




OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

MAR 26 2010

MEMORANDUM FOR: All State and Tribal Historic Preservation Officers

FROM: Yolanda Chávez, Deputy Assistant Secretary
for Grant Programs, DG 

SUBJECT: Authorization of NSP2 Non-Profit Grantees to Initiate
Consultation per 36 CFR Part 800, "Protection of Historic
Properties"

The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) appropriated to the Department of Housing and Urban Development a second round of funding for the Neighborhood Stabilization Program 2 (NSP2). NSP2 is a grant competition that includes non-profits and non-profit consortia as eligible applicants. Where these non-profits and non-profit consortia lack a State, local, or tribal general government partner, HUD is responsible for completing the environmental and Section 106 reviews under 24 CFR Part 50. For purposes of this notification, "non-profit grantees" refers to those NSP2 grantees for whom HUD is responsible for completion of Section 106 reviews.

In order to facilitate the Section 106 review process, HUD has determined that it is consistent with 36 CFR § 800.2(c)(4) for NSP2 non-profit grantees (and their authorized representatives) to initiate Section 106 consultation with State and/or Tribal Historic Preservation Officers (SHPO/THPO) and other consulting parties.

Effective immediately, NSP2 non-profit grantees and their authorized representatives may initiate the Section 106 review process; identify and evaluate historic properties; and assess effects. When consulting with SHPO/THPOs and others, authorized representatives of NSP2 non-profit grantees shall identify the non-profit grantee they are representing, including an appropriate contact person within the non-profit grantee, and the undertaking for which they have been hired to coordinate the Section 106 review.

HUD will remain responsible for participating in the Section 106 consultation process when:

- There is a disagreement between the non-profit grantee (or its authorized representative) and the SHPO/THPO, Advisory Council on Historic Preservation, or Secretary of the Interior regarding identification and evaluation and/or assessment of effects;
- There is an objection from consulting parties or the public regarding assessment of effects, the implementation of agreed upon provisions, or their involvement in a Section 106 review;
- When it is determined, in accordance with the *Criteria of Adverse Effect*, that there is an adverse effect on a historic property; **or**
- There is potential for either a foreclosure situation per 36 CFR § 800.9(b) or anticipatory demolition as specified in Section 110(k) of the National Historic Preservation Act.

This notification to SHPO/THPOs allows NSP2 non-profit grantees to initiate their project planning and the Section 106 review process in a coordinated and efficient manner. Per § 800.2(c)(4), HUD remains legally responsible for all findings and determinations made by non-profit grantees (or their authorized representatives) and for its government-to-government relationship with Indian tribes.

The Section 106 reviews must be conducted within the timeframes set forth in 36 CFR Part 800 and in HUD's published Notice of Funding Availability for the NSP2 program (74 FR 21377, May 7, 2009). The exchange of documentation and consultations between non-profit grantees and consulting parties should be carried out consistent with the Section 106 regulations. To this end, HUD has arranged for technical assistance to be provided to the non-profit grantees to help them carry out the process set forth in this notification.

Questions about HUD's Historic Preservation program should be directed to Mr. David Blick, Deputy Federal Preservation Officer, at (202) 402-5718, or by email at David.G.Blick@hud.gov. Questions regarding NSP2 should be directed to Mr. Hugh Allen, Deputy Director, Financial Management Division, at (202) 402-4654, or by email at Hugh.Allen@hud.gov. For on-line information about NSP2, see: <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/arrfactsheet.cfm>