



Section 106 Review and HUD Projects

Columbia, South Carolina

May 6, 2016



Agenda

- Overview of Section 106 Historic Preservation Review
- What makes a property historic
- Consultation, including consultation with Indian tribes
- Evaluating effects on historic properties
- Resolving Adverse Effects
- Documenting the review



Exemptions and Categorical Exclusions

- HUD's environmental regulations, 24 CFR Part 50 and 24 CFR Part 58 list project activities that do not require further environmental review or consultation

Examples include: simple **maintenance** activities, tenant-based rental assistance, operating costs, pre-development costs, staff training, studies and plans





Maintenance Notice

Guidance for Categorizing Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58

- Defines “Maintenance” for purposes of environmental review in all HUD programs
- Gives general examples of maintenance activities for environmental review purposes like:
 - Protective or preventative measures to keep a building, its systems, and its grounds in working order;
 - Replacement of a damaged or malfunctioning component part of a building feature or system;
 - Replacement of appliances that are not permanently affixed to the building;

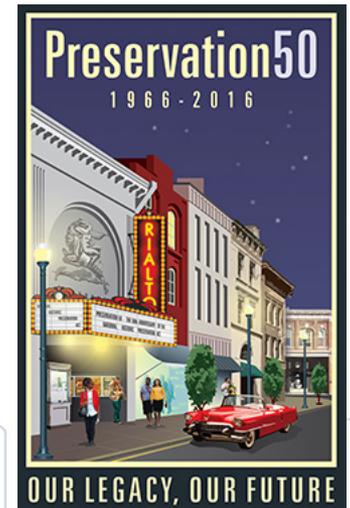


Examples of Maintenance Activities

Feature or System	Maintenance Activities ⁴	Rehabilitation Activities ⁵
Site	<ul style="list-style-type: none"> • lawn care (litter pickup, mowing, raking), trimming trees and shrubs • snow/ice removal • neighborhood cleanup • application of pavement sealants, parking lot restriping, directional signage or marking for handicapped accessibility • repair of cracked or broken sidewalks 	<ul style="list-style-type: none"> • new landscaping throughout an area • construction of new walkways, driveways or parking areas, or replacement thereof
Building Exterior	<ul style="list-style-type: none"> • cleaning and fixing gutters and downspouts • repainting previously painted surfaces (including limited wet scraping and low-pressure washing) • replacing deteriorated section of siding • removal of graffiti 	<ul style="list-style-type: none"> • cleaning masonry or stripping painted surfaces by sandblasting , acid wash, or high pressure washing • applying new exterior siding

Background - Legislation

- The National Historic Preservation Act of 1966 requires federal agencies to consider the impact of their projects on historic properties
- Process known as “Section 106” review
- Implementing regulations – 36 CFR Part 800
- Incorporated by reference in 24 CFR Part 50 and 58



Background

- Regulatory Philosophy

- Framework for problem solving
- Grounded in consultation
- Provides stakeholders access to federal decision-making process
- Historic preservation is not the only useful public purpose
- Results range from full preservation to total loss of historic properties



Section 106

Section 106 Process

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1. INITIATE the process

- Determine undertaking
- Coordination with other reviews (NEPA)
- Notify SHPO/THPO
- Identify Tribes and other Consulting Parties
- Plan to involve the public

Undertaking with potential to cause effects?

NO

YES

2. IDENTIFY historic properties

- Determine APE
- Identify historic properties
- Consult with SHPO/THPO, Tribes, and other Consulting Parties
- Involve the public

Historic properties present and affected?

NO

YES

3. ASSESS adverse effects

- Apply criteria of adverse effect
- Consult with SHPO/THPO, Tribes, and other Consulting Parties
- Involve the public

Historic properties adversely affected?

NO

YES

4. RESOLVE adverse effects

- Avoid, minimize, or mitigate adverse effects
- Notify ACHP
- Consult with SHPO/THPO, Tribes, and other Consulting Parties
- Involve the public

Agreement (MOA/PA) or Council Comment

YES

PROCESS COMPLETE



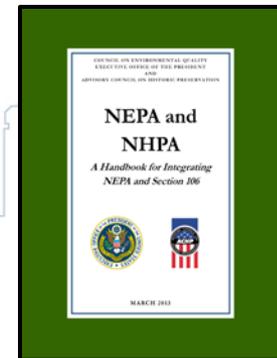
No Potential to Cause Effects

- Project Activities are limited to things that **do not have a physical effect**
- Examples
 - CoC leasing and rental with no physical building activities
 - 223(f) and 223(a)(7) refinancing transactions of non-HUD insured mortgages with no associated rehabilitation or new construction, and no physical activities beyond Maintenance
 - “Notice CPD-16-02 Guidance for Categorizing an Activity as Maintenance for Compliance With HUD Environmental Regulations, 24 CFR Part 50 and 58”
 - Consult OEE memos on HUD Exchange



Step 1: Initiate the Process

- Determine the undertaking
- Identify the appropriate SHPO/THPO
- Identify other consulting parties, including tribes
- Plan how the public will be involved
- Coordinate with other reviews (NEPA)



Consulting Parties

- Agency Official
- State Historic Preservation Officer (SHPO)
- Applicants
- Federally recognized Indian tribes and Native Hawaiian organizations (NHOs)
- Tribal Historic Preservation Officer (THPO)
- Local governments
- Organizations with demonstrated interest
- Public
- Advisory Council on Historic Preservation (ACHP)



Agency Official

- HUD Official for Part 50 programs
- Responsible Entity (RE) for Part 58 programs
- Must ensure compliance before project approval
- Agency Official is the decision-making party
- Engage historic preservation professionals as needed
- Agency Official must conduct tribal consultation
 - Cannot be delegated to consultant or lender



Assumption of Review Authority

“Agency Official”

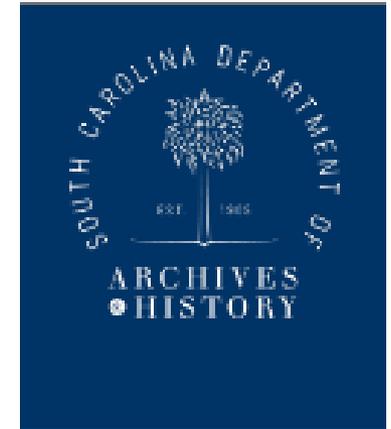
- Part 50 projects: HUD staff
 - Applies to 202 Elderly, 223(f) Multi-family Rental, mortgage insurance for nursing homes, RAD, etc.
- Part 58 projects: Responsible Entity (RE)
 - Applies to many programs including NSP, CDBG, HOME, HOPE VI, Public Housing, and NAHASDA
 - programs that are selected and carried out at the local, state and tribal levels
 - first authorized in Housing and Community Development Act of 1974



State Historic Preservation Officer (SHPO)

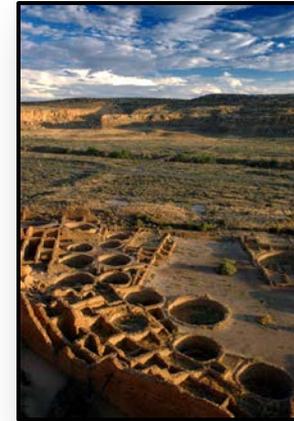
SHPO Role in Section 106 is to:

- Concur in Agency Official's findings
- Provide access to information on known historic properties
- Consult with Agency Official regarding evaluation of effects when requested
- Consult with Agency Official to resolve adverse effects
- Review and sign Memorandum of Agreement (MOA) or Programmatic Agreement (PA)



Indian Tribes

- Federally recognized tribes
- Tribal Historic Preservation Officer (THPO)
- Native Hawaiian Organizations (NHOs)
- Agency may invite or allow participation by non-federally recognized tribes
- Consultation depends on potential of project to affect historic properties of religious and cultural significance to tribes





Applicant

Applicant may:

- Assemble complete project description
- Assemble information for the Section 106 review
 - May include initial technical assistance contact with SHPO to identify historic properties
- Obtain studies, historic property surveys, etc. as necessary
- Alert the Agency Official regarding potential adverse effects of the project
- Provide information to Agency Official
- Prevent actions prior to completion of Section 106



Historic Preservation Professional

- Agency Official must ensure that Section 106 findings meet professional preservation standards
- HP Professional prepares Section 106 documentation for the Agency Official
- Meets academic and experience standards set by the Secretary of the Interior (36 CFR 61)
- Expertise in identifying historic properties, evaluating effects, and preparing Section 106 agreement documents like MOAs
- Eligible project expense



Advisory Council on Historic Preservation (ACHP)

- Independent federal agency
- Administers the Section 106 process
- Promotes the preservation and use of the country's historic resources
- Advises the President and Congress on national historic preservation policy
- HUD Secretary is ACHP member, represented by Deputy Assistant Secretary



Interested Organizations and Individuals

36 CFR 800.2(c)(5)

“Certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking’s effects on historic properties.”

Examples: local historic preservation organizations, public housing residents, National Trust for Historic Preservation, neighborhood groups



Consultation is a process, not an event

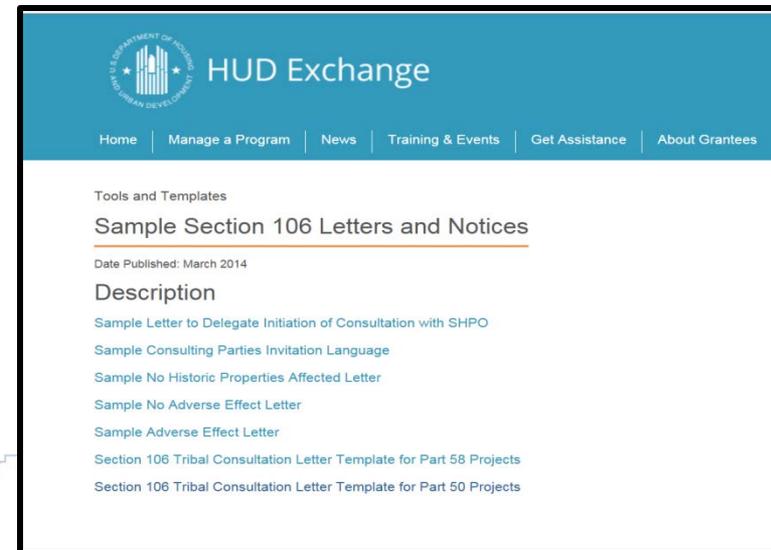
Consultation means the process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 process.

[36 CFR Section 800.16 (f)]



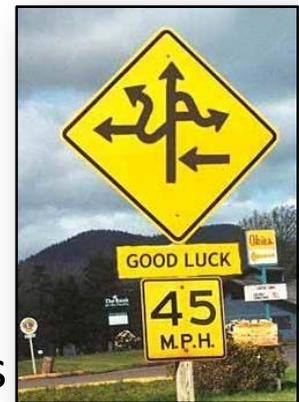
Step 1: Initiate the Process

- Agency Official sends letter to SHPO
- Agency Official determines need for tribal consultation and sends letter to Tribes
- Agency Official identifies and invites other consulting parties



Step 1: Initiate the Process

- Provide quality information to SHPO/THPO
 - HUD program, contact information, description of project, historic properties identified, National Register evaluation, assessment of effects, possible consulting parties, public involvement
 - Map, GOOD PHOTOS, studies, plans, etc.
 - Some states have forms for Section 106 submittals



Documentation 36 CFR 800.11

- a description of the undertaking, specifying the Federal involvement, and its area of potential effects, including photographs, maps, and drawings, as necessary;
- a description of the steps taken to identify historic properties;
- a description of the affected historic properties, including information on the characteristics that qualify them for the National Register;
- a description of the undertaking's effects on historic properties;
- an explanation of why the criteria of adverse effect were found inapplicable or applicable, including any conditions or future actions proposed to avoid, minimize or mitigate adverse effects; and
- copies or summaries of any views provided by the consulting parties, including Indian tribes, and the public.



Step 1: Initiate the Process



PROJECT REVIEW FORM
Request to Initiate SHPO Consultation on
State and Federal Undertakings

SHPO USE ONLY

DATE RECEIVED: _____

ER NUMBER: _____

SECTION A: PROJECT NAME & LOCATION REV. 10/2014

Is this a new submital? YES NO OR This is additional information for ER Number:

Project Name	County	Municipality
Project Address	City/State/Zip	

SECTION B: CONTACT INFORMATION & MAILING ADDRESS

Name	Phone
Company	Fax
Street/PO Box	Email
City/State/Zip	

SECTION C: PROJECT DESCRIPTION

This project is located on:
(check all that apply) Federal property State property Municipal property Private property

Agency Type	Agency/Program/Permit Name	Project/Permit/Tracking Number (if applicable)

Proposed Work – Attach project description, scope of work, site plans, and/or drawings:

Project includes (check all that apply): Construction Demolition Rehabilitation Disposition

Total acres of project area: _____ Total acres of earth disturbance: _____

Are there any buildings or structures within the project area? Yes No Unsure Approximate age of buildings: _____

Does this project involve properties listed in or eligible for the National Register of Historic Places, or designated as historic by a local government?
 Yes No Unsure Name of historic property or historic district: _____

Please print and mail completed form and all attachments to:
 PHMC
 State Historic Preservation Office
 400 North St.
 Commonwealth Keystone Building, 2nd Floor
 Harrisburg, PA 17120-0093

Attachments – Please include the following information with this form

- Map – 7.5' USGS quad showing project boundary and Area of Potential Effect
- Description/Scope – Describe the project, including any ground disturbance and previous land use
- Site Plans/Drawings – Indicate the location and age, if known, of all buildings in the project area
- Photographs – Attach prints or digital photographs showing the project site, including images of all buildings and structures keyed to a site plan

SHPO DETERMINATION (SHPO USE ONLY)

<input type="checkbox"/> There are NO HISTORIC PROPERTIES in the Area of Potential Effect <input type="checkbox"/> The project will have NO EFFECT on historic properties <input type="checkbox"/> The project will have NO ADVERSE EFFECTS on historic properties:	<input type="checkbox"/> The project will have NO ADVERSE EFFECTS WITH CONDITIONS (see attached) <input type="checkbox"/> SHPO REQUESTS ADDITIONAL INFORMATION (see attached)
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SHPO REVIEWER: _____ DATE: _____

Virginia Department of Historic Resources

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Division of Review & Compliance

ePIX—Electronic Project Information Exchange

The [Electronic Project Information Exchange \(ePIX\)](#) system has been developed by the Department of Historic Resources as a tool to aid our customers in the submission of projects that require our review pursuant to specific provisions of state and Federal law. It also aims to streamline consultation with our office.

As an integrated digital consultation tool, *ePIX* allows individuals to submit through their account on the *ePIX* website new projects to DHR. *ePIX* also allows users to monitor the review status of existing projects they have previously submitted. Those clients registered in the system are also able to view the project review application and review status of projects for which they are identified by the submitter as contacts—for example, as a lead agency representative, consulting party, or consultant. To further expedite consultation, all comments by DHR will be issued electronically and provided via email to project contacts.

ePIX can be used for the following project types:

Federal Projects: There are several provisions of *Federal regulation* that require consultation with our office. Most commonly, agencies and individuals seek our comment under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, which requires all Federal agencies to consider the effects on historic properties of any project for which they are providing funding, a license or a permit. DHR, which serves as Virginia's State Historic Preservation Office (SHPO), assists Federal agencies in meeting this responsibility. ePIX should not be used for FCC

Important Links for Review & Compliance

[DRC Homepage](#)
[ePIX](#)
[Federal Project Review](#)
[State Project Review](#)
[Technical Assistance](#)
[Cell Tower Review](#)
[Permits](#)
[Laws & Regulations](#)
[DRC Staff Directory](#)
[FAQs](#)
[DHR Official Survey Manual \(PDF\)](#)
 Also see [Survey and Planning](#)

Order Now

A Handbook and Resource Guide for Owners of Virginia's Historic House

[Read a review](#)



Step 2: Identify Historic Properties

Historic Property:

Any prehistoric or historic district, site, building, structure, or object included in, **or eligible for inclusion in**, the National Register of Historic Places. The term includes artifacts, records, and remains that are related to and located within such properties.



The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.



Step 2: Identify Historic Properties

Area of Potential Effects (APE)

- Direct and indirect effects
- Reasonably foreseeable
- Interior rehab, APE is the building
- Exterior rehab, APE usually the building and its immediate setting, the parcel
- Rehab or new construction in a historic area, APE could extend into adjacent area



National Register of Historic Places

- Official list of historic properties worthy of preservation
- Maintained by the National Park Service
- 1.75 million properties
- The threshold for Section 106



National Register of Historic Places

Criteria

- A. Historic Significance
- B. Famous Person
- C. Architectural Significance
- D. Ability to Yield Important Information



Level of Significance: local, state or national

Generally 50 years old or older

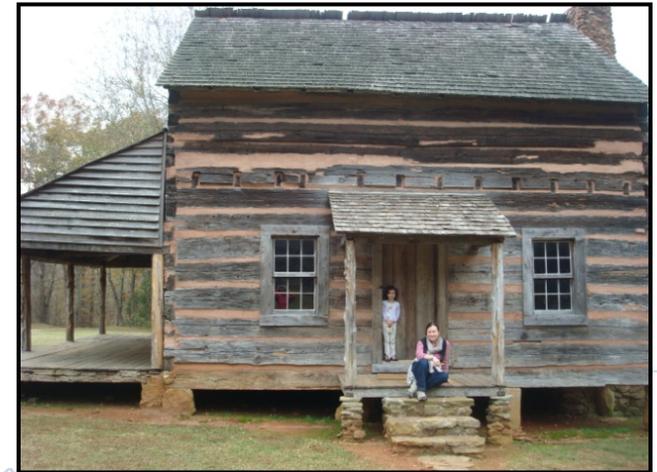
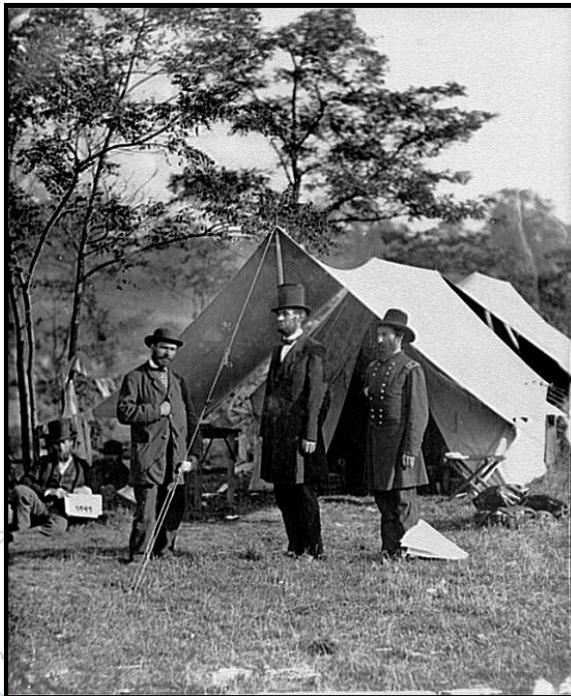
Eligible individually or as part of an historic district



National Register of Historic Places

A. Historic Significance

Associated with events that have made a significant contribution to the broad patterns of our history



National Register of Historic Places

B. Important Person

Associated with the lives of significant persons in our past



Anne Spencer
Lynchburg, Virginia



Lauderdale Courts
Memphis 1938



National Register of Historic Places

C. Architectural Significance

Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction



San Filipe Courts Houston
1940-44



Historic Context for Public Housing

<http://www.nps.gov/nr/publications/guidance/Public%20Housing%20in%20the%20United%20States%20MPS.pdf>

Public Housing in the United States, 1933-1949; A Historic Context

Volume II



Prepared for:

U. S. Department of Housing and Urban Development
U. S. Department of the Interior, National Park Service
National Register of Historic Places

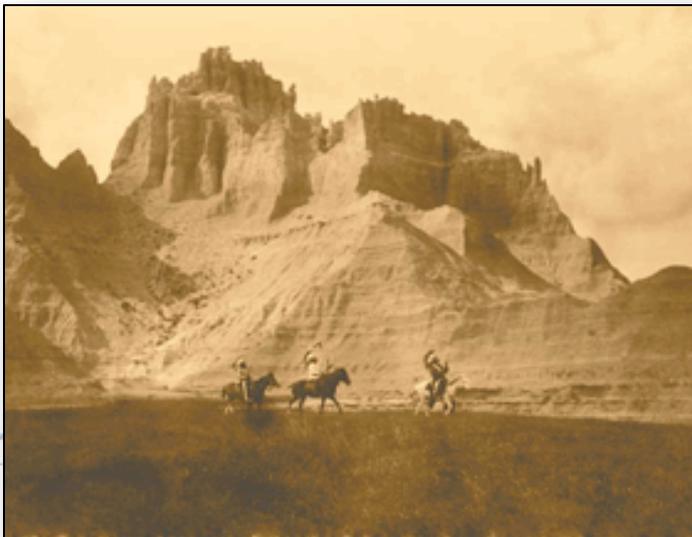
October 12, 1999



National Register of Historic Places

D. Likely to Yield Important Information

Have yielded or may be likely to yield, information important in history or prehistory



National Register of Historic Places

Historic District

- Neighborhood, downtown, landscape or other area with a concentration of historic buildings
- Contributing Buildings
- Non-contributing Buildings
 - Lack age
 - Lack Integrity



National Register of Historic Places

Integrity: location, design, setting, materials, workmanship, feeling, and association



University of Vermont
Historic Preservation Program



National Register of Historic Places

Condition

vs.

Integrity



Strawberry Mansion District
Philadelphia



John Jay Housing 1942
Springfield, Illinois





Where to find information on Historic Properties

National Register database

<http://www.nps.gov/nr/index.htm>

State databases

<https://www.hudexchange.info/environmental-review/historic-preservation/historic-property-identification-where-to-start/>

National Historic Landmark (NHL) state lists

<http://www.nps.gov/nhl/designations/listsofNHLs.htm>

Local historical and preservation organizations, and local planning departments

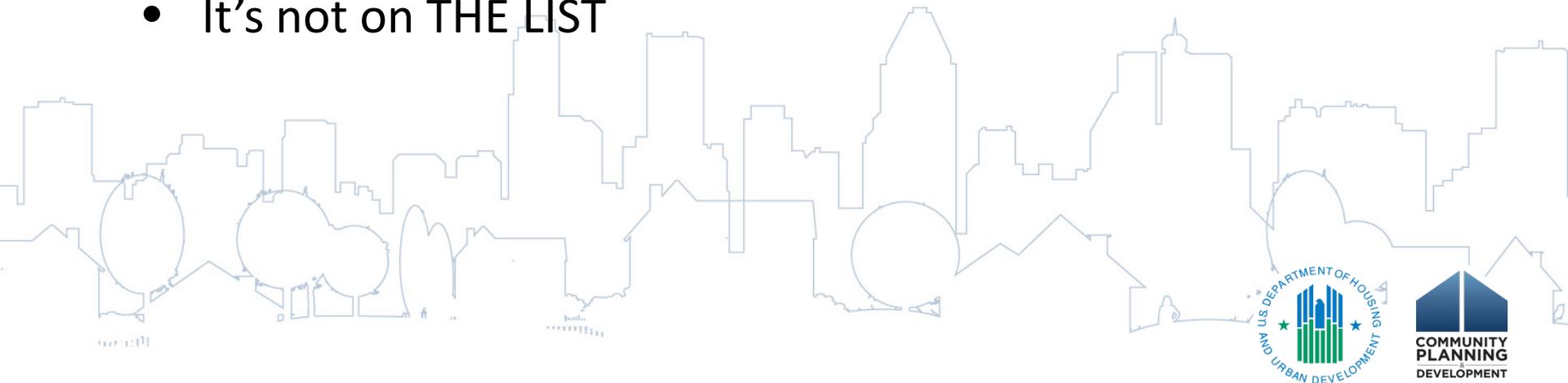




Avoid These Pitfalls

It can't be "Historic" because:

- It's too ugly
- It's not old enough
- George Washington didn't sleep there
- It's not on THE LIST



Archeological Surveys

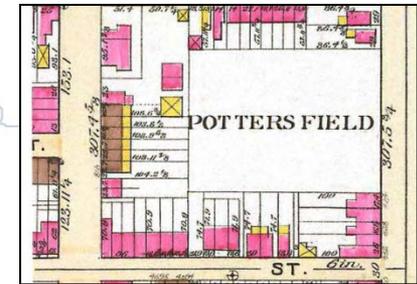
Guidance on Archeological Investigations in HUD Projects **REVISED**

Fact Sheet #6 -- Factors to Consider

- Information received from SHPO, THPO, tribes
- Likely impact of the project on potential properties
- Previous ground disturbance
- Likely significance of potential properties
- Magnitude of the project and degree of HUD involvement
- Public interest
- Presence of human remains



- ACHP Policy Statement on Affordable Housing and Historic Preservation <http://www.achp.gov/afford.html>



“Archeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.”

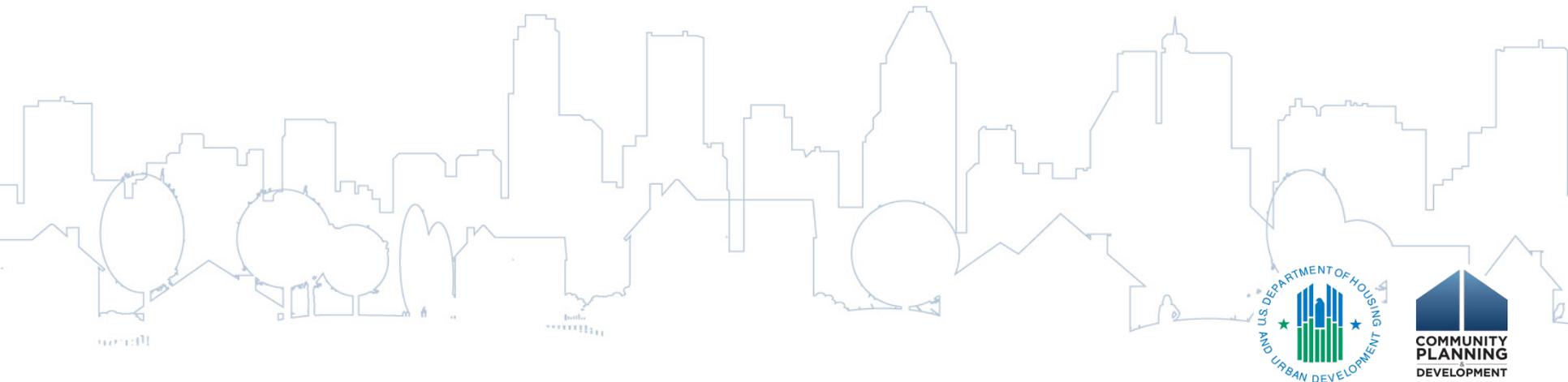




Archeological Surveys

Fact Sheet #6 **REVISED**

“Background research, previous identification efforts and existing National Register documentation may indicate a high likelihood that archeological historic properties may be present in an APE, but a lack of existing information does not indicate a lack of historic properties.”



Step 2: Identify Historic Properties

- If there are no historic properties, or no effect on them, make a **Finding of No Historic Properties Affected**
- Notify SHPO and all consulting parties
- Parties have 30 days to object
- If there are no other areas requiring environmental compliance, project may convert to exempt



- <https://www.hudexchange.info/resource/3200/guidance-converting-projects-subject-to-historic-preservation-to-exempt-activities/>



Step 3: Assess Adverse Effects

Consider direct and indirect effects

- Make a finding of **No Adverse Effect**
or
- Make a finding of **Adverse Effect**



- Notify SHPO and all consulting parties
- Parties have 30 days to object



Examples of Adverse Effect

- Damage, destruction, or removal of historic properties
- Neglect of a property
- Change in the character of use/setting



Examples of Adverse Effect

- Transfer lease or sale without future preservation protection
- Introduction of visual, audible, or atmospheric elements
- Alteration not according to the Secretary's Standards



Secretary of the Interior's Standards for Rehabilitation

- Find a compatible use
- Retain historic materials and features
- Repair rather than replace



Secretary of the Interior's Standards for Rehabilitation

- If necessary, replace in kind
- Preserve archeological resources
- Distinguish new construction from the old



Mayesville, SC

National Park Service guidance on the Standards

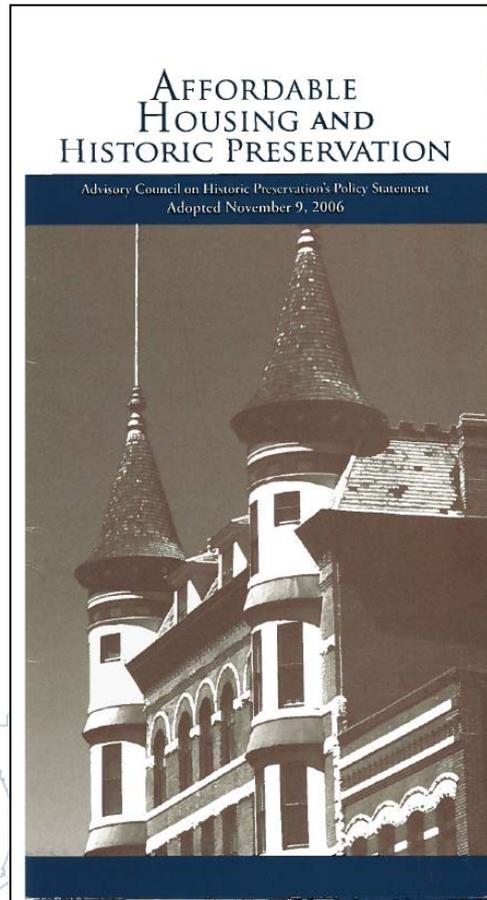
<http://www.nps.gov/tps/standards.htm>

Preservation Briefs

<http://www.nps.gov/tps/how-to-preserve/briefs.htm>



ACHP Policy on Affordable Housing and Historic Preservation



IMPLEMENTATION PRINCIPLES

- I. Rehabilitating historic properties to provide affordable housing is a sound historic preservation strategy.
- II. Federal agencies and State and local government entities assuming HUD's environmental review requirements are responsible for ensuring compliance with Section 106.
- III. Review of effects in historic districts should focus on exterior features.
- IV. Consultation should consider the overall preservation goals of the community.
- V. Plans and specifications should adhere to the Secretary's Standards when possible and practical.
- VI. Section 106 consultation should emphasize consensus building.
- VII. The ACHP encourages streamlining the Section 106 process to respond to local conditions.
- VIII. The need for archeological investigations should be avoided.





Avoid These Pitfalls

My project has No Adverse Effect because:

- The historic properties were demolished before the project started
- There were no physical impacts outside the property
- We will only demolish part of the historic building
- We excavated the archeological site on the property before construction started



No Adverse Effect

Notify SHPO and all consulting parties

- Parties have 30 days to object



New Haven, Connecticut

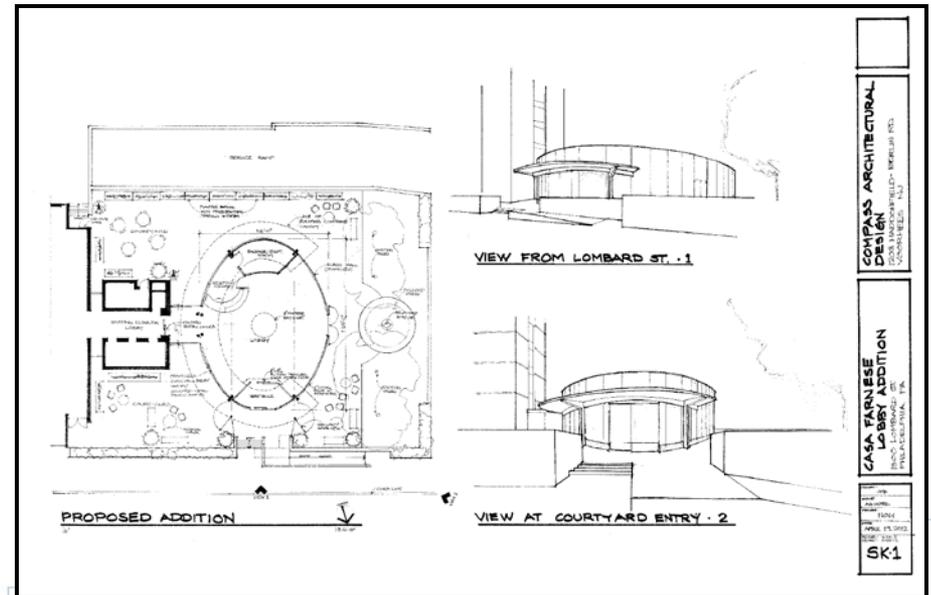


Veterans Commons
San Francisco



No Adverse Effect through Consultation

Multi-Family Section 223(f)



Casa Farnese, Philadelphia, PA



Step 4: Resolve Adverse Effects

- If Adverse Effect, Agency Official must notify Advisory Council and invite their participation in consultation
 - Include 36 CFR 800.11 documentation
 - Council will respond within 15 days
 - **NEW e106 Notification online**
- Criteria for Council participation
 - 36 CFR Part 800 Appendix A
 - Substantial impacts on important properties
 - Precedent-setting issues
 - Controversial
 - Tribal concerns
- Notify National Park Service if NHL might be affected



Step 4: Resolve Adverse Effects

Consult to **avoid, minimize or mitigate** Adverse Effects

- Consider alternatives
- Consider mitigation measures



- Mitigation measures may relate to the specific property that is being affected, or other historic properties in a similar location or of a similar type.

Avoidance

Documentation

Education

Curation

Monitoring

Modification of project

Research/Publication

Interpretation

Off-site Preservation

Archeological data recovery

Preservation Fund

Survey

Preservation Plan

Rehab Grants

Training

- Mitigation measures are an eligible project expense

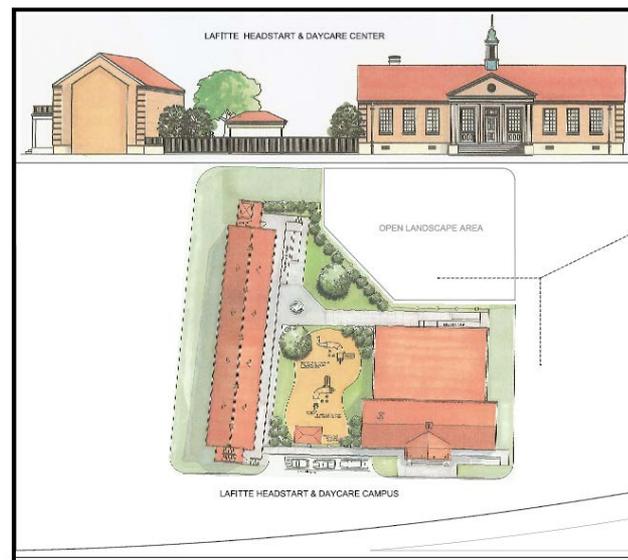


Mitigation

Data Recovery and Curation



Adaptive Re-use



Compatible New Design



Adverse Effect

Resolved in MOA

Choice Neighborhood Initiative (CNI)

Goal: Transform areas with distressed public and assisted housing into mixed income neighborhoods



Iberville, New Orleans



Adverse Effect Resolved in MOA



Adverse Effect

Resolved in MOA



Iberville, New Orleans



Step 4: Resolve Adverse Effects

Memorandum of Agreement (MOA)



- Must be executed prior to decision point for project
- Send signed copy to ACHP
- Agency Official responsible for ensuring implementation of conditions



HEROS

(HUD Environmental Review Online System)



HUD Exchange

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Environmental Review Records

<https://www.hudexchange.info/environmental-review/heros/>

	Anacortes Housing Authority Asbestos Abatement Anacortes, WA Public comment available until 11/18/2015
	Mews At Hopewell HOPEWELL JUNCTION, NY Public comment available until 10/28/2016
	FBR Demo 2015 Taunton, MA Public comment available until 10/19/2016
	City Square Artist's Lofts LIHTC Project Garland, TX Public comment available until 11/10/2015
	93 Ward Street New Haven, CT Public comment available until 09/17/2016
	85 Ward Street New Haven, CT Public comment available until 09/02/2016
	308 Goffe Street New Haven, CT Public comment available until 09/02/2016



Unanticipated Discoveries

- If historic properties are discovered during construction, stop construction and notify tribes, THPO, SHPO, and ACHP within 48 hours, and reenter consultation
- If discovery includes human remains, respectfully cover over and secure the remains, and notify same parties plus local law enforcement officials
- Site visit recommended to resolve potential adverse effects



Unanticipated Discoveries

Follow ACHP “Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects”

- <http://www.achp.gov/docs/hrpolicy0207.pdf>
- Prescribes a consultation process, not an outcome
- Priority to leave burials undisturbed in place
- Develop and implement treatment plan in consultation with lineal descendants or descendant communities, which may include tribes





Avoid These Pitfalls

ANTICIPATORY DEMOLITION

Section 110(k) of the NHPA:

“Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106 of this Act, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.”





Avoid These Pitfalls

FORECLOSURE

36 CFR 800.9

Where an agency official has failed to complete the requirements of section 106 in accordance with the procedures in this part prior to the approval of an undertaking, the Council's opportunity to comment may be foreclosed.

36 CFR 800.16 (j)

Foreclosure means an action taken by an agency official that effectively precludes the Council from providing comments which the agency official can meaningfully consider prior to the approval of the undertaking.

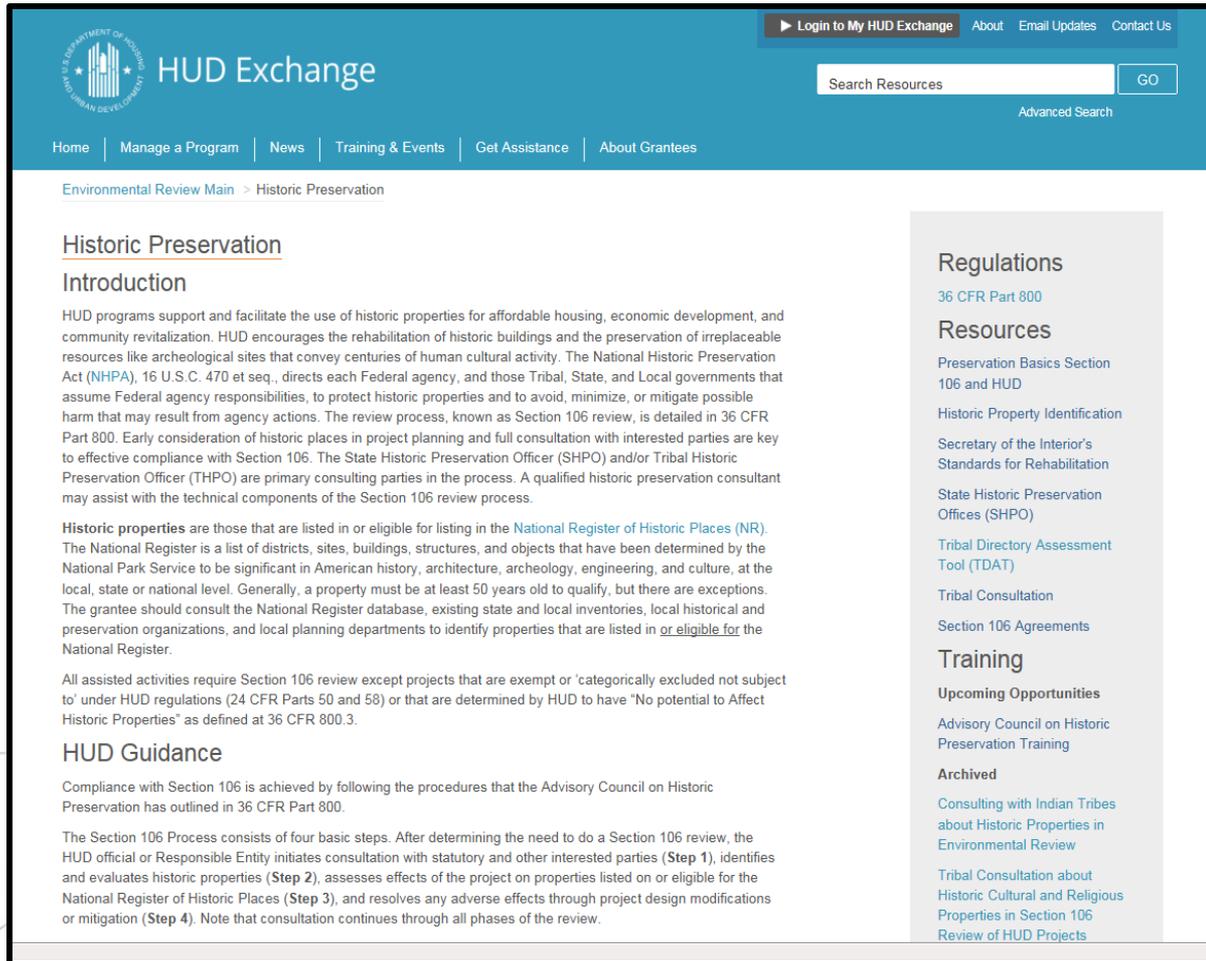
ACHP comments to Agency Official, Head of Agency, Public

ACHP finding of foreclosure can be used in litigation



HUD Exchange Webpage

Search for “HUD, Historic Preservation”



The screenshot shows the HUD Exchange website interface. At the top, there is a navigation bar with the HUD logo and the text "HUD Exchange". To the right of the logo is a search bar with the text "Search Resources" and a "GO" button. Below the search bar is a link for "Advanced Search". The main navigation menu includes links for "Home", "Manage a Program", "News", "Training & Events", "Get Assistance", and "About Grantees". The breadcrumb trail indicates the current location: "Environmental Review Main > Historic Preservation". The main content area is titled "Historic Preservation" and includes an "Introduction" section. The introduction text discusses HUD's support for historic properties and the Section 106 review process. A right-hand sidebar contains sections for "Regulations", "Resources", and "Training", each with a list of links. The "Regulations" section includes a link to "36 CFR Part 800". The "Resources" section includes links to "Preservation Basics Section 106 and HUD", "Historic Property Identification", "Secretary of the Interior's Standards for Rehabilitation", "State Historic Preservation Offices (SHPO)", "Tribal Directory Assessment Tool (TDAT)", and "Tribal Consultation". The "Training" section includes links to "Section 106 Agreements", "Upcoming Opportunities", "Advisory Council on Historic Preservation Training", and "Archived". The "Archived" section includes links to "Consulting with Indian Tribes about Historic Properties in Environmental Review" and "Tribal Consultation about Historic Cultural and Religious Properties in Section 106 Review of HUD Projects".

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Environmental Review Main > Historic Preservation

Historic Preservation

Introduction

HUD programs support and facilitate the use of historic properties for affordable housing, economic development, and community revitalization. HUD encourages the rehabilitation of historic buildings and the preservation of irreplaceable resources like archeological sites that convey centuries of human cultural activity. The National Historic Preservation Act (NHPA), 16 U.S.C. 470 et seq., directs each Federal agency, and those Tribal, State, and Local governments that assume Federal agency responsibilities, to protect historic properties and to avoid, minimize, or mitigate possible harm that may result from agency actions. The review process, known as Section 106 review, is detailed in 36 CFR Part 800. Early consideration of historic places in project planning and full consultation with interested parties are key to effective compliance with Section 106. The State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO) are primary consulting parties in the process. A qualified historic preservation consultant may assist with the technical components of the Section 106 review process.

Historic properties are those that are listed in or eligible for listing in the [National Register of Historic Places \(NR\)](#). The National Register is a list of districts, sites, buildings, structures, and objects that have been determined by the National Park Service to be significant in American history, architecture, archeology, engineering, and culture, at the local, state or national level. Generally, a property must be at least 50 years old to qualify, but there are exceptions. The grantee should consult the National Register database, existing state and local inventories, local historical and preservation organizations, and local planning departments to identify properties that are listed in or [eligible for](#) the National Register.

All assisted activities require Section 106 review except projects that are exempt or 'categorically excluded not subject to' under HUD regulations (24 CFR Parts 50 and 58) or that are determined by HUD to have "No potential to Affect Historic Properties" as defined at 36 CFR 800.3.

HUD Guidance

Compliance with Section 106 is achieved by following the procedures that the Advisory Council on Historic Preservation has outlined in 36 CFR Part 800.

The Section 106 Process consists of four basic steps. After determining the need to do a Section 106 review, the HUD official or Responsible Entity initiates consultation with statutory and other interested parties (**Step 1**), identifies and evaluates historic properties (**Step 2**), assesses effects of the project on properties listed on or eligible for the National Register of Historic Places (**Step 3**), and resolves any adverse effects through project design modifications or mitigation (**Step 4**). Note that consultation continues through all phases of the review.

Regulations

[36 CFR Part 800](#)

Resources

- [Preservation Basics Section 106 and HUD](#)
- [Historic Property Identification](#)
- [Secretary of the Interior's Standards for Rehabilitation](#)
- [State Historic Preservation Offices \(SHPO\)](#)
- [Tribal Directory Assessment Tool \(TDAT\)](#)
- [Tribal Consultation](#)
- [Section 106 Agreements](#)

Training

Upcoming Opportunities

- [Advisory Council on Historic Preservation Training](#)

Archived

- [Consulting with Indian Tribes about Historic Properties in Environmental Review](#)
- [Tribal Consultation about Historic Cultural and Religious Properties in Section 106 Review of HUD Projects](#)



Programmatic Agreement (PA)

A Programmatic Agreement can include:

- exempt activities
- expedited timeframes
- delegation of review authority to qualified professional to make determinations on behalf of SHPO
- standard mitigation measures



Programmatic Agreement (PA)

A Programmatic Agreement:

- lists the HUD programs that it covers
- cannot combine Part 50 and Part 58 programs
- is negotiated with SHPO, THPO, Tribes, and other consulting parties and the public
- has a 5-10 year timeframe
- can be renewed





Programmatic Agreement (PA)

Two Programmatic Agreements will be discussed this afternoon:

- Part 50 Programs PA
- HUD CDBG-DR Addendum to FEMA PA

