

ATTACHMENT A SB 5649 Abridged

STATE AUTHORIZING LEGISLATION - *EXAMPLE*

[NOTE: The legislation sections displayed here deal primarily with the use of state funds for loan loss reserve programs and the use of other credit enhancements. This legislation was also drafted to cover other energy efficiency finance mechanisms, such as Promoting the Involvement of State-Chartered Bond Authorities in Financing Energy Efficiency Projects; Energy Efficiency in Publicly Funded Housing; Low-Income Weatherization Programs; and other Energy Efficiency Improvement Programs (including creation of pilot programs).]

**ENGROSSED SECOND SUBSTITUTE SENATE BILL 5649**

Chapter 379, Laws of 2009

61st Legislature

2009 Regular Session

**ENERGY EFFICIENCY**

EFFECTIVE DATE: 05/07/09

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** FINDINGS. (1) The legislature finds that improving energy efficiency in structures is one of the most cost-effective means to meet energy requirements, and that while there have been significant efficiency savings achieved in the state over the past quarter century, there remains enormous potential to achieve even greater savings. Increased weatherization and more extensive efficiency improvements in residential, commercial, and public buildings achieves many benefits, including reducing energy bills, avoiding the construction of new electricity generating facilities with associated climate change impacts, and creation of family-wage jobs in performing energy audits and improvements.

[...]

NEW SECTION. **Sec. 205.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The department must: (a) Establish a process to award grants on a competitive basis to provide grants to financial institutions for the purpose of creating credit enhancements, such as loan loss reserve funds as specified in sections 206 and 208 of this act, and consumer financial products and services that will be used to obtain energy efficiency services; and (b) develop criteria, in consultation with the department of financial institutions, regarding the extent to which funds will be provided for the purposes of credit enhancements and set forth principles for accountability for financial institutions receiving funding for credit enhancements.

(2) The department must:

(a) Give priority to financial institutions that provide both consumer financial products or services and direct outreach;

(b) Approve any financing mechanisms offered by local municipalities under section 208 of this act; and

(c) Require any financial institution or other entity receiving funding for credit enhancements to:

(i) Provide books, accounts, and other records in such a form and manner as the department may require;

(ii) Provide an estimate of projected loan losses; and

(iii) Provide the financial institution's plan to manage loan loss risks, including the rationale for sizing a loan loss reserve and the use of other credit enhancements, as applicable.

13 NEW SECTION. **Sec. 206.** A new section is added to chapter 43.330 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS--FINDINGS AND INTENT. 1) The legislature finds that the creation and use of risk reduction mechanisms will promote greater involvement of local financial institutions and other financing mechanisms in funding energy efficiency improvements and will achieve greater leverage of state and federal dollars. Risk reduction mechanisms will allow financial institutions to lend to a broader pool of applicants on more attractive terms, such as potentially lower rates and longer loan terms. Placing a portion of funds in long-term risk reduction mechanisms will support a sustained level of energy efficiency investment by financial institutions while providing funding to projects quickly.

(2) It is the intent of the legislature to leverage new federal funding aimed at promoting energy efficiency projects, improving energy efficiency, and increasing family-wage jobs. To this end, the legislature intends to invest a portion of all federal funding, subject to federal requirements, for energy efficiency projects in financial mechanisms that will provide for maximum leverage of financing.

[...]

NEW SECTION. **Sec. 208.** A new section is added to chapter 43.330 RCW to read as follows:

PROMOTING THE INVOLVEMENT OF FINANCIAL INSTITUTIONS IN FINANCING ENERGY EFFICIENCY PROJECTS. (1) Local municipalities receiving federal stimulus moneys through the federal energy efficiency and conservation block grant program or state energy program are authorized to use those funds, subject to federal requirements, to establish loan loss reserves or toward risk reduction mechanisms,

such as loan loss reserves, to leverage financing for energy efficiency projects.

(2) Interest rate subsidies, financing transaction cost subsidies, capital grants to energy users, and other forms of grants and incentives that support financing energy efficiency projects are authorized uses of federal energy efficiency funding.

(3) Financing mechanisms offered by local municipalities under this section must conform to all applicable state and federal rules and regulations.

*Prepared by Energy Efficiency Finance Corp.*

ATTACHMENT B Resolution 2009-05

LOCAL AUTHORIZING LEGISLATION – *EXAMPLES*

A Resolution declaring the City of Bellingham's intent to take a leadership role in promoting energy efficiency by promoting the Bellingham Energy Efficiency Community Challenge, directing staff to assist sustainable connections and the opportunity council in communicating about energy efficiency, directing staff to continue exploring mechanisms by which the city can help finance private energy efficiency projects and directing staff to educate state legislators about the city's interest in forming an energy conservation utility.

Year:	2009
Agenda Bill:	18328
Resolution:	2009-05
1st Reading - Introduction Date:	02/23/2009

**RESOLUTION NO. 2009-05**

**A RESOLUTION DECLARING THE CITY OF BELLINGHAM'S INTENT TO TAKE A LEADERSHIP ROLE IN PROMOTING ENERGY EFFICIENCY BY PROMOTING THE BELLINGHAM ENERGY EFFICIENCY COMMUNITY CHALLENGE, DIRECTING STAFF TO ASSIST SUSTAINABLE CONNECTIONS AND THE OPPORTUNITY COUNCIL IN COMMUNICATING ABOUT ENERGY EFFICIENCY, DIRECTING STAFF TO CONTINUE EXPLORING MECHANISMS BY WHICH THE CITY CAN HELP FINANCE PRIVATE ENERGY EFFICIENCY PROJECTS AND DIRECTING STAFF TO EDUCATE STATE LEGISLATORS ABOUT THE CITY'S INTEREST IN FORMING AN ENERGY CONSERVATION UTILITY**

**WHEREAS**, a sustainable energy supply is critical to the wellbeing of our society; and

**WHEREAS**, on May 5, 2008 Bellingham City Council passed Resolution number 2008-16 acknowledging our community's dependence on diminishing sources of energy; and

**WHEREAS** the Inter-Governmental Panel on Climate Change (IPCC), the international community's most respected assemblage of scientists regarding climate change, is clear that there is no longer any credible doubt that climate disruption is a reality and that human activities are largely responsible for increasing concentrations of global warming pollution; and

**WHEREAS** on May 7 2007, Bellingham City Council passed Resolution number 2007-10 which adopts an aggressive Climate Action plan which includes the goal of reducing community emissions by 7% below 2000 levels by 2012 and which specified and Energy Conservation Community Challenge as a key strategy for achieving that goal; and

**WHEREAS**, it is estimated that 10 jobs are created for every \$1 million invested in energy efficiency measures;<sup>1</sup> and

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<sup>1</sup> *Greener Pathways: Jobs and Workforce Development in the Clean Energy Economy*. 2008 Sarah White and Jason Walsh, Center on Wisconsin Energy, The Workforce Alliance, The Apollo Alliance. Cited by the Northwest Energy Efficiency Task Force, Workgroup 5, Final Report. 2008.

**WHEREAS**, in many cases efforts to reduce energy consumption also conserve water and efforts are underway to coordinate the Community Energy Challenge with Public Work's existing water conservation program; and

**WHEREAS**, the City of Bellingham has taken many steps to reduce the energy consumption within its own facilities, investing in numerous facility improvements and employing an Resource Conservation Management Technician; and

**WHEREAS**, in 2006 the City of Bellingham Partnered with Sustainable Connections and Puget Sound Energy to create the Bellingham Green Power Community Challenge

**WHEREAS**, in 2006 the City of Bellingham Partnered with Sustainable Connections and Puget Sound Energy to create the Bellingham Green Power Community Challenge which resulted in the EPA naming Bellingham the number one Green Power Community in the nation; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:**

**SECTION 1. TAKE A LEADERSHIP ROLE IN PROMOTING ENERGY EFFICIENCY BY PROMOTING THE BELLINGHAM ENERGY EFFICIENCY COMMUNITY CHALLENGE**

The City of Bellingham endorses the Bellingham Energy Efficiency Community Challenge and encourages Bellingham's residents and business to participate by reducing their energy consumption;

**SECTION 2. ASSIST SUSTAINABLE CONNECTIONS AND THE OPPORTUNITY COUNCIL IN COMMUNICATING ABOUT ENERGY EFFICIENCY**

The City Council directs City staff to assist in developing and implementing the communication strategy to the greatest extent practicable and achievable with available Funding and resources;

**SECTION 3. EXPLORE MECHANISMS BY WHICH THE CITY CAN HELP FACILITATE A COMMUNITY STRATEGY TO FINANCE PRIVATE ENERGY EFFICENCY PROJECTS**

The City Council directs City Staff to continue to explore and develop mechanisms by which the City can assist --without General Fund usage and preferably through leveraged private sector involvement --in the creation of an energy efficiency financing program to complement the Energy Efficiency Community Challenge;

**SECTION 4. EDUCATE STATE LEGISLATORS ABOUT THE CITY'S INTEREST IN FORMING AN ENERGY CONSERVATION UTILITY**

The City Council directs Government Affairs staff and other City staff to communicate the City's interest in forming an Energy Conservation Utility as enabled under H.R. 1747-SB 5854.

*Prepared by Dan Clarkson, Energy Efficiency Finance Corp.*

U.S. DEPARTMENT OF ENERGY

**ENVIRONMENTAL QUESTIONNAIRE**

**I. BACKGROUND**

The Department of Energy (DOE) National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR 1021) require careful consideration of the potential environmental consequences of all proposed actions during the early planning stages of a project or activity. DOE must determine at the earliest possible time whether such actions will require either an Environmental Assessment or an Environmental Impact Statement, or whether they qualify for a Categorical Exclusion. To comply with these requirements, an Environmental Questionnaire must be completed for each proposed action to provide DOE with the information necessary to determine the appropriate level of NEPA review.

**II. INSTRUCTIONS**

Separate copies of the Environmental Questionnaire should be completed by the principal proposer and appropriate proposer's subcontractor. In addition, if the proposed project includes activities at different locations, an independent questionnaire should be prepared for each location. Supporting information can be provided as attachments.

In completing this Questionnaire, the proposer is requested to provide specific information and quantities, when applicable, regarding air emissions, wastewater discharges, solid wastes, etc., to facilitate the necessary review. The proposer should identify the location of the project and specifically describe the activities that would occur at that location. In addition, the proposer will be required to submit an official copy of the project's statement of work (SOW) or statement of project objective (SOPO) that will be used in the contract/agreement between the proposer and DOE.

**III. QUESTIONNAIRE**

**A. PROJECT SUMMARY**

1. Solicitation/Project Number: DE-FOA-0000013
2. Proposer: City of Bellingham
3. Principal Investigator: Tara Sundin  
Telephone Number: (360) 778-8392
4. Project Title: Energy Efficiency Community Challenge
5. Duration: Throughout the EECBG funding period
6. Location(s) of Performance (City/Township, County, State): Bellingham  
Whatcom County  
Washington
7. Identify and select checkbox with the predominant project work activities under Group A-7b or A-7c.

**Group A-7b**

- Work or project activities does NOT involve new building/facilities construction and site preparation activities. This work typically involves routine operation, modification, and retrofit of existing utility and transportation infrastructure, laboratories, commercial buildings/properties, offices and homes, test facilities, factories/power plants, vehicles test stands and components, refueling facilities, greenspace infrastructure, or other existing facilities.

## Group A-7c

- Work or project activities typically involves major building or facility construction, site preparation; the installation, replacement, or major modifications of energy system prototypes and infrastructure, access right-of-ways and roads; utility, greenspace, and transportation infrastructure, vehicle test facilities; commercial buildings/properties, fuel refinery/mixing facilities, factories/power plants; and other types of energy efficiency/conservation related systems, structures, and facilities. This work can require new or modified regulatory permits, environmental sampling and monitoring requirements, master planning, public involvement, and environmental impact review.
- Other types of work or project activities not listed. (please describe):

8. Summarize the objectives of the proposed work. List activities planned at the location as covered by this Environmental Questionnaire.

Please consider granting a Categorical Exclusion for the Energy Efficiency Community Challenge Program (the "Project") under 10 CFR 1021, Subpart D, Appendix B5.1. The Project will have no potentially significant impact on the human environment. The actions that will be taken under the Project will conserve energy and promote energy-efficiency by renovating existing commercial and residential buildings. The Project will involve financial and technical assistance to the owners of these buildings and to consultants, builders, and designers. Specifically, the universe of energy-efficiency and conservation actions under the Project will include installation on programmed lowering of thermostat settings, placement of timers and insulation wraps on hot water heaters, installation of solar electricity and hot water systems, installation of efficient lighting, caulking and other weatherization and infiltration reduction measures, installation of insulation, installation of energy-efficient doors and windows, installation of heating and air conditioning improvements, and the replacement or other conservation measures for refrigerators, compressors, and other energy management control systems. Specific actions chosen for a particular building will be based upon potential improvements highlighted in energy-efficiency and conservation audits also performed as part of the Project. Project actions will be within the shell of existing buildings and will not have any additional impacts on the environment and, instead, will improve the environmental impact of all buildings involved.

9. List all other locations where proposed work or project would be performed by project's proposer and subcontractors.

The locations for the proposed work in this Project are in the City of Bellingham, Washington. As the Project involves loaning monies on a rolling basis to various small businesses and residential home owners for the purpose of installing energy efficiency measures, specific addresses and building locations are unknown at the start of the Project. Specific small business and residential home locations will be prioritized based on energy-efficiency and conservation audits and credit qualifications of business and homeowner. Again, for the reasons stated above, work on any individual building in the Project will have no potentially significant impact on the human environment.

10. Identify major project operation related materials and waste that would be used, consumed, and produced by this project or activity.

Project operational related materials and waste for the proposed work will consist of the following: Removal and disposal of non-energy efficient HVAC equipment, associated duct work, and control systems; Removal and disposal of windows and roofing materials for energy efficient weatherization maintenance procedures; Removal and replacement of non-energy efficient lighting bulbs and fixtures. Materials and waste from the proposed project will be recycled and disposed of by the local solid waste purveyor, Sanitary Service Company.

11. Provide a brief description of the project location (physical location, surrounding area, adjacent structures).

The locations for the proposed work in this Project are in the City of Bellingham, Washington. As the Project involves loaning monies on a rolling basis to various small businesses and residential home owners for the purpose of installing energy efficiency measures, specific addresses and building locations are unknown at the start of the Project. Specific small business and residential home locations will be prioritized based on energy-efficiency and conservation

audits and credit qualifications of business and homeowner. Again, for the reasons stated above, work on any individual building in the Project will have no potentially significant impact on the human environment.

12. Attach a site plan or topographic map of the project work area. See Attachment B

## B. ENVIRONMENTAL IMPACTS

This section is designed to obtain information for objectively assessing the environmental impacts of a proposed project. NEPA procedures require evaluations of possible effects (including land use, energy resource use, natural, historic and cultural resources, and pollutants) from proposed projects on the environment.

### 1. Land Use

- a. Characterize present land use where the proposed project would be located.
- |  |  |   |  |
|--|--|---|--|
| <input checked="" type="checkbox"/> Urban    | <input type="checkbox"/> Industrial        | <input checked="" type="checkbox"/> Commercial  | <input type="checkbox"/> Agricultural        |
| <input checked="" type="checkbox"/> Suburban | <input checked="" type="checkbox"/> Rural  | <input checked="" type="checkbox"/> Residential | <input type="checkbox"/> Research Facilities |
| <input type="checkbox"/> Forest              | <input type="checkbox"/> University Campus | <input type="checkbox"/> Other                  |  |
- b. Describe how land use would be affected by planned construction and project activities.
- No construction would be anticipated for this project.
- c. Describe any plans to reclaim/replant areas that would be affected by the proposed project.
- No land areas would be affected.
- d. Would the proposed project affect any unique or unusual landforms (e.g., cliffs, waterfalls, etc.)?
- No       Yes (describe)
- e. Would the proposed project be located in or near a national park or wilderness area?
- No       Yes (describe)

*If project work activities falls under item A-7b; then proceed directly to question B.6 (Atmospheric Conditions/Air Quality) and continue to fill out questionnaire.*

*If project work falls under item A-7c; then proceed directly below to question B.2 (Construction Activities and/or Operations) and continue to fill out questionnaire.*

### 2. Construction Activities and/or Operations

- a. Identify any roads, trails, or utility right of ways that traverse the proposed site or will be constructed and clearly mark them on project site maps.
- None
- b. Would the proposed project require the construction of settling ponds?
- No       Yes (describe and identify location, and estimate surface area disturbed)
- c. Would the proposed project affect any existing body of water?
- No       Yes (describe)
- d. Would the proposed project be located in or impact a floodplain or wetland?
- No       Yes (describe)
- e. Would the proposed project be likely to cause runoff/sedimentation/erosion?



- No                     Yes (describe)

**3. Vegetation and Wildlife Resources**

- a. Identify any State- or Federal-listed endangered or threatened plant or animal species affected by the proposed project.  
 None
- b. Would any foreign substances/materials be introduced into ground or surface waters, or other earth/geologic resource because of project activities? Would these foreign substances/materials affect the water, soil, and geologic resources?  
 No                     Yes (describe)
- c. Would any migratory animal corridors be impacted or disrupted by the proposed project?  
 No                     Yes (describe)

**4. Socioeconomic and Infrastructure Conditions.**

- a. Would local socio-economic changes result from the proposed project?  
 No                     Yes (describe)
- b. Would the proposed project generate increased traffic use of roads through local neighborhoods, urban or rural areas?  
 No                     Yes (describe)
- c. Would the proposed project require new transportation access (roads, rail, etc.)? Describe location, impacts, costs.  
 No                     Yes (describe)
- d. Would any new transmission lines and/or power line right-of-ways be required?  
 No                     Yes (describe location, voltage, and length of line)

**5. Historical/Cultural Resources**

- a. Describe any historical, archeological, or cultural sites in the vicinity of the proposed project; note any sites included on the National Register of Historic Places.

The EECC project’s specific buildings (age) and sites (location) at this time are unknown as the program is in its development stages but it is anticipated the EECC may involve buildings that are or could be listed on the Historic Register. It is anticipated that residences and commercial buildings over 50 years old will be targeted for weatherization and energy efficiency upgrades as they are typically the largest energy consumers and have not been brought into conformance with current energy code requirements. Any work associated with the EECC project on building’s listed on the local, state or federal register will be reviewed and conditioned based on the Secretary of Interior’s Standards for Rehabilitation, and will be reviewed by the State Historical Architect for compliance.

At this time the location of the projects associated with the EECC program are unknown. However, this program targets existing buildings and does not include new construction activities or site disturbance. The City of Bellingham does not expect energy retrofit projects to have any impact on sites within the vicinity of the project due to the nature of this work.

- b. Would construction or operational activities planned under the proposed project disturb any historical, archeological, or cultural sites?  
X No planned construction

At this time the location of the projects associated with the EECC program are unknown. EECC projects which involve exterior modifications to existing buildings listed on the Local, State or National Historic Registers will be reviewed and conditioned based on the Secretary of Interior's Standards for Rehabilitation, and will be reviewed by the State Historical Architect for compliance. EECC projects consists of the following energy-efficiency and conservation actions: Installation on programmed lowering of thermostat settings; Placement of timers and insulation wraps on hot water heater, installation of solar electricity and hot water systems; Installation of efficient lighting; Caulking and other weatherization and infiltration reduction measures; Installation of insulation; Installation of

energy-efficient doors and windows; Installation of heating and air conditioning improvements; and Replacement or other conservation measures for refrigerators, compressors, and other energy management control systems. Ground disturbing work associated with the EECC project is not anticipated to be significant but may involve utility infrastructure installation to existing structures. Any non exempt excavation activities shall be subject to review and approval by the City of Bellingham in accordance with local, state, and federal regulations and associated procedures.

- c. Would the proposed project interfere with visual resources (e.g., eliminate scenic views) or alter the present landscape?  
 No

The work associated with the EECC project will not interfere with visual resources or alter the present landscape and shall be limited to energy efficiency upgrades to existing residential and commercial structures as defined in the scope of work. The purpose of the EECC project is to increase energy efficiency within buildings in the community. Building expansion is outside of the scope of the EECC project and will not be eligible for project selection.

*For all proposed project work activities identified under item A-7b, respond to item B6 directly below and continue filling out environmental questionnaire.*

## 6. Atmospheric Conditions/Air Quality

- a. Identify air quality conditions in the immediate vicinity of the proposed project with regard to attainment of National Ambient Air Quality Standards (NAAQS). This information is available under the NAAQS tables from the U.S. EPA Air and Radiation Division.

	<u>Attainment</u>	<u>Non-Attainment</u>
O <sub>3</sub>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SO <sub>x</sub>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PM <sub>10</sub>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO <sub>2</sub>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lead	<input checked="" type="checkbox"/>	<input type="checkbox"/>

- b. Would proposed project require issuance of new or modified major source air quality permits?  
 No       Yes (describe)
- c. Would the proposed project be in compliance with the National Emissions Standards for Hazardous Air Pollutants?  
 No (explain)       Yes
- d. Would the proposed project be classified as either a New Source or a major modification to an existing source?  
 No       Yes (describe)
- e. Would the proposed project be in compliance with the New Source Performance Standards?  
 Not Applicable       No (explain)       Yes
- f. Would the proposed project be subject to prevention of significant deterioration air quality review?  
 Not applicable       No (explain)       Yes (describe)
- g. What types of air emissions, including fugitive emissions, would be anticipated from the proposed project?  
 None
- h. Would any types of emission control or particulate collection devices be used?  
 No       Yes (describe, including collection efficiencies)
- i. If no control devices are used, how would emissions be vented? Proposed project may include retrofitting existing heating, venting and cooling (HVAC) systems with modern, energy efficient HVAC systems which will be permitted in accordance with adopted local, state and federal code requirements.

## 7. Hydrologic Conditions/Water Quality

- a. What is the closest body of water to the proposed project area and what is its distance from the project site?

The locations for the proposed work in this Project are in the City of Bellingham, Washington. As the Project involves loaning monies on a rolling basis to various small businesses and residential home owners for the purpose of installing energy efficiency measures, specific addresses and building locations are unknown at the start of the Project. Bodies of water within Bellingham's city limits include the following: Bellingham Bay (Puget Sound), Lake Whatcom, Whatcom Creek, Chuckanut Creek, Squalicum Creek and other minor creeks, streams and lakes.

- b. What sources would supply potable and process water for the proposed project?  
City of Bellingham Municipal Water Source (Lake Whatcom).
- c. Quantify the daily or annual amount of wastewater that would be generated by the proposed project.  
None
- d. Identify the local treatment facility that would receive wastewater from the proposed project.  
 No discharges to local treatment facility
- e. Describe how wastewater would be collected and treated.  
No additional wastewater will be created from the proposed work.
- f. Would any run-off or leachates be produced from storage piles or waste disposal sites?  
 No  Yes (describe source)
- g. Would project require issuance of new or modified water permits to perform project work or site development?  
 No  Yes (describe)
- h. Where would wastewater effluents from the proposed project be discharged?  
 No wastewater produced
- i. Would the proposed project be permitted to discharge effluents into an existing body of water?  
 No  Yes (describe water use and effluent impact)
- j. Would a new or modified National Pollutant Discharge Elimination System (NPDES) permit be required?  
 No  Yes (describe)
- k. Would the proposed project adversely affect the quality or movement of groundwater?  
 No  Yes (describe)

## 8. Solid and Hazardous Wastes

- a. Describe and estimate major nonhazardous solid wastes that would be generated from the project. Solid wastes are defined as any solid, liquid, semi-solid, or contained gaseous material that is discarded or has served its intended purpose, or is a manufacturing or mining by-product (40 CFR 260, Appendix I).

Waste generated from the EECC Project will consist of removal and replacement equipment and materials associated with the following work: Installation on programmed lowering of thermostat settings; Placement of timers and insulation wraps on hot water heater, installation of solar electricity and hot water systems; Installation of efficient lighting; Caulking and other weatherization and infiltration reduction measures; Installation of insulation; Installation of energy-efficient doors and windows; Installation of heating and air conditioning improvements; and Replacement or other conservation measures for refrigerators, compressors, and other energy management control systems. The waste generated from the EECC Project will initially be separated into recyclable materials, non-recyclable materials and hazardous materials. Sanitary Service Company (SSC) provides both recycling and solid waste disposal services to Bellingham's City limits. Recyclable materials including glass, nonpainted wood, metal, wiring, many plastics,

cardboard, paper, and brick/concrete will be transported to local recycling processors by SSC. Hazardous materials will be collected and transported by the hired contractor or a local certified TSD facility such as Appliance Depot, Lehmann's Appliance or Jaco Environmental. Fluorescent light bulbs will be collected and transported by the hired contractor to Whatcom County's Disposal of Toxics facility. HVAC equipment and appliances with cooling systems will be handled and disposed of by local certified TSD facilities.

b. Would project require issuance of new or modified solid waste and/or hazardous waste related permits to perform project work activities?

No  Yes (explain)

c. How and where would solid waste disposal be accomplished?

On-site (identify and describe location) Existing and rented municipal solid waste and recycling containers will be collected by Sanitary Service Company and solid waste transported by train to the Roosevelt landfill in Eastern Washington and recyclable materials will be distributed to local recycling processors.

Off-site (identify location and describe facility and treatment)

d. How would wastes for disposal be transported?

Sanitary Service Company provides solid waste and recycling transport services for the City of Bellingham.

e. Describe and estimate the quantity of hazardous wastes (40 CFR 261.31) that would be generated, used, or stored under this project.

Unknown at this time.

f. How would hazardous or toxic waste be collected and stored?

All hazardous or toxic waste will be collected and transported by the hired contractor or a local certified TSD facility such as Appliance Depot, Lehmann's Appliance or Jaco Environmental. Fluorescent light bulbs will be collected and transported by the hired contractor to Whatcom County's Disposal of Toxics facility for proper disposal/storage. HVAC equipment and appliances with cooling systems will be handled and disposed of by local certified TSD facilities. Projects which involve asbestos abatement shall not be selected for funding through the EECC Program.

g. If hazardous wastes would require off-site disposal, have arrangements been made with a certified TSD (Treatment, Storage, and Disposal) facility?


X Arrangements not yet made

**C. DESCRIBE ANY ISSUES THAT WOULD GENERATE PUBLIC CONTROVERSY REGARDING THE PROPOSED PROJECT.**

None

**IV. CERTIFICATION BY PROPOSER**

I hereby certify that the information provided herein is current, accurate, and complete as of the date shown immediately below.

SIGNATURE:  DATE: July / 31 / 2009  
month day year  
TYPED NAME: Tara Sundin  
TITLE: Special Projects Manager  
ORGANIZATION: City of Bellingham

**V. REVIEW AND APPROVAL BY DOE**

I hereby certify that I have reviewed the information provided in this questionnaire, have determined that all questions have been appropriately answered, and judge the responses to be consistent with the efforts proposed.

PROJECT MANAGER:

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
month    day    year

TYPED NAME: \_\_\_\_\_

## **Statement of Project Objective for the Energy Efficiency Community Challenge Project**

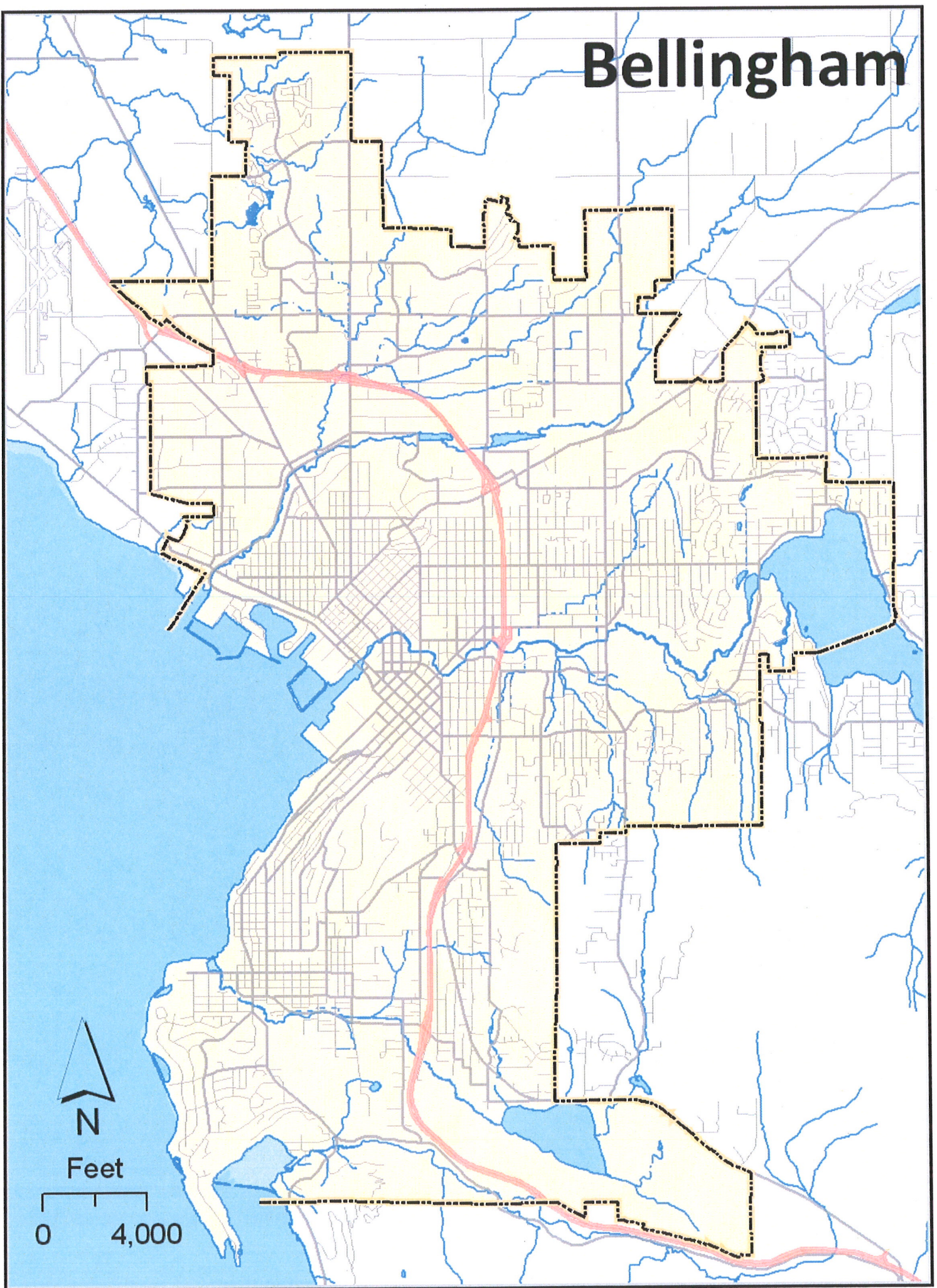
The locations for the proposed work in the Energy Efficiency Community Challenge (EECC) Project are in the City of Bellingham, Washington. As the Project involves loaning monies on a rolling basis to various small businesses and residential home owners for the purpose of installing energy efficiency measures, specific addresses and building locations are unknown at the start of the Project. Specific small business and residential home locations will be prioritized based on energy-efficiency and conservation audits and credit qualifications of business and homeowner.

The proposed work objective of the EECC Project is to conserve energy and promote energy-efficiency by renovating existing commercial and residential buildings. The Project will involve financial and technical assistance to the owners of these buildings and to consultants, builders, and designers. Specifically, the universe of energy-efficiency and conservation actions under the Project will include installation on programmed lowering of thermostat settings, placement of timers and insulation wraps on hot water heaters, installation of solar electricity and hot water systems, installation of efficient lighting, caulking and other weatherization and infiltration reduction measures, installation of insulation, installation of energy-efficient doors and windows, installation of heating and air conditioning improvements, and the replacement or other conservation measures for refrigerators, compressors, and other energy management control systems. Specific actions chosen for a particular building will be based upon potential improvements highlighted in energy-efficiency and conservation audits also performed as part of the Project. Project actions will be within the shell of existing buildings and will not have any additional impacts on the environment and, instead, will improve the environmental impact of all buildings involved.

Project operational related materials and waste for the proposed work will consist of the following: Removal and disposal of non-energy efficient HVAC equipment, associated duct work, and control systems; Removal and disposal of windows and roofing materials for energy efficient weatherization maintenance procedures; Removal and replacement of non-energy efficient lighting bulbs and fixtures. Materials and waste from the proposed project will be recycled and disposed of by the local solid waste purveyor, Sanitary Service Company.



# Bellingham







# EECBG NEPA REVIEW DOCUMENT



Oak Ridge  
Office

FUNDING OPPORTUNITY NUMBER: DE-FOA-0000013

TITLE: WA-City-Bellingham COMPLETE

DUNS #: 010211977 STATE: WA

GRANT TYPE (CITY/CO): City

DATE RECEIVED: 7/14/2009

BRIEF DESCRIPTION: 1) Develop wind power strategy, 2) develop zoning guidelines, 3) evaluate national green building standard, 4) energy efficiency community challenge, 5) municipal facility energy conversion program

NEPA REVIEWER J.F. Heitman

NEPA DECISION (CX/EA/EIS): CX CX APPLIED: CX-EECBG-001,  
CX-EECBG-006,  
CX-EECBG-007,  
CX-EECBG-002,  
CX-EECBG-003,  
CX-EECBG-004

NHPA ISSUES  SUBPART D REF A1, A9, A11, B2.5,  
B5.1

NEPA/NHPA CONDITIONS: Historic preservation clause applies to this application

NEPA Compliance Officer (NCO) Review, including consideration of extraordinary circumstances:

- Action may be categorically excluded from further NEPA review. I have determined that the proposed action meets the requirements for categorical exclusion in Subpart D, Appendix A or B.
- Action requires approval by Head of the Field Organization. Recommend preparation of an Environmental Assessment.
- Action requires approval by Head of the Field Organization or a Secretarial Officer. Recommend preparation of an Environmental Impact Statement.

  
ORO NEPA Compliance Officer

8/20/2009  
Approval Date

Record ID: 602

Friday, August 21, 2009

EE REVIEWER: Steer, Randy

LAB REVIEWER: Vass, A.

Page 1 of 1

**PROGRAMMATIC AGREEMENT  
BETWEEN  
THE UNITED STATES DEPARTMENT OF ENERGY, THE WASHINGTON STATE  
DEPARTMENT OF COMMERCE AND  
THE WASHINGTON STATE HISTORIC PRESERVATION OFFICE  
REGARDING EECBG, SEP AND WAP UNDERTAKINGS  
February 5, 2010**

**WHEREAS**, the United States Department of Energy (DOE) administers the following financial assistance programs: *the Energy Efficiency and Conservation Block Grant Program* under the Energy Independence and Securities Act of 2007 (EECBG); *the State Energy Plan* under the Energy Policy and Conservation Act of 1975 and the State Energy Efficiency Programs Improvement Act of 1990 (SEP); and *the Weatherization Assistance Program* (WAP) for Low-Income Persons under Title IV of the Energy Conservation and Production Act, the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007, and the American Recovery and Reinvestment Act of 2009 (ARRA); collectively referred to as the "Programs";

**WHEREAS**, the unprecedented levels of funding available to the Programs, due in large measure to ARRA, has created a large volume of projects requiring expedited historic preservation reviews to ensure the timely obligation of funds, that create new jobs, and improve local and state economies;

**WHEREAS**, the Washington State Historic Preservation Officer (SHPO) and Director of the Washington Department of Archeology and Historic Preservation (DAHP) is experiencing unprecedented numbers of requests for historic preservation review of undertakings funded by all Federal Agencies, including undertakings funded by the Programs;

**WHEREAS**, the Washington Department of Commerce (Recipient) is receiving financial assistance from DOE to carry out the Programs;

**WHEREAS**, the projects funded by the Programs are undertakings subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C 470f (NHPA) and its implementing regulations at 36 CFR part 800 and include rehabilitation, energy efficiency retrofits, renewables, and weatherization (undertakings);

**WHEREAS**, DOE has determined that these undertakings may adversely affect properties that are listed in or eligible for listing in the National Register of Historic Places (National Register) and subject to the requirements of the National Historic Preservation Act (NHPA);

**WHEREAS**, in accordance with 36 CFR 800.14(b)(4), the Advisory Council on Historic Preservation (the ACHP) has designated this Agreement as a Prototype Programmatic Agreement (PA), which does not require the participation or signature of the ACHP;

**WHEREAS**, DOE, the ACHP, and the National Conference of State Historic Preservation Officers (NCSHPO) have determined that the requirements of Section 106 can be more effectively and efficiently fulfilled if a programmatic approach is used to stipulate roles and responsibilities, exempt undertakings from Section 106 review, establish tribal protocols, facilitate identification and evaluation of historic properties, establish treatment and mitigation measures, and streamline the resolution of adverse effects;

**WHEREAS**, by memorandum dated August 28, 2009 (attached as Appendix C), DOE delegated certain tasks necessary for compliance with Section 106 of the NHPA to grantees and sub-grantees of funding from the Programs (Recipients);

**WHEREAS**, according to the August 28, 2009 memorandum, the Recipients are authorized, to initiate Section 106 compliance in accordance with 36 CFR 800.2 (c)(4);

**WHEREAS**, the undertakings covered under this PA are not located on Tribal lands and are primarily smaller scale activities and routine projects, without the potential for adversely affecting historic properties, rather than complex undertakings with a greater potential to adversely affect historic properties, which would require completion of the typical Section 106 review process;

**WHEREAS**, DOE and the ACHP were guided by the principles set forth in the ACHP's Affordable Housing Policy statement, adopted on November 9, 2006, in negotiating this Programmatic Agreement upon which this PA is based;

**NOW, THEREFORE**, DOE, the Washington Department of Commerce and the Washington SHPO agree 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**

DOE, the Recipient, and the SHPO shall ensure that the following stipulations are carried out:

- I. Roles and Responsibilities
  - A. DOE shall be responsible for providing oversight of the PA, executing PAs with SHPOs, participating in the resolution of disputes between the SHPO and the Recipient, and providing technical assistance and guidance as needed. DOE shall be responsible for government-to-government consultation with Indian tribes, unless the Indian tribe agrees to the delegation of this responsibility to a Recipient.
  - B. The Recipient 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. Undertakings that involve properties greater than 45 years old and are not listed on either Appendices A or B shall be submitted to the SHPO for review in accordance with this agreement.
  - C. Recipient shall ensure that the provisions of this PA apply to its sub-awards.

- D. The Recipient is encouraged to use qualified professionals in conducting their Section 106 requirements.
- E. The SHPO shall be responsible for reviewing project documentation and participation in consultation as set forth in this PA.
- F. The ACHP shall be responsible for providing technical guidance, participating in dispute resolutions if appropriate, and monitoring the effectiveness of this PA.

## II. Tribal Review

- A. Execution of this PA presumes that DOE will conduct its government-to-government responsibilities with federal recognized Indian tribes or its Section 106 consultation requirements with Native Hawaiian Organizations (NHO) consistent with Federal laws and regulations. The Recipient shall not substitute for DOE in matters related to potential effects on historic properties of cultural and religious significance to Indian tribes, except with the concurrence of the Indian tribe or NHO.
- B. DOE acknowledges that Indian tribes possess special expertise in assessing the National Register eligibility of properties with tribal religious and cultural significance, and requires the Recipient to consult with them, as appropriate, in identifying historic properties listed in or eligible for listing in the Area of Potential Effect (APE) of program areas.
- C. If the Recipient notifies DOE that an undertaking may result in an adverse effect on cultural resources with tribal religious and cultural significance, DOE shall notify Indian tribes of individual undertakings that may result in an adverse effect on cultural resources with tribal religious and cultural significance and invite them to participate in consultations. Indian tribes and the Recipient may develop a bi-party agreement that outlines their review procedures for undertakings covered in a PA. Such agreements will be submitted to DOE for review and approval, and a copy sent to the ACHP for its records.

## III. State Interagency Agreements

The Recipient may review an undertaking in accordance with the terms of an interagency agreement, in lieu of the other terms of this PA, if:

- A. The interagency agreement was executed by the Recipient and the SHPO on or before February 5, 2010, and will be executed no later than February 19, 2010;
- B. The Recipient and SHPO both agree through execution of this PA that the interagency agreement applies to the undertaking and provides a historic preservation review process that is similar to that provided by the other terms of this PA; and
- C. DOE does not object to the use of the interagency agreement to fulfill the requirements of Section 106 of the NHPA for the undertakings.

## IV. Exemptions from Section 106 review

- A. The Recipient shall not submit to the SHPO undertakings listed in Appendices A or B as they do not have the potential to cause effects on historic properties even when historic properties may be present. The Recipient and the SHPO may agree to modify Appendix A and/or Appendix B, with advance notification of such modifications to the ACHP and DOE. Recipient will maintain file records with verification that undertakings were determined to be exemptions for a period of three (3) years from

project completion and make them available for review if requested by DOE or the ACHP.

- B. If a property has been determined to be ineligible for inclusion in the National Register within the last five (5) years from the date the Recipient made its application for DOE financial assistance, then no further review is required under this PA.
- C. Recipients of any of the Programs may utilize either Appendix A or Appendix B in identifying exempt undertakings, regardless of whether the Exhibit on which the undertaking relates to another federally funded program.

V. Review Procedures for Non-exempt Undertakings

- A. *For undertakings not exempted under Stipulation III or IV, if the Recipient has an executed Section 106 Agreement per 36 CFR part 800 for Community Development Block Grants (CDBG) with the SHPO that 1) is still in effect; 2) covers the same undertakings as the DOE grant programs; and 3) is up to date with reporting to the SHPO, no separate Section 106 review is needed.*
- B. Otherwise, the Recipient shall review the undertaking in accordance with Stipulations VI through X below, or consistent with SHPO approved historic preservation protocols. The Recipient and/or sub-grantees may make use of the DAHP EZ 1, EZ 2, and EZ 3 form series to aid in fulfilling its Identification, Evaluation, and Treatment consultation requirements as described in Stipulations VI and VII.

VI. Identification and Evaluation

- A. The Recipient shall establish the Area of Potential Effect (APE) for all program undertakings defined in the DOE grant agreement for the State.
- B. The Recipient shall complete the identification and evaluation of historic properties utilizing existing information including the National Register, state surveys, and county and local surveys. In addition, the Recipient and SHPO may use or develop protocols with 36 CFR Section 800.4 for the review of consensus determinations of eligibility.
- C. The Recipient shall consult with Indian tribes or NHOs to determine if there are historic properties of religious or cultural significance that were not previously identified or considered in surveys or related Section 106 reviews, as appropriate.
- D. Archaeology surveys are required only for new ground disturbing project undertakings and shall be limited in scope subject to the concurrence of Indian tribes or NHOs that may attach religious or cultural significance to historic properties in the project area. Project undertakings requiring more than minimal ground disturbance shall be forwarded to the SHPO and THPOs or Indian tribes or NHOs concurrently for review.
- E. In order to avoid potential delays, prior to initiating undertakings the SHPO may review the Recipient's scopes of work for above ground surveys and archaeology surveys that are deemed necessary to administer the Recipient's Programs and to implement the terms of this PA.
- F. The Recipient shall refer disputes regarding determinations of eligibility to DOE for review and referral to the Keeper of the National Register in accordance with 800.4(c)(2).

VII. Treatment of Historic Properties

- A. When the Recipient and the SHPO concur that an undertaking is designed and planned in accordance with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* (36 CFR Part 68, July 12, 1995 *Federal Register*) (Standards), that undertaking will not be subject to further Section 106 review.
- B. The Recipient and SHPO will make best efforts to expedite reviews through a finding of "No Adverse Effect with conditions" when the Recipient and the SHPO concur that plans and specifications or scopes of work can be modified to ensure adherence to the Standards. If the undertaking cannot meet the Standards or would otherwise result in an adverse effect to historic properties, the Recipient will proceed in accordance with Stipulation VIII.

VIII. Resolution of Adverse Effects

- A. The Recipient shall consult with the SHPO, and Indian tribes or NHOs as appropriate, to resolve adverse effects. The Recipient will notify DOE of the pending consultation, and DOE will participate through its designated representative.
- B. The Recipient may use standard stipulations included in Attachment A of this PA, or as negotiated as part of this PA between the SHPO and the Recipient, or if the project warrants, use of an alternate PA due to the complexity of the project activity.
- C. Consultation shall be coordinated to be concluded in 45-days or less to avoid the loss of funding. In the event the consultation extends beyond this period, DOE shall formally invite the ACHP to participate in consultation. The ACHP will consult with DOE regarding the issues and the opportunity to negotiate a Memorandum of Agreement (MOA). The purpose of this MOA is to avoid, minimize, or mitigate the adverse effect of the project on historic properties. Within seven (7) days after notification, the ACHP will enter consultation and provide its recommendation for either concluding the Section 106 review through an MOA or Chairman's comment from the ACHP to the Secretary of DOE within 21 days.
- D. In the case of an ACHP Chairman comment, DOE may proceed once DOE provides its response to the ACHP.

IX. Emergency Situation Undertakings

- A. When an emergency undertaking is required for historic properties associated with the undertakings, the Recipient shall allow the SHPO five (5) business days to respond, if feasible. Emergencies exist when there is a need to eliminate an imminent threat to health and safety of residents as identified by local or County building inspectors, fire department officials, or other local or County officials.
  1. The Recipient shall forward documentation to the SHPO for review immediately upon notification that an emergency exists. Documentation should include a) nature of the emergency; b) the address of the historic property involved; c) photographs showing the current condition of the building; and d) the time-frame allowed by local officials to respond to, or correct, the emergency situation.
  2. The Recipient shall consider mitigation measures recommended by the SHPO and implement them, if feasible.

- X. Public and Consulting Party Involvement
- A. The Recipient shall maintain a list of undertakings and shall make the documentation available to the public. The Recipient shall notify the SHPO if its notified of other consulting parties or public interest in any undertakings covered under the terms of the PA.
  - B. The Recipient, independently or at the recommendation of the SHPO, may invite interested persons to participate as consulting parties in the consultation process for adverse effects in accordance with Stipulations VI, VII, and VIII.
- XI. Administrative Coordination
- A. The Recipient, in consultation with the SHPO, may develop procedures allowing for the use of local reviews conducted by Certified Local Governments (CLG) when such procedures avoid the duplication of efforts.
  - B. The Recipient, in consultation with the SHPO, may determine that an undertaking has already been reviewed under an existing Section 106 effect determination or agreement document, then no further Section 106 review under this PA is required.
  - C. The SHPO shall provide comments to the Recipient within thirty (30) days, unless otherwise agreed upon by the SHPO and the Recipient, for reviews required under the terms of this PA with the exception of emergency undertakings. In the event that the SHPO fails to comment within the established period, the Recipient can assume the SHPO has concurred, and proceed.
  - D. The Recipient shall advise sub-grantees in writing of the provisions in Section 110 (k) of the Act and will advise the sub-grantees that Section 106 reviews may be compromised when project undertakings are initiated prematurely.
  - E. The SHPO and the Recipient shall make every effort to expedite Section 106 reviews for a period of less than the 30-day review when consistent with the terms of the DOE grant agreements and the Recipient intends to utilize the services of qualified professionals.
  - F. For projects that will require either an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA), nothing contained in this PA shall prevent or limit the Recipient and DOE from utilizing the procedures set forth in 36 CFR 800.8 to coordinate and conduct the historic preservation review in conjunction with the NEPA review.
- XII. Discoveries
- If historic properties are discovered or unanticipated effects on historic properties located within a project's APE after the undertaking has been initiated, the Recipient will implement the following procedures.
- A. The Recipient shall immediately cease all operations for the portion of the undertaking with the potential to affect historic property.
  - B. The subgrantee shall advise the Recipient of the National Register eligibility of the historic property and the potential of the undertaking to impact its qualifying characteristics and an explanation of whether the SHPO or Indian tribes and NHOs concur with proposed avoidance, treatment plan or mitigation plan;
  - C. The Recipient or DOE shall notify Indian tribes or NHOs of any discoveries that have the potential to adversely affect sites or buildings of religious or cultural significance



to them. After reviewing such discoveries, the Indian tribes or NHOs can request further consultation on the project by notifying DOE, ACHP, and the SHPO in writing.

- D. The Recipient or subgrantee shall implement the avoidance, treatment or mitigation plan and advise the Recipient and DOE, if appropriate, of the satisfactory completion of the approved work. Once the approved work is complete the subgrantee may resume the activities that were halted to address the discovery situation.

## XII. Dispute Resolution

- A. Should the SHPO object within the time frames outlined in this PA to any project undertakings, the Recipient shall consult further with the SHPO to attempt to remove the basis for the SHPO's objection. In the event that the SHPO's objection is not withdrawn, then the Recipient shall refer the matter to DOE. The Recipient shall forward all documentation relevant to DOE, who will notify and consult with the ACHP.
- B. The ACHP will provide its recommendations, if any, within 21 days following receipt of relevant documentation. DOE will take into account the ACHP's recommendations or formal comments in reaching a final decision regarding the dispute.

## XIII. Reporting and Monitoring

- A. DOE, the ACHP, and the SHPO may monitor any undertakings carried out pursuant to this PA. The ACHP may review undertakings, if requested by DOE. DOE shall be entitled to address and make determinations on overall policy or administrative issues related to the implementation of these Programs.
- B. The Recipient shall adhere to DOE's established protocols for ARRA reporting program undertakings.
- C. DOE will submit annual reports to ACHP and NCSHPO commencing October 15, 2010 summarizing the Programs' undertakings, to include data on number of undertakings, the number of exempt undertakings, and reviews conducted under this PA.

## XIV. Amendments

DOE, the SHPO, or the Recipient may request that this PA be amended, whereupon DOE and the SHPO, and the ACHP, if involved, will consult to consider such an amendment. Any such amendments shall be developed and executed among DOE, the Recipient, and the SHPO in the same manner as the original PA, and pertain only to this State PA.

## XV. Duration of Agreement

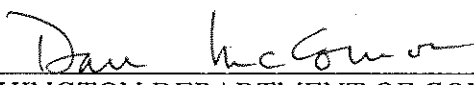
This PA will be valid for three (3) years from the date of execution, as verified with DOE filing the PA with the ACHP.

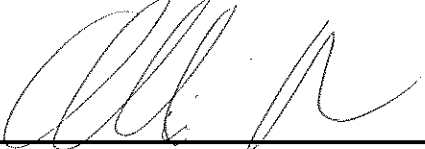
XVI. Termination of Agreement

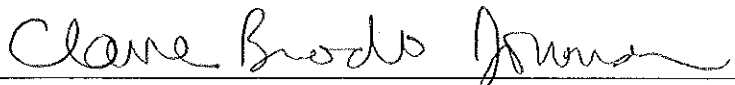
DOE, the SHPO, or the Recipient may terminate the PA, provided that the party proposing termination notifies the other signatories and the ACHP in writing explaining the reasons for termination and affording the other signatories at least thirty (30) days to consult and seek alternatives to termination.

Signatories:

 4/19/2010  
\_\_\_\_\_  
WASHINGTON DEPARTMENT OF COMMERCE Date  
Tony Usibelli, Director, Washington State Energy Office

 4/21/10  
\_\_\_\_\_  
WASHINGTON DEPARTMENT OF COMMERCE Date  
Dan McConnon, Assistant Director, Community Services and Housing Division

 4/21/10  
\_\_\_\_\_  
WASHINGTON STATE HISTORIC PRESERVATION OFFICER Date

 5/6/10  
\_\_\_\_\_  
UNITED STATES DEPARTMENT OF ENERGY Date  
OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY  
OFFICE OF WEATHERIZATION AND INTERGOVERNMENTAL PROGRAMS

## APPENDIX A—WAP AND SEP OR EECBP PROJECTS THAT ARE USING WAP PROCEDURES UNDERTAKINGS EXEMPT FROM SECTION 106 REVIEW

All undertakings will be done in accordance with applicable local building codes or the International Building Code, where applicable. In accordance with 36 CFR 800.3(a)(1), the following undertakings have been determined to have no potential to cause effects on historic properties:

### A. Exterior Work

- 1) Air sealing of the building shell, including caulking, 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 or trim.
- 2) Thermal insulation, such as non-toxic fiberglass and foil wrapped, in walls, floors, ceilings, attics, and foundations in a manner that does not harm or damage historic fabric.
- 3) Blown in wall insulation where no holes are drilled through exterior siding.
- 4) 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.
- 5) 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.
- 6) Storm windows or doors, and wood screen doors in a manner that does not harm or obscure historic windows or trim.
- 7) In-kind replacement or repair of primary windows, doors and door frames that closely resemble existing substrate and framing
- 8) Repair of minor roof and wall leaks prior to insulating attics or walls, provided repairs closely resemble existing surface composite

### B. Interior Work

*Special Note:* Undertakings to interior spaces where the work will not be visible from the public right of way; no structural alterations are made; no demolition of walls, ceilings or floors occurs; no drop ceilings are added; or no walls are leveled with furring or moved, should be automatically excluded from **SHPO** review. This work includes:

- 1) *Energy efficiency work within the building shell:*
  - a. Thermal insulation in walls, floors, ceilings, attics, crawl spaces, ducts and foundations
  - b. Blown in wall insulation where no decorative plaster is damaged.
  - c. Plumbing work, including installation of water heaters
  - d. Electrical work, including improving lamp efficiency
  - e. Sealing air leaks using weather stripping, door sweeps, and caulk and sealing major air leaks associated with bypasses, ducts, air conditioning units, etc.

- f. Repair or replace water heaters
- g. Adding adjustable speed drives such as fans on air handling units, cooling tower fans, and pumps
- h. Install insulation on water heater tanks and water heating pipes
- i. Install solar water heating systems, provided the structure is not visible from the public right of way
- j. Install waste heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment
- k. Repair or replace electric motors and motor controls like variable speed drives
- l. Incorporate other lighting technologies such as dimmable ballasts, day lighting controls, and occupant controlled dimming

**2) *Work on heating and cooling systems:***

- a. Clean, tune, repair or replace heating systems, including furnaces, oilers, heat pumps, vented space heaters, and wood stoves
- b. Clean, tune repair or replace cooling systems, including central air conditioners, window air conditioners, heat pumps, and evaporative coolers
- c. Install insulation on ducts and heating pipes
- d. Conduct other efficiency improvements on heating and cooling systems, including replacing standing pilot lights with electronic ignition devices and installing vent dampers
- e. 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
- f. Install programmable thermostats, outdoor reset controls, UL listed energy management systems or building automation systems and other HVAC control systems

**3) *Energy efficiency work affecting the electric base load of the property:***

- a. Convert incandescent lighting to more energy efficient lighting, such as, fluorescent, LED, etc.
- b. Add reflectors, LED exit signs, efficient HID fixtures, and occupancy (motion) sensors
- c. Replace refrigerators and other appliances

**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 exhaust 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 airflow standard.

## APPENDIX B – SEP AND EECBG UNDETRRTAKINGS EXEMPT FROM SECTION 106 REVIEW

### A. Category 1 - No Consultation Required

In addition to the undertakings provided in *Exhibit A (WAP Undertakings exempt from Section 106 Review)*, DOE and the SHPO have concluded that the following undertakings do not have the potential to cause effects on historic properties per 36 CFR § 800.3(a)(1):

#### *1. General efficiency measures not affecting the exterior of the building:*

- a. Energy audits and feasibility studies
- b. Weatherization of mobile homes and trailers
- c. Caulking and weather-stripping around doors and windows in a manner that does not harm or obscure historic windows or trim.
- d. Water conservation measures – like low flow faucets, toilets, shower heads, urinals – and distribution device controls
- e. Repairing or replacing in kind existing driveways, parking areas, and walkways with materials of similar appearance
- f. Excavating to gain access to existing underground utilities to repair or replace them, provided that the work is performed consistent with previous conditions
- g. Ventilating crawl spaces
- h. Replacement of existing HVAC equipment including pumps, motors, boilers, chillers, cooling towers, air handling units, package units, condensers, compressors, heat exchangers that do not require a change to existing ducting, plumbing, electrical, controls or a new location, or if ducting, plumbing, electrical and controls are on the rear of the structure or not visible from any public right of way.
- i. 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)
- j. 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
- k. Adding variable speed drive motors
- l. Insulation of water heater tanks and pipes
- m. Furnace or hot water tank replacement that does not require a visible new supply or venting

**2. Insulation measures not affecting the exterior of the building:**

- a. Thermal insulation installation in walls, floors and ceilings (excluding spray foam insulation and insulation installed through holes drilled in siding)
- b. Duct sealing, insulation, repair or replacement in unoccupied areas
- c. Attic insulation with proper ventilation; if under an effective R8 - add additional R-19 up to R-38 (fiberglass bat only)
- d. Band joist insulation - R-11 to R19 as applicable
- e. Water heater tank and pipe insulation

**3. Electric base load measures not affecting the exterior of the building:**

- a. Appliance replacement (upgrade to EnergyStar appliances)
- b. Compact fluorescent light bulbs
- c. Energy efficient light fixtures, including ballasts (Replacement)
- d. LED light fixtures and exit signs (Replacement)
- e. Upgrade exterior lighting (replacement with metal halide bulbs, LEDs, or others) along with ballasts, sensors and energy storage devices not visible from any public right of way.

**B. Category 2 - No Consultation Required when SOI Standards are Adhered to and Verified by Qualified Staff, if Applicable**

The following undertakings may have effects on historic properties as defined in 36 CFR Part 800.5. However, if the activity or undertakings meet the Secretary of the Interior's *Standards for the Treatment of Historic Properties* (36 CFR Part 68, July 12, 1995 *Federal Register*) (Standards) specified below then, DOE and the SHPO agree that the undertakings will have no adverse effect upon historic properties and DOE/Recipients shall not be required to further consult with the SHPO if reviews are conducted by Qualified Professionals, as defined in the *Secretary of Interior's Professional Qualifications Standards* set forth in 36 CFR Part 61, Appendix A.

Based on the above, the following work will not meet the Criteria of Adverse Effect when it adheres to the recommended approaches in the Standards and does not involve following significant spaces: entrances, entry halls, lobbies, areas for public gathering and circulation. Alternatively, if the following undertakings occur in a significant space, work will have not adverse effect on historic properties as long as it does not damage historic materials or finishes and new wiring, piping, and ductwork are concealed. All building undertakings under this section will be done in accordance with the Standards, or conditions and modifications proposed by the SHPO.

**1. Efficiency and repair measures:**

- a. Painting over previously painted exterior surfaces, provided destructive surface preparation treatments are not used ( such as water-blasting, sandblasting and chemical removal)
- b. Installation or replacement of downspout extensions, provided that the color of the extensions is historically appropriate for the period and style of the property
- c. Repairing or upgrading electrical or plumbing systems and installing mechanical equipment, in a manner that does not permanently change the appearance of the interior or exterior of the building
- d. Installation of new HVAC equipment (such as pumps, motors, boilers, chillers, cooling towers, air handling units, package units, condensers, compressors, or heat exchangers) in a manner that does not permanently change the appearance of the building.
- e. 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.
- f. Solar systems (including photovoltaic and solar thermal) not visible from the public right of way and if ground-mounted can be installed without ground disturbance and if roof-mounted will not require new building reinforcement.
- g. Wind system additions to existing wind power facilities that will not require ground disturbance and if building mounted will not require building reinforcement.
- h. Lead-based paint abatement in accordance with the Standards and Preservation Brief #37
- i. Building cleaning in accordance with the Standards and Preservation Briefs #1, #6, and #10
- j. Repairing masonry, including re-pointing and rebuilding chimneys in accordance with the Standards and Preservation Brief # 2
- k. New lighting controls including photo-sensors and shading elements if not visible from the public right of way
- l. New metering devices in a manner that does not permanently change the appearance of the interior or exterior of the building, or if the addition is on the exterior of the structure and is not visible from the public right of way
- m. New water efficient fixtures and fittings in a manner that does not permanently change the appearance of the interior or exterior of the building

**2. Installation or repair of roofing, siding, and ventilation:**

- a. White Roofs, Cool Roofs, Green Roofs, Sod or Grass Roofs not visible from the public right-of-way
- b. Rainwater catches and/or gray water systems not viewable from the public right of way
- c. Repair or replacement of existing exterior siding provided that new siding matches the existing siding in dimension, profile and texture

- d. Flat or shallow pitch roof replacement (shallow pitch is defined as a pitch with a rise-to-run ratio equal to or less than 3" to 12") with no part of the surface of the roof visible from the ground
- e. Roof repair or replacement with materials that closely resemble the historic materials and form, or with replacement materials that are close to the original in color, texture, composition and form to restore the original feature based on historic evidence, and in a manner that does not alter the roofline
- f. Installing vents (such as continuous ridge vents covered with ridge shingles or boards, roof vents, bath and kitchen vents, soffit and frieze board vents or combustion appliance flues) if not located on a primary roof elevation or not visible from the public right-of-way
- g. Installing foundation vents, if painted or finished to match the existing foundation material.

3. *Windows and doors:*

- a. Installing storm windows, storm doors or wood screen doors in a manner that does not harm or obscure historic windows, doors or trim
- b. Installing insulated exterior replacement doors where the door openings are not altered and are not visible from the public right-of-way
- c. Window or glazing treatments that do not change the appearance of the interior or exterior of the building, or if the addition is on the exterior of the structure



## ATTACHMENT A: STANDARD MITIGATION MEASURES FOR ADVERSE EFFECTS

The Recipient and the SHPO may develop and execute an Agreement that includes one or more of the following Standard Mitigation Measures, as may be modified to a particular activity, with the concurrence of both parties, for undertakings determined to have an adverse effect on listed or eligible historic resources. The ACHP will not be a party to these Agreements. However, the Recipient must submit a copy of each signed Agreement to the SHPO, and the ACHP within 30 days after it is signed by the Recipient and the SHPO.

### 1. Blanket/Programmatic Mitigation

The Recipient, in consultation with the SHPO and other local historic preservation agencies or non-profit organizations, may agree to implement a blanket or programmatic mitigation measure. If all parties are amenable to this approach, other standard mitigation measures as identified below are encouraged, but not required, to be completed in fulfillment of the Agreement. Examples of blanket/programmatic measures that may undertaken include, but are not limited to: completion of a survey of historic properties; preparation of a National Register of Historic Places nomination of an eligible property or district; preparation of a historic context or preservation planning document; undertaking preservation/rehabilitation of a National Register listed or eligible property; conveyance of a lump-sum donation to a qualified historic preservation agency or organization for undertaking historic preservation activities. As with all mitigation measures in this document, the activity shall be carried out by professionals meeting the National Park Service Professional Qualifications as defined in 36 CFR Part 61. Any mitigation funds will come from the grantee's funds.

### 2. Recordation

The Recipient shall ensure that the historic property is recorded prior to its alteration in accordance with methods or standards established in consultation with the SHPO. The SHPO shall identify appropriate archive locations for the deposit of recordation materials and the Recipient shall be responsible for submitting required documentation to identified archive locations. The Recipient and the SHPO may mutually agree to waive the recordation requirement in situations where the integrity of the building has been compromised or other representative samples of similar historic resources have been previously recorded.

### 3. Architectural Salvage

The Recipient, in consultation with the SHPO, shall identify significant architectural features that

can be salvaged and appropriate parties to receive the salvaged features. The Recipient shall ensure that any architectural features identified for salvage are salvaged prior to initiation of undertakings and properly stored and curated. When feasible, and determined appropriate in consultation with SHPO, salvaged architectural features shall be reused in other preservation projects.

#### 4. Rehabilitation

The Recipient shall ensure that the treatment of historic properties which the SHPO has determined do not meet the *Standard*, or SHPO approved design guidelines, are carried out in accordance with treatments agreed upon by the Recipient and the SHPO and are incorporated in the final plans and specifications. The final plans and specifications shall be approved by the SHPO prior to initiating the undertaking.

#### 5. New Construction

The Recipient shall ensure that the design of new buildings, or additions, which the SHPO has determined do not meet the *Standards*, or SHPO approved design guidelines, are carried out in accordance plans and specifications reviewed and approved by the SHPO prior to finalization and initiation of the undertaking.

Exhibit C---August 28, 2009 Delegation Memorandum  
(next page)



Department of Energy  
Washington, DC 20585

August 28, 2009

MEMORANDUM

TO: State Historic Preservation Officers  
Tribal Historic Preservation Officers

FROM: Catherine R. Zoi *[Signature]*  
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

