WHEREAS, the United States Department of Agriculture's (USDA) Rural Development (RD) programs offer low interest loans, grants, and loan guarantees to support essential services such as housing, economic development, health care, first responder services and equipment, and water, electric, and telecommunications infrastructure; and promote economic development by supporting loans to businesses through banks, credit unions, and community–managed lending pools; and

WHEREAS, RD has a loan portfolio of more than \$220 billion to bring enhanced economic opportunity to the Nation's rural communities; and

WHEREAS, RD is authorized under the Rural Electrification Act of 1936, as amended; and the Consolidated Farm and Rural Development Act of 1961, as amended; the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2000; the Agriculture Risk Protection Act of 2000, as amended; the Farm Security and Rural Investment Act of 2002, as amended; the Food, Conservation, and Energy Act of 2008; the Agricultural Act of 2014; the Food Security Act of 1985; the Housing Act of 1949, as amended; and 7 U.S.C. §§ 2008u, 8103, 8104, 8105, and 8107 to carry out 59 programs and services in support of its borrower or applicant's (applicant) activities, by providing financial assistance in rural America that provides much–needed infrastructure or infrastructure improvements to rural communities, in the areas of business–cooperative services, housing, water and waste treatment, electric power, and telecommunications services; and

WHEREAS, the Rural Utilities Service (RUS) administers programs that provide much–needed infrastructure or infrastructure improvements to rural communities. These include water and waste treatment (WEP), electric power (Electric) and telecommunications (Telecom) services. All of these services play a critical role in helping to expand economic opportunities and improve the quality of life for rural residents; and

WHEREAS, the Rural Business–Cooperative Service (RBS) offers programs to support business development and job training opportunities for rural residents. RBS programs help provide capital, technical support, educational opportunities, and entrepreneurial skills that can help rural residents start and grow businesses or access jobs in agricultural markets and in the bio–based economy. RBS programs connect rural residents to the global economy by: supporting

business growth and development; facilitating sustainable renewable energy development; developing regional food systems; generating and retaining jobs through recreation and natural resource restoration, conservation, and management; and increasing access to broadband; These investments support the nation's long–term prosperity by ensuring that rural communities are self–sustaining, repopulating, and thriving economically; and

WHEREAS, the Rural Housing Service (RHS) offers a variety of programs to build or improve housing and essential community facilities in rural areas. RHS offers loans, grants, and loan guarantees for facilities such as single— and multi–family housing, child care centers, fire and police stations, hospitals, libraries, nursing homes, schools, first responder vehicles and equipment, and housing for farm laborers. RHS provides technical assistance loans and grants in partnership with non–profit organizations, Indian tribes, state and federal government agencies, and local communities; and

WHEREAS, due to the distinct nature of RD's 3 main programs RUS, RHS, and RBS, and those RD Programs that may be amended or added in the future, the appendices have been divided by each program/agency for undertakings, programs, and services that do not have the potential to cause effects on historic properties, based upon consultation with the signatories of this agreement, assuming such historic properties were present. These appendices will address program efficiencies, tribal engagement, public outreach, and the conclusion of the Section 106 four step process; and

WHEREAS, the appendices are separated as follows, RUS (Appendix A); RBS (Appendix B); RHS (Appendix C); and

WHEREAS, each appendix will be completed in consultation with the appropriate RD Federal Preservation Officer (FPO), Advisory Council on Historic Preservation (ACHP), National Conference of State Historic Preservation Officers (NCSHPO), and appropriate historic and cultural tribal authorities, and other consulting parties, and amended to the executed PA. This consultation for the appendices will occur subsequently following the execution of the PA. Until these appendices are approved as an amendment to the PA, the activities and programs that they address will follow the four step Section 106 process as set forth in 36 CFR Part 800, or as outlined in existing state agreements; and

WHEREAS, the resulting consultations will only cover the information in a given appendix; and

WHEREAS, the nature of RD funding means that costs for environmental reviews such as for the National Environmental Policy Act (NEPA) and National Historic Preservation Act (NHPA), are incurred by RD applicants and passed to their customers in utility/usage costs, and are limited to the allocation of the overall project budget; and

WHEREAS, RD has determined that projects receiving financial assistance under RD programs are undertakings subject to review under Section 106 of the NHPA, 54 U.S.C. § 300101 et seq., and its implementing regulations (36 CFR Part 800); and

WHEREAS, RD defines "obligation" as the approval of financial assistance and each RD program has the authority to de–obligate funding prior to or after award or construction if certain conditions are not met in the RD program's legally binding agreement documents; and

WHEREAS, the schedule for RD projects may span one to five years or longer, and can be composed of multiple projects that are rarely staked or precisely located, and the nature of the undertaking is often unclear, prior to the obligation of funds; and

WHEREAS, RD applicants often do not have the financial wherewithal to fund Section 106 reviews, or the analysis of alternatives, without some level of confidence that RD's low interest funding or grants will be available to assist them; and

WHEREAS, RD applicants are legally bound to apply project funding as stipulated by the conditions of the loan or grant.

WHEREAS, the current sequencing of the Section 106 process necessitates that RD execute a Nationwide Programmatic Agreement (PA) pursuant to 36 CFR 800.14(b), to obligate funds for borrower assurance prior to the completion of the Section 106 and to tailor the Section 106 process to better align with the timing of obligation and completion of the program's Section 106 review, which does not synchronize with the normal four step Section 106 process as set forth in 36 CFR Parts 800.3 through 800.7; and

WHEREAS, RD has delegated authority to their applicants pursuant to 36 CFR § 800.2(c)(4) and 7 CFR § 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970), to initiate and proceed through Section 106 review, and advocates for the direct interaction between its borrowers and the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer (THPO), and Indian tribes, including federally recognized Indian tribes, Native Hawaiian organizations, and Alaska Native Corporations (Indian tribe) to support and encourage the consideration of impacts to historic properties early in project planning; and

WHEREAS, this delegation does not include tribal consultation where the tribe specifically asks for government–to–government consultation with RD; and

WHEREAS, Industry, NCSHPO, Indian tribes, and other stakeholders are invited to be consulting parties, and sign the NPA as an Invited signatory or concurring party, as appropriate; and

WHEREAS, the public outreach process will be coordinated through information on RD program/agency websites and the constituents of RD applicant's communities via their newsletters, etc.; and

NOW, **THEREFORE**, RD, NCSHPO, the ACHP, and others agree that RD will comply with the provisions of this PA in order to take into account the effects of these undertakings on historic properties and afford the ACHP an opportunity to comment.

STIPULATIONS

RD, in coordination with its applicants, will ensure that the following stipulations are carried out:

I. Conditions of Obligation

RD may approve financial assistance (obligate) for undertakings as defined in 36 CFR 800.16(y) covered by this PA and its appendices prior to completion of Section 106 review so long as RD agrees to:

- A. Condition obligations in RD program's legally binding agreement documents, to ensure that no federal funds for construction are released prior to project commencement.
- B. Retain the ability to de-obligate RD funding and withdraw RD awards for an undertaking until completion of the Section 106 review.
- C. Require applicants to initiate Section 106 consultation no later than ninety (90) calendar days after the announcement of their obligation if they have not done so already; and to notify the appropriate RD agency that Section 106 has been initiated in accordance with 36 CFR Part 800.2(c)(4), and 7 CFR Part 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970).
- D. Require applicants to submit 508 compliant Section 106 documentation electronically to SHPOs, THPOs, Indian tribes, and RD unless directed otherwise.
- E. Encourage RD applicants to avoid historic properties, if feasible.
- F. Ensure applicants comply with the anticipatory demolition requirements, as failure to comply may lead to the de-obligation of RD funds.
- G. Within ninety (90) calendar days of the execution of this PA, RD shall make available to applicants guidance on the requirements of Section 106 and the provisions included in this PA, including the name and contact information of staff within RD who will be responsible for providing technical assistance regarding compliance with the requirements of Section 106 and the terms of this PA.

II. Roles and Responsibilities

- A. The SHPO shall follow those roles and responsibilities established through the NHPA and 36 CFR Part 800.2. The SHPO shall work with RD applicants who contact them through RD's delegation of authority pursuant to 36 CFR § 800.2(c)(4) and 7 CFR § 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970).
- B. THPOs and Indian tribes shall follow those established through the NHPA and 36 CFR Part 800.2. The THPO and Indian tribes work with RD applicants who contact them through our delegation of authority pursuant to 36 CFR § 800.2(c)(4) and 7 CFR § 1970.5(b)(2) of the regulations, "Environmental Policies and Procedures" (7 CFR Part 1970). THPOs and Indian tribes shall be engaged in the Section 106 process at the same time that SHPOs are engaged. This importance is reflected in the delegation of authority set out in RD's Environmental Policies and Procedures 7 CFR § 1970.5(b)(2) that allows RD applicants to engage tribes and notify them about RD projects at the same time these notices go to the SHPO.
- C. The ACHP shall provide technical guidance, participate in dispute resolution, and monitor the effectiveness of this agreement, as appropriate.
- D. RD Loan Technicians and Specialists generally work with RD applicants in the RUS–WEP, RBS, and RHS programs to do loan originating, processing, and servicing.
- E. RD State Engineers are responsible for the controlling program costs, managing risks, assisting applicants and borrowers to develop and maintain technical capabilities and project sustainability, and ensuring regulatory requirements like modesty in size, cost, and design are met where required.
- F. RD State Architects review projects for architectural design logic, harmony and integration of all building design and construction elements, compliance with regulations, building construction codes, handicap accessibility and standards applicable to the specific building type, program/scope of project and location /site. Project reviews include a review of all phases of the project from conception to completion.
- G. State Environmental Coordinators (SECs) are responsible for the state environmental review processes for RUS–WEP, RBS, and RHS. The SEC may often also be the State Engineer or Architect. The environmental review includes consultation with the SHPO and engagement with Indian tribes, as appropriate. The RD National Office may intervene as required.

- H. General Field Representatives (GFRs) provide information and support relating to the programs to a broad range of existing and potential borrowers in assigned areas within the RUS–Electric and RUS–Telecom programs on a regional level.
- I. The Engineering and Environmental Staff (EES) is responsible for reviewing all RUS—Electric and RUS—Telecom program projects and RUS—WEP projects that meet certain internal criteria. The EES staff includes the RUS FPO, archaeologists, and environmental protection specialists and scientists.
- J. The Program Support Staff (PSS), completes environmental reviews and provides expert management and technical consulting services to continuously improve the effectiveness of RD business functions which create prosperity and self–sustainability for all rural Americans. The FPOs for both RHS and RBS work within PSS.
- K. As National Office staff, RD PSS and EES are responsible for overseeing their respective programs administration at the regional, state, and local level. They are additionally responsible for conducting government—to—government consultation for their programs. The responsibility of government—to—government consultation may not be delegated to any other staff, nor carried out on behalf of RD by an applicant, their consultant, or another federal agency.
- L. The applicant is the party submitting an application for financial assistance from RD. The applicant or their professional consultants shall provide technical historic property and resource information to RD for use in Section106 findings and determinations, after appropriate consultations with the SHPO, engagement with Indian tribes, and discussions with the landowner. The RD EES and PSS National Office Staff, which includes the agencies FPOs and other staff that also meets the Secretary of the Interior's (SOI) Professional Qualification Standards for Archaeology and Historic Preservation, will assist in determining whether an undertaking has the potential to affect historic properties, triggering Section 106 review, pursuant to 36 CFR Part 800.3(a).

III. Professional Qualifications

- A. RD shall ensure that applicants, or their professional consultant, meet the SOI Professional Qualification Standards for Archaeology and Historic Preservation
- B. Indian tribes have special expertise in assessing the National Register eligibility of historic properties that may possess religious and cultural significance to them (36 CFR § 800.4(c)(1)), and the National Register considers the information obtained from a tribe's recognized expert to be a valid line of evidence in considering determinations of

significance and eligibility. Therefore, the requirements for SOI Professional Qualification Standards may be waived or amended in recognition of this special expertise.

IV. Lead Federal Agency

- A. For any undertaking that has multiple Federal agencies and RD is the designated lead federal agency for compliance with the requirements of Section 106, RD staff shall follow the terms of this PA or 36 CFR Part 800, as appropriate. RD shall notify the ACHP, SHPO/THPO, and Indian tribe(s) within 60–days after this assignment of its involvement in the undertaking and the role of other federal agencies who have designated RD as lead agency.
- B. For any undertaking where an RD agency is not the lead agency, but is funding the project:
 - 1. RD funds may be obligated under the terms of this PA before Section 106 is complete and consistent with Stipulation I.
 - 2. Cooperating agencies for the undertaking may use this PA to obligate funds before Section 106 is complete if the agency has authority to de-obligate or retract funding either through regulation or a letter of conditions.
 - 3. A lead federal agency, other than RD, may use the full terms of this PA to obligate funds before Section 106 is complete for an RD funded undertaking if the agency has authority to de-obligate or retract funding either through regulation or a letter of conditions.

V. Request of Others to be a Signatory to this PA

- A. RUS will consider requests from others to become a signatory to this PA following formal written requests and appropriate discussion with and approval by the RD FPOs, and consultation with the ACHP, NCSHPO, NATHPO, and other consulting parties, as appropriate. The inclusion of others may require an amendment and the attachment of a new appendix for particular program activities.
- B. Should RUS provide loans or grants to an applicant for activities that may have an effect on Federal lands, RUS and the applicant shall consult with the ACHP, SHPOs, THPOs, Indian tribes, and NHOs regarding existing program alternatives, including other NPAs and Program Comments, that may be applicable. If RUS determines that there are no applicable program alternatives that address Federal lands, RUS shall consult with the land managing or property managing agency to explore alternatives that would avoid,

minimize, or mitigate adverse effects on historic properties. The outcome of the consultation will be reviewed under the terms of the RUS NPA and its appendices.

VI. Emergency and Disaster Management Procedures (Response to Emergencies)

RD agencies will follow the procedures set forth in 36 CFR 800.12 and 7 CFR 1970.18.

- A. RD agencies shall follow established state, tribal, county, and/or local procedures related to emergency and disaster management.
- B. RD agencies shall coordinate with other federal agencies to assist in the Unified Federal Review (UFR) process when applicable for emergencies and disaster management activities.
- C. RD shall adhere to these provisions when carrying out emergency activities under supplemental appropriations provided to RD agencies under The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act).

VII. Training

- A. RD shall require its staff who have active roles in the Section 106 review process to take Section 106 training through the National Office, ACHP webinars and other on–site training, e–learning, or other reputable sources.
- B. RD shall continue to provide guidance and training to new and continuing staff regarding RD environmental review processes and working with SHPO and Indian tribe staffs.
- C. RD shall prepare a training on the use of this NPA that includes specific information about Section 106 and the release of funds.
- D. RD may invite the SHPOs, Indian tribes, or staff to participate in presentations at agency classrooms or field trainings.
- E. RD shall encourage all personnel conducting or overseeing cultural resources work to take additional specialized training provided by the SHPO, Indian tribes, the ACHP, National Park Service, or other agencies, as feasible and relevant.
- F. RD shall work on a training that collects and presents case studies and best management practices.

VIII. Dispute resolution

Should any signatory or concurring party to this NPA object at any time to any actions proposed or the manner in which the terms of this NPA or Section 106 review is implemented for

undertakings covered under this NPA, RD shall consult with such party to resolve the objection. If RD determines that such objection cannot be resolved, RD will:

- A. Forward all relevant documentation of the dispute, including RD's proposed resolution, to the ACHP. The ACHP shall provide RD with its advice on the resolution of the objection within 30 calendar days of receiving adequate documentation. Prior to reaching a final decision on the dispute, RD shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP. Signatories, invited signatories, and concurring parties will be provided a copy of the written response from RD. RD may then proceed with the undertaking in accordance with their final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the 30 calendar day time period, RD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, RD shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories, invited signatories, and concurring parties to the NPA. A copy of the written response will be provided to all parties and the ACHP.
- C. RD's responsibilities to carry out all other actions subject to the terms of this NPA that are not the subject of the dispute remain unchanged.

IX. Duration of Programmatic Agreement

This NPA will be in effect for 15 years from the date of execution, and can be extended an additional 15 years by amending the NPA in accordance with Stipulation XI, if signatories agree in writing.

X. Reporting

- A. RD will submit an annual report to the signatories and other consulting parties that summarizes the number of projects reviewed under this NPA by state within that calendar year as well as the number of activities that resulted in adverse effects to historic properties. The annual report also will indicate whether any agreements regarding the applicability of this NPA on tribal lands have been developed in the past calendar year, and which Indian tribe(s) is a signatory. Annual reports will be submitted December 1 of each year, commencing in 2018.
- B. RD will schedule a meeting to discuss the yearly report if any signatory requests one.

XI. Amendment

- A. This NPA may be amended if agreed to in writing by all signatories. The amendment will be effective on the date the document is signed by all of the signatories, including RD, NCSHPO, THPO or Indian tribes, as appropriate, and the ACHP.
- B. Amendments to the NPA to add the appendices will not reopen consultation on the main body NPA.
- C. Consultation to amend the NPA to add the appendices may begin without requiring the written notification of all of the signatories. RD should notify the ACHP, however.

XII. Termination.

- A. If within 30 calendar days, or other time period agreed upon by the signatories, an amendment cannot be agreed upon, any signatory or the ACHP may terminate the agreement upon written notification to the other signatories. Once the NPA is terminated, RD must either a) execute another PA pursuant to 36 CFR 800.14(b) or b) proceed in accordance with an applicable alternative process under 36 CFR 800.14 or c) proceed in accordance with 36 CFR 800.3 through 800.7 on a project by project basis and cannot use the efficiencies outlined in this NPA. RD shall notify the other signatories as to the course of action they will pursue.
- B. If the NPA is terminated after the completion of the appendices, the terms of the appendices may be converted to be used as a statewide protocol if agreed to in writing by the appropriate SHPO and RD.
- C. An agency can terminate their participation in this NPA to use individual exemptions and carry out reviews on a project by project basis or under the terms of a statewide PA or other program alternative. If this NPA is terminated, or expires without being extended via the amendment process described above, and prior to continuing work on any undertaking, RD shall comply with the requirements of 36 CFR Part 800 for all individual undertakings covered by the NPA.

Execution of this NPA and implementation of its terms is evidence that RD has taken into account the effects of RD federally–funded or assisted undertakings on historic properties and afforded the ACHP an opportunity to comment on them.

Signatory Pages follow.

Signatory

UNITED STATE DEPARTMENT OF AGRICULTURE -RURAL UTILITIES SERVICE

Kellie M. Kubena Director, Engineering and Environmental Staff, RUS

Signatory

UNITED STATE DEPARTMENT OF AGRICULTURE – RURAL BUSINESS–COOPERATIVE SERVICE AND RURAL HOUSING SERVICE

Edward G. Duval Director, Program Support Staff, RBS and RHS

Signatory

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

Mark Wolfe President, NCSHPO

Signatory

ADVISORY COUNCIL ON HISTORIC PRESERVATION

John M. Fowler Executive Director, ACHP

APPENDIX A RURAL UTILITIES SERVICE (RUS) PROGRAM EFFICIENCES

The PA and this appendix cover the following RUS programs and those that may be amended or added in the future.

Rural Utilities Service – Telecommunications Programs

- Community Connect Grants
- Distance Learning & Telemedicine Grants
- Farm Bill Broadband Loans & Loan Guarantees
- Telecommunications Infrastructure Loans & Guarantees

Rural Utilities Service – Electric Programs

- Denali Commission High Energy Cost Grants
- Distributed Generation Energy Project Financing
 - Electric Infrastructure Loan & Loan Guarantee Program (FFB)
 - Energy Efficiency & Conservation Loans
 - · High Energy Cost Grants
 - Rural Energy Savings Program
 - State Bulk Fuel Revolving Loan Fund
 - Energy Resource Conservation

Rural Utilities Service - Water & Environmental Programs

- Circuit Rider Program
- Emergency Community Water Assistance Grants
- Grants for Rural and Native Alaskan Villages
- Household Water Well System Grants
- Individual Water & Wastewater Grants
- SEARCH Special Evaluation Assistance for Rural Communities and Households
- Solid Waste Management Grants
- Water & Waste Disposal Grants to Alleviate Health Risks on Tribal Lands and Colonias
- Water & Waste Disposal Loans & Grants
- Water & Waste Disposal Loan Guarantees
- Water & Waste Disposal Predevelopment Planning Grants
- Water & Waste Disposal Revolving Loan Funds
- Water & Waste Disposal Technical Assistance & Training Grants

APPENDIX B RURAL BUSINESS-COOPERATIVE SERVICE (RBS) PROGRAMS EFFICIENCES

The PA and this appendix cover the following RBS programs and those that may be amended or added in the future.

Rural Business-Cooperatives Service

- Business & Industry Loan Guarantees
- Intermediary Relending Program
- Rural Business Development Grants
- Rural Business Investment Program
- · Rural Economic Development Loan & Grant Program
- Rural Microentrepreneur Assistance Program
- Socially–Disadvantaged Groups Grants
- Value Added Producer Grants
- Delta Health Care Services Grants
- Rural Cooperative Development Grants
- Advanced Biofuel Payment Program
- · Repowering Assistance Program
- Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program
- Rural Energy for America Program (REAP) Energy Audits & Renewable Energy
 Development Grants
- Rural Energy for America Program (REAP) Renewable Energy & Energy Efficiency Loans
 & Grants
- Strategic Economic and Community Development

APPENDIX C RURAL HOUSING SERVICE (RHS) PROGRAMS EFFICIENCES

The PA and this appendix cover the following RBS programs and those that may be amended or added in the future.

Rural Housing Service – Community Facilities

- Community Facilities Direct Loans & Grants
- Community Facilities Loan Guarantees
- · Community Facilities Relending Program
- Community Facilities Technical Assistance and Training Grant
- Economic Impact Initiative Grants
- Rural Community Development Initiative Grants
- Tribal College Initiative Grants

Rural Housing Service – Multi-Family Housing

- Farm Labor Direct Loans & Grants
- Housing Preservation & Revitalization Demonstration Loans & Grants
- Housing Preservation Grants
- Multi–Family Housing Direct Loans
- Multi–Family Housing Loan Guarantees
- Multi–Family Housing Rental Assistance
- Rural Housing Site Loans

Rural Housing Service - Single-Family Housing

- Mutual Self–Help Housing Technical Assistance Grants
- Single Family Housing Direct Home Loans
- Single Family Housing Home Loan Guarantees
- Single Family Housing Repair Loans & Grants