



1.0 Purpose & Scope

The National Historic Preservation Act of 1969, 16. U.S.C. 470 et seq., as amended (NHPA), is the legislation intended to preserve historic properties in the United States. It requires all federal agencies to evaluate the impact of all federally funded or permitted projects on historic properties (prehistoric or historic district, site, building, structure, object, artifact, record, remains, or properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that are in or eligible for inclusion in the National Register of Historic Places) through a process known as Section 106 Review. Generally speaking, under Section 106 of the NHPA, any proposed federal undertaking (project or activity funded or permitted under the jurisdiction of a Federal agency) shall, prior to the approval of the expenditure of any federal funds on the undertaking, take into account the potential effects of the undertaking on any historic property and afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment on the undertaking. Section 106 is specifically implemented by ACHP and regulations located at 36 CFR Part 800.

The NHPA established several organizations or positions: the ACHP; State Historic Preservation Office (SHPO); and the Tribal Historic Preservation Office (THPO); as well as the National Register of Historic Places, and the Section 106 review process. Section 106 of the NHPA mandates that federal agencies perform a review process for all federal undertakings that may potentially affect historic properties. It allows parties other than ACHP, SHPO, THPO, and local governments who have a demonstrated interest in the project (consulting party) an opportunity to comment on the potential impacts that projects may have on historic properties. The main purpose of the Section 106 Review process is to minimize potential effects to historic properties.

2.0 Activities & Departments Affected

- NHPA review is required for all federal actions in the region to assess affects on historic and archaeological sites.

3.0 Exclusions

- None. NHPA review, consultation and documentation is required for all actions as outlined in the PBS Preservation Deskguide. Certain actions may be excluded from further review if they do not meet the initial criteria of 45 years or older years of age and/or are not officially determined eligible for listing on the National Register by the federal agency and the SHPO/THPO.

4.0 Forms Used & Permits Required: (include reporting requirements)

In-house GSA Forms:

- Section 106 initiation letter

Federal and State Forms and Permits:



- Section 106 response letter

5.0 Acronyms, Abbreviations, and Definitions

Acronyms	Meaning
ACHP	Advisory Council on Historic Preservation
EO	Executive Order
GSA	General Service Administration
MOA	Memorandum of Agreement
PBS	Public Building Services
NHPA	National Historic Preservation Act
SHPO	State Historic Preservation Office
THPO	Tribal Historic Preservation Office

6.0 Procedure

State Specific Procedures & Requirements

- NHPA is a Federal law and there are no State regulations in Region 8 that are applicable.

Federal Specific Procedures & Requirements

- Refer to the Reference section

Standardized Procedure:

Any federal agency whose project may affect a historic property must consider those effects and "seek ways to avoid, minimize or mitigate" any adverse effects on historic properties. The typical Section 106 Review involves five steps:

- 6.1 Every undertaking must be considered to determine whether it has the potential to affect historic properties. The **Regional Historic Preservation Officer (RHPO)** will determine if the undertaking is the type of activity that generally speaking does not have the potential to cause effects on historic properties, then no further action is necessary.
- 6.2 Otherwise, at minimum, a letter from the **RHPO** must be sent to the **SHPO and/or THPO** indicating whether or not an historic property is involved and whether there is a potential effect on the historic property.

The **SHPO/THPO** has 30 days to respond to this letter agreeing or disagreeing with the RHPO's determination.

If the **SHPO/THPO** fails within 30 days of receipt to respond to or agree with the federal agency letter indicating no potential effect on historic properties, then the federal agency is allowed to continue with the undertaking with no further compliance with Section 106.



- 6.3 It is obviously very important in this Section 106 Review process to know whether or not a property is “historic,” so the **RHPO** will determine whether or not potentially affected properties are listed or eligible for listing on the National Register of Historic Places, and identify those properties.
- 6.4 If the undertaking may have a potential effect on an historic property, then the **RHPO** will consult with the **SHPO/THPO** (and perhaps consulting parties and ACHP) to minimize or eliminate the potential adverse effect of the undertaking through, eg, following the Secretary of the Interior’s Standards for Historic Preservation. If the project is determined to potentially cause an adverse effect to the historic property, consultation usually results with a Memorandum of Agreement (MOA) between GSA, the SHPO/THPO and/or the ACHP, allowing the undertaking to occur with some mitigation requirements, which may cause project delays and additional costs.
- 6.5 Failure of a federal agency to comply with any of the Section 106 requirements and continuing with the undertaking means that there may have been a “Foreclosure” by the federal agency, ie, violation of Section 106 by the federal agency. This typically results in a letter from the ACHP to the head of the federal agency who (without delegation) is required to provide information as to whether foreclosure has occurred. If the ACHP determines that foreclosure has occurred, then it makes its decision available to the public and any consulting parties.

Disclaimer: These are general guidelines and are not intended to address each and every applicable procedure or regulation under Section 106. For each and every project, the RHPO needs to be consulted and involved early.

7.0 Records Management

NHPA Section 106 consultation and reviews are documented and tracked in the R8 Section 106 database.

8.0 References

Historic Preservation

- American Indian Religious Freedom Act, 42 U.S.C. §§ 1996–1996a
- Archaeological Resource Protection Act, 16 U.S.C. §§ 470aa–470mm
- Executive Order (EO) 11593 Protection and Enhancement of the Cultural Environment, May 13, 1971
- EO 13007, Indian Sacred Sites, May 24, 1996
- EO 13287 Preserve America, March 3, 2003
- Federal Management Regulation part 102–78 - Historic Preservation, 41 CFR part 102–78
- GSA Order ADM 1020.2 Procedures for Historic Properties ADMP
- GSA Preservation Deskguide



- National Historic Preservation Act of 1966, 16 U.S.C. § 470 *et seq.*
- Native American Graves Protection and Repatriation Act, 23 U.S.C. § 3001 *et seq.*
- 36 CFR Part 800 Protection of Historic Properties
- Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb–2000bb-4

Location of Federal Facilities

- EO 12072 Federal Space Management, August 16, 1978
- EO 13006 Locating Federal Facilities on Historic Properties in Our Nation’s Central Cities, May 21, 1996

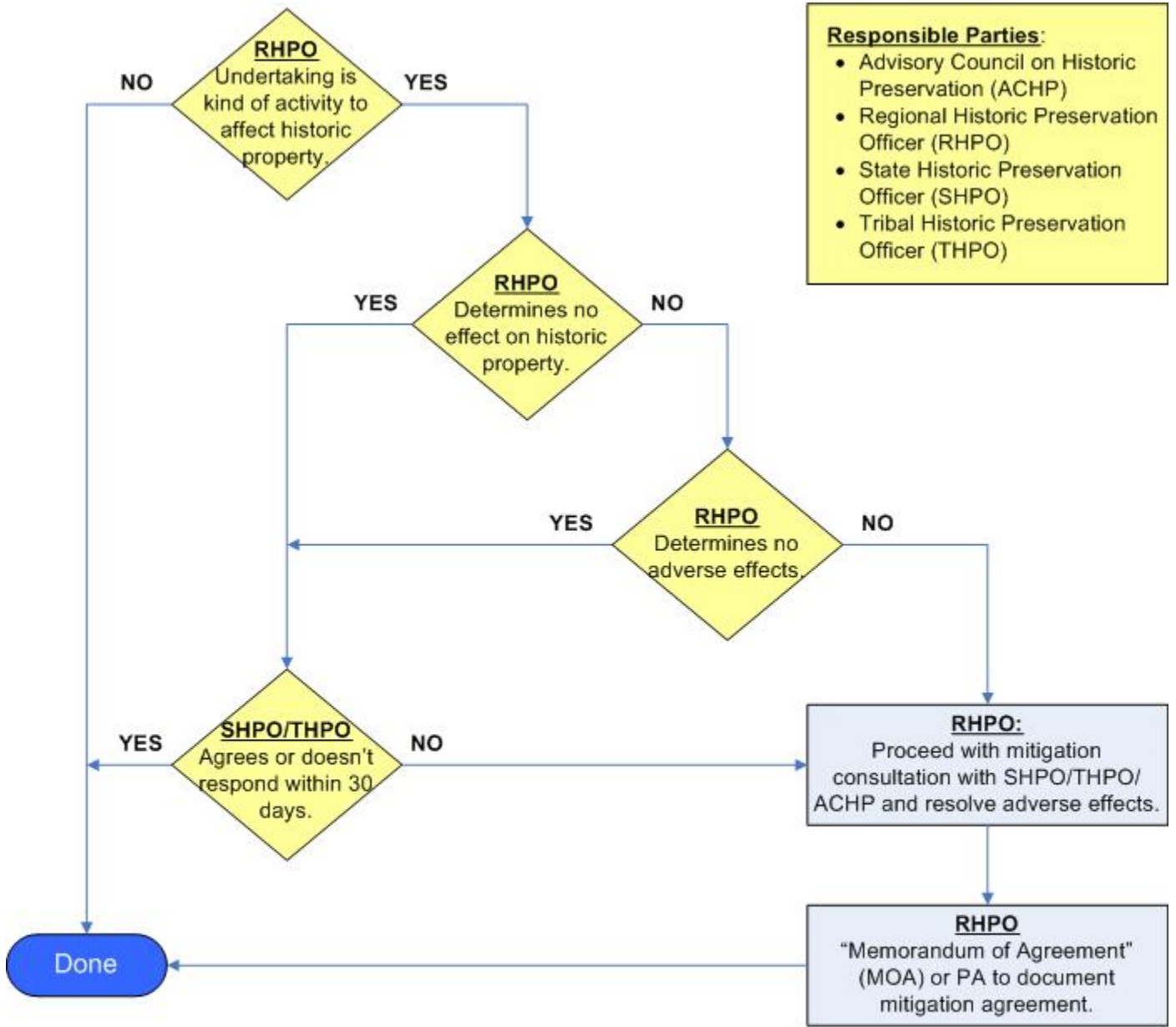
9.0 Appendices

Attachment A: National Historic Preservation Act (NHPA) Section 106 Flowchart
 Attachment B: Section 106 Project Initiation Form (Optional)

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05/01/2012	Working Draft	Christy Fockler
07/10/2012	Move references from section 6 to section 8, insert flowchart	Robert Melvin
07/11/2012	Original Release	Christy Fockler
09/06/2012	Revised	Andrea Collins
02/12/2015	Add Section 106 Compliance Report - Short Form and change 50 years to 45 years or older.	Andrea Collins

ATTACHMENT A: National Historic Preservation Act (NHPA) Section 106 Flowchart



- Responsible Parties:**
- Advisory Council on Historic Preservation (ACHP)
 - Regional Historic Preservation Officer (RHPO)
 - State Historic Preservation Officer (SHPO)
 - Tribal Historic Preservation Officer (THPO)

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ATTACHMENT B: SECTION 106 PROJECT INITIATION FORM (Optional)

SECTION 106 COMPLIANCE REPORT - SHORT FORM

General

Building Name _____

Address (city, state) _____

Project Title _____

Preservation Professional Preparing Report _____ Date _____

Project Location _____

Project Team: A/E firm, Preservation Consultant, GSA Project Officer, Building Manager, GSA Regional Preservation Officer or Preservation Program staff reviewer. _____

Scope and Purpose of Project (bullets are acceptable): _____

Locations and Materials Affected (check all that apply)

Preservation Zones affected (See Building Preservation Plan. Contact RHPO for assistance)

- Restoration
- Rehabilitation
- Renovation

Where does the project affect the historic property?

- Exterior
- Interior
- Lobbies/Vestibules
- Corridors
- Stairwells
- Elevators
- Restrooms
- Courtrooms
- Executive Suites
- General Office Space
- Other _____

What materials are affected by the project?

- Stone
- Brick
- Architectural Concrete
- Historic Roofing
- Bronze
- Architectural Metals (specify) _____
- Woodwork
- Ornamental Plaster
- Other _____



What assemblies are affected by the project?

- Windows and Skylights
- Doors
- Lighting
- Other _____

Preservation Design Issues:

List solutions explored, how resolved and why, such as (not inclusive):

- Locating new work/installation: visibility, protection of ornamental finishes, cost concerns
- Design of new work/installation: compatibility with existing original materials, research on original design (if original materials non-extant), materials/finishes chosen
- Method of supporting new work/installation
- Preservation and protection of historic materials

Effects:

Summarize effects the project will have on the building’s architecturally significant qualities. If there are unavoidable adverse affects, explain measures mitigating the negative impact of changes.

Graphics – include:

- Site or floor plan showing work location(s)
- Captioned photographs of existing site conditions in affected restoration zone locations
- Reduced project drawings, catalogue cut sheets, or photographs showing solutions