**ADVISORY COUNCIL ON HISTORIC PRESERVATION**
**SECTION 106 REVIEW MEMORANDUM**
**Final Rule: Rescission of 36 CFR Part 801, "Historic Preservation Requirements of the Urban Development Action Grant Program"**
**11-3-2026**

Pursuant to the National Historic Preservation Act and the regulations implementing Section 106, 36 CFR Part 800, specifically, 36 CFR § 800.3(a)(1), I have determined that the promulgation of a final rule to rescind 36 CFR Part 801, "Historic Preservation Requirements of the Urban Development Action Grant Program," constitutes an undertaking that is the type of activity that lacks the potential to affect historic properties, assuming such historic properties were present. Therefore, no further Section 106 review is required.

**Signature Approval**:



Executive Director 11-3-2026

Signature Title Date

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**
**SECTION 106 REVIEW MEMORANDUM**
**Additional Documentation**
**Final Rule: Rescission of 36 CFR Part 801, "Historic Preservation Requirements of the Urban Development Action Grant Program"**

**11-3-2026**

The Advisory Council on Historic Preservation (ACHP) prepared this documentation in support of its Section 106 Review Memorandum for promulgating a final rule to rescind 36 CFR Part 801, "Historic Preservation Requirements of the Urban Development Action Grant Program" (UDAG regulations). The UDAG regulations outline the process by which federal agencies fulfill their responsibilities under section 106 of the National Historic Preservation Act (NHPA; 54 U.S.C. 306108) for undertakings proposed to be funded by the Department of Housing and Urban Development (HUD) Urban Development Action Grant (UDAG) Program.

The ACHP finds that it is not required to carry out a Section 106 review for this undertaking because it lacks the potential to affect historic properties, assuming such historic properties are present.

## Background

The ACHP is an independent federal agency tasked with promoting the preservation of America's historic places and advising the President and Congress on national historic preservation policy (54 U.S.C. Chapter 3041). Section 106 of the National Historic Preservation Act (NHPA; 54 U.S.C. 306108) requires federal agencies to take into account the effects of undertakings that they propose to carry out, license, approve, or assist on historic properties and provide the ACHP a reasonable opportunity to comment. The ACHP is responsible for promulgating regulations "as it considers necessary to govern the implementation of [section 106 of the NHPA] in its entirety." (54 U.S.C. 304108(a)). The ACHP has promulgated regulations for implementing section 106 of the NHPA at 36 CFR Part 800 (Section 106 regulations).

The Housing and Community Development Act of 1980 (HCDA) (42 U.S.C. 5320(c)), requires the ACHP to "prescribe regulations providing for expeditious action by the Council in making its comments under [section 106 of the NHPA], in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under [42 U.S.C. 5318]. . . ." The ACHP's regulations at 36 CFR Part 801 (UDAG regulations) provide the Section 106 review process for undertakings proposed to be funded by the HUD UDAG Program. The purpose of the UDAG Program is to make urban development action grants to cities and urban counties that are experiencing severe economic distress to help stimulate economic development activity needed to aid in economic recovery. Under the UDAG Program, applicants assume the status of the federal agency for purposes of complying with Section 106 of the NHPA.

The UDAG Program is no longer current. The last appropriation HUD received for the UDAG Program was for fiscal year 1988. HUD administratively closed out any remaining UDAG Program grants in 2021. Further, according to HUD, due to the passage of time and because the

UDAG Program grants were administratively closed out, any remaining UDAG Program funds would be converted from program income to miscellaneous revenues upon either completion of the UDAG-funded activities or upon closeout. While these revenues would need to be spent on either UDAG Program activities or on Community Development Block Grant Program eligible activities, they would not be subject to any other requirements in 24 CFR Part 570, including cross- cutting requirements such as environmental review. Therefore, HUD does not anticipate any projects funded by the UDAG Program to be proposed as subject to the ACHP's UDAG regulations.

In accordance with the President's direction and the general policy set forth in Executive Order 14192, "Unleashing Prosperity through Deregulation" (90 FR 9065, January 31, 2025), the ACHP reviewed the UDAG regulations with the goal of reducing potential regulatory burdens and eliminating regulations that are no longer necessary or lack current or future applicability. ACHP staff coordinated with staff from HUD to review the status of the UDAG Program, as described above. ACHP subsequently determined it was appropriate to rescind the UDAG regulations as it is obsolete and no longer needed.

**Proposed Undertaking**

The proposed undertaking is the issuance of a final rule to rescind the ACHP's UDAG regulations. In the Notice of Proposed Rulemaking (91 FR 34188, June 5, 2026), the ACHP requested public comments on or before July 6, 2026. The ACHP received no public comments on the proposed rule.

**Section 106 Determination**

In accordance with 36 CFR 800.3(a)(1), the ACHP determined that the proposed undertaking lacks the potential to affect historic properties, assuming such historic properties are present, because the UDAG regulations are administrative and procedural in nature. The proposed undertaking rescinds the obsolete and outdated process for undertakings proposed to be funded by the UDAG Program.

Following rescission of the UDAG regulations, the Section 106 regulations, including the possibility of pursuing program alternatives to tailor the review process, would stand in place of the UDAG regulations in meeting the terms of the HCDA. In the unlikely event any monies would be appropriated to the UDAG Program in the future, the applicant would follow HUD's regulations at 24 CFR Part 58 and the Section 106 regulations for the purposes of compliance with section 106 of the NHPA, including the provision allowing for development of an expedited review process via a program alternative. The ACHP would continue to comply with the HCDA's statutory directive to "prescribe regulations providing for expeditious action by the Council in making its comments" through its promulgation and administration of the Section 106 regulations.

The final rule does not authorize any project or action or restrict the ACHP's or other federal agencies' discretion to authorize future actions under applicable laws and regulations. For these reasons, the rule is administrative or procedural in nature. Additionally, any future actions would be subject to the HUD's regulations at 24 CFR Part 58 and the Section 106 regulations. To the extent that those future actions may cause effects on historic properties, the responsible entity

will comply with Section 106 before approving those actions. The locations of these future actions, the activities that they may authorize, and terms and conditions governing these future actions are unknown at this time, making the effects associated with those future actions too speculative or conjectural for the ACHP to meaningfully evaluate now.