on Affordable Housing and Historic Preservation"](#) that addresses implementation principles for Section 106 compliance, and those principles have been utilized in developing this Agreement; and

**WHEREAS**, in accordance with 36 C.F.R. § 800.14(b)(2), HUD, on behalf of itself and participating Responsible Entities, has notified the ACHP and invited the ACHP to participate in the development of this Agreement; and

**NOW, THEREFORE**, HUD and the participating Responsible Entities, SHPO, and ACHP agree that HUD PIH , CPD, OHHLHC and Housing Programs in the State of Idaho shall be administered in accordance with the following stipulations in order to take into account the effects of these undertakings on historic properties and satisfy Section 106 responsibilities.

## STIPULATIONS

HUD and the participating Responsible Entities shall ensure the following:

### **I. ROLES AND RESPONSIBILITIES OF HUD AND RESPONSIBLE ENTITIES (REs)**

The HUD official and participating Responsible Entity's Certifying Officer shall serve as Agency Official for the review of undertakings subject to their jurisdiction. Where "Agency Official" is used throughout the Agreement, it refers to the HUD official or Responsible Entity's Certifying Officer that has assumed the role of Agency Official for purposes of Section 106. A chart in Appendix D indicates whether 24 CFR Part 50 or 24 CFR Part 58 applies to the HUD programs listed in the chart.

#### **A. HUD**

1. HUD, through its Office of Environment and Energy in CPD, shall coordinate the initial execution of the Agreement and subsequent execution by additional Responsible Entities, and coordinate amendments to the Agreement.
2. HUD, through its Office of Environment and Energy, shall conduct statewide consultation about the Agreement among Responsible Entities, SHPO, federally recognized Indian tribes, interested statewide groups and the public.
3. HUD program staff shall serve as Agency Official for conducting Section 106 review of individual undertakings subject to 24 CFR Part 50.
4. HUD shall not have the legal responsibility to represent or defend the process and outcomes of the Section 106 review of individual undertakings subject to 24 CFR Part 58 before a court of law. That responsibility is assumed by the Responsible Entity under 24 CFR Part 58.
5. If HUD receives undertaking-specific complaints regarding a Responsible Entity's implementation of Stipulations II-IX of this agreement, HUD will follow agency policy described at 24 CFR 58.77(b) by referring all such inquiries and complaints to the Responsible Entity and its Certifying Officer and consider such comments in HUD's established agency-wide and program-specific risk-assessment and monitoring procedures. As appropriate, HUD may provide technical assistance to help the RE fulfill its responsibilities under this Agreement.

#### **B. Responsible Entities (REs)**

1. The Certifying Officer of a Responsible Entity that has assumed HUD's environmental review responsibilities as provided by 24 CFR 58.4 and signed this Agreement shall conduct the Section 106 review in accordance with this Agreement as the Agency Official.
2. REs that are not initial Signatories to the Agreement may sign and use the Agreement after its initial execution by following the adoption protocol found at Appendix C and executing a Signatory page.

3. Participating REs shall not have the legal responsibility to represent or defend the process and outcomes of the Section 106 review of individual undertakings subject to 24 CFR Part 50 before a court of law, including those that are located within their geographic jurisdiction. That responsibility is assumed by HUD under 24 CFR Part 50.

#### **C. Designation of Lead Agency Official in HUD-assisted Projects**

1. If a project includes assistance subject to 24 CFR Part 58 and Part 50, the two (or more) Agency Officials may agree to have one Agency Official serve as the lead Agency Official and complete one Section 106 review on behalf of both entities. If the Lead Agency Official is a signatory to the Agreement, they may use the provisions of the Agreement for the review. The Agency Officials shall document the lead agency agreement in writing and share it with consulting parties.

#### **D. Adoption of Another Federal Agency's Review**

1. If a Federal agency or other entity acting under another Federal program has previously completed a Section 106 review and approved an Undertaking within the past five (5) years, the Agency Official has no obligation to complete a Section 106 review regarding that same Undertaking, provided that the Agency Official:
  - i. Adopts the findings and determinations of the previous Section 106 review;
  - ii. Confirms that the scope and effect, as defined by 36 C.F.R. § 800.16(j), and the area of potential effects of its Undertaking are the same as the scope and effect and the area of potential effects of the previously reviewed Undertaking;
  - iii. Determines that the previous review was completed in compliance with Section 106, and any existing applicable program alternatives;
  - iv. Documents its findings and determinations in the HUD Environmental Review Online System (HEROS) or other administrative record and confirms record that all requirements of Section 106 for the Undertaking have been satisfied. If the Agency Official, in consultation with the SHPO, determines that the previous Section 106 review was insufficient or involved interagency disagreements about eligibility, effect, and/or resolution, the Agency Official shall conduct a new Section 106 review in accordance with the Stipulations of this Agreement.

#### **E. Delegation to HUD Applicants or Lenders to Initiate Section 106 Consultation**

1. HUD, through the Office of Environment and Energy (OEE), may authorize applicants to initiate consultation with SHPO pursuant to 36 CFR 800.2(c)(4).
2. OEE has issued a [Delegation Memo](#) that authorizes certain approved lenders applying for FHA financing to initiate consultation with SHPO. Lenders must follow the requirements of the memo and may use the provisions of this Programmatic Agreement, including Exclusions in Stipulation II and Appendix A. If the memo expires, it may no longer be used.
3. When required, HUD must conduct consultation with tribes; this cannot be delegated to lenders.

## II. ACTIVITIES NOT REQUIRING REVIEW

The following types of activities have little or no potential to adversely affect historic properties and are Excluded from further review under Section 106. To document and conclude the review, the Agency Official shall note in HEROS or other administrative record the applicability of one or more of the Exclusions. For the purposes of this agreement single family residential structures are defined as one-unit.

- A. Activities that are Excluded and/or Categorically Excluded and not subject to related laws under [24 CFR 50.19\(b\)](#) when the HUD official is the Agency Official.
- B. Activities that are Excluded under [24 CFR 58.34](#) and/or Categorically Excluded and not subject to related laws under [24 CFR 58.35\(b\)](#) when the RE's Certifying Officer is the Agency Official.
- C. Refinancing without demolition, rehabilitation or new construction, and no physical activities beyond maintenance as defined in HUD Notice [CPD-16-02](#) , "Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58".
- D. Leasing without demolition, rehabilitation or construction, and no physical activities beyond maintenance as defined in HUD Notice [CPD-16-02](#), "Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58".
- E. Undertakings without ground disturbance that involve properties, including mobile homes, that are less than 45 years old, unless the property is located within or adjacent to a NRHP or locally listed historic district, or in an area that consists primarily of buildings that were constructed more than 45 years ago, or could meet National Register Criterion Consideration G as being of exceptional significance.
- F. Undertakings that are limited to the interior rehabilitation or modification of interior spaces within single family (1 unit) or duplex (2 units) residential structures, where such work will not be clearly visible from the exterior of the structure.
- G. Undertakings consisting solely of activities listed in Appendix A Excluded Activities.

## III. STANDARD SECTION 106 REVIEW OF PROJECTS NOT EXCLUDED IN STIPULATION II

For all projects with activities that do NOT meet the criteria in Stipulation II, the Agency Official shall conduct reviews in accordance with Subpart B of [36 CFR 800](#) and Stipulations IV through IX of this Agreement which provide additional guidance on meeting Subpart B in review of HUD-assisted projects.

## IV. IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

- A. The Agency Official shall define and document the Area of Potential Effects (APE) and identify historic properties within the APE that may be directly or indirectly affected by the project. If contractors or subcontractors are utilized, they will meet the appropriate SOI qualified professional qualifications. For purposes of this Agreement, when an Undertaking consists solely of the rehabilitation of the interior features of an individual building, the APE will be limited to the individual building and parcel.
- B. For each Undertaking, the Agency Official shall review existing information, including the records of the SHPO, to determine if any historic properties are located within the APE, including properties listed in or eligible for listing in the National Register individually or as

contributing elements of an historic district, properties with a Determination of Eligibility (DOE) from the Secretary of the Interior (SOI), properties determined eligible for the National Register through a previous Section 106 review, or properties designated in state SHPO and local historic survey and inventory records.

- C. For any properties in the APE that have not been listed or previously determined eligible for listing in the National Register, the Agency Official shall make a recommendation on NRHP-eligibility and effect finding and forward the information to the SHPO. The Official must evaluate properties in the APE that are forty- five (45) years old or older to determine if they are eligible for the National Register, and offer the SHPO, consulting tribes and other consulting parties the opportunity to review and comment on this evaluation and determination of eligibility per 36 CFR 800.4(c).
- D. The Agency Official shall use HUD Notice CPD-12-006 and the May 5, 2015, HUD policy memo that adopts the Notice for Part 50 reviews for guidance on when and how to consult with Indian tribes and NHOs about sites of religious and cultural significance to tribes, including archeological sites, that may be considered historic properties.

## **V. DOCUMENTATION**

- A. Documentation required for consultation per the provisions of this Agreement shall meet the requirements in 36 CFR § 800.11 and may include but may not be limited to: written descriptions of the project and affected historic properties (if any); project plans; reports demonstrating that properties are eligible (or not) for listing in the National Register; evaluations of effect; alternatives analysis; maps showing specific project locations and APEs; and, clear photographs.
- B. All documentation generated for review purposes under the terms of this Agreement shall meet the state of Idaho's requirements (see the latest edition of Consulting with the Idaho State Historic Preservation Office).

## **VI. TIMEFRAMES**

- A. The SHPO shall have 30 days to review and respond to an adequately documented request for comment and concurrence on a finding or determination. If the SHPO does not respond within 30 days of receipt of the request, for concurrence the consultation shall be considered complete. If the SHPO later reenters the consultation, the Agency Official may continue the consultation without being required to reconsider previous findings or recommendations.
- B. If the SHPO requests additional missing information in order to meet documentation requirements under V. above, SHPO shall have thirty (30) days from receipt of the additional information to respond.
- C. When findings are submitted to the SHPO, the Agency Official shall also circulate findings to consulting parties for comment or objection within 30 days.

## **VII. CONSULTING PARTIES AND PUBLIC INVOLVEMENT**

- A. The Agency Official shall identify and invite the participation of consulting parties and the public as appropriate to the scale of the undertaking and the scope of Federal involvement. Projects with anticipated adverse effects and/or controversial projects will likely warrant broader consultation. Parties that may have a consultative role in the Section 106 process include but



are not limited to the following: Federally recognized Indian tribes; Tribal Historic Preservation Officers; representatives of local governments; county and municipal historic preservation commissions including those established under the Certified Local Governments (CLG) program; local residents groups; and applicants for federal assistance. The Agency Official shall also identify and invite the participation of other consulting parties, defined as those individuals and organizations with a demonstrated interest due to the nature of their legal or economic relation to the undertaking, or their concern for the undertaking's effects on historic properties; and, Other consulting parties can include: county and municipal historic preservation commissions, including those established under the Certified Local Governments (CLG) program; local residents groups; neighborhood associations; and other similar organizations.

- B. The Agency Official shall identify and invite the participation of the public as appropriate to the scale of the undertaking and the scope of Federal involvement. Projects with anticipated adverse effects and/or controversial projects may warrant broader consultation.
- C. The Agency Official shall follow HUD Notice CPD-12-006 "Process for Tribal Consultation in Projects That Are Reviewed Under 24 CFR Part 58" and the May 5, 2015, HUD policy memo that adopts the Notice for Part 50 reviews.
- D. If an undertaking may adversely affect a National Historic Landmark, the Agency Official shall request the ACHP and the Secretary of the Interior to participate in consultation to resolve any adverse effects, as outlined in 36 CFR § 800.10.

#### VIII. POST REVIEW DISCOVERIES

If, during the implementation of an undertaking, a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or a known historic property may be affected in an unanticipated manner, the Agency Official shall follow 36 C.F.R. § 800.13(b).

- A. In the event that previously unidentified archeological sites or human remains are discovered during project construction, that portion of the project shall stop work immediately, and the project manager shall take appropriate steps to immediately secure the site and shall notify the Agency Official within 48 hours. The Agency Official shall immediately notify the SHPO/THPO, Tribes, and other relevant consulting parties including descendent communities.
- B. If human remains are discovered, they shall be respectfully covered over and protected. The project manager shall notify the Agency Official, SHPO, THPO, and other consulting party signatories. In addition, the project manager shall immediately notify local and/or state law enforcement authorities including [medical examiner, coroner, state police, etc.] pursuant to local/state law, [local/ state law§ **27-502** and § **27-503**].
- C. The Agency Official shall consult with the SHPO, THPO and Tribes or other descendent community representatives to determine if the discovered site appears eligible for the National Register. If it does appear eligible, the Agency Official shall submit a treatment plan for the avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The treatment plan shall be consistent with the ACHP's handbook Treatment of Archaeological Properties and subsequent amendments and **Consulting with the Idaho State Historic Preservation Office**. If human remains are discovered, the treatment plan shall follow the guidance in [Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects](#), including appropriate consultation with descendent communities. Avoidance and preservation in place is the preferred option for treating human remains.

- D. The Agency Official shall notify relevant consulting parties of the unanticipated discovery and provide the proposed treatment plan for their comment. Construction work in the area of the discovery shall not continue until the plan has been accepted by SHPO/THPO and implemented. If objections to proposed treatment plans cannot be resolved the ACHP shall be consulted as per Stipulation XI.
- E. All human burial sites in the state of Idaho are protected under [local/state law § 27-502 and § 27-503], and any undertaking that may affect a human burial site shall comply with provisions of [local/state law § 27-502 and § 27-503], the terms of this Agreement notwithstanding.

## **IX. DISASTERS AND EMERGENCY REVIEW PROCEDURES**

The Agency Official from time to time may review undertakings in response to disasters, including, but not limited to, floods, tornadoes, earthquakes, windstorms, fires, and public health emergencies.

### **A. Exclusions from Review**

- 1. Immediate rescue and salvage operations conducted to save life or property are Excluded from Section 106 review requirements per 36 C.F.R. § 800.12(d).

### **B. Expedited Review**

- 1. During operations which respond to a disaster or emergency situation declared by the President, a tribal government, or the Governor of a State, or which respond to other immediate threats to life or property, the Agency Official may conduct expedited reviews of emergency undertakings that occur within 30 days of the disaster declaration or within 30 days of the completion of emergency event pursuant to 36 C.F.R. § 800.12(b).b). SHPO shall respond to a request for comment within 7 days. or within 30 days of the completion of emergency event. If a disaster is declared by an RE's chief executive officer or legislative body under 36 C.F.R. § 800.12(c), the Agency Official may follow the same process, unless the ACHP or SHPO objects to the action within the 7 days.
- 2. Should the Agency Official determine that it is necessary to extend the expedited review period for emergency undertakings beyond 30 days, the Agency Official may request an extension in writing from ACHP and notify SHPO and participating Tribe(s).

### **C. Review Under Separate Programmatic Agreement for Disasters**

- 1. An RE with an executed and valid Programmatic Agreement for CDBG-DR funds or HUD Addendum to the FEMA Programmatic Agreement for [State] for disaster recovery activities may use the provisions of that Agreement and successor Agreements to expedite review of undertakings that respond to Presidentially declared disasters [If there is a CDBG-DR PA or Addendum, modify this provision to note that and the date it was executed.]

## **X. MONITORING, REPORTING, AND TRAINING**

- A. The Agency Official shall provide the signatory parties with an Annual Report in February of each year summarizing all projects that were reviewed under this Agreement, and if requested by the

signatory party, shall schedule a meeting with them to discuss the Report. Data for the Annual Report may be derived from HEROS.

- B. This Annual Report shall include:
1. A list of projects that used the Exclusions in Stipulation II and Appendix A of the Agreement to conclude Section 106 without further consultation, categorized by street address (or name) and town, city, etc. and Exclusions used.
  2. Include a summary of staff and consultant training held.
  3. Staff and consultant training proposed for the following year.
  4. The views of the Agency Official or Responsible Entity regarding the effectiveness of the Programmatic Agreement and suggestions for additional actions that could be considered for inclusion in the Excluded Activities list.
- C. Upon written request from one or more of the Signatories of the Agreement or once a year, HUD will conduct training workshops, or webinars to assist Agency Officials, Recipients, and consultants to understand the technical requirements of the Agreement. The SHPO will participate in the training workshops or webinars at the request of HUD, as available.

## **XI. DISPUTE RESOLUTION**

At any time during the implementation of the measures stipulated in this Agreement, should an objection to any measure or manner of implementation be raised by a consulting party or member of the public, the Agency Official shall take the objection into account and consult with the objecting party and the SHPO to resolve the issue.

- A. The Agency Official shall represent itself in all matters of dispute resolution that pertain specifically to this Agreement.
- B. The responsibilities of the signatories to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute shall remain in effect.
- C. If the Agency Official determines that the objection cannot be resolved, they shall forward all documentation relevant to the dispute to the ACHP and request their recommendations or comments. The Agency Official shall take into account the ACHP's recommendations or formal comments in reaching a final decision regarding the dispute.
- D. If the ACHP does not provide its advice regarding the dispute within 30 days, the Agency Official may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Agency Official shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the Agreement and provide them and the ACHP with a copy of such written response.

## **XII. AMENDMENTS**

- A. Any signatory party may submit a written request to HUD, through its Office of Environment and Energy in CPD, that this Agreement be amended. HUD will notify the other signatories and consult with them. With the exception of requests made under XII.B. below, amendments shall only be considered if requested in writing and must be approved in writing by all signatory

parties that are participating in the Agreement at the time.

- B. Appendix A Excluded Activities may be amended without requiring amendment to the body of this Agreement at the request of an Agency Official who is a Signatory to the Agreement. HUD, on its own behalf or on behalf of another Signatory, shall notify the Signatories of the intent to modify Appendix A and shall provide a draft of the updated Appendix to all signatory parties. If no other Signatory objects in writing within 30 days of receipt of the proposed modification, HUD shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amended Appendix A shall go into effect on the date HUD transmits the amended Appendix to the other Signatories. If a Signatory objects to the proposed amendment, the Agency Official to Appendix A, HUD shall continue consultation to reach consensus, and if not resolved, the amendment shall not be implemented.

### **XIII. TERMINATION**

- A. A signatory may terminate their participation in this Agreement by providing written notice describing the reason(s) for termination to the other parties. If the SHPO or ACHP terminates, the Agreement with all Agency Officials is terminated. If a Responsible Entity Agency Official terminates, the Agreement is terminated only for activities subject to that Agency Official's Section 106 review under 24 CFR Part 58 and remains in effect for other participating Agency Officials. If HUD, represented by the Assistant Secretary for Community Planning and Development, terminates, the Agreement is terminated only for activities subject to HUD's Section 106 review under 24 CFR Part 50 in [state], and remains in effect for other participating Agency Officials' activities under 24 CFR Part 58.
- B. This Agreement shall remain in effect for at least 30 days from receipt of notice to terminate. The Office of Environment and Energy in CPD, the SHPO, the Agency Official, and the ACHP shall consult prior to actual termination to resolve the written reasons for termination and if possible, to amend the Agreement accordingly or seek other actions that would prevent termination.
- C. In the event that an Agency Official terminates their participation in this Agreement and prior to work continuing on any Undertaking, the Agency Official shall comply with 36 CFR Part 800 for all undertakings that would have been subject to this Agreement.

### **XIV. DURATION**

- A. This Agreement shall remain in force for ten years from the date that the ACHP signs the Agreement, unless it is terminated or superseded by another Agreement.
- B. This Agreement may be terminated by the execution of a subsequent Agreement pursuant to 36 CFR § 800.14(b) that explicitly terminates or supersedes this Agreement.
- C. Within six months prior to the expiration of this Agreement, the SHPO, ACHP, and Agency Officials who are signatory parties to the Agreement at that time shall consult to consider terms for a new Agreement, extension, and/or amendment of the terms of the existing Agreement, or allow the Agreement to expire.
- D. The signatories may collectively agree to extend this Agreement to cover additional

- E. calendar years, or portions thereof, through an amendment in accordance with
- F. Stipulation XII.A, provided that the original Agreement has not expired.
- G. Should an Agency Official choose not to extend their participation in the Agreement, they shall terminate their participation per Stipulation XIII, and the Agreement shall remain valid for the other parties.

#### **XV. EXECUTION AND IMPLEMENTATION**

This Agreement may be executed in counterparts, with separate signature pages. After signature by SHPO, HUD, ACHP, and the initial participating Responsible Entities, the Agreement will become effective on the date it is signed by ACHP. Responsible Entities that sign later must follow the Protocol in Appendix B. the Agreement will become effective for them on the date on which the Responsible Entity signs the Agreement and submits their signature page to HUD, through its Office of Environment and Energy, the SHPO and ACHP.

Execution of this Agreement and implementation of its terms evidence that HUD and participating Responsible Entities have taken into account the effects of the undertakings subject to this Agreement on historic properties and afforded the ACHP an opportunity to comment.

**PROGRAMMATIC AGREEMENT**  
 among  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
 and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
 and  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
 and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
 for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
 in  
**THE STATE OF IDAHO**

Signatory Party:

U.S. Department of Housing and Urban Development

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

Name:

Assistant Secretary, Office of Title: Assistant Secretary, Office of Community Planning and Development

Contact for Office of Environment and Energy:

Name

Regional Environmental Officer: Brian Sturdivant

Contact Information:

**PROGRAMMATIC AGREEMENT**  
among  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
in  
**THE STATE OF IDAHO**

Signatory Party:  
Idaho State Historic Preservation Officer

---

By: Janet Gallimore, State Historic Preservation Officer

Date

**PROGRAMMATIC AGREEMENT**  
**among**  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF IDAHO**

Signatory Party:  
Advisory Council on Historic Preservation

---

By: Reid Nelson

Chairman; Executive Director, Acting

Date



**PROGRAMMATIC AGREEMENT**  
among  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
and  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
in  
**THE STATE OF IDAHO**

Invited Signatory Party:  
[consulting party with role in implementation of the Agreement]

---

By: [Name] Date  
[Title]

**PROGRAMMATIC AGREEMENT**  
 among  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
 and  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
 and  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
 and  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
 for  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
 in  
**THE STATE OF IDAHO**

Signatory Party:  
 Responsible Entity  
 [City/Town/County/Tribe]

---

By: Name of Certifying Officer Date  
 Title

**PROGRAMMATIC AGREEMENT**

**among**  
**THE IDAHO STATE HISTORIC PRESERVATION OFFICER**  
**and**  
**THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**and**  
**CERTAIN IDAHO UNITS OF STATE AND GENERAL LOCAL GOVERNMENT**  
**ACTING AS RESPONSIBLE ENTITIES**  
**and**  
**THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**for**  
**THE REVIEW OF HUD-ASSISTED PROJECTS AND PROGRAMS SUBJECT TO**  
**24 CFR PART 50 and PART 58**  
**in**  
**THE STATE OF IDAHO**

Concurring Party:

[Name of Consulting Party]

---

By: Name \_\_\_\_\_ Date \_\_\_\_\_  
 Title \_\_\_\_\_

**APPENDIX A**  
**EXCLUDED ACTIVITIES**

In accordance with Stipulation II.G above, undertakings that are comprised solely and entirely of the following activities require no further Section 106 review. Applicability of the exclusion must be documented in HEROS. or other administrative record.

For purposes of this Agreement, the term “**in-kind replacement**” is defined as installation of a new element that duplicates the material, dimensions, design, configuration and detailing of the original element. Additionally, “**minimal ground disturbance**” is defined as a maximum 6-inch vertical area over a maximum of 0.25 acres horizontally.

**1. Site Work**

- a. Streets, driveways, alleys, and parking areas. Repair and restriping of existing concrete or asphalt surfaces and parking areas provided that no changes are made in width, surface, vertical alignment, or drainage.
- b. Curbs, gutters, sidewalks, retaining walls. Repair of existing concrete or asphalt surfaces, or in-kind replacement of brick, rock, or stone materials for curbs, gutters, sidewalks, and retaining walls. Repair of mortar must follow National Park Service Preservation Brief #2: *Repointing Mortar Joints in Historic Masonry Buildings.*
- c. Site improvements. Repair or in-kind repair/replacement of site improvements, including, but not limited to fences, landscaping, and steps.
- d. Underground Utilities. Repair or replacement of existing water, sewer, natural gas, electric or telecommunication lines and in-place repair of septic systems if it occurs in or adjacent to the existing trench and provided there is no substantial earth moving. Directional boring of new/replacement utility lines within previously disturbed soils.
- e. Above Ground Utilities.
  - i. Repair or replacement of existing wires, anchors, crossarms, and other miscellaneous hardware on existing overhead lines;
  - ii. Does not include pole replacement and installation outside city limits or water tower replacement.
- f. Street lighting and traffic signals. Repair and replacement of non-historic streetlights, traffic signals, and traffic signs, outside of a listed or eligible historic district.
- g. Park and playground equipment. Installation, repair or replacement of park and playground equipment, with minimal ground disturbance, excluding buildings.
- h. Temporary structures. Installation of temporary construction-related structures including scaffolding, barriers, screening, fences, protective walkways, signage, office trailers or restrooms.
- i. Test holes and wells. Test borings, well drilling and perc tests that do not require a temporary or permanent new access road to the site.

- j. Generators. Temporary installation of generators, and permanent installation of generators that are placed inside existing non-residential buildings or that occupy an area under 50 square feet behind the building they serve.
- k. Plantings.
  - i. Planting of grass, shrubs, bushes, and trees.
  - ii. Removal of vegetation or hazard trees

## 2. Exterior Rehabilitation

- a. Exterior repairs. In-kind repair of porches, porch screens, exterior siding, doors, balustrades, stairs or other trim.
- b. Windows.
  - i. Historic Windows: Caulking, weatherstripping, reglazing and repainting of windows; installation of new window jambs or jamb liners; and the repair, replacement.
  - ii. Storm windows: installation of storm windows (exterior, interior, metal or wood) provided they match the historic shape and size of the historic prime windows and that the meeting rail coincides with that of the prime window.
  - iii. Non-historic Windows: Repair of non-historic windows, and addition of storm windows, and replacement with new windows sized to fit the original window openings.
  - iv. Screens: repair or in-kind replacement of window screens.
- c. Exterior Painting.
  - i. Exterior painting of previously painted surfaces.
  - ii. Removal of exterior paint by non-destructive means, using lead-safe work practices (see 24 C.F.R. Part 35.1330 (a) (4), and § 35.1350), limited to hand scraping, low-pressure water less than 400 PSI, heat plates, hot air guns, or chemical paint removers provided that the removal method is consistent with §35.140 Prohibited methods of paint removal, and National Park Service Preservation Briefs #10: *Exterior Paint Problems on Historic Woodwork*, and #37: *Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*.
- d. Roofing.
  - i. Repair or in-kind replacement of roof cladding and sheeting, flashing, gutters, soffits, and downspouts with no change in roof pitch or configuration. Color should be sympathetic to the historic appearance of the building.
  - ii. Installation of new roofing or reflective roof coatings on a flat-roofed building with a parapet, such that the roofing material or flashing is not visible from any public right-of-way.
  - iii. Upgrades from inappropriate roofing material to historically appropriate roofing. E.g., metal roof to a wood shingle roof or a white 3-tab roof to an architectural shingle.
- e. Awnings. Repair or in-kind replacement of awnings. Does not include awning system.

- f. Hardware. Repair or replacement in-kind of historic hardware (dead bolts, door hinges, latches and locks, window latches, locks and hinges and door peep holes).
- g. Basement bulkhead doors. Replacement or repair of basement bulkhead doors and installation of basement bulkhead doors that are not on the front elevation.
- h. Mothballing. Securing or mothballing a property by boarding over window and door openings, making temporary roof repairs, and/or ventilating the building in accordance with National Park Service Preservation Brief 31: *Mothballing Historic Buildings*.
- i. Accessibility Ramps. Graded ground paths that provide access to a building and repair of existing ramps.
- j. Foundations.
  - i. Below-grade repair of brick or stone foundations that does not include applying weatherproofing or sealers, and
  - ii. Repairs to all other types of foundations.
- k. Attic Vents. Repair or in-kind replacement of historic attic vents in original openings or installation of new attic vents painted to match gable.
- l. Chimneys.
  - i. Repair or in-kind replacement of chimney liners provided that the work does not affect the exterior of the chimney.
  - ii. Installation of spark-arresting chimney caps.
- m. Mobile homes.
  - i. Replacement of deteriorated or severely damaged mobile homes with new mobile homes on existing pads with existing utility hook-ups.
  - ii. Repair or replacement of skirting
  - iii. Repair or replacement of siding
  - iv. Insulation
  - v. Interior rehabilitation

### 3. Interior Rehabilitation

This section does not apply to single-family residences (one-unit) or duplexes (two units) which are excluded from review of interior alterations per Stipulation II.F.

- a. Surfaces. Repair or in-kind replacement of interior surface treatment, such as walls, ceilings, plaster and woodwork.
- b. Floors and stairs. Repair and in-kind replacement of flooring and stairs, replacement or installation of carpet, and installation or repair of concrete basement floor in an existing basement. If covering historic features, such as wood floors, then carpet or sheet goods (linoleum or vinyl) shall be installed in a reversible manner, either through tacking or with an underlayment so historic floors shall not be irreversibly damaged.
- c. Asbestos abatement. Abatement or control of asbestos that does not involve removal or alteration of interior features.

- d. Bath and kitchen fixtures. Repair or replacement of bathroom and kitchen equipment and fixtures with compatible items.
- e. Lighting. Replacement or modification of non-historic lights and lighting systems when historic features such as decorative chandeliers and other distinctive light fixtures are retained.
- f. Accessibility. Modification of a bathroom or kitchen for handicapped access within the walls of the existing bathroom or kitchen. Installation of wedges and removal of thresholds to facilitate access through door openings. Included are bathroom improvements for handicapped access, provided the work is contained within the existing restroom walls.
- g. Lead-Based Paint hazard mitigation. Interior lead hazard mitigation and abatement using lead-safe work practices (see 24 C.F.R. Part 35.1330 (a) (4), and § 35.1350), when it is limited to washing, scraping and repainting, wallpapering, and chemical stripping of lead –painted surfaces, installation of new window jambs or jamb liners, installation of metal panning in window wells, and replacement of non-significant flat stock trim, provided that the work is consistent with §35.140 Prohibited methods of paint removal and National Park Service Preservation Brief #37: *Appropriate Methods for Reducing Lead-Paint Hazards in Historic Housing*.

#### 4. Mechanical Systems

- a. Installation, replacement or repair of plumbing, HVAC systems and units, hot water heaters, furnaces, electrical wiring, and fire protection systems, provided that the proposed work does not include structural alterations or the removal of historic features such as decorative cast iron radiators or other distinctive features.
- b. Placement and installation of exterior HVAC mechanical units and vents that are not on/adjacent to the primary elevation. This does not include rooftop systems.

#### 5. Energy Conservation Measures

- a. Insulation of roofs, crawl spaces, ceilings, attics, floors and around pipes/ducts as long as these measures do not induce, retain, or introduce moisture into a building, utilization of spray foam insulation is not covered under this agreement and must be reviewed in accordance with 36 CFR Part 800.
- b. Caulking and weather stripping consistent with appearance of the building.
- c. Installation of radiant barriers in unoccupied attic spaces.
- d. Installation of solar panels not visible from the public right-of-way.

## APPENDIX B DEFINITIONS

**Adverse Effect:** An effect on a historic property occurs when an undertaking may alter the characteristics of a historic property that qualify it for inclusion in the National Register of Historic Places in a manner that diminishes the integrity of the property's location, design, setting, materials, workmanship, feeling, or association (36 CFR § 800.5(A)(1)).

**Advisory Council on Historic Preservation (ACHP):** is an independent federal agency established pursuant to Section 201 of NHPA. ACHP has issued federal regulations for complying with section 106 of NHPA and must afford an opportunity to comment on federal, federally assisted, or federally licensed undertakings that may affect historic properties.

**Agency Official:** the HUD official or RE's Certifying Officer that has assumed the role of Agency Official for purposes of Section 106. A chart in Appendix D indicates whether 24 CFR Part 50 or 24 CFR Part 58 applies to the HUD programs listed in the chart.

**Area of Potential Effects:** The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The area of potential effects is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking. (36 CFR 800.16).

**Character Defining Features:** Physical components that combine to create the appearance or uniquely represent the significance of a historic building.

**Effect:** on a historic property occurs when an undertaking may alter the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register of Historic Places (36 CFR § 800.16(i)).

**Excluded Activities:** These activities have limited potential to affect historic properties and only require review by the Agency Official. They are excluded from further review by the SHPO, although they may be contacted for advice and guidance.

**Historic Property:** Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria. (36 CFR 800.16)

**In-kind:** Using the same material type, design, dimension, texture, color, detailing, and exterior appearance to repair or replace a portion of a historic building material.

**Minimal ground disturbance:** is defined as a maximum 6-inch vertical area over a maximum of 0.25 acres horizontally.



**National Register of Historic Places or National Register:** is a list of districts, sites, buildings, structures, and objects found to be significant in American history, architecture, archaeology, engineering, and culture by the Keeper of the National Register on behalf of the Secretary of the Interior (36 CFR § 60).

**Preservation Briefs:** Preservation Briefs provide information on preserving, rehabilitating, and restoring historic buildings. These NPS Publications help historic building owners recognize and resolve common problems prior to work. These publications are available online at <https://www.nps.gov/tps/how-to-preserve/briefs.htm>

**Secretary of the Interior's Standards (SOI) for Treatment of Historic Properties:** The Standards offer four distinct approaches to the treatment of historic properties—preservation, rehabilitation, restoration, and reconstruction—with accompanying Guidelines for each and are available online at: <https://www.nps.gov/tps/standards.htm>

**Single family residences:** for the purposes of this agreement, the definition of single-family residence is defined as one-unit.

**State Historic Preservation Officer:** (SHPO) is the official appointed or designated by the Governor pursuant to Section 101(b)(1) of the National Historic Preservation Act to administer the state Historic Preservation program. In Idaho, the Idaho State Historical Society Director is the SHPO.

**Temporary:** A building or structure that will be removed within two (2) years of placement.

**Undertaking:** means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval.

## APPENDIX C

### Protocol for Responsible Entities to Adopt the HUD Statewide Part 50/58 Programmatic Agreement

#### Background

HUD assisted projects require a historic preservation compliance review, otherwise known as a Section 106 review, which requires federal agencies to consider any impacts their projects may have on historic properties. This review process can be completed as outlined in 36 CFR 800 for individual projects, or a Programmatic Agreement (PA) may be developed as an alternative to expedite the review process for multiple projects. HUD has developed a model statewide PA that applies to HUD projects administered under both 24 CFR Part 58 and Part 50, when the unit of local government is the Responsible Entity (RE) mandated to ensure compliance with the National Environmental Policy Act and all related laws and authorities under Part 58, including Section 106, and Part 50, when HUD officials conduct the environmental review. The PA includes a list of project activities that are excluded from further review, provided the stipulations in the PA are met.

Individual Responsible Entities (REs) can opt to sign the PA and use its streamlining measures in their Section 106 reviews. Participation in the PA is voluntary, and an RE is always free to develop its own separate, individual PA or conduct reviews with the standard Section 106 process. To take advantage of the stipulations in the PA, an RE must be a party to the PA which can be achieved through implementing the protocols below.

HUD environmental regulations [24 CFR Part 58] require states and units of general local government to assume responsibility for environmental review of some HUD-assisted projects, like CDBG, HOME, Public Housing, and Continuum of Care (CoC). These Responsible Entities (REs) act as the federal agency in carrying out environmental reviews, including Section 106 reviews.

HUD has developed a template PA that covers Part 58 projects, as well as those subject to HUD's environmental regulations at 24 CFR Part 50 which requires HUD officials to conduct environmental review for some projects, like FHA mortgage financing of multifamily and healthcare projects. The PA contains a list of activities that are so unlikely to cause adverse effects to historic properties that they are excluded from further Section 106 review and was drafted by HUD in consultation. Examples of excluded activities include work on most buildings under 45 years old, roof repair, and kitchen and bath renovation. In order to take advantage the Exclusions, an RE must be a party to the PA. . During, development of the PA, HUD through its Office of Environment and Energy, facilitated consultation with statewide historic preservation organizations and federally recognized Indian tribes. REs who signed at the initial stage conducted outreach to the public and potentially interested parties in their jurisdiction about the PA, their intention to sign it as well as to solicit comments on the draft. Documentation of that outreach effort, and comments, were provided to HUD. The draft PA was revised based on comments received from HUD's outreach as well as that of the REs. Once the PA is executed by HUD, ACHP and the initial RE signatories, the PA is executed and cannot be modified, except as outlined in Stipulations XII and VIII of the PA. Listed below are the following guidelines should be used when an RE seeks to adopt the HUD Statewide Part 50/58 PA and use it to expedite Section 106 reviews conducted under Part 58.

Updated Idaho 50-58 PA March 15, 2022

Working Draft- Sample Part 50/58 Programmatic Agreement 12-18-20

## **Protocol to Adopt the HUD Statewide PA**

### **Initiation**

- An RE should notify the HUD Regional Environmental Officer or Field Environmental Officer in the Office of Environment and Energy (OEE) of their interest in adopting the PA for their jurisdiction. An RE may sign on to the PA during the initial consultation and execution of the PA or adopt the PA at a subsequent date. HUD is available to support and discuss the PA process with REs and assist them throughout the adoption process as necessary.

### **Public Outreach**

- HUD through its Office of Environment and Energy will facilitate consultation with statewide historic preservation organizations and federally recognized Indian Tribes during the initial development of the PA in the state. Before they adopt the PA, REs must inform other potentially interested parties in their jurisdiction about the PA, such as and their interest in adopting it. Such parties may include, but is not limited to, local historic preservation review commissions (whether or not the city participates in the SHPO's Certified Local Governments (CLG) program),) and local historic preservation organizations, and the general public in the community. This can be done by notice, letter, meeting, or other means. The RE must document their public outreach. The RE must inform the general public. This can be done by notice on a local government website, in a local newspaper, or other means. RE must consider any comments received in its decision on whether to sign the PA.

### **Execution of the 50/58 PA**

- The RE must provide HUD with documentation of their public outreach. If insufficient, HUD will provide TA to RE on additional outreach required. HUD will provide the documentation to the SHPO when submitting the executed signature page to them.

### **Adoption of PA**

- HUD will provide a signature page for each eligible RE.
- Some REs will participate in the initial consultation on the PA and will submit their signature page as part of the initial execution of the PA by HUD and multiple REs. The PA will become effective for a signatory RE after the ACHP has signed the PA.
- Some REs will provide their signature page to HUD after the initial execution of the PA. In that case, the RE may begin using the PA process for reviews effective the date of signature by the RE and submission to HUDOEE.
- On behalf of the REs, HUD Office of Environment and Energy the REO/FEO will notify SHPO, ACHP and Tribes of new signatories to the PA.
- HUD will post the RE signature pages on the Section 106 Agreements section of the HUD Historic Preservation page at <https://www.hudexchange.info/environmental-review/historic-preservation/section-106-agreements/>

**Annual Report**

- Per stipulation VI of the PA, the RE must prepare an Annual Report with a narrative and statistical overview of the actions taken by the RE in the previous year to implement the terms of the PA. HUD will provide data from HEROS on the RE's projects during the year. The RE must provide the report to the HUD Office of Environment and Energy Region 10, the SHPO, and the ACHP. Any of the parties may request a follow-up discussion of the report and its recommendations.
- REs are encouraged to use HEROS when preparing their Part 58 reviews to facilitate the preparation of the annual report required as per the PA.

**For more information contact your HUD Regional Environmental Officer or Field Environmental Officer for your state. A list is available here: <https://www.hudexchange.info/programs/environmental-review/hud-environmental-staff-contacts/#region-i-regional-and-field-environmental-officers>**

**APPENDIX D**  
**CHART OF THE APPLICABILITY OF PART 50 AND PART 58 TO HUD PROGRAMS**  
**January 2021**

<p align="center"><b>APPLICABILITY OF PART 50 AND PART 58 TO HUD PROGRAMS</b> <b>January 2021</b></p>			
<p align="center"><b>Office of Multifamily Housing</b></p>			
<p>The Office of Multifamily Housing provides mortgage insurance programs for apartment buildings as well as capital advance funds to construct low-income housing for elderly and disabled residents. Projects labeled apartments would typically be a Multifamily Housing program, except public housing.</p>			
Program	Description	Part 50	Part 58
Section 221(d)(4)	New Construction or substantial rehabilitation of multifamily rental housing.	X	
Section 223(a)(7)	Refinance of HUD-insured multifamily projects with no substantial rehabilitation. No further Section 106 review due to No Potential to Cause Effects determination. If action involves purchase, Section 106 review is required.	X	
Section 207/223(f)	Purchase or refinance of existing multifamily rental housing with some, but not substantial, rehabilitation. In 223(f) refinance, if work does not exceed Maintenance, no further Section 106 review due to No Potential to Cause Effects determination.	X	
Section 241(a)	Addition or Rehabilitation to an existing FHA-insured project. These loans typically involve a significant construction component.	X	
213 Cooperative	New Construction, substantial rehabilitation, or purchase of Cooperative Housing.	X	
542(c) Risk Share Program,	Credit enhancements for state and local housing finance agencies for new construction, substantial rehabilitation, refinancing, and housing for the elderly.		X
Section 202/811	Capital advance to construct new Housing for elderly and disabled persons.	X	
Project-based Section 8 Renewals	Capital repairs and Rehabilitation of existing projects.	X	
Section 8 Transfer of Project-based Subsidy	Transfers of rental assistance (including Section 8(bb)) to existing property with no repairs, existing properties with rehab, or new construction.	X	
Mark to Market	Reduces rents to market levels, can include rehabilitation.	X	
Rental Assistance Demonstration Program (RAD)	This Office of Housing Program converts public housing to private funding that is used to rehabilitate, remove, and/or construct improved public housing.	X*	X*
<p>* See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice Rev.4)</p>			

Updated Idaho 50-58 PA March 15, 2022

Working Draft- Sample Part 50/58 Programmatic Agreement 12-18-20

<b>Office of Healthcare Programs</b>			
Office of Healthcare Programs offers mortgage insurance programs for residential healthcare facilities and hospitals. Projects labelled “LEAN,” Office of Residential Healthcare Facilities, Office of Hospital Facilities, Nursing Home, Assisted Living, or Hospital are typically Office of Healthcare Programs projects.			
Program	Description	Part 50	Part 58
Section 232 or 242 /223(f)	Purchase or refinance—Often involves repairs, but not substantial rehabilitation.	X	
Section 232 or 242 /223(a)(7)	Refinance of HUD-insured projects with no substantial rehabilitation.	X	
Section 232 or 242 New Construction, Substantial Rehabilitation	Projects under these sections have a significant construction component.	X	
Section 232/241(a)	Addition or Rehabilitation to an existing FHA-insured project. These loans typically involve a significant construction component.	X	
<b>Office of Community Planning and Development</b>			
The Office of Community Planning and Development provides grants to assist states, communities, and non-profit organizations to foster community development, affordable housing, and economic development.			
Program	Description	Part 50	Part 58
Community Development Block Grants (CDBG)	Formula grants to states and localities to support neighborhood revitalization, economic development and improved community facilities and services for low and moderate income persons.		X
CDBG– Disaster Recovery (CDBG-DR)	Grants for activities that support recovery from Presidentially declared disasters.		X
CDBG – Mitigation (CDBG-MIT)	Grants for activities to mitigate future disaster risks in areas impacted by Presidentially declared disasters.		X
HOME	Grants to increase affordable housing opportunities for low- and very-low-income households.		X
Housing Trust Fund	Grants for the construction, rehabilitation, and preservation of rental homes and for homeownership for extremely low- and very low-income families, including homeless families. Activities must meet Secretary of the Interior’s Standards for Rehabilitation. Parts 50 and 58 do not apply.		

Program	Description	Part 50	Part 58
HOPWA	Grants to provide housing assistance and related supportive services to meet the housing needs of low-income persons living with HIV/AIDS and their families.		X
Neighborhood Stabilization Program 1	Formula grants for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. *		X
Neighborhood Stabilization Program 2	Competitive grants to states, local governments and non-profits for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. *	X	X
Neighborhood Stabilization Program 3	Formula grants for the purpose of providing emergency assistance to stabilize communities with high rates of abandoned and foreclosed home. *		X
Pay for Success	Financing model that provides flexibility to local governments to implement evidence-based solutions to end homelessness.	X	
Continuum of Care (CoC)	CoC grants address shelter and social needs of people experiencing homelessness.		X
SHOP	Self-Help Homeownership Opportunity Program funds sites for volunteer-based home construction programs		X
Section 108 Loan Guarantee Program	Allows local governments to leverage portions of their CDBG funds into federally guaranteed loans for economic development, housing, public facility, and infrastructure.		X
Veterans Housing Rehabilitation and Modification Pilot Program (VHRMP)	Grants to nonprofit organizations to rehabilitate the primary residences of low-income veterans living with disabilities.	X	
Youth Homelessness Demonstration Program (YHDP)	Grant program designed to reduce the number of youth experiencing homelessness.		X
* Legacy program that reallocates repaid funds.			
<b>Office of Lead Hazard Control and Healthy Homes</b>			
The Office of Lead Hazard Control and Healthy Homes promotes preventive and corrective actions to address health and safety issues in the home environment.			
Program	Description	Part 50	Part 58
Lead-Based Paint Hazard Reduction and Healthy Homes Supplemental Program	Grants to state, county, tribal, and local governments to identify and control lead-based paint/dust/soil hazards in privately-owned rental or owner-occupied housing. Healthy Homes Supplemental grant funds identify and		X



Program	Description	Part 50	Part 58
	eliminate housing-based health and safety hazards in the same homes.		
Healthy Homes Production Program for Tribal Housing	Grants to federally recognized tribes for evaluation and reduction/elimination of housing-based health and safety hazards in private low-income rental or owner-occupied housing.		X
Older Adult Home Modification Program	Grants to make safety and functional home modification repairs of low-income elderly homeowners.	X	
Healthy Homes and Weatherization Cooperation Demonstration Program	Grants to identify effective strategies for coordination between Lead/Healthy Homes and DOE Weatherization programs that maximize program efficiencies and benefits to occupants.	X	
<b>Office of Public and Indian Housing: Office of Public Housing</b>			
The Office of Public Housing supports local public housing authorities that own and manage public housing properties.			
Program	Description	Part 50	Part 58
Public Housing Capital Funds	Funding for capital improvements to public housing, with activities that may include maintenance, rehabilitation, demolition, construction, and leasing.		X
Public Housing Operation Funds	Funding for the operation and management of public housing units, including maintenance and rehabilitation		X
Lead Based Paint Capital Funds (LBPCF)	Funding to identify and eliminate LBP hazards in public housing by carrying out risk assessments, abatement, and interim controls.		X
Moving to Work (MTW) Block Grant	Funding to increase affordable housing choices for low-income families, that may include acquisition, leasing, operations, rehabilitation, maintenance, demolition, and construction.		X
Choice Neighborhoods Initiative (CNI)	Planning and Implementation grants to transform distressed public housing into mixed-income neighborhoods, with activities that may include disposition, rehabilitation, maintenance, demolition, and construction.		X
HOPE VI	Funding to revitalize public housing projects in poor condition into mixed-income developments, largely based on New Urbanism, with activities that may include planning, design, acquisition, disposition, rehabilitation, maintenance, demolition, and construction.		X
HOPE VI Main Street Program	Funding to rejuvenate older, downtowns in smaller communities (50,000 or fewer) with activities that may include acquisition, rehabilitation, maintenance,	X	

Program	Description	Part 50	Part 58
	demolition, and construction. Must meet the Secretary of the Interior's Standards for Rehabilitation.		
Project Based Vouchers (PBV)	PBVs may be placed into existing housing or new construction, after a one-time environmental review covering the entire scope has been completed for the aggregated project, which may include acquisition, demolition, rehabilitation, maintenance, construction, leasing, and operations. The environmental review must be completed prior to the HAP or AHAP.		X
Tenant-based Section 8 rental assistance	Tenant-based vouchers allow tenants to choose their own housing in the private market. Excluded from environmental review including Section 106	NA	NA
Housing Choice Voucher (HCV) Homeownership Program	HCV Homeownership Program allows families assisted under the HCV program to use their voucher to buy a home and receive monthly assistance in meeting homeownership expenses; activities may include acquisition and related expenses that result in the transfer of title.		X
Energy Performance Contract (EPC) Program	Financing technique using energy/utility cost savings from reduced energy consumption to repay the cost of installing Energy Conservation Measures, with activities that may include rehabilitation maintenance, and construction.		X
Rental Assistance Demonstration Program (RAD)	This Office of Housing Program converts public housing to private funding that is used to rehabilitate, remove, and/or construct improved public housing.	X*	X*
Section 18 actions, including demolition and/or disposition	Section 18 authorizes a PHA to demolish and/or dispose of public housing with HUD approval if the units meet certain criteria. The review needs to encompass the maximum anticipated known project scope, and may include maintenance, rehabilitation, and construction.		X
Mixed-Finance Public Housing	Mixed finance developments include public housing units owned in whole or in part by an entity other than a PHA and are generally part of mixed-income developments; activities may include, acquisition, leasing, operations, rehabilitation, maintenance, demolition, and construction .		X
<b>Office of Public and Indian Housing: Office of Native American Programs (ONAP)</b>			
The Office of Native American Programs administers housing and community development programs that benefit American Indian and Alaska Native tribal governments, tribal members, the Department of Hawaiian Home Lands, Native Hawaiians, and other Native American organizations.			

Program	Description	Part 50	Part 58
Indian Housing Block Grant (IHBG)	IHBG is a formula grant that provides a range of affordable housing activities on Indian reservations and Indian areas, including housing development, assistance to housing developed under the Indian Housing Program, housing services to eligible families and individuals, crime prevention and safety, and model activities that provide creative approaches to solving affordable housing problems.		X
Indian Community Development Block Grant (ICDBG)	ICDBG provides direct grants for use in developing viable Indian and Alaska Native Communities, including decent housing, a suitable living environment, and economic opportunities, primarily for low and moderate income persons.		X
Section 184 Loan Guarantee	The Section 184 Indian Home Loan Guarantee Program is a home mortgage product specifically designed for American Indian and Alaska Native families, Alaska villages, tribes, or tribally designated housing entities.		X
Title VI	Title VI is a financial tool that allows federally recognized tribes and Tribally Designated Housing Entities (TDHE) to finance affordable housing activities. Activities may include rehabilitating housing, building infrastructure, construction community facilities, and acquiring land to use for housing.		X
Native Hawaiian Housing Block Grants	Funding for eligible affordable housing activities for low-income Native Hawaiians eligible to reside on Hawaiian home lands.		X
Section 184A Loan Guarantees	Loan guarantees 100% of the unpaid principal and interest due on an eligible loan on Hawaiian home lands.		X
* See page 117 of HUD Notice H-2019-09 PIH-2019-23 (HA) (RAD Notice Rev.4)			

N.B. HUD programs include but are not limited to the programs listed in this Chart.

