



OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

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

MEMORANDUM FOR: Office of Native American Programs (ONAP)  
Area Administrators, &  
Regional Environmental Officers

FROM: Kristin Fontenot, Director, Office of Environment and Energy

SUBJECT: Guidance on “No Potential to Cause Effects” under Section 106 of  
the National Historic Preservation Act and its implementing  
regulations at 36 CFR 800.

The U.S. Department of Housing and Urban Development (HUD) has determined that tenant leasing and project based rental assistance activities in the Native American Housing Assistance and Self Determination Act (NAHASDA), Indian community Development Block Grant (ICDBG), Indian Housing Block Grant (IHBG) and Tribal HUD-Veterans Affairs Supportive Housing ( HUD VASH) program that include no maintenance, repairs, or rehabilitation to the leased or rented properties have “No Potential to Cause Effects,” as described in 36 CFR 800.3(a)(1). These leasing and rental assistance activities provide transitional or permanent housing in existing scattered site buildings with no associated physical changes to the buildings and have no potential to cause effects on historic properties, assuming such properties were present. Neither HUD nor the Tribes or Tribally Designated Housing Entities providing tenant and project based rental assistance with no associated physical building activities have any further obligations for these projects under Section 106 of the National Historic Preservation Act (Section 106) or 36 CFR Part 800. No consultation with the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer (THPO), or other interested parties is required.

A copy of this memorandum in the Environmental Review Record for a qualifying project documents compliance with Section 106, 36 CFR Part 800, 24 CFR Part 50, and 24 CFR Part 58 regarding historic properties.

Leasing and rental assistance with associated unit or building repairs, rehabilitation, or new construction does not qualify for the treatment described in this memo. Likewise, other types of projects including repairs, rehabilitation and new construction do not qualify for the treatment described in this memo. These activities must be fully reviewed under the Section 106 process, including consultation with a SHPO, THPO and/or other Tribal authority, interested parties, and the public to aid HUD or the Tribe in making an effect determination.

Please direct any questions regarding this memorandum to Brian Lusher, Federal Preservation Officer, at [Brian.J.Lusher@hud.gov](mailto:Brian.J.Lusher@hud.gov).