

## **National Historic Preservation Act, Section 106, A Quick Guide**

### **What is Section 106?**

Section 106 is the portion of the National Historic Preservation Act (NHPA) that is concerned with Federal undertakings.

### **What is a Federal undertaking?**

A Federal undertaking is a project, activity, or program either funded, permitted, licensed, or approved by a Federal Agency. Undertakings or projects may take place either on or off federally controlled property and include new and/or continuing projects, activities, or programs and any of their elements or components.

### **What does Section 106 require?**

Section 106 requires Federal agencies to take into account the effects of their undertakings on historic properties and to provide the State Historic Preservation Office and (as needed) the Advisory Council on Historic Preservation (ACHP) with a reasonable opportunity to comment.

In addition, Federal agencies are required to consult on the Section 106 process with State Historic Preservation Offices (SHPO), Tribal Historic Preservation Offices (THPO), Indian Tribes (to include Alaska Natives) [Tribes], and Native Hawaiian Organizations (NHO).

### **When does Consultation occur?**

Consultation occurs at the very beginning of a project and continues throughout the project until its completion. The Section 106 process is not considered complete until the installation Cultural Resources Manager provides a written Memo or email stating that the Section 106 process has been completed. Only then may a project move forward to contract award and implementation.

### **What are historic properties?**

Historic properties are any prehistoric or historic districts, sites, buildings, structures, or objects that are eligible for or already listed in the National Register of Historic Places. Initial eligibility is determined by age: any structure or facility that is 50 years or older is considered historic. Also included are any artifacts, records, and remains (surface or subsurface) that are related to and located within historic properties and any properties of traditional religious and cultural importance to Tribes or NHOs.

### **What regulations govern the Section 106 process?**

36 CFR 800 (Protection of Historic Properties) governs the Section 106 process and outlines how Federal agencies are to consult with SHPOs, THPS, Tribes, NHOs, and other interested parties, identify historic properties, determine whether and how such properties may be affected, and resolve adverse effects.

### **Takeaways**

You are working on a historic property - We are a federal agency – All projects are federal undertakings – This project is subject to the Section 106 process.

## What is the process for Section 106 compliance?

**Section 106 process initiated by Federal Agency:** establish undertaking, determine responsible Federal agency, identify appropriate SHPO, THPO, Tribe, NHO and other consulting parties to include the public, also notify and plan to involve the public. [see 36 CFR Part 800.3]

