

**2023-2028 CATEGORICAL CONSULTATION AGREEMENT BETWEEN
KENTUCKY HOUSING CORPORATION AND
THE KENTUCKY FIELD OFFICE OF THE U.S. FISH AND WILDLIFE SERVICE
FOR CERTAIN HUD-FUNDED PROJECTS**

The U.S. Fish & Wildlife Service (Service) Kentucky Field Office has recognized that certain categories of HUD-funded projects proposed by Kentucky Housing Corporation typically result in a “no effect” or “not likely to adversely affect” determination for federally listed species or their critical habitat. To reduce investments of time and resources by reviewing all projects individually, Kentucky Housing Corporation and the Service’s Kentucky Field Office have established this categorical agreement through the informal consultation process that is part of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

I. ACTIVITIES COVERED UNDER THIS AGREEMENT

The following activities are included in the terms of this agreement and, if not excluded by the “Special Conditions” section of this agreement, may be undertaken without additional review by the Service.

1. Renovation, remodeling, repair of existing structures which are internal and/or external to the structure, provided that an inspection of the existing structure has confirmed the absence of bats.

Examples include, but are not limited to, electrical and plumbing updates, window and door retrofitting, insulating, painting, siding, and roofing.

2. Demolition, replacement, or expansion of existing structures provided that an inspection of the existing structure has confirmed the absence of bats.

For example, construction of new housing that does not expand beyond the limits of the existing developed lot, an area that is already paved, filled, graveled, or that already supports structures and/or where vegetation is limited to frequently mowed grass or conventional landscaping.

3. Funding for the purchase of scattered-site homes, provided that the structures are already in existence at the time that HUD funding is made available to the purchaser.
4. Funding for the construction of scattered-site homes, provided that the construction occurs on a “prepared homesite,” which is a site that has been cleared of natural vegetation and filled and graded in the normal course of preparation for housing construction prior to and independent of a HUD-funded activity.

II. SPECIAL CONDITIONS

The following are special conditions that require project-specific consultation with the Kentucky Field Office and also apply to the items listed above under the “Activities Covered by this Agreement” section of this agreement:


1. Projects and associated activities (e.g., parking areas) that expand into “undeveloped areas,” such as where trees and other natural vegetation occur.
2. If bats are found utilizing an existing structure involved in a proposed project, the Service should be notified immediately. No work on that project can occur until the species of bat(s) are identified and subsequent guidance is provided by the Service.

III. AGREEMENT EXECUTION

If Kentucky Housing Corporation agrees to adhere to the conditions of this programmatic consultation agreement shown above, the Service believes that the requirements of Section 7 of the ESA would be fulfilled and no further consultation is needed for the categories of work specified in this document. In addition to the conditions listed above, a case-by-case review of the above-listed categories of minor projects should resume for all counties if: (1) new information reveals that any of the above-listed categories of minor projects may affect listed species or critical habitat in a manner or to an extent not previously considered, (2) any of the above-listed categories of projects are subsequently modified to include activities which were not considered during this review or (3) new species are listed or critical habitat designated that might be affected by any of the above-listed categories of work. To date, the Service is not aware of any impacts to listed or proposed species that have resulted from implementation of projects carried out by Kentucky Housing Corporation under categorical agreements granted by this office. However, the Service reserves the right, with prior notification, to rescind or modify this categorical agreement.

This renewal of this categorical agreement is retroactively effective beginning on January 1, 2023, and will continue through December 31, 2028, unless amended by the Service before that date. The Service recommends that you submit any request for renewal at least 30 days prior to the expiration date. In addition to the conditions listed above, the Service is also requiring submission of an end-of-year report summary from 2023 through 2028. This report should summarize all actions that were implemented under the programmatic consultation during each year (2023 – 2028), and it may be submitted with your renewal request. This summary of actions will enable the Service to determine the level of staff time and effort saved by granting this categorical agreement.

KENTUCKY HOUSING CORPORATION


Winston Miller (Feb 22, 2023 10:38 EST)

Signature

Feb 22, 2023

Date

USFWS KENTUCKY FIELD OFFICE

ROSEMARY BURK Digitally signed by ROSEMARY BURK
 Date: 2023.02.21 16:55:48 -05'00'

for Virgil Lee Andrews, Jr., Field Supervisor

Date