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PRESERVING OUR PAST

Summarizing the Section 106 Review Process

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Summarizing the Section 106 Review Process

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The National Historic Preservation Act of 1966 (NHPA) and its amendments form the framework under which federal agencies identify and document districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. The NHPA created the national historic preservation partnership that currently involves federal, Tribal, state and local governments working alongside the private sector to preserve the cultural heritage of the United States.

What is Section 106?

Section 106 merely refers to the Section of the NHPA that specifies the cultural resource compliance requirements for Federal applicants and licensees that have regulatory compliance obligations. These applicants and licensees have such obligations on projects that are federal, federally assisted, federally licensed or permitted. Such projects are called “undertakings” due to their federal funding or licensing status. Undertakings for which cultural resource regulatory compliance is needed typically require the services of professional cultural resource consultants to complete Section 106 Review documentation as required by the National Historic Preservation Act of 1966 and its amendments.

Purpose

The NHPA requires that Federal agencies take into account the effects of their undertakings on historic properties. The Section 106 process seeks to ensure that historic consideration of cultural properties preservation is incorporated into the implementation of Federal undertakings through consultation among State Historic Preservation Offices (SHPOs), Tribal entities, and other interested parties.

Timing

The Section 106 process must be completed “prior to the approval of the expenditure of any Federal funds or prior to the issuance of any license.” However, this does not prohibit nondestructive project planning design activities before completing compliance with Section 106. Project Managers should ensure that the Section 106 process is initiated early in the planning stages.

Initiation of the Section 106 Review Process

The responsible Federal agency (or in some cases the agencies applicant or licensee) first determines whether a particular action qualifies as a federal undertaking and then whether the activity could affect historic properties that are included in the National Register of Historic Places or that meet the eligibility criteria for National Register listing. If so, the federal agency or its applicant or licensees must identify the appropriate State Historic Preservation Officer or Tribal Historic Preservation Officer (SHPO/THPO) to consult during the process. The

federal agency or its applicant or licensee must also involve the public and identify other potential consulting parties.

State Historic Preservation Office

The State Historic Preservation Office (SHPO) reflects the interests of the State and its citizens in the preservation of the state’s cultural heritage. In accordance with section 101(b)(3) of the NHPA, the SHPO advises and assists Federal agencies and their applicants and licensees in carrying out their Section 106 responsibilities and cooperates with such agencies, applicants, licensees, local governments and organizations and individuals to ensure that the possible presence of historic and/or prehistoric cultural properties and archaeological sites are taken into consideration at all levels of planning and development for the undertaking.

Tribes and the Public

Public involvement is a key ingredient in successful Section 106 consultation, and the views of the public must be solicited and considered throughout the process. The regulations also place major emphasis on con-



sultation with Indian tribes in keeping with the 1992 amendments to NHPA. Section 101(d)(6)(B) of the NHPA requires that any Indian Tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking be considered a consulting party. This requirement applies regardless of the location of the historic property.

Professional Qualification Standards

Section 112(a)(1)(A) of the NHPA requires that professional consultants meeting the Secretary of the Interior's Qualification Stan-

dards must be used for the identification, documentation, and evaluation of potential historic buildings, districts, structures, landscapes and subsurface archaeological sites and cultural resources that may be affected by an undertaking

Cultural Resource Management firms (CRMs), specialize in performing cultural resource compliance surveys for archaeological and historic resources. These surveys lead to reports that are submitted to the appropriate SHPO, potentially affected American Indian Tribes, and in some cases, other interested parties. ❖



Restored/Expanded Complex Bungalow



19th century cookhouse