

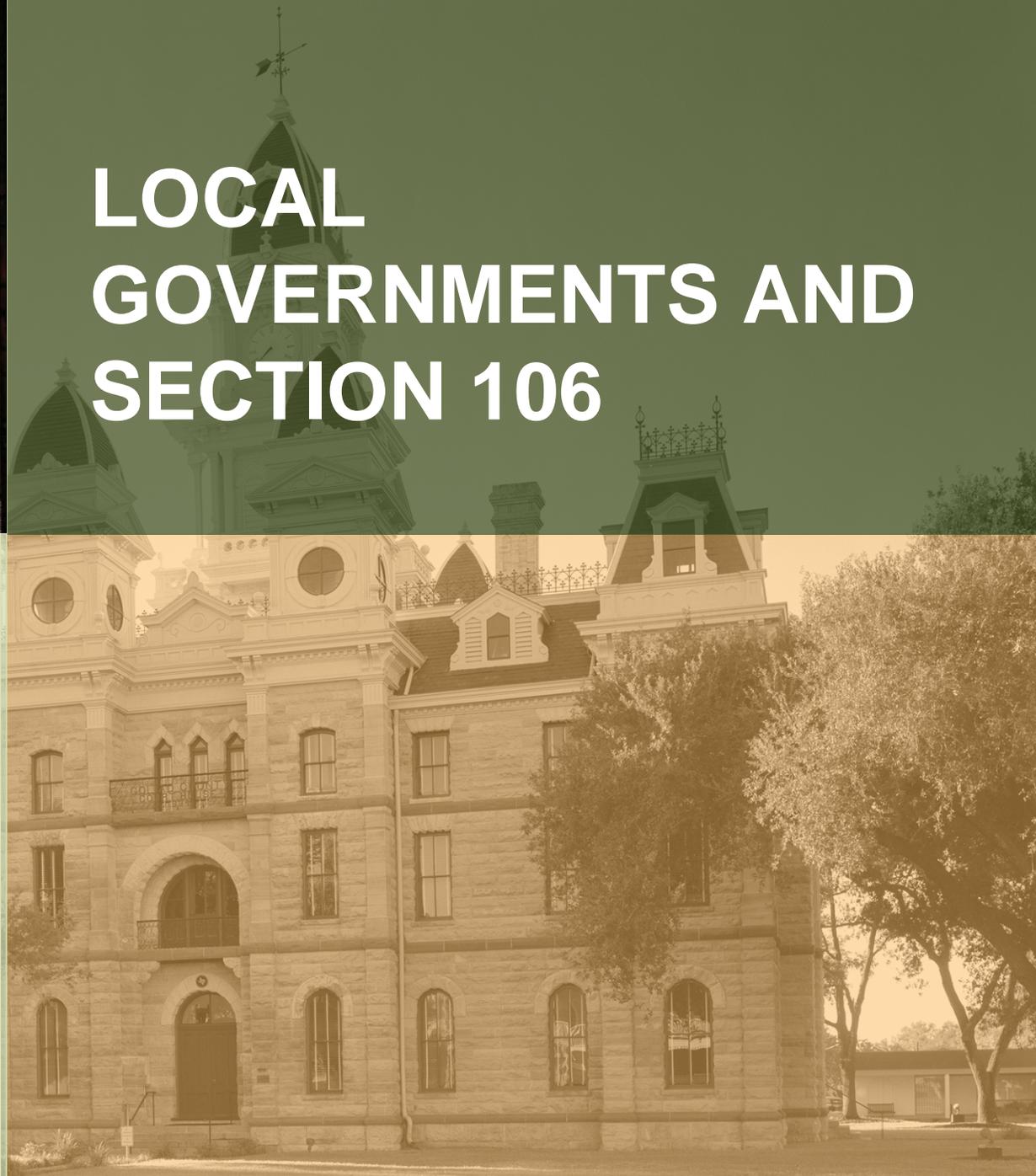


LOCAL GOVERNMENTS AND SECTION 106

**National
Preservation
Conference
October 17, 2009**



**ADVISORY COUNCIL ON
HISTORIC PRESERVATION**
Preserving America's Heritage





What is Section 106 Review?

- **Requires Federal agencies to: Consider effects of their actions on historic properties, and**
- **Afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment.**



The Section 106 Process

36 CFR § 800.3 - 7

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1. INITIATE the process

- Determine undertaking
- Notify SHPO/THPO
- Identify Tribes and Other Consulting Parties
- Plan to involve the public

*No undertaking/
potential to cause
effects?*

2. IDENTIFY historic properties

- Determine APE
- Identify historic properties
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

*No historic properties
present/affected?*

3. ASSESS adverse effects

- Apply criteria of adverse effect
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

*No historic properties
adversely affected?*

4. RESOLVE adverse effects

- Avoid, minimize, or mitigate adverse effects
- Notify ACHP
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

*Memorandum of
Agreement (MOA)/
Programmatic
Agreement (PA)
or
Council Comment*

A Public Process

Federal agencies must talk to “consulting parties” to seek consensus

- SHPO
- Indian tribes
- Native Hawaiian Organizations
- Local governments
- Applicants for Federal Assistance and approvals
- And sometimes, ACHP

Who is the ACHP?

An Independent Federal agency

Oversees the Section 106 Review Process

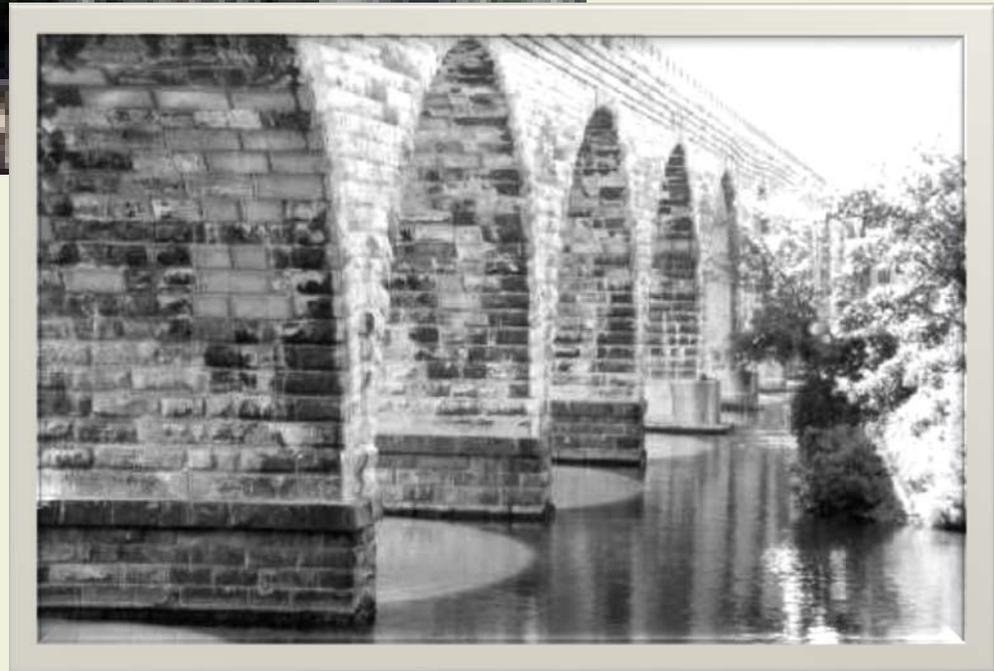
Advocates Preservation Policy

Educates stakeholders and the public

Under Section 106, provides Federal agencies with recommendations or comments on resolving adverse effects to historic properties.

Historic Properties

Properties
either listed
or eligible
for listing in
the National
Register of
Historic
Places



The Section 106 Process

Step 1

36 CFR § 800.3

- Determine undertaking
- Notify SHPO/THPO
- Identify Tribes and Other Consulting Parties
- Plan to involve the public

*No undertaking/
potential to cause
effects?*

1. INITIATE the process

2. IDENTIFY historic properties

3. ASSESS adverse effects

4. RESOLVE adverse effects

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The Section 106 Process

Step 2

36 CFR § 800.4

- Determine APE
- Identify historic properties
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

1. INITIATE the process

2. IDENTIFY historic properties

3. ASSESS adverse effects

4. RESOLVE adverse effects

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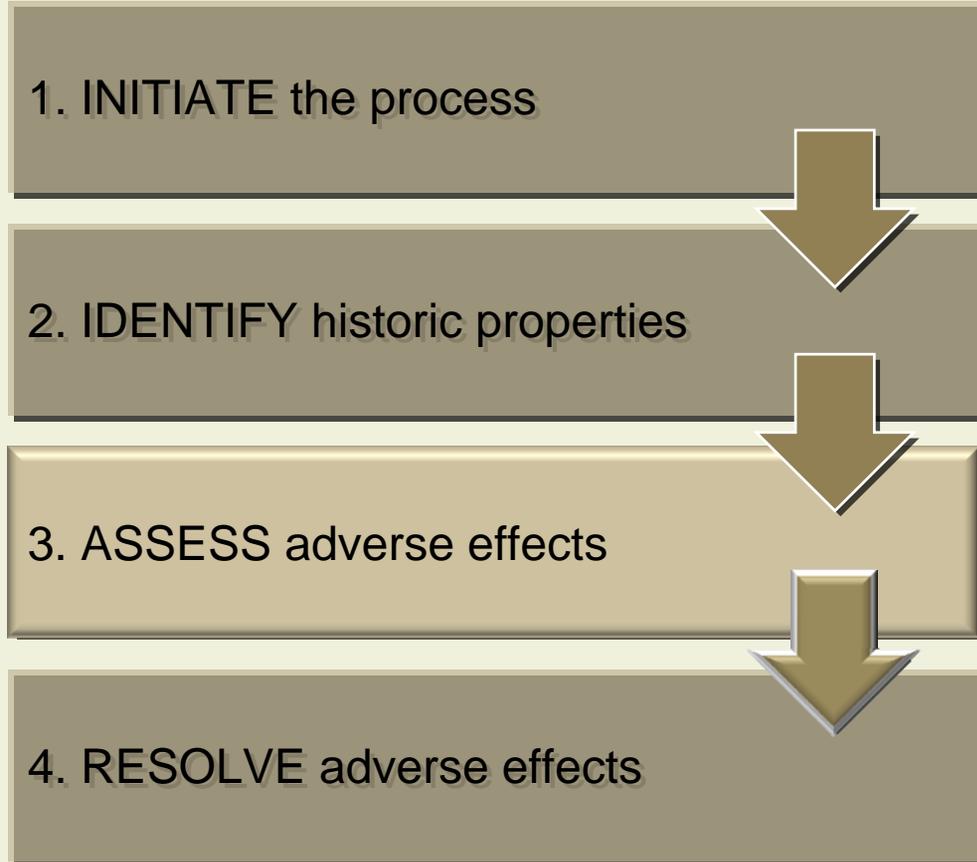
*No historic properties
present/affected?*

The Section 106 Process

Step 3

36 CFR § 800.5

- Apply criteria of adverse effect
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public



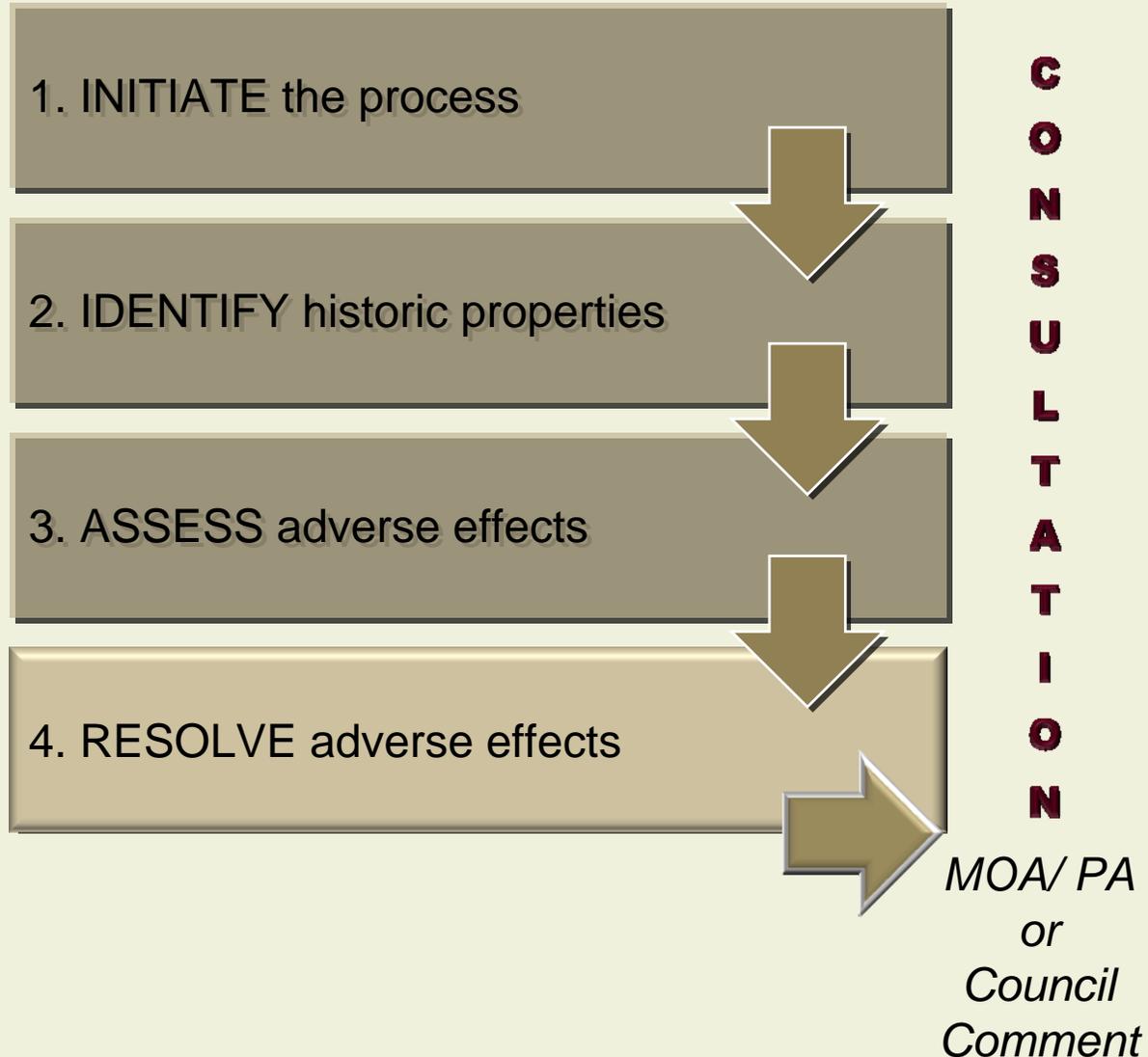
*No historic properties
adversely affected?*

The Section 106 Process

Step 4

36 CFR § 800.6-7

- Avoid, minimize, or mitigate adverse effects
- Notify ACHP
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public

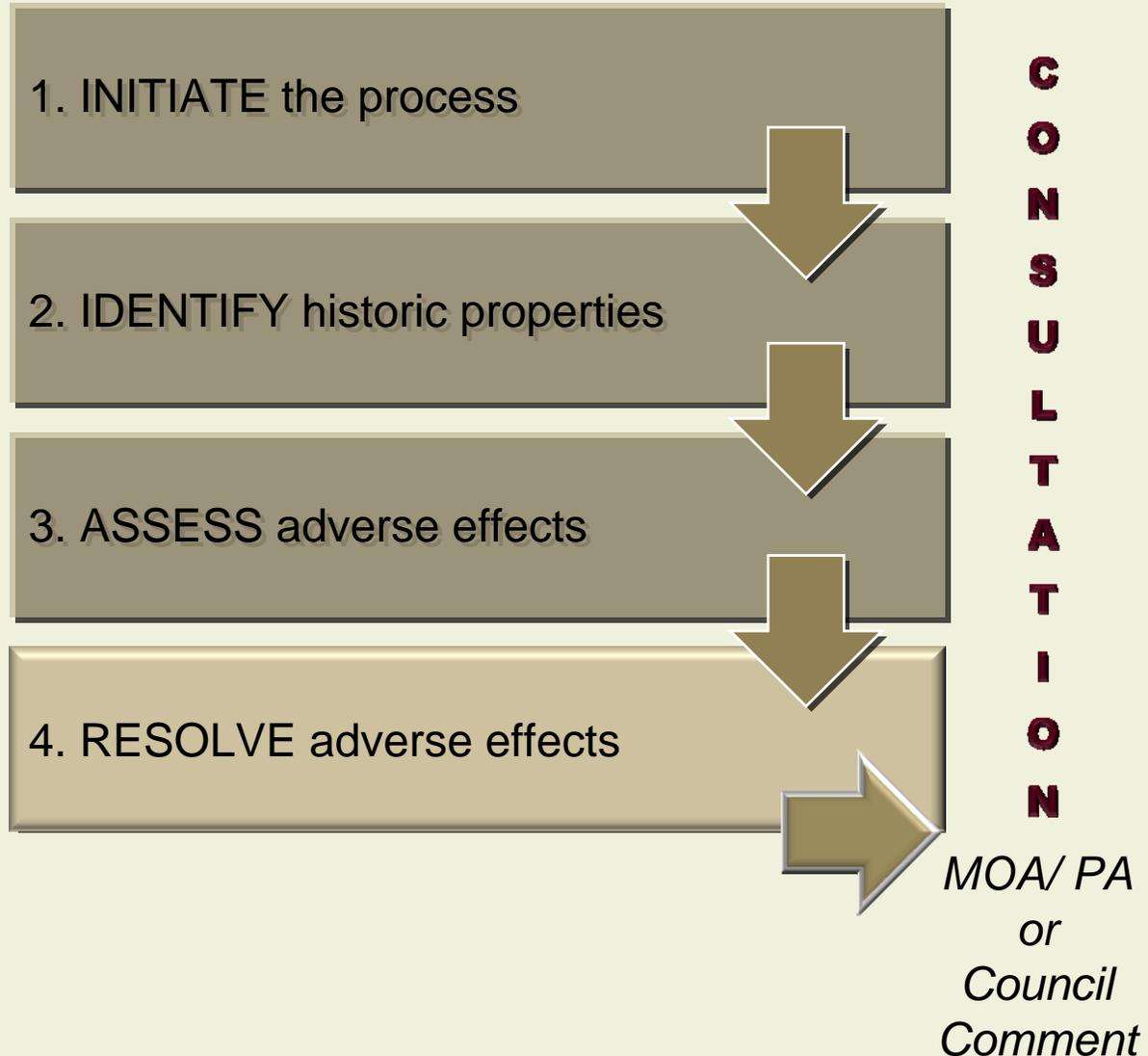


The Section 106 Process

Step 4

36 CFR § 800.6-7

- Avoid, minimize, or mitigate adverse effects
- Notify ACHP
- Consult with SHPO/THPO, Tribes, and Other Consulting Parties
- Involve the public





What does it mean to participate in Section 106 consultation?

Consultation means the process of seeking, discussing, and considering the views of other participants, and where feasible, seeking agreement with them regarding matters arising in the section 106 process.



Benefits of Participation

- Participating in Section 106 Review provides parties with an opportunity to**
- Ensure identification of historic properties of significance to the community;**
 - Coordination of federal and local review;**
 - Opportunity to identify meaningful mitigation measures**

Local Government's Roles

**Applicants for Federal Assistance,
permits, licenses and other approvals
(FAA Approval, Grants from FHWA &
FTA, Transportation Enhancement
Funding)**

Local Government with Jurisdiction

Who Represents Local Governments in Section 106 Review?

It depends:

Governing board or elected officials may participate or designate to staff.

Planning Departments, Certified Local Government representative, or recreation staff.

Historic Preservation Commissions

How Do Preservation Commissions Get Involved?

- **Contact Federal agency officials when you learn of a project of concern and request to be a consulting party under Section 106.**
- **Be Proactive by developing relationship with planning officials and DOT staff.**
- **Make a blanket request to participate in certain types of undertakings.**

How Can the ACHP Assist Local Commissions with Section 106?

Check our website: www.achp.gov;

Request Technical Assistance by phone or email;

Request the ACHP become a consulting party;

Section 106 Essentials training.

Contact Us

Carol Legard

FHWA Liaison

**Advisory Council on Historic
Preservation**

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www.achp.gov

www.achp.gov/fhwa.html