



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

BUILDING STRONG®

PROGRAMMATIC AGREEMENT DEVELOPMENT WITHIN THE STATE OF ARIZONA

Public Notice/Application No.: SPL-2023-00023

Project: Programmatic Agreement within the State of Arizona

Comment Period: February 8, 2023, through March 10, 2023

Project Manager: Michael Langley; (602) 230-6953; Michael.W.Langley@usace.army.mil

SUBJECT: The U.S. Army Corps of Engineers' Los Angeles District (Corps) proposes to develop a programmatic agreement (PA) as a program alternative for compliance with Section 106 of the National Historic Preservation Act within the State of Arizona. This notice is to inform interested parties of the proposed PA development and to solicit comments.

AUTHORITY: In accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (Section 106) (codified at 54 U.S.C. § 306108), and all applicable regulations, and consistent with 36 CFR § 800.14(b), the Corps proposes to develop a PA as an alternative procedure for Section 106 compliance.

LOCATION: The proposed PA would apply to undertakings administered in the State of Arizona for which the Corps is the lead federal agency for compliance with Section 106. The proposed PA would exclude undertakings that occur on or affect tribal lands, as defined in 36 CFR § 800.16(x), unless the affected tribe requests in writing to have the proposed project considered in accordance with the PA.

ADDITIONAL INFORMATION: Each year, the Corps completes consultation with the Arizona State Historic Preservation Officer (SHPO) on undertakings subsequently authorized under the Regulatory Program and on undertakings related to projects under other Corps programs, such as the Civil Works Programs, Military Programs, etc. To ensure compliance with Section 106, reduce agency workload and increase efficiency and consistency, the Corps seeks to develop alternative procedures under a state-wide Program-level PA with the SHPO and Advisory Council on Historic Properties (ACHP). Our goal is to reduce the overall review times for activities subject to Corps authorization by accomplishing the objectives of Section 106 in a more flexible and expeditious manner through streamlining the consultation process for undertakings with findings of "no historic properties affected" or "no adverse effect."

The following is a proposed framework of actions to be included in the proposed PA.

1. Exclusion from consultation with the SHPO on a project-by-project basis regarding a finding of "no historic properties affected" when there are no identified cultural resources within the Corps' area of potential effect (APE) and the following conditions are met:
 - (a) Completion of a defined minimum level of effort regarding cultural resource identification;
 - (b) Consultation with appropriate interested and consulting parties, including but not limited to federally recognized tribes;
 - (c) Internal review of a "no historic properties affected" determination by a person meeting

specified qualifications and appropriate documentation of such review; and

(d) Submittal of an annual report to SHPO summarizing the covered activities.

2. Exclusion from consultation with the SHPO on a project-by-project basis regarding a finding of "no historic properties affected" when there are historic properties and/or potential historic properties identified within the Corps' APE, but the historic properties will not be affected, and the following conditions are met:

- (a) Completion of a defined minimum level of effort regarding cultural resource identification;
- (b) Consultation with appropriate interested and consulting parties, including but not limited to federally recognized tribes;
- (c) Appropriate avoidance measures are included in the project proposal to ensure avoidance of any identified historic properties and/or potential historic properties;
- (d) Internal review of "no historic properties affected" determination by a person meeting specified qualifications and appropriate documentation of such review; and
- (e) Submittal of an annual report to SHPO summarizing the covered activities.

3. Exclusion from consultation with the SHPO on a project-by-project basis regarding a finding of "no adverse effect" for a defined list of activities on a defined list of historic property types (e.g., trenching through a historic-era ditch for utility line installation where the disturbed section of ditch would be returned to pre-project contours), when the following conditions are met:

- (a) Completion of a defined minimum level of effort regarding cultural resource identification;
- (b) Consultation with appropriate interested and consulting parties, including but not limited to federally recognized tribes;
- (c) Appropriate minimization measures and post-construction reporting measures are included in the project authorization to ensure effects to historic properties are minimized;
- (d) Internal review of "no adverse effect" determination by a person meeting specified qualifications and appropriate documentation of such review; and
- (e) Submittal of an annual report to SHPO summarizing the covered activities.

For any undertakings with findings of "adverse effect" the Corps will follow the standard Section 106 consultation process with SHPO and appropriate interested and consulting parties, including but not limited to federally recognized tribes.

CONSIDERATION OF COMMENTS: The benefit, which reasonably may be expected to accrue from the use of the proposed PA, must be balanced against its reasonably foreseeable detriments. The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Native American tribes, and other interested parties in order to consider and evaluate the potential benefits and impacts of the proposal, as well as recommendations and considerations for development of the proposed PA. Any comments received will be considered by the Corps during development of the proposed PA. Comments are also used to determine the overall public interest of the proposed PA development. The Corps is also interested in receiving comments related to the proposal's potential effects on overall permit application review times for activities subject to DA authorization under the Regulatory Program.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPL-2023-00023 must be submitted electronically as indicated below on or before **March 10, 2023** to Michael Langley, Senior Regulatory Project Manager, Regulatory Division, michael.w.langley@usace.army.mil

For additional information please call Michael Langley at (602) 230-6953 or via e-mail at Michael.W.Langley@usace.army.mil. This public notice is issued jointly by the Chief, Regulatory Division and the Chief, Planning Division.