

# 106 SUCCESS STORY

## Department of Energy Ensures Preservation, Speeds ARRA Funding Nationwide

“When the American Recovery and Reinvestment Act became law, the sudden influx of projects threatened to overwhelm the capacity of State Historic Preservation Officers to provide timely historic preservation reviews ... we found appropriate ways to get essential projects underway while considering the importance of historic places.”

— MILFORD WAYNE  
DONALDSON, FAIA  
ACHP Chairman  
and former California SHPO



### THE STORY

In the closing months of 2008, one of the largest investment banks in the world failed, the U.S. stock market plummeted, cash dried up, and employees were laid off by the thousands. In response to the economic crisis, Congress passed the American Recovery and Reinvestment Act of 2009 (ARRA) on February 13, 2009, and President Obama immediately signed it into law. With the funding provided in ARRA, Congress recognized that assisting homeowners and communities to weatherize buildings and improve energy efficiency would also provide for job creation and increase energy savings.

### THE PROJECT

The sudden availability of funding for three important weatherization grant programs administered by the Department of Energy's (DOE) Office of Weatherization and Intergovernmental Programs (OWIP)—Energy Efficiency and Conservation Block Grants, State Energy Plans, and Weatherization Assistance Programs—threatened to overwhelm the ability of State Historic Preservation Officers (SHPOs) to efficiently conduct reviews without slowing ARRA projects. These financial assistance programs provided funding to property owners and homeowners, as well as to communities, to assist in weatherizing buildings. Many of the projects that could receive funding for weatherization had the potential to affect historic buildings, which would trigger a required Section 106 review. Recognizing there were no agreements consistently in place to ensure timely reviews and the expenditure of funds without causing undue potential harm to historic properties, DOE and the Advisory Council on Historic Preservation (ACHP) sought to identify a means that allowed DOE and state agencies to expedite historic preservation reviews, thereby enabling agencies to obligate funds.

### THE 106 PROCESS

DOE, the federal agency running the three programs, was responsible for conducting the Section 106 process under the National Historic Preservation Act. Section 106 requires federal agencies to identify historic properties and assess the effect of the projects they carry out, fund, or permit on these properties. Federal agencies are also required to

Photos: Above, Victorian houses in San Francisco © Cristian Ciobanu - Fotolia; Right, Façade of old building © maksymowicz - Fotolia; Residential project in Delaware that received a DOE grant for installation of photovoltaic panels (photo courtesy Delaware SHPO)

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consult with parties that have an interest in the fate of the historic property when adverse effects are likely to ensue.

After passage of the ARRA, DOE and the ACHP partnered to design a means to ensure Section 106 responsibilities would be handled appropriately, while establishing review efficiencies. Following a series of discussions with the ACHP and the National Conference of State Historic Preservation Officers and Tribal Historic Preservation Officers, the federal agencies decided in August 2009 that the best strategy was to create a prototype Programmatic Agreement (PA). The agencies' goals were to provide predictable, consistent, clear advice and guidance while ensuring timeliness of Section 106 reviews so the economic impact of ARRA could be quick and widespread.

The prototype PA provides a template agreement that can be implemented by any state and the DOE without additional Section 106 review, while exempting from review routine activities with limited potential to affect historic properties. It provides a way to recognize interagency agreements among SHPOs and state agencies that were created prior to the prototype PA. It continues to require the normal process on tribal lands, and requires DOE to develop tribal and Native Hawaiian organization protocols if projects pose threats to historic properties of religious or cultural significance. The prototype PA also allows the timely obligation of DOE funding for efforts under the three programs and allows for provisions to be added that establish further efficiencies and improve the management of adverse effects on historic properties.

## THE SUCCESS

Government is sometimes faulted for not moving quickly enough. Federal agencies saw clearly that speed was essential to implement ARRA to respond to the economic crisis facing the nation. DOE became the first federal agency to use the prototype PA, creating a model for a procedural tool available to all agencies under the ACHP's regulations. This provided predictability in costs, time, and outcomes, and flexibility to address specific situations. In this case, that resulted in faster results without diminishing essential protections for historic properties. As of April 2013, 44 PAs have been executed based on the prototype. This strategy and response was unprecedented for the federal preservation program. Those states that opted not to pursue a PA had established review systems and procedures that were working to ensure timely reviews. The prototype PA assisted in the timely obligation of approximately \$7 billion used toward weatherization-related projects across the U.S.

There have been other positive results. DOE established internal and external training for project managers, attorneys, and stakeholders. Due to the effort's success, other DOE offices sought guidance and direction from the ACHP and OWIP to better meet historic preservation responsibilities. Other federal agencies have sought ACHP guidance to replicate DOE's groundbreaking experience for their programs. The Government Accountability Office credited DOE in a December 19, 2011, article for "effectively using stimulus money to help low-income families weatherize their homes."

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A Department of Energy-funded project in Washington provides insulation for this historic home. (photo courtesy DOE)

#### Consulting Parties:

U.S. Department of Energy  
ACHP  
National Conference of State  
Historic Preservation Officers

For more about Section  
106 and the ACHP go  
to [www.achp.gov](http://www.achp.gov)



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