

Bureau of Land Management (BLM), Amendment to the Programmatic Agreement (PA) with the Advisory Council on Historic Preservation (ACHP) and the National Conference on Historic Preservation Officers (NCSHPO) Regarding BLM Compliance with Section 106 of the National Historic Preservation Act (NHPA)
Development and Consultation Process, Fall 2023-Spring 2025
March 2025

Executive Summary: The 2025 Nationwide Programmatic Agreement (PA) among the Bureau of Land Management (BLM), the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) establishes a consistent framework for compliance with Section 106 of the National Historic Preservation Act (NHPA). This agreement builds upon past programmatic agreements (1997 and 2012) to enhance coordination among agencies, streamline environmental reviews, and ensure that historic properties are considered in BLM's land management decisions.

Based on close collaboration with the ACHP and NCSHPO, who are the signatories to the Agreement, revisions contained in this amended PA include only minor procedural changes such as updated references and citations and an extension for a period of 10 years from the date of execution, with an option for renewal in 2-year increments with written agreement of its signatories.

The 2025 PA is designed to expedite consultation with State Historic Preservation Officers (SHPOs), local governments, and the public. By streamlining Section 106 compliance, the PA enables strategic preservation planning rather than reactive compliance measures. Under this agreement, BLM, SHPOs, and ACHP will continue working together to strengthen state-specific protocols, improve data sharing and transparency regarding historic properties, expand training for BLM staff to ensure consultation is culturally appropriate and effective, and support cooperative management and stewardship initiatives with Tribes. These efforts will foster stronger partnerships, enhance preservation outcomes, and ensure that historic and cultural resources are considered in the decision-making process.

Background and Purpose: The BLM was among the first agencies to develop a nationwide PA, first executed in 1997. In 2012, program took a major step forward when a substantial revision to the nPA was executed by the BLM, ACHP, and NCSHPO. The nPA governs the BLM's activities on federal, state, and private lands that have the potential to impact historic properties. In early 2014, the signatories executed an amendment to the nPA that provided BLM with an additional year to complete protocols with their individual SHPOs, extending the deadline to 2015. In 2022 and 2024, the BLM optioned a two-year extension to nPA in accordance with its terms in component 11.f. The nPA includes the following major aspects:

- *Protocol Agreements:* The nPA authorizes the BLM State Offices to maintain protocol agreements with individual SHPOs. These two-party agreements are the primary means by which the BLM achieves efficiency and consistency for Section 106 reviews within a state. These protocol agreements establish thresholds for undertakings requiring (or not requiring) consultation with SHPOs for certain classes of undertakings, establish documentation and data-sharing standards, stipulate annual reporting requirements, and govern other aspects of SHPO consultation.
- *Tribal Consultation:* The nPA outlines framework for how the BLM will consult with Tribes in the context of an ongoing government-to-government relationship and to obtain their views on the potential effects on historic properties of significance to them. However, it should be noted that the nPA only establishes broad goals for Tribal engagement; specific policies and procedures are established at the Department or Bureau level through handbooks and manuals (or as directed by laws, regulations, and executive actions). Although the 2012 nPA greatly enhanced the consultation role of Tribes, the nPA does not apply to undertakings on Tribal lands.
- *Additional Scope:* The nPA sets thresholds for ACHP notification to participate in individual Section 106 reviews; provides procedures for enhanced cooperation and communication with Tribes and other consulting parties; mandates internal staff training and field office certification processes; and establishes an expert Preservation Board to provide technical advice to BLM headquarters and staff.

Consultation Timeline 2022-2025

2022 - Initial Planning and Consultation Preparation

- BLM initiates consultation discussions with ACHP and NCSHPO to begin revising the nPA.
- Coordination begins internally with agency on the scope of amendments and required procedural updates.

Spring 2023 - Formal Consultation Initiation

- BLM formally initiates consultation with ACHP and NCSHPO.
- Outreach begins to Tribes, State Historic Preservation Officers (SHPOs), Tribal Historic Preservation Officers (THPOs), and other stakeholders.
- BLM circulates preliminary discussion materials to consulting parties.

Summer 2023 - Listening Sessions & Tribal Consultation

- **July 18, 19, and 27, 2023** – BLM conducts three listening sessions with ACHP, SHPOs, and THPO staff.
- **August 10, 2023** – BLM meets with the NCSHPO
- **August 29, 2023** – BLM holds a fourth listening session with consulting parties.
- **September 6, 2023** – Final listening session conducted.
- **September 7, 2023** – BLM meets with the National Association of Tribal Historic Preservation Officers (NATHPO).
- **September 15, 2023** – Deadline for submission of formal comments from Tribes, SHPOs, NATHPO, and other consulting parties (National Trust on Historic Preservation and Society of American Archeology).

Fall 2023 - Comment Review and Initial Draft Revisions

- BLM reviews and synthesizes comments received from various stakeholders.
- BLM begins drafting text revisions in collaboration with ACHP and NCSHPO.
- A second public comment period held in late Fall 2023 to gather additional feedback.

Winter 2023 - Early 2024 – PA Extension

- **October 25, 2023**, the BLM informed the ACHP that they felt they didn't have time to finalize and execute the NPA before it expired on **February 09, 2024**. They routed a second two-year extension to the BLM Director at that time.
- ACHP contacted BLM in **January 2024** to confirm our time needed for routing the extension, especially in light of the potential shutdown in **February 2024**.
- **February 7, 2024** the two year extension was signed successfully by all signatories.

Spring 2024-Winter 2025 Continued Revision

- Since the extension, BLM coordinated internally to ensure agreement and consistency with development of the Amended PA in preparation of consultation.
- Following BLM's permanent Federal Preservation Officer appointment in August 2024, BLM Preservation Board coordinated with Signatories on nPA in December 2024.
- BLM worked in collaboration with ACHP staff and NCSHPO to perform final revisions, work on Executive Summary and Consultation Plan for the nPA.
- On **April 2, 2025**, BLM issued a transmittal letter to Signatories (NCSHPO, ACHP) requesting review of the amended nPA.
- On **April 3, 2025**, BLM issued transmittal letters to Tribes and other consulting parties notifying them that BLM submitted the amended nPA to Signatories for 45-day review.
- On **May 1 and 6, 2025**, BLM held two Zoom sessions with Signatories and Tribes respectively to provide overview of the nPA, hear comments, and answer questions.
- On **May 19, 2025**, the Signatories provided BLM their comments to the amended nPA.
- On **June 2, 2025**, after considering consulting comments BLM prepared the final amended nPA for routing and signature of all Signatories.
- On **June 9, 2025**, amended nPA finalized with all signatures.

Major Components of the Amendment: The amended National Programmatic Agreement (PA) significantly clarifies and updates how the Bureau of Land Management (BLM) fulfills its Section 106 responsibilities under the National Historic Preservation Act (NHPA). Notably, the new PA strengthens and explicitly emphasizes government-to-government Tribal consultations, clearly recognizing Tribal sovereignty and encouraging customized consultation agreements. It also explicitly integrates Indigenous Knowledge into land-use planning and historic property evaluations. State-specific BLM-SHPO protocols now require formal review and revision within a clear three-year period, with more defined expectations around consultation processes, public reporting, data sharing, and professional training. The Preservation Board's role expands, mandating regular biannual meetings with ACHP and NCSHPO and clearly outlining their involvement in protocol reviews and certification processes for BLM offices.

Transparency and accountability measures have also been enhanced, as BLM state offices must provide detailed, publicly accessible annual reports on preservation activities. Updated training

requirements must be implemented within two years of signing, specifically incorporating Tribal consultation and NHPA compliance. Overall, these revisions provide clearer procedural guidance, reinforce the role of Tribes, improve public transparency, and strengthen accountability compared to the previous PA.

Frequently Asked Questions:

What are the BLM's historic preservation responsibilities?

An extensive collection of laws helps safeguard the places that reflect our Nation's rich cultural heritage. The National Historic Preservation Act (NHPA) is the most important law for protection of significant historic places, including properties of traditional religious and cultural importance to an Indian Tribe. Section 106 of the NHPA requires Federal agencies to consult with Indian Tribes, States, local governments, and others with a demonstrated interest in the undertaking or historic properties in the area before approving the undertaking. Other provisions require agencies to act as stewards to inspire present and future generations to do the same.

How does the BLM meet its responsibilities under Section 106 of the NHPA?

As a Federal agency, the BLM must comply with Section 106 of the NHPA for its undertakings. To help meet these requirements, the BLM has developed a program alternative to the standard Section 106 process. This alternative is called a programmatic agreement and it is allowed under the regulations implementing Section 106 of the NHPA. National Programmatic Agreement (Agreement) was signed in 2012 after a multi-year revision process when changes to the Section 106 regulations rendered aspects of the original 1997 national Programmatic Agreement inconsistent with current regulations. Both the 1997 and 2012 agreements were signed by the Bureau of Land Management (BLM), the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Offices (NCSHPO). Both agreements authorized the development of state-specific protocol agreements between the BLM and SHPOs that set forth measures for alternative compliance with the Section 106 process for routine undertakings in each of the 11 western states. Following the 2022 and 2024 extensions, this amended agreement streamlines the Section 106 review process, emphasizes tribal consultation, and further defines clear procedures for routine undertakings, continuing to allow BLM state offices to establish detailed, state-specific protocols with State Historic Preservation Officers (SHPOs).

Does the Agreement apply to Tribal lands?

The national level agreement is an umbrella agreement that applies generally to BLM's program. The BLM's alternative processes in the two-party state-level protocol agreements only apply to those undertakings within BLM's direct and indirect jurisdiction, as long as undertakings are not located on or affecting historic properties on Tribal lands, defined in the Section 106 regulations as "lands within the external boundaries of any Indian reservation and all dependent Indian communities" (36 CFR 800.16(x)). Where the BLM has responsibility for compliance with Section 106 on Tribal lands, including BLM lands within the external boundaries of an Indian reservation, it follows the standard 36 CFR part 800 process.

What guidance does the BLM follow to carry out its Tribal consultation requirements under NHPA?

To carry out its Tribal consultation responsibilities, the BLM follows its Manual Section 1780, "Tribal Relations," which was issued in December 2016 and replaced Manual Section 8120, "Tribal Consultation under Cultural Resource Authorities." As the White House and the Department of the Interior issue new Executive Orders, Secretarial Orders, policy, and other guidance, the BLM works

to develop BLM-specific policy. For example, on November 20, 2022, the White House announced substantial new policy and guidance regarding Tribal consultation, Tribal relations, co-stewardship, and Indigenous Knowledge in Federal decision making. Department of the Interior agencies, including the BLM, are currently revising their policies to reflect this new guidance.

What are the main changes between the 2012 Agreement and the 2025 Amendment?

The 2025 amended PA notably emphasizes strengthened Tribal consultation processes, clearly recognizing Tribal sovereignty, and explicitly incorporating Indigenous Knowledge into BLM planning processes. It also introduces more detailed accountability and transparency measures, requiring regular public reporting, enhanced training requirements for BLM staff, and clearer guidance on revising state-specific BLM-SHPO protocols.

What will the BLM do with the information it receives from Tribes and other interested parties?

The BLM, in consultation with the ACHP and NCSHPO, will consider substantive comments and issues it receives into a draft 2025 Amendment. In recognition of the government-to-government relationship between Tribes and Alaska Native Corporations and the Federal Government, the BLM is making additional efforts to engage with Tribes on this matter.

Will the revised Agreement require that BLM-State protocol agreements be revised?

Generally, we anticipate that each state will revise their protocol agreement as dictated in the current terms of the agreement and revise, amend, or renegotiate as appropriate depending on the stipulations of the revised Agreement. The current BLM-State protocol agreements are tiered to the national Programmatic Agreement and define state-specific means by which each SHPO and the BLM will communicate and consult on routine undertakings. Each BLM-state protocol agreement is an agreement between the BLM state and the respective state's SHPO and has a timeframe for review and revision.

How was Tribal input received during the consultation efforts prior to the 2012 Agreement incorporated?

BLM received valuable wide-ranging input from Tribes during listening sessions in 2023 leading up to the current Amended Agreement. Previous Tribal comments collected during consultations for the 2012 Agreement broadly informed an entirely new Manual released in December 2016, the BLM Manual 1780 Tribal Relations (MS 1780) which replaced Manual 8120 Tribal Consultation under Cultural Resources. These efforts laid a strong foundation for continued improvements reflected in the 2025 amended PA.