Roles and Responsibilities for Section 106 Applicants

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National Historic Preservation Act of 1966 (NHPA)

Sec. 106
Consultation

This:

Not this:
Under Sec. 106, Federal Agencies must:

- Establish the Federal “Undertaking”
- Determine the Area of Potential Effects (APE)
- Identify historic properties within APE
- Determine the effect that project will have on historic properties
- Resolve any potential adverse effects through avoidance, minimization, mitigation
Federal Agency Responsibility
What does the SHPO do?

- The SHPO is a mandatory consulting party in the process.
  - The SHPO is *not* the authority.
  - The SHPO is *not* a regulatory agency.
    - The SHPO does *not* do research or make determinations for agencies.
Establish the Federal Undertaking

A federal “undertaking” is:

- An activity that is funded, whole or in part, by a federal agency; or
- An activity that requires a federal license, permit, or approval; or
- An activity that is administered by a federal delegation, or with federal oversight.
Depends on project size and scope!

APE direct effects: area of potential ground disturbance and any property, or any portion thereof, that will be physically altered or destroyed by the undertaking.

APE indirect effects: area of altered audio, visual, or other sensory qualities—or quality of life—as a result of the undertaking in the vicinity.
ROW APE
Building

Types Of Historic Properties

Structure

Object

District

Site
Determination of Effects

- No Historic Properties Affected
- No Adverse Effect (there are historic properties, but they won’t be negatively impacted)
- Adverse Effect
Adverse Effect on Historic Properties

- This determination is the most onerous.
  - Accounts for about 1% of all the projects reviewed.

- Adverse effects include:
  - Demolition of, or alteration to, the property or environment;
  - Changes in use or setting;
  - Introduction of intrusive audible or visual elements;
  - Neglect;
  - Transfer of property from federal ownership.
Adverse Effect – what next?

- Agencies must first seek ways to avoid adverse effects on historic properties.
- If no feasible alternatives exist, agencies must mitigate the adverse effect.
IN OVER YOUR HEAD
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