

Proposed Nationwide Programmatic Agreement
for Cultural Resources Financial Assistance
for compliance with Section 106
of the National Historic Preservation Act

National Park Service
Cultural Resources, Partnerships, and Science Directorate
April 19, 2023

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1. Introduction

The National Park Service preserves unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world.

The programs and staff of the National Park Service (NPS) Cultural Resources Stewardship, Partnerships, and Science Directorate provide leadership for the protection and interpretation of the nation's heritage, guide a national historic preservation program that embraces national parks and heritage resources, engage all American peoples with the places and stories that make up their national identity, and serve as a model for the stewardship of cultural resources throughout the world.

Beyond the National Park System, the NPS national preservation partnership programs document historic places, develop standards and guidelines, and provide financial and technical assistance to preserve our shared heritage. Congress authorized several programs across NPS to provide Federal financial assistance to States, Tribes, local governments, and other partners to advance the national historic preservation program.

2. Cultural Resources Financial Assistance Programs

Among many key responsibilities, the National Park Service (NPS) Cultural Resources Stewardship, Partnerships, and Science (CRPS) Directorate provides Federal financial assistance through a number of programs that support the national historic preservation program, heritage partnership programs and community-led conservation, the preservation of America's historic places, and the repatriation and disposition of certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony; these include:

- Historic Preservation Fund (HPF) Formula Grants to State Historic Preservation Offices (SHPO)
- HPF Formula Grants to Tribal Historic Preservation Offices (THPO)
- HPF Competitive Grants, such as:
 - African American Civil Rights Grants
 - Historically Black Colleges & Universities (HBCUs) Grants
 - History of Equal Rights Grants
 - Paul Bruhn Historic Revitalization Grants
 - Save America's Treasures Grants
 - Semiquincentennial Grants
 - Tribal Heritage Grants
 - Underrepresented Communities Grants
- Disaster Recovery Grants (Emergency Supplemental HPF Appropriations)
- HPF Congressionally Directed Spending
- National Maritime Heritage Grant Program – Education and Preservation Grants
- National Heritage Areas Management Plans
- National Heritage Areas Cooperative and Task Agreements
- Native American Graves Protection and Repatriation Act (NAGPRA)
Consultation/Documentation Grants, Repatriation Grants
- Preservation Technology and Training Grants
- Japanese American Confinement Sites Grants
- Lower Mississippi Delta Initiative Local Heritage Grants
- Cooperative and Task Agreements managed by the NPS Cultural Resources, Stewardship, Partnerships, and Science (CRPS) Directorate

Cooperative and grant agreements reflect a relationship between the Federal Government and a State or local government or other recipient whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government (*see*, the Federal Grant and Cooperative Agreement Act of 1977).

NPS cultural resources Federal financial assistance is provided through both cooperative agreements and grant agreements to a range of eligible recipients. Cooperative agreements include programs or activities where significant participation by the NPS is anticipated prior to, and during, the performance of the

financial assistance agreement, such as National Heritage Areas. CRPS programs also enter into cooperative agreements with universities and nonprofit organizations to carry out activities such as planning, meetings, and research projects. Recent or current cooperative agreement activities include preparing National Historic Landmark theme studies and nominations, supporting conferences and meetings, and internship programs.

NPS cultural resources programs predominately provide Federal financial assistance to eligible recipients through grant agreements. Consistent with the Federal Grant and Cooperative Agreement Act, grant agreements are to be utilized when no substantial involvement is anticipated between the NPS and the recipient during the performance of the activity. NPS cultural resources grants fund a broad range of planning, development, and research projects for historic properties. Projects include the survey, inventory, documentation, architectural services, historic structure reports, preservation plans, and bricks and mortar repair for historic structures and landscapes. Grants may also fund research in technology, training, and interpretation and education programs and products.

In FY23 appropriations, HPF received \$204.5 million and \$29 million for National Heritage Areas. While awards for these programs typically range from \$1,000 to \$2,000,000, most provide a minimal level of federal involvement in the development and implementation of the assisted project.

Eligible Activities for NPS Cultural Resources Financial Assistance

Projects, activities, or programs that are carried out with Federal financial assistance are considered undertakings (36 CFR § 800.16(y)) requiring compliance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108). Eligible activities for NPS cultural resources financial assistance vary by program and its authorizing legislation, but generally fall within one of the following categories:

- Acquisition (e.g. acquisition in fee simple to secure endangered historic properties)
- Administration (e.g. salaries and wages)
- Collections, Exhibitions, and Interpretation (e.g. artifact processing, conservation, or analysis for research or interpretation)
- Consultation and Partnerships (e.g. direct costs for hosting meetings, consultation, consensus building)
- Education, Public Programs, and Outreach (e.g. specialized workshops, curriculum design)
- Planning and Research (e.g. treatment and management plans, necessary pre-preservation planning)
- Preservation and Construction (e.g. physical preservation of historic properties)
- Survey, Inventory, and Documentation (e.g. archeological identification and evaluation following a systematic research design; nominations, updates, and boundary expansions for the National Register of Historic Places)
- Technology (e.g. developing databases)
- Travel (e.g. to carry out project activities)

3. Summary of Needs and Benefits

36 CFR Part 800 provides federal agencies with several program alternatives to meet their responsibilities under Section 106 of the National Historic Preservation Act (Section 106). The National Park Service cultural resources financial assistance programs are proposing a Nationwide Programmatic Agreement (Nationwide PA) to establish a consistent process to meet their responsibilities under Section 106. The Nationwide PA will include activities that are considered undertakings under Section 106 within current and future grant programs, National Heritage Areas, and other types of financial assistance activities.

The proposed Nationwide PA would not apply to any activities related to National Park System units, such as federal financial assistance provided by other federal agencies on park lands. This proposed Nationwide PA would not replace, amend, or otherwise change the existing Nationwide PA for the National Park System. Additionally, this would not include financial assistance activities conducted in partnership with park units (e.g. cooperative agreements) or be applicable to non-cultural resources financial assistance programs or activities across the NPS.

Within the last decade, the NPS cultural resources financial assistance programs have approached Section 106 compliance at the program level, resulting in five different programmatic agreements (PA). Each existing PA streamlines the Section 106 process, leading to several different requirements and processes for NPS staff, reoccurring applicants, new applicants, Indian Tribes/Native Hawaiian Organizations (NHOs), and consulting parties.

A Nationwide PA can address many of the challenges the NPS cultural resources financial assistance programs currently experience in applying the Section 106 process to its undertakings. Specifically, the Section 106 regulations in 36 CFR § 800.14(b) identifies that a programmatic agreement may be used: “When effects on historic properties are similar and repetitive or are multi-State or regional in scope” and “When nonfederal parties are delegated major decisionmaking responsibilities.”

NPS seeks to develop a Nationwide PA that creates an efficient and consistent Section 106 process for its cultural resources financial assistance undertakings which support the mission of the NPS in the preservation and interpretation of cultural resources. The goals of developing a Nationwide PA focusing on cultural resources financial assistance activities include:

- Defining when in the Federal financial assistance process the NPS cultural resources financial assistance programs will initiate and conclude the Section 106 process, facilitating the process, saving time and effort, and ensuring consistency;
- Focus collective effort on one program alternative in lieu of NPS cultural resources financial assistance programs continuing to negotiate program- or appropriation-specific programmatic agreements;
- Establish a consistent Section 106 process for all grants provided through the Historic Preservation Fund and strengthen the roles and responsibilities of States, Tribes in carrying out the national historic preservation program;

- Define types of activities that have No Potential to Cause Effects to Historic Properties, not requiring further Section 106 review;
- Establish a streamlined review process for activities that typically result in no adverse effects to historic properties;
- Consistently define roles and responsibilities for carrying out the Section 106 process, while defining how NPS will identify consulting parties, consult with Federally recognized Tribes, and involve the public for these undertakings; and
- For subaward programs, authorize recipients with professionals meeting the *Secretary of the Interior's Professional Qualifications Standards* to carry out the Section 106 process on behalf of the NPS.

The proposed Nationwide PA would acknowledge the involvement of NPS professionals meeting the *Secretary of the Interior's Professional Qualifications Standards* to carry out these programs and existing NPS cultural resources financial assistance program requirements that promote stewardship of historic properties consistent with the purposes of the National Historic Preservation Act. The Nationwide PA would provide benefits to recipients of NPS cultural resources financial assistance in creating a consistent process across a variety of programs. Lastly, the proposed Nationwide PA would provide the NPS flexibility to update the programs or activities covered by the agreement as new financial assistance programs are authorized by Congress.

Benefits to National Park Service

- Provide efficiency of Section 106 reviews for activities that generally support the preservation and protection of cultural resources by streamlining review of activities commonly assisted by these financial assistance programs.
- Focus NPS involvement to undertakings with a greater potential to adversely effect historic properties. For most assisted activities, the proposed Nationwide PA will facilitate timely approvals for recipients to proceed with project activities.
- Address variations across programs in how the Section 106 process is carried out by establishing a consistent process, providing clarity to recipients, consulting parties, and the public.
- Authorize recipients with professionals meeting the *Secretary of the Interior's Professional Qualifications Standards* to carry out steps of the Section 106 process.

Benefits to State and Tribal Historic Preservation Offices

- Create a consistent Section 106 process for NPS grants provided to SHPOs and THPOs, including HPF Formula Grants.
- Provide one streamlined Section 106 process for SHPOs and THPOs that operate competitive subaward programs with their HPF Formula Grant and/or through other NPS grant programs (e.g. Maritime Heritage Grants, Paul Bruhn Historic Revitalization Grants, Disaster Recovery Grants).
- Develop SHPO and THPO staff familiarity with one Section 106 process for NPS cultural resources financial assistance, in lieu of managing multiple agreements and processes.

Benefits to Applicants/Recipients

- Simplify the Section 106 process for ongoing or repeat recipients of NPS financial assistance.
- Understand the timing of Section 106 reviews within the Federal financial assistance process.
- Provide efficiencies in project reviews to help facilitate timely reviews for certain types of activities.

Draft Agreement Outline

NPS developed a draft agreement outline and proposed process flowcharts to initiate consultation. NPS welcomes comments from Tribal Nations, Native Hawaiian organizations, consulting parties, and the public on the proposed process and anticipates revisions during the consultation process.

In Appendix B of the draft agreement outline, NPS defined those financial assistance activities with no potential to cause effect to historic properties, assuming such historic properties were present; therefore, NPS has no further Section 106 responsibilities with regards to them, pursuant to 36 CFR § 800.3(a)(1). Additionally, many assisted activities will not result in adverse effects to historic properties due to the program requirement that the activities are carried out in accordance with the relevant *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*. As outlined in Appendix C of the draft agreement outline, NPS is proposing programmatic allowances for certain types of activities when certain conditions are met.

4. Proposed Consultation Process

Details regarding the consultation process will be provided on the NPS Planning, Environment and Public Comment (PEPC) website: <https://parkplanning.nps.gov/NPACulturalResourcesFA>

The NPS will provide opportunities for Tribal Nations, Native Hawaiian organizations, Alaska Native Corporations, consulting parties, and the public to learn more about and comment on the proposed Nationwide PA. Links to register for consultation sessions will be provided on PEPC and through direct communications with Tribal Nations, Native Hawaiian organizations, Alaska Native Corporations, and consulting parties.

Initially, NPS is seeking comments on the scope and proposed agreement outline. NPS is conducting virtual consultation meetings and will accept oral and written comments. The NPS will review comments and develop the proposed agreement for additional review and comment. NPS will consider all comments received throughout the development of the Nationwide PA.

Provide Comments

Comments can be provided through PEPC or by email to financial_assistance_pa_comments@nps.gov.

The Nationwide PA consultation is led by Joy Beasley, Associate Director, Cultural Resources, Partnerships, and Science; questions can be directed to Serena Bellew, Deputy Associate Director, Preservation Assistance Programs at the email above.

5. Frequently Asked Questions

Why is NPS proposing a Nationwide PA for these programs now?

An evaluation of the Section 106 process across the NPS cultural resources financial assistance programs identified the need for a consistent, programmatic solution for multiple programs. A Nationwide Programmatic Agreement was identified as the most appropriate Section 106 program alternative to address these needs.

How would this Nationwide PA improve the Section 106 process?

The NPS is aiming to create consistency in how it carries out its Section 106 process for its cultural resources financial assistance programs. Additionally, NPS aims to clarify the timing of the Section 106 review within the Federal financial assistance process. NPS will seek feedback through consultation on an appropriate Section 106 process for these undertakings.

Why include multiple programs under this agreement?

NPS recognized negotiating program and appropriation-specific programmatic agreements creates a variety of Section 106 processes for NPS staff, SHPOs/THPOs, applicants, consulting parties, and the public. One Nationwide PA creates consistency in how the Section 106 process for the NPS cultural resources financial assistance programs would be carried out, while saving time when Congress authorizes new or additional appropriations (e.g. Emergency Supplemental HPF appropriations). The programs covered by this agreement all provide Federal financial assistance for similar types of activities and often, similar recipients. Additionally, the need to address an appropriate Section 106 process for subaward programs was identified as a need for multiple programs.

How did NPS identify the activities to be covered by this program alternative?

NPS identified eligible financial assistance activities across its cultural resources Federal financial assistance programs (cooperative agreements and grants). As currently proposed, the scope of the agreement would include those types of activities that are typically eligible under two or more cultural resources financial assistance programs. Moreover, the proposed included activities generally have similar types of effects on historic properties, which is appropriate for a programmatic agreement (36 CFR § 800.14(b)(1)(i)).

Are there too many programs or activities covered by the proposed program alternative?

NPS believes the proposed scope of the agreement is appropriate based upon the similarity of activity types across the programs to be included within the agreement. NPS welcomes comments if there are specific activities or programs that need to be clarified, refined, or removed. Additionally, NPS is seeking the flexibility to amend the appendices as needed to include new activities or programs as authorized by Congress.

Will the Nationwide PA be applicable on Tribal lands?

NPS welcomes an opportunity to consult with Tribal Nations about potential applicability on Tribal lands, with the opportunity for individual Tribal Nations to be signatories to the agreement.

How will the proposed Nationwide PA impact Federally recognized Tribal Nations and Native Hawaiian Organizations?

Federally recognized Tribal Nations, Alaska Natives, and Native Hawaiian organizations are recipients of NPS cultural resources Federal financial assistance (e.g. Tribal Historic Preservation Office HPF Formula Grants, Tribal Heritage Grants, NAGPRA Grants). This Federal financial assistance may be utilized on or off Tribal lands, with the potential to affect historic properties of religious and cultural significance to Tribal Nations, Alaska Natives, and Native Hawaiians. Other recipients may receive Federal financial assistance that may have the potential to affect historic properties of religious and cultural significance to Tribal Nations, Alaska Natives, and Native Hawaiians.

NPS will continue to carry out Section 106 reviews utilizing the Section 106 Regulations at 36 CFR Part 800 for any Federal financial assistance carried out on Tribal lands unless a Tribal Nation is a signatory to the Agreement. NPS will continue to conduct Tribal consultation for individual project undertakings.

Will this create more work for SHPOs and THPOs for HPF Formula Grants?

Historic Preservation Fund (HPF) Formula grants are awarded annually based on an apportionment formula to State Historic Preservation Offices (SHPOs) and Tribal Historic Preservation Offices (THPOs) participating in the THPO partnership program. Many SHPOs and THPOs utilize their HPF Formula Grant for administrative costs (e.g. salaries) that have no potential to cause effects to historic properties (36 CFR 800.3(a)(1)). However, some SHPOs and THPOs utilize their apportionment for other eligible activities, including administering competitive subgrant programs.

NPS looks to establish a consistent process for SHPOs and THPOs that receive HPF Formula Grants, but other types of Federal financial assistance from NPS (e.g. Disaster Recovery Grants, Paul Bruhn Historic Revitalization Grant Program). Many activities proposed to be covered by this agreement are required by the design of the grant program to result in no adverse effects to historic properties.

NPS is proposing programmatic allowances acknowledging the existing reviews conducted by qualified professionals and program requirements for these assisted activities. NPS anticipates that most activities assisted by SHPO and THPO Formula Grants would be addressed in the proposed programmatic allowances.

The proposed draft process will authorize THPOs to carry out certain steps in the Section 106 process, but will only apply when a THPO's Tribe is a signatory to the Agreement. For those THPOs that are not a signatory, NPS will carry out all Section 106 reviews for THPO Formula Grants and any other Federal financial assistance provided to THPO Tribes. NPS welcomes feedback from THPO Tribes on the proposed process and any actions that would facilitate their Tribe's participation.

How will this impact funding from SHPOs to Certified Local Governments?

States transfer not less than 10 percent of their annual HPF apportionment to Certified Local Governments (CLGs, *see*, 54 U.S.C. §302902(c)(4)). For the purposes of the proposed Nationwide PA, CLGs are considered subrecipients of a grant from the SHPO.

Who are the anticipated signatories for this Nationwide PA?

Consistent with 36 CFR § 800.14(b)(2)(iii), the anticipated Signatories include the NPS, National Conference of State Historic Preservation Officers (NCSHPO), and the Advisory Council on Historic Preservation (ACHP). NPS will consult with Tribal Nations on the potential for applicability on Tribal lands.

Will this Nationwide PA apply to properties managed by the National Park Service?

No. Development of this Nationwide PA will not apply on land managed by the National Park Service (National Park System). This Nationwide PA effort will not impact the existing 2008 Programmatic Agreement for the National Park Service, which applies to the National Park System.

How will NPS address existing programmatic agreements as it relates to its cultural resources' financial assistance programs?

NPS anticipates existing Section 106 agreements that may apply to programs covered by this agreement will continue to be utilized unless terminated or expired. Additionally, the NPS American Battlefield Protection Program (ABPP) recently carried out a successful consultation effort to amend their existing Nationwide PA for the ABPP Grant Programs. Due to that effort, NPS is proposing not to include the ABPP Grant Programs as part of this agreement at this time.

Did NPS consider the other available Section 106 program alternatives?

NPS evaluated the available Section 106 program alternatives (36 CFR § 800.14). NPS determined that a program programmatic agreement (36 CFR § 800.14(b)) can address several of the challenges the NPS cultural resources financial assistance programs currently experience in applying the Section 106 process to its undertakings. A program PA would allow NPS to clarify timing of the Section 106 process in alignment with the Federal financial assistance process, while allowing NPS to authorize certain types of recipients for its financial assistance.

36 CFR § 800.14(a) allows an agency official to develop alternate procedures to implement Section 106; NPS would not be well suited for developing alternative procedures as its financial assistance undertakings at the agency level are too varied. While some activities proposed by this alternative may be suitable for an exempted category (36 CFR § 800.14(c)), NPS identified the need to authorize recipients along with clarifying the timing of its Section 106 process for these programs. For this reason, an exempted category would not provide NPS with the best efficiencies. There is enough variety in the types of undertakings associated with the NPS cultural resources financial assistance programs that the program alternatives of standard treatments (36 CFR § 800.14(d)) and program comments (36 CFR § 800.14(e)) are not appropriate for these programs or activities.

For these reasons, NPS identified it would develop a Nationwide PA to create a consistent, alternative Section 106 process for its cultural resources financial assistance undertakings. NPS welcomes comments from Federally recognized Tribes and Native Hawaiian organizations, consulting parties, and the public if another program alternative would be better suited for these programs and their assisted activities.

6. Draft Programmatic Agreement

Outline

Proposed Programs and Activities

Flow Charts

National Park Service Programmatic Agreement for Cultural Resources Financial Assistance (Agreement)

Draft Outline

RECITALS

- Authorizing legislation for the National Park Service (NPS) Cultural Resources Financial Assistance Programs (Appendix A)
- Overview of the types of undertakings assisted by NPS Cultural Resources Financial Assistance
- Defining NPS as the federal agency responsible for carrying out the Section 106 process for activities funded through its Cultural Resources Financial Assistance Programs
- Recitals that provide an overview of the purpose and goals of the Agreement
- Any additional recitals to provide sufficient background on the Agreement and need for a programmatic approach
- Summary and definitions of Signatories
- Summary of consultation effort for the Agreement, including how NPS involved consulting parties and the public

STIPULATIONS

Applicability

- Applicability of the Agreement
- Agreement applicability on Tribal lands; process for Tribal Nations to become Signatory
- Existing agreements related to the programs and/or activities covered by the Agreement

Undertakings Not Requiring Further Section 106 Review

- Pursuant to 36 CFR § 800.3(a)(1), identification of activities that NPS has no further Section 106 responsibilities (Appendix B)
- The NPS or an authorized applicant/recipient may proceed without further Section 106 consultation for any project of a type listed in Appendix B
- The Section 106 process will be carried out for proposals that include activities in addition to those listed in Appendix B

Roles, Responsibilities, and Qualifications

- National Park Service
 - Director, National Park Service
 - Associate Director for Cultural Resources, Partnerships, and Science
 - Deputy Associate Directors, Cultural Resources, Partnerships, and Sciences
 - Cultural Resources Financial Assistance Program Managers
 - Cultural Resources Financial Assistance Staff
- State and Tribal Historic Preservation Offices
 - State Historic Preservation Offices (SHPO) in the 50 states, 5 territories, 3 Freely Associated States, and the District of Columbia; 54 U.S.C. § 302301 et seq.
 - Tribal Historic Preservation Offices (THPO) are Tribal governments with a signed Agreement with the NPS to assume the duty of the Historic Preservation Officer on Tribal lands consistent with 54 U.S.C. §§ 302702, 302703.

- Certified Local Governments; 54 U.S.C. § 302503
- Applicants and Recipients
 - Eligible applicants for NPS Cultural Resources Financial Assistance vary depending upon the program or appropriation authorization
- Lead Federal Agency
 - Lead Federal Agency for undertakings involving more than one federal agency
- Advisory Council on Historic Preservation (ACHP)
- Local Governments
- Public Involvement

Authorizing Recipients

- NPS authorizes selected recipients (“Authorized Recipient”) to carry out the Section 106 process for the following types of financial assistance awards provided through its NPS Cultural Resources Financial Assistance Programs:
 1. Grants to State Historic Preservation Offices, Tribal Historic Preservation Offices
 2. Subgrant programs carrying out eligible activities funded through any eligible program (“Subgrant Program”)
- NPS will carry out the Section 106 process for all other financial assistance awards provided by NPS Cultural Resources Financial Assistance Programs
- NPS will be responsible for consulting with federally recognized Tribes and Native Hawaiian Organizations, resolving disputes, and resolving adverse effects

Section 106 Review of NPS Cultural Resources Financial Assistance Proposals

- Programmatic Allowances
 - NPS or an Authorized Recipient will determine if an undertaking conforms to one or more programmatic allowances as outlined in Appendix C
 - Programmatic Allowances for undertakings involving a National Historic Landmark (NHL)
- Standard Project Review
 - The NPS or the Authorized Recipient will carry out Section 106 review for any activity not listed in Appendix B or C.
- Congressionally Directed Spending
 - Congress may direct the NPS to award Federal financial assistance to carry out activities associated with one or more NPS Cultural Resources Financial Assistance Programs under this Agreement (“Congressionally Directed Spending”)
 - Section 106 process for Congressionally Directed Spending

Resolving Adverse Effects

- Resolution of adverse effects on historic properties for undertakings covered by this Agreement

Consultation with Tribes and Native Hawaiian Organizations

- NPS consultation with Tribes and Native Hawaiian Organizations for these undertakings
- Consultation for undertakings on Tribal lands

Emergency Actions

- Definition of emergency actions
- Emergency procedures for undertakings applicable to this Agreement

Changes to an Approved Scope of Work

- Review process for changes to an approved scope of work

Curation

- Curation requirements for archeological materials and appropriate field and research notes, maps, drawings and photographic records collected as a result of archeological investigations arising from this Agreement

Post-Review Discoveries

- Review of previously unidentified historic properties or unanticipated effects on historic properties resulting from an assisted project
- When applicable, NPS will follow the principles within the ACHP's Policy Statement on Burial Sites, Human Remains, and Funerary Objects, dated March 1, 2023
- All human remains encountered as a result of Federal financial assistance provided by the NPS shall be treated in accordance with NAGPRA, its regulations, or the applicable laws and regulations of the State, Tribe, and/or municipality in which the project is located

Dispute Resolution

- Dispute resolution process when any Signatory objects in writing to any action related to this Agreement

Reporting and Monitoring of Agreement

- NPS will meet with Signatories within 2 years of execution of the Agreement to review implementation of the terms of the Agreement and determine whether any revisions or amendments are needed
- Reporting frequency and requirements

Amendments

- Amendment of the Agreement
- Amendment of the Appendices

Termination

- Termination of the Agreement

Duration and Execution

- The Agreement shall take effect in each State on the date it is signed by the Signatories
- The Agreement will be in effect for [X] years from the date of execution and can be extended through amendment with the Signatories

Appendix A: NPS Cultural Resources Federal Financial Assistance Program Summaries

This Appendix may be amended in accordance with Stipulation [X], Amendments

Historic Preservation Fund

54 U.S.C. § 303101 et seq.

The Historic Preservation Fund (HPF) was first funded in 1977 to assist governments and organizations to record, document, repair, and protect properties, landscapes, traditional cultural practices, and archeological sites. The fund also supports planning activities, education, training, and technical assistance activities. Over the past 40-plus years, grants have invested more than \$1.2 billion in Federal funding for preservation projects in all 50 states, the territories, the Freely Associated States, the District of Columbia, and across more than 200 Tribes with signed THPO partnership agreements.

The State, Tribal, Local, Plans & Grants Division (STLPG) manages several grant programs to assist with a variety of historic preservation and community projects focused on heritage preservation. The funding for all grants, regardless of program, comes from the Historic Preservation Fund.

Formula Grants, 54 U.S.C. § 302902 (States); 54 U.S.C. § 302703 (Tribes)

Competitive Grants, Congressionally Directed Spending 54 U.S.C. §§ 302901 et seq.

Historically Black Colleges and Universities Historic Building Restoration and Preservation, Pub. L. 104–333, div. I, title V, §507, Nov. 12, 1996, 110 Stat. 4156

Save America’s Treasures Program, 54 U.S.C. §§ 308901 et seq.

Emergency Supplemental Historic Preservation Fund, The Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. 99-177, § 251(b)(2)(A)(i).

National Heritage Areas

54 U.S.C. § 320101, notes.

National Heritage Areas (NHA) are designated by Congress to promote the conservation of natural, historic, scenic, and cultural resources. The areas are the management responsibility of Federal commissions, nonprofit groups, universities, State agencies or municipal authorities. NHAs are guided by management plans approved by the Secretary of the Interior. Via this partnership strategy, heritage areas provide a powerful tool for the preservation of community heritage, combining historic preservation; cultural and natural resource conservation; local and regional preservation planning; and heritage education and tourism. The NPS provides planning, technical assistance, and financial assistance as authorized and appropriated by Congress. Each NHA’s designating legislation provides a funding authority for the Secretary of the Interior, acting through the NPS, to award funds to the named local coordinating entity.

National Maritime Heritage

54 U.S.C. §§ 308701 et seq.

The National Maritime Heritage Grants Program provides funding for education and preservation projects designed to preserve historic maritime resources and to increase public awareness and appreciation for the maritime heritage of the United States. The grant is funded through a percentage of the proceeds from the

sale or scrapping of obsolete vessels of the National Defense Reserve Fleet. All grants awarded must be matched on a 1-to-1 basis with non-federal assets.

Native American Graves Protection and Repatriation Act (NAGPRA) Grants

25 U.S.C. § 3008

Since 1990, Federal law has provided for the repatriation and disposition of certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. NAGPRA Consultation/Documentation Grants support the efforts of museums, Indian Tribes, and Native Hawaiian organizations in consulting and documenting NAGPRA-related human remains and cultural items in non-Federal collections. NAGPRA Repatriation Grants defray costs associated with the packaging, transportation, contamination removal, and/or storage of NAGPRA-related human remains and cultural items.

Preservation Technology and Training (PTT) Grants

54 U.S.C. § 305304

Preservation Technology and Training Grants (PTT Grants) are intended to create better tools, better materials, and better approaches to conserving buildings, landscapes, sites, and collections. The PTT Grants are administered by the National Center for Preservation Technology and Training (NCPTT), the National Park Service's innovation center for the preservation community.

Preservation of Japanese American Confinement Sites

Public Law 109-441, 120 Stat. 3288

The Japanese American Confinement Sites Grant Program provides financial assistance to organizations and entities working to preserve historic Japanese American confinement sites and their history, including: private nonprofit organizations; educational institutions; State, Tribal, and local governments; and other public entities, for the preservation and interpretation of U.S. confinement sites where Japanese Americans were detained during World War II.

Lower Mississippi Delta Initiative Local Heritage Grants

Public Law 103-433

The Lower Mississippi Delta Initiative Local Heritage Grants provides grants to support preservation of the Lower Mississippi Delta's cultural and natural resources and to increase heritage tourism. Examples of projects include: installation of historical markers, archeological surveys, development of interpretive exhibits, and support of heritage festivals. Projects must be physically located within the Delta Region as defined by the Lower Mississippi Delta Initiative Program.

Cultural Resources, Partnerships, and Science Directorate Cooperative Agreements

54 U.S.C. § 300101 et seq.

The NPS Cultural Resources, Partnership, and Science Directorate enters into cooperative agreements with a variety of organizations and educational institutions. These cooperative agreements allow the NPS to partner with a non-Federal entity to carry out activities where substantial involvement by NPS is anticipated.

Appendix B: Undertakings Not Requiring Further Section 106 Review

This Appendix may be amended in accordance with Stipulation [X], Amendments

The following activities are inclusive of activity types that may be eligible for NPS Cultural Resources Financial Assistance across one or more financial assistance programs. Inclusion on this list does not indicate eligibility for funding; applicants should reference the program's specific eligibility.

Undertakings not requiring further Section 106 Review are not exempt from the requirements of any other Federal laws (e.g. National Environmental Policy Act, Native American Graves Protection and Repatriation Act) or any State, Tribal, or local laws.

For the following eligible activities, the NPS has determined that there is no potential to cause effect to historic properties, assuming such historic properties were present; therefore, the NPS has no further Section 106 responsibilities with regards to them, pursuant to 36 CFR § 800.3(a)(1). No further consultation is required for:

A. Administration

1. Overall management activities directly related to finance (accounting, auditing, budgeting, contracting), general administrative salaries and wages (grant administration, personnel, property management, equal opportunity) and other "overhead" functions (general legal services, general liability insurance, depreciation on buildings and equipment, etc.) not directly attributable to specific program areas identified in the grant agreement.
2. Personnel involved with the development, selection, review, monitoring, and administration of Subaward Programs (e.g. consultants that meet or exceeds the *Secretary of the Interior's Professional Qualifications Standards*). Subawards require specific Section 106 review based upon their proposed assisted activity.
3. Personnel that provide assistance in advancing the historic preservation program of the agency, government, or organization (e.g. State Historic Preservation Office, Tribal Historic Preservation Office, Certified Local Government, National Heritage Area Local Coordinating Entities). This may involve providing technical assistance to any individual or entity who is not a part of the recipient's staff; such as, subrecipients, other State, Tribal, or local governments, Federal agencies, and the public. Activities may include but are not limited to:
 - a. review of and use of Federal, State, Tribal, or local historic preservation tax incentives;
 - b. review of, and comment on, proposed Federal or federally funded, licensed, permitted, or approved undertakings, pursuant to Section 106 of the National Historic Preservation Act, as amended;
 - c. developing and administering the Certified Local Government process; and
 - d. implementing or administering State, Tribal, and local historic preservation laws, regulations, or ordinances, provided that the laws and activities are in conformity with Federal historic preservation law, regulation, or requirements (e.g. *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*).

B. Consultation and Partnerships

1. Consultation with partners, subject matter experts, and/or the relevant community to advance the goals of the assisted project. For the assisted undertaking, consultation may require administrative and logistical arrangements.

2. Consultation meetings, including supplies, technology resources, support for hosting of in-person or virtual meetings, teleconferences, webinars, rental of facilities, speaker fees, attendee stipends, ceremonial food and supplies, and other incidental costs.
3. Design and printing costs, publishing press releases, developing brochures or signage, and any other physical materials to support project activities.

C. Education, Public Programs, and Outreach

1. Development of, or supporting attendance at, meetings, trainings, workshops, conferences, and programs that will facilitate an exchange of ideas and access to information for participants; including meetings or conferences with the involvement of NPS staff in carrying out educational content to participants (e.g. SHPOs, THPOs).
2. Development and production of print or digital educational materials and media. Dissemination of information related to the project's goals.
3. Curriculum design for an educational program. Public program development, including audience-focused studies and evaluation, physical or digital products specific to the program.
4. Providing instruction in traditional skills, techniques, and methodologies involved in the history, preservation, archeology, and affiliated disciplines.

D. Collections, Exhibitions, and Interpretation

1. Collections research, such as interviews, genealogy research, or limited physical testing of collections. Artifact processing, conservation, or analysis for research or interpretation.
2. Curatorial services to enhance public access to collections. Purchase of collections storage materials, such as display cases or storage furniture.
3. Curation of artifacts or materials recovered as a direct result of assisted activities. Those activities resulting in the data recovery are reviewed separately.
4. Temporary or traveling exhibits, such as those that have stand-alone panels, or those temporarily secured to building interiors not requiring alterations.

E. Planning and Research

1. Strategic/organizational/administrative planning, including developing, conducting research on, designing or carrying out a planning process, or providing support for the development of a planning process design, for State, Tribal, regional, local, or organizational needs (e.g. State, Tribal, and local historic preservation planning, management plans, business plans, heritage tourism plans, fundraising plans, strategic plans, economic impact studies).
2. Developing, or providing support for the development of, ordinances, regulations, standards, and guidelines that support State, Tribal, regional, or local planning goals.
3. Printing and distributing plans, planning studies, ordinances, regulations, guidelines, or similar documents.

F. Repatriation of Native American Human Remains or Cultural Items

1. Preparing human remains or cultural items for consultation, documentation, repatriation, and/or reburial.
2. Rehousing collections containing human remains or cultural items for consultation, documentation, temporary storage, or transportation.
3. Acquisition of a burial site or cemetery plot to facilitate the reburial of human remains or cultural items.

4. Transportation of Native American human remains or cultural items for repatriation under NAGPRA.

G. Survey, Inventory, and Documentation

1. Preparation and review of materials to determine eligibility for the National Register of Historic Places. May involve activities related to public understanding and participation in the nomination process.
2. Preparation of a National Historic Landmark, National Register of Historic Places, and/or State or Tribal register nomination, amendment (including boundary expansions), historic context, or theme study.
3. Historic American Buildings Survey (HABS), Historic American Engineering Record (HAER), and Historic American Landscapes Survey (HALS) documentation projects.
4. Oral histories, including recording, transcribing, digitally processing, distributing, and archiving the interviews.
5. Land surveying and map creation, such as boundary surveys, Geographic Information Systems (GIS)/Global Positioning System (GPS) mapping, nondestructive data collection (e.g. field, aerial, and satellite surveying and mapping).
6. Reconnaissance survey of above-ground resources, including archival research and field visits to determine the identity and location of historic properties present in an area.
7. Reconnaissance level archeological surveys (more commonly known as a Phase I archeological survey), which may include pedestrian surveys, shovel test pits, and remote sensing. Limited subsurface archeological testing is allowable within a reconnaissance level survey only to the extent that is needed to collect sufficient information to identify a resource and to assess its eligibility for listing in the National Register of Historic Places.

H. Technology

1. Acquisition of equipment to facilitate the project's goals, including hardware or software supplies.
2. Developing, purchasing, adapting, or implementing technology to advance project or program goals.
3. Developing, purchasing, adapting, or implementing advanced planning/computer technologies and applications to further historic preservation planning program goals (e.g., computer mapping and analysis technology such as GIS).
4. Developing digital content to advance project goals, such as websites, videos, mobile applications, podcasts, publications, or webinars.

I. Travel

1. Travel, including but not limited to airfare or other transportation, lodging, and per diem, for project staff or partners to facilitate the project or program goals.

Appendix C: Programmatic Allowances

This Appendix may be amended in accordance with Stipulation [X], Amendments

This list of Programmatic Allowances details NPS financial assistance activities that based on NPS experience will not result in adverse effects to historic properties if implemented as specified and will not require Section 106 review by the SHPO and/or THPO, consulting parties, including Tribes(s) or Native Hawaiian organization(s) pursuant to this Agreement. The NPS will ensure such projects will be carried out:

- i. in accordance with the relevant *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* and any applicable State, Tribal, and local guidelines;
- ii. with involvement of a professional that meets or exceeds the *Secretary of the Interior's Professional Qualifications Standards* in the appropriate discipline to develop, review, and/or oversee project activities; and
- iii. as appropriate to the activity, an opportunity for SHPO and/or THPO review of draft product(s).

Undertakings meeting one or more of the allowances below are not exempt from the requirements of any other Federal laws (e.g. National Environmental Policy Act, Native American Graves Protection and Repatriation Act) or any State, Tribal, or local laws.

A. Acquisition

1. Acquisition of fee simple non-Federal real property, provided, the acquisition does not involve any effects to historic properties and there is an easement or covenant recorded requiring the SHPO or THPO as a technical reviewer/approver of certain activities.
2. Acquisition of less-than-fee simple interests in real property (e.g. conservation easements or covenants), provided, the acquisition does not involve any effects to historic properties and the easement or covenant involves the SHPO or THPO as a technical reviewer/approver of certain activities.

B. Preservation and Construction

1. Repair, rehabilitation, stabilization, or other capital improvements to historic properties consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*.
2. Protection, stabilization, or preservation of specific archeological resources consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*. Stabilization may include site burial, revegetation, or repair of the site's physical/structural integrity to reduce or eliminate such damaging forces as erosion.
3. Production and installation of a temporary project sign, provided, its placement will not affect historic properties.
4. Providing instruction on preservation, repair, and maintenance traditional skills involving physical repairs to historic properties consistent with *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*.

C. Collections, Exhibitions, and Interpretation

1. Interpretive plans, which may include research, designs of interpretive products (print, web, multimedia), and proposed installation locations/methods.

2. Research, development, fabrication, and installation of exhibits or signage for educational purposes.
3. Directional, informational, and wayfinding signage installation on previously disturbed areas or located within a right-of-way, where placement will not affect historic properties.

D. Planning and Research

1. Historic structure reports, preservation plans, condition assessments, or similar resource management and treatment plans consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*.
2. Architectural and engineering plans and specifications consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*.
3. Cultural landscape inventories and reports, including activities such as research, existing condition surveys, mapping, and treatment recommendations consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties and the Guidelines for the Treatment of Cultural Landscapes*.
4. Cultural resource-specific feasibility studies and land use plans (e.g. viability of a the rehabilitation and/or reuse of a cultural resource).
5. Planning for the adaptation or mitigation of historic properties due to the impact of natural and man-made disasters.

E. Reburial of Native American Human Remains or Cultural Items

1. Facilitating reburial of Native American human remains or cultural items that have completed the required Notice of Inventory Completion or Notice of Intent to Repatriate in the Federal Register, the required 30-day waiting period has passed, and repatriation has occurred. Repatriation means a museum or Federal agency acknowledges and recognizes a lineal descendant, Indian Tribe, or Native Hawaiian organization has control or ownership of the human remains or cultural items and must be documented in writing.
 - i. Reburials do not require further Section 106 review provided the Indian Tribe or Native Hawaiian organization that has control or ownership of the human remains or cultural items has identified in writing that the reburial will not affect any historic properties.

F. Survey, Inventory, and Documentation

1. Intensive level archeological surveys (more commonly known as a Phase II archeological survey). An intensive level survey is the systematic, detailed field (and archival) inspection of an area designed to identify fully architectural, archeological, and historic properties; and calculated to produce a level of documentation sufficient, without any further data, to evaluate National Register eligibility. Such surveys must be carried out consistent with the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* and any applicable State, Tribal, or local laws or guidelines. Any archeological data recovery activities require further Section 106 review.