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Preserving America's Heritage

July 26, 2010

Mr. Peter R. Orszag
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Subject: Report on the Status of Actions under the ACHP's E.O. 13175 Consultation Plan

Dear Mr. Orszag:

In accordance with the President's memorandum of November 5, 2009, entitled, "Tribal Consultation," the Advisory Council on Historic Preservation (ACHP) is submitting this report on the status of actions since the ACHP submitted its E.O.13175 consultation plan to the Office of Management and Budget (OMB) on February 3, 2010.

The President's memorandum directed each agency to develop a plan of action for ensuring compliance with E.O. 13175. The executive order required federal agencies to:

"have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Within 30 days after the effective date of this order, the head of each agency shall designate an official with principal responsibility for the agency's implementation of this order. Within 60 days of the effective date of this order, the designated official shall submit to the Office of Management and Budget (OMB) a description of the agency's consultation process."

Accordingly, the ACHP submitted a description of its consultation process to OMB in 2001. In the intervening years, the ACHP has not had occasion to officially apply this consultation process. The nature of the ACHP's authorities and mission is such that its actions generally do not result in "substantial direct effects on one or more Indian tribes." However, the ACHP has not only carried out tribal consultation when it has considered the adoption of preservation policies or the issuance of tribal consultation guidance but has expanded its outreach to Indian tribes to ensure that they are afforded their rights to consult in the Section 106 process.

In response to the President's memorandum, the ACHP clarified and strengthened its existing consultation plan and submitted it to OMB on February 3, 2010. As we reported via letter on February 3, 2010, we conducted 2 teleconferences with Indian tribes to discuss our draft revised plan, made changes to accommodate the comments we received, and finalized the plan.

The ACHP also has a tribal consultation policy, adopted in 2000, and a publicly available statement regarding our trust responsibility. Additionally, the ACHP has a very active Office of Native American

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Affairs (ONAA) which serves as the agency's liaison to Indian tribes. ONAA is responsible for ensuring that the ACHP complies with all requirements to consult with Indian tribes and ONAA's director, Ms. Valerie Hauser, is the ACHP's designee for purposes of the executive order and the President's memorandum.

ONAA is also responsible for ensuring that every ACHP staff person receives training in working with Indian tribes and recently completed such training for new staff. ONAA also conducts training for Indian tribes to enable them to fully participate in the Section 106 review process and develops guidance for federal agencies to ensure that they afford Indian tribes the opportunities to consult as required under the National Historic Preservation Act and the ACHP's regulations.

Finally, the ACHP has, since 2004, worked with a Native American Advisory Group comprised of 13 members representing the 12 BIA regions and Hawaii. The group advises the ACHP on policy and major program issues of concern to Indian tribes and Native Hawaiian organizations.

If you any questions or would like additional information, please feel free to contact Ms. Hauser at (202) 606-8530 or

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Fowler". The signature is written in a cursive style with a large initial "J" and "F".

John M. Fowler
Executive Director