

# PROGRAMMATIC AGREEMENTS



## Streamlining the *Section 106 Process*

Established to preserve historical and archaeological sites in the U.S., the **National Historic Preservation Act (NHPA)** requires federal agencies to evaluate the impact of all federally funded or permitted projects on historic properties (buildings, archaeological sites, etc.) through a process known as Section 106.

The Section 106 review process involves a number of detailed steps that can be tedious and time consuming. However, there are program alternatives that can be implemented to comply with the NHPA. One of these alternatives is the execution of a **Programmatic Agreement (PA)**.

Developed and executed at the early stages of project planning, PAs are designed to streamline and enhance historic preservation and project delivery efforts, which saves both costs and time.

A PA is most commonly used when a lead federal agency, prior to approving its undertaking, cannot fully determine how that undertaking may affect historic properties. This is especially true for projects that have a schedule that cannot accommodate the time needed to follow all the steps required by the Section 106 Process.

### PROGRAMMATIC AGREEMENTS

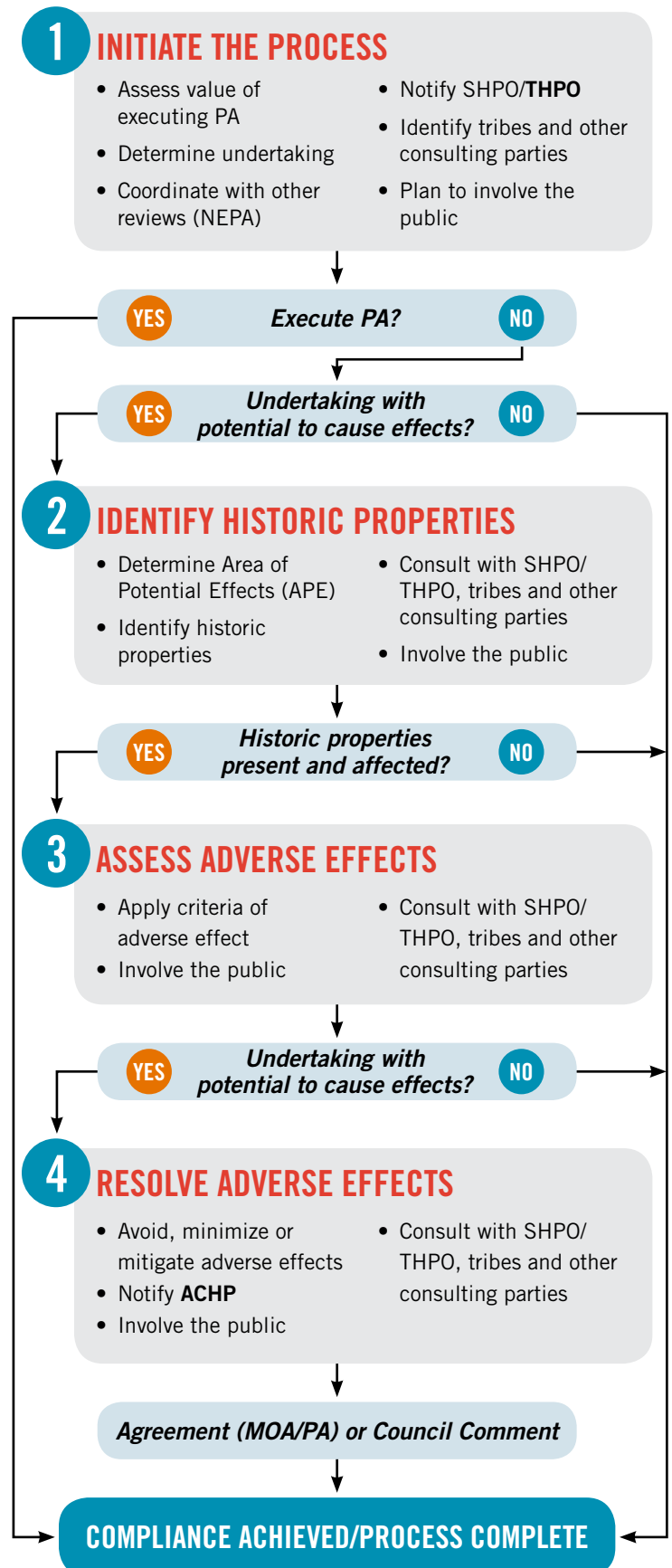
#### PROS

- Once executed, it allows federal agency to act or make a decision prior to completion of cultural resource studies
- Serves as a roadmap for all work that will be required
- Can help to reduce the scope and cost of cultural resources studies

#### CONS

- Disagreements among signatories and consulting parties can stall the development and execution process
- If development of PA is not managed effectively by lead federal agency, endless feedback loops can occur
- Failure to involve tribes and the public could result in delays or legal challenges

In some cases, a lead federal agency may decide not to pursue the development and execution of a PA if they determine that following the regular Section 106 process would be easier in the long run. In these instances, all steps of Section 106 must be followed, including completing all cultural resource inventories on the project's area of potential effect, identifying adverse effects, consulting with the **State Historic Preservation Office (SHPO)** and, if needed, completing a **Memorandum of Agreement (MOA)** before the lead federal agency has made and issued its decision on an undertaking.



# NATIONAL HISTORIC PRESERVATION ACT GLOSSARY



## NATIONAL HISTORIC PRESERVATION ACT (NHPA)

Public Law 89-665; 54 U.S.C. 300101 et seq. is legislation intended to preserve historical and archaeological sites in the United States of America. Signed into law on October 15, 1966, the NHPA requires federal agencies to evaluate the impact of all federally funded or permitted projects on historic properties (buildings, archaeological sites, etc.) through a process known as Section 106 Review.

## ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

An independent agency of the United States government that promotes the preservation, enhancement and productive use of the nation's historic resources, and advises the President and Congress on national historic preservation policy. Federal agencies consult with the ACHP as part of the Section 106 Review process.

## NATIONAL REGISTER OF HISTORIC PLACES (NRHP)

The official list of our country's historic buildings, districts, sites, structures and objects worthy of preservation. It was established as part of the National Historical Preservation Act and is overseen by the National Park Service.

## HISTORIC PROPERTY TREATMENT PLAN (HPTP)

A document that describes the specific methods and the measures that will be employed to avoid, reduce or mitigate adverse effects that a federal undertaking will have on important cultural resources. The preparation of a HPTP will be the result of a stipulation contained within a Memorandum of Agreement or Programmatic Agreement.

## UNANTICIPATED DISCOVERY PLAN

A document that describes the procedures that will be followed when a previously unknown and unrecorded cultural resource is uncovered during the course of construction.

## MEMORANDUM OF AGREEMENT (MOA)

As the final step in the Section 106 process, a Memorandum of Agreement is a formal document that identifies which cultural resources will be adversely affected by a federal undertaking and the general measures, such as preparation of a HPTP, that will be employed to resolve those adverse effects. MOAs are executed between the federal agency, SHPO and the ACHP.

## PROGRAMMATIC AGREEMENT (PA)

An alternative to the standard Section 106 process that is developed and executed at the early stages of project planning. Once a PA has been executed between the federal agency, SHPO, THPO (if applicable), and ACHP, compliance with the NHPA has been achieved as long as the stipulations of the PA are carried out.

## STATE HISTORIC PRESERVATION OFFICE (SHPO)

A state agency responsible for reviewing documents and providing comments during the Section 106 process.

## TRIBAL HISTORIC PRESERVATION OFFICE (THPO)

A tribal agency formally established through an agreement with the National Park Service.

FOR MORE ABOUT THIS TOPIC, check out Glenn's article ["Managing Our Past—The National Historic Preservation Act"](#)

[www.powereng.com](http://www.powereng.com)



## LET'S TALK CULTURAL RESOURCES

**Glenn Darrington Ph.D., RPA**  
Cultural Resources Department  
Manager, Project Manager

(602) 812-5822

[Glenn.Darrington@powereng.com](mailto:Glenn.Darrington@powereng.com)