ADVISORY COUNCIL ON HISTORIC PRESERVATION

Extension of the Duration of Programmatic Agreements Based on the Department of Energy Prototype Programmatic Agreement for Its Weatherization Assistance Program, State Energy Program, and Energy Efficiency and Conservation Block Grant; Notice of Program Comment

AGENCY: Advisory Council on Historic Preservation.

ACTION: The Advisory Council on Historic Preservation has issued a Program Comment for Extending the Duration of Programmatic Agreements based on the Department of Energy Prototype Programmatic Agreement for its Weatherization Assistance Program, State Energy Program, and Energy Efficiency and Conservation Block Grant.

SUMMARY: The Advisory Council on Historic Preservation (ACHP) issued a Program Comment at the request of the U.S. Department of Energy that allows its program of tailored compliance with Section 106 of the National Historic Preservation Act to continue under the prototype Programmatic Agreement (PA) for the Office of Weatherization and Intergovernmental Programs Weatherization Related Grant Programs: Weatherization Assistance Program (WAP), State Energy Program (SEP), and Energy Efficiency and Conservation Block Grant (EECBG).

DATES: The Program Comment was issued by the ACHP on March 11, 2013.

ADDRESSES: Address all comments concerning the Program Comment to Lee Webb, Liaison to the Department of Energy, Office of Federal Agency Programs, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004. You may also submit comments via fax at (202) 606–8647 or via electronic mail at *lwebb@achp.gov*.

FOR FURTHER INFORMATION CONTACT: Lee Webb, (202) 606–8583, *lwebb@achp.gov*.

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act requires federal agencies to consider the effects of their undertakings on historic properties and to provide the ACHP a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued the regulations that set forth the process through which federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 (Section 106 regulations).

Under Section 800.14(e) of those regulations, agencies can request the ACHP to provide a "Program Comment" on a particular category of undertakings in lieu of conducting individual reviews of each individual undertaking under such category, as set forth in 36 CFR 800.4 through 800.7. An agency can meet its Section 106 responsibilities with regard to the effects of those undertakings by taking into account the ACHP's Program Comment and following the steps set forth in that comment.

I. Background

The ACHP has issued a Program Comment to the U.S. Department of Energy (DOE) to extend the duration of agreements based on the DOE prototype PA for its WAP, SEP, and EECBG programs. The ACHP membership voted in favor of issuing the Program Comment via an unassembled vote that concluded on March 11, 2013.

The Program Comment extends the duration of the existing 44 agreements executed under the prototype PA until December 31, 2020, and provides the same duration period for any future agreements that may be executed under the prototype PA. Nothing in the Program Comment alters or modifies any other provisions of the prototype PA or the 44 agreements, including the ability of the parties to amend or terminate an executed agreement prior to the expiration date.

According to the requirements for obtaining a Program Comment, the DOE formally requested the ACHP comment on its continuing use of the prototype PA to tailor its Section 106 compliance for undertakings funded by WAP, SEP, and EECBG in each state in lieu of renegotiating and amending each executed agreement. The prototype PA provided a suggested duration clause of three years for each agreement from the date of final signature and filing with ACHP. As a result, DOE currently has 44 executed agreements based on the prototype PA, with various expiration dates dependent on their respective dates of execution. The first PAs will start expiring in mid-March of 2013 and, with these first expiration dates fast approaching, there is an immediate need to extend the expiration date of the PAs developed under the prototype PA. The use of the Program Comment to achieve this goal avoids the need to negotiate extensions to each of the 44 individual agreements. The ACHP has concluded that the use of a Program Comment to achieve this goal is the most efficient mechanism for doing so and the most expedient way to ensure that these successful agreements remain in force.

The Program Comment does not restrict the use and application of the prototype PA in states where they have not yet been developed by allowing any new agreements developed under the prototype to extend to 2020. This provides continuity in the Section 106 review for those undertakings covered by existing agreements and any new agreements executed under the prototype PA. By extending the duration of these agreements, the Program Comment provides the DOE, SHPOs, and state agency recipients with the option to continue operating under the prototype PA and the subsequently executed agreements. However, any party may amend or terminate an agreement in accordance with the amendment and termination provisions prior to December 31, 2020.

The ACHP received DOE's request for the Program Comment on January 31, 2013, and took steps to inform the public and stakeholders about the proposed Program Comment. Prior to receiving the formal request from DOE, ACHP hosted, with DOE's participation, listening sessions for State Historic Preservation Officers (SHPOs) to discuss the upcoming expiration of the agreements executed under the prototype PA and the possibility of developing a new program alternative. The ACHP and DOE then coordinated to develop the text of the Program Comment. The ACHP published a notice of the proposed Program Comment in the **Federal Register** on February 22, 2013, for a one-week comment period (78 FR 12336–12337).

In accordance with 36 CFR 800.14(e), the ACHP is responsible for obtaining the views of SHPOs and Tribal Historic Preservation Officers (THPOs) before reaching a decision on issuing a Program Comment. On February 22, 2013, the ACHP notified SHPOs and the Section 106 contacts for Indian tribes and Native Hawaiian organizations of the proposed Program Comment via electronic mail and asked for their review and comment. The DOE provided the draft Program Comment and brief background narrative to its state agency recipients for their review and comment. All comments on the draft Program Comment from SHPOs, THPOs, Indian tribes, Native Hawaiian organizations, DOE state agency recipients, and members of the public were due to ACHP staff on March 1, 2013.

Various substantive comments from stakeholders and the public were received and considered by the ACHP, as noted below. The majority of comments received were in support of

the Program Comment and did not require any revisions to the draft.

Two SHPO comments asked for clarification as to whether the Program Comment would apply to state level interagency agreements that were developed prior to the prototype PA. Under Stipulation III of the prototype PA, DOE can choose to recognize an interagency agreement if the agreement closely resembled the prototype PA in establishing review efficiencies and providing exemptions from review for routine activities. To recognize such an agreement under the prototype PA, DOE, the SHPO and the state agency receiving DOE funds would sign a cover agreement. In response to these comments, the Program Comment was revised to clarify that it would be applicable to agreements recognized via cover agreement under Stipulation III of the prototype PA.

Another SHPO comment asked for clarification as to whether the signatories on the executed PAs (DOE, SHPOs, and state agency recipients) were required to take any additional action to extend the PA, once the Program Comment was issued. To address this comment, the Program Comment was revised to include language that stated, "by the issuance of the Program Comment," the PAs based on the DOE prototype PA could extend through December 31, 2020. The ACHP and DOE will send follow-up guidance to the stakeholders as needed to clarify the Program Comment's applicability and use.

Another comment asked for clarification about how the prototype PA itself was developed and implemented and whether there was any tribal involvement in DOE projects in Washington and Oregon. The ACHP is preparing a written response to this commenter to explain the development of the prototype PA, and is coordinating with DOE to provide the additional information as requested. No revisions were made to the Program Comment as a result of this comment.

The remaining comments from state agencies and SHPOs expressed support for the Program Comment and did not require any revisions to the draft text.

II. Final Text of the Program Comment

The following is the text of the issued Program Comment:

Program Comment To Extend the Duration of Agreements Executed Under the Department of Energy's Prototype Programmatic Agreement

I. Introduction

The Department of Energy's (DOE) Office of Weatherization and Intergovernmental Programs (OWIP) provides financial assistance to state agency applicants for three weatherization related grant programs: Weatherization Assistance Program (WAP), State Energy Program (SEP), and Energy Efficiency and Conservation Block Grant (EECBG). DOE has determined that activities carried out by these funded programs constitute undertakings with the potential to affect historic properties. Therefore, DOE must comply with Section 106 and its implementing regulations, 36 CFR Part 800, for these undertakings.

The Advisory Council on Historic Preservation (ACHP) and DOE began a partnership in August 2009 to explore possible program alternatives to tailor the Section 106 process for these undertakings in anticipation of the dramatic increase in project funding as a result of American Recovery and Reinvestment Act. DOE, in consultation with the ACHP and the National Conference of State Historic Preservation Officers (NCSHPO), developed a prototype Programmatic Agreement (PA) to cover three weatherization related grant programs and to create efficiencies in the administration of these OWIP grants: WAP, SEP, and EECBG. The prototype PA identifies a category of routine undertakings with limited potential to affect historic properties and exempts them from further review. The ACHP's Chairman designated the prototype PA on February 8, 2010. Under the terms of the prototype PA, DOE, the State Historic Preservation Officer (SHPO), and the relevant state agency receiving OWIP grants can execute subsequent agreements without ACHP involvement. Execution of an agreement pursuant to the prototype PA presumes that DOE will conduct its government-to-government consultation responsibilities with federal recognized Indian tribes and its Section 106 consultation requirements with Native Hawaiian organizations. If DOE is notified that a particular undertaking may result in an adverse effect on historic properties of religious and cultural significance to Indian tribes or Native Hawaiian organizations, DOE must invite such Indian tribes or Native Hawaiian organizations to participate in consultation for the affected project.

Since its designation, DOE has used the prototype PA to successfully negotiate and execute 44 programmatic agreements with SHPOs and state agencies receiving DOE OWIP grants. DOE's direct recipients may use the executed state agreement developed under the prototype PA as well. The prototype PA initially proposed a three year duration clause from the time of execution and filing with the ACHP. As a result, the 44 agreements executed under the prototype PA have different expiration dates. Several of the agreements will expire in mid-March 2013. It is now DOE's and the ACHP's intention that these agreements should extend beyond the three year term.

II. Background

During the development of the prototype PA in 2009, the ACHP invited SHPOs, Indian tribes, and Native Hawaiian organizations to participate in a series of teleconferences to discuss the prototype PA and share information on which DOE programs would be covered by the new program alternative. The tribes that participated in the teleconferences noted that the vast majority of funding from the three programs did not relate to undertakings on or affecting historic properties on tribal lands, and were not interested in participating further in the process to develop the prototype PA. The SHPOs were generally supportive of DOE's intent to pursue a program alternative such as the prototype PA that would assist them in managing their workload by streamlining the review of certain undertakings. Further, the SHPOs liked the format of the prototype PA as they would be able to modify individual agreements under its terms to account for state-specific issues.

As a result of the partnership with ACHP and the development and the administration of the prototype PA, DOE established internal and external training; recognized best management practices; and utilized DOE guidance and directives to ensure that the DOE weatherization programs were properly implemented in compliance with Section 106. The prototype PA established review efficiencies and protocols which allowed for the grant programs to expedite the weatherization efforts of the homes of many low income individuals across the country, as well as assisted communities in funding energy efficiency, renewable energy, and weatherization projects for public buildings such as schools and courthouses. Due to the success of the prototype PA for DOE's weatherization programs, other departments within DOE have sought ACHP's and OWIP staff's guidance and direction for meeting their historic preservation compliance responsibilities.

In the past year, DOE and the ACHP have discussed how to extend and build upon the program established by the prototype PA. In December 2012, DOE and the ACHP held listening sessions with SHPOs. The discussions focused

on the effectiveness of the prototype PA and the feasibility of pursuing a new program alternative. The SHPOs that participated in those listening sessions were generally supportive of the development, implementation, and effectiveness of the prototype PA and expressed a preference to continue using the PAs to provide streamlining of reviews and other review efficiencies. Further, in developing the text of this Program Comment, the ACHP provided an opportunity for SHPOs, Indian tribes, Native Hawaiian organizations, and state agencies to comment on its applicability and terms.

This Program Comment extends the duration of the existing 44 agreements executed under the prototype PA until December 31, 2020, and provides the same duration period for any future agreements that may be executed under the prototype PA. Nothing in this Program Comment alters or modifies any other provisions of the prototype PA or the 44 agreements, including the ability of the parties to amend or terminate an executed agreement prior to the expiration date.

III. Establishment and Authority

This Program Comment was issued by the ACHP on March 11, 2013 pursuant to 36 CFR 800.14(e).

IV. Date of Effect

This Program Comment went into effect on March 11, 2013.

V. Use of This Program Comment To Extend the Duration of the Existing Agreements Executed Under the DOE Prototype PA and for New Agreements Executed Pursuant to the Prototype PA

By the issuance of this Program Comment, the DOE may continue, through December 31, 2020, complying with its responsibilities under Section 106 of the National Historic Preservation Act for its WAP, SEP, and EECBG in the relevant States using the 44 agreements currently executed, including those agreements that were recognized by Stipulation III, and those to be executed, under the "Prototype Programmatic Agreement between the United States Department of Energy, the State Energy Office and the State Historic Preservation Office regarding EECBG, SEP and WAP Undertakings," designated by the ACHP on February 8, 2010, regardless of the duration clause of those agreements. However, if any of those agreements is terminated under its own terms, DOE may no longer use it to comply with its Section 106 responsibilities in the relevant State. This will provide continuity in the Section 106 review for those undertakings covered by the existing and any new agreements executed under the prototype PA. This Program Comment does not alter or modify any provisions of the prototype PA or the 44 executed agreements other than their duration clauses.

VI. Amendment

The ACHP may amend this Program Comment after consulting with DOE, NCSHPO, and other parties as appropriate, and publishing notice in the **Federal Register** to that effect.

VII. Sunset Clause

This Program Comment will terminate on December 31, 2020, unless it is amended to extend the period in which it is in effect.

VIII. Termination

The ACHP may terminate this Program Comment by publication of a notice in the **Federal Register** thirty (30) days before the termination takes effect.

Authority: 36 CFR 800.14(e).

Dated: March 11, 2013.

John M. Fowler,

Executive Director.

[FR Doc. 2013–05917 Filed 3–13–13; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–23]

Notice of Submission of Proposed Information Collection to OMB: Low Income Housing Tax Credit Database

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. HUD is soliciting public comments on the subject proposal.

Section 2835(d) of the Housing and Economic Recovery Act, or HERA, (Pub. L. 110–289, approved July 30, 2008) amends Title I of the U.S. Housing Act of 1937 (42 U.S.C. 1437 et seq.) (1937 Act) to add a new section 36 (to be codified as 42 U.S.C. 1437z–8) that requires each state agency administering tax credits under section 42 of the Internal Revenue Code of 1986 (low-income housing tax credits or LIHTC) to furnish HUD, not less than annually, information concerning the race, ethnicity, family composition, age, income, use of rental assistance under section 8(o) of the U.S. Housing Act of 1937 or other similar assistance, disability status, and monthly rental payments of households residing in each property receiving such credits through such agency. New section 36 requires HUD to establish standards and definitions for the information to be collected by state agencies and to provide states with technical assistance in establishing systems to compile and submit such information and, in coordination with other federal agencies administering housing programs, establish procedures to minimize duplicative reporting requirements for properties assisted under multiple housing programs. In 2010, OMB approved the first collection instrument used for the collection of LIHTC household information (OMB Approval No. 2528–0165, expiration date 05/31/2013). HUD used the previously approved form to collect data on LIHTC tenants in 2009, 2010 and 2011. Renewal of this form is required for HUD to remain in compliance with the statute.

DATES: *Comments Due Date: April 15, 2013.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2528–0165) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov.* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of