

United States Department of Agriculture



Natural Resources Conservation Service
P.O. Box 2890
Washington, D.C. 20013

November 28, 2011

Dear Tribal Leader,

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS), by this letter, is initiating government-to-government consultation and invites your participation in the development of a new nationwide program alternative for compliance with Section 106 of the National Historic Preservation Act (NHPA). The NRCS has been involved in preliminary discussions with the Advisory Council on Historic Preservation (ACHP) regarding this matter and is moving forward with discussions that would provide for better consultation and efficiencies in the NRCS' Section 106 compliance.

As you may be aware, the NRCS works with landowners through conservation planning and assistance designed to benefit the soil, water, air, plants, and animals that result in productive lands and healthy ecosystems. Section 106 of the NHPA requires federal agencies, such as the NRCS, to consider the effects of the undertakings we carry out, approve, or fund on historic properties.¹ Where a proposed undertaking may affect historic properties on tribal lands or historic properties of significance to Indian tribes located off tribal lands, the NRCS must consult with officials of those tribes. This process provides Indian tribes an opportunity to participate in federal decision making. To tailor our compliance with Section 106, the NRCS is currently operating under a nationwide 'Programmatic Agreement among the United States Department of Agriculture Natural Resources Conservation Service, the Advisory Council on Historic Preservation and the National Conference of State Historic Preservation Officers relative to: Conservation Assistance'. This nationwide programmatic agreement encourages the development of Consultation Protocols with interested Federally Recognized Indian tribes and Native Hawaiian organizations and State Level Agreements (SLAs) with State Historic Preservation Officers (SHPOs). This current program alternative will expire on May 30, 2012.

In an effort to continue a program of tailored compliance with Section 106, we are contemplating the development of a new nationwide prototype programmatic agreement (prototype agreement). The ACHP can designate an agreement document as a prototype agreement that may be used for the same type of program or undertaking in more than one case or area. Should the ACHP designate a nationwide prototype agreement for the NRCS, individual NRCS State Offices, through the State Conservationist, would be able to develop state specific agreements with the relevant Indian tribal government(s), Tribal Historic Preservation Officer (THPO), SHPO, and Native Hawaiian organization(s) following the direction and principles of the national prototype without need for ACHP participation in consultation or the ACHP's signature.

The NRCS, in coordination with the ACHP, will be hosting a series of teleconferences over the next few months to hear your initial thoughts on the proposal to develop this program alternative and to inform the discussion with lessons learned during the past decade in coordinating NRCS Section 106 reviews. We invite your participation in one or more teleconferences on the following dates:

¹ For more information on the Section 106 process, please visit the ACHP's website, <http://www.achp.gov/work106.html>.



November 28, 2011

2

- o **Tuesday, December 20, 2011 at 1:30 pm EST**
- o **Wednesday, January 18, 2012 at 1:30 pm EST**
- o **Tuesday, February 7, 2012 at 1:30 pm EST**

The call number for each call will be the same:

Dial in (access) numbers:	Toll Free:	1-866-904-4709
	Toll:	1-203-310-2682
Participant Passcode:		6379651#

All participants joining the conference must use a touch-tone phone to participate in the "Instant Meeting" conference. Please be sure the passcode is followed by the pound sign (#).

Following these teleconferences and based upon your feedback, we will continue government-to-government consultation, to include face to face meetings upon your request, as we draft the prototype agreement. We will keep you informed of relevant timelines and milestones for this effort.

Because the NRCS and the ACHP agree that this effort should be transparent given the breadth and scope of NRCS programs throughout the nation, we need to consider how to fully engage tribal leaders. Currently the NRCS is considering the development of a webpage that would be hosted through the ACHP's publicly accessible website, www.achp.gov. This webpage would provide current information on the development of the prototype agreement, the program schedule, draft documents for review and comment, and contact information for the relevant NRCS and ACHP staff.

Further, to allow the NRCS' current Section 106 program to continue while a new nationwide program alternative is considered, we are contemplating a proposal to amend the existing nationwide programmatic agreement to extend its duration beyond the expiration date. We would anticipate this limited extension lasting no longer than six months. We would welcome your thoughts and suggestions on such a proposal.

Thank you in advance for your time in this initiative. If you have any questions, please do not hesitate to contact me via phone (202) 720-4912 or email sarah.bridges@wdc.usda.gov.

Sincerely,



Sarah Bridges

Federal Preservation Officer and National Cultural Resources Specialist
Ecological Sciences Division

- cc. Kelly Fanizzo, NRCS Liaison/Attorney Advisor, ACHP
Valerie Hauser, Director, Office of Native American Affairs, ACHP

Helping People Help the Land

An Equal Opportunity Provider and Employer