

Why a Section 106 Programmatic Agreement?

Forests that do not operate under a Section 106 Programmatic Agreement are required to follow the standard Section 106 compliance process outlined in 36CFR800 Subpart B for all undertakings that have the potential to affect historic properties. An undertaking is defined as “a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; and those requiring a Federal permit, license or approval” (36CFR800.16(y)). Stipulations can be negotiated through consultation that would streamline the process and free up time and funding spent on compliance to allow more time and funding to be spent on heritage resource stewardship, preservation and protection, and public education and outreach.

- streamlining the consultation process away from case by case consultation for routine and repetitive activities;
- providing a negotiated list of exempt undertakings, or undertakings that are likely to have effects on historic properties that are minimal or not adverse;
- standardizing methodologies, treatments, protection, and monitoring measures;
- providing agreement to information sharing standards and processes with SHPOs, Tribes, ACHP, and other consulting parties;
- outlining and standardizing procedures for tribal consultation;
- outlining and standardizing procedures for public participation;
- permitting the FS to use PA when serving as lead agency on a large multi-agency project;
- specifying how applicants/permittees may carry out a portion of the process for the agency; and
- saving the agency money. Region 5 (California) estimates that their regional PA regularly saves the region over \$20 million annually.

Parties to a Section 106 PA:

Signatories

The required signatories to a Section 106 PA in the Southern Region are (1) the Forest Supervisor; (2) the SHPO; and (3) the ACHP (if, after notified by letter, they choose to participate). Other required signatories include any person or organization agreeing to assume some sort of role or responsibility in the PA. A Forest may choose to include other seriously interested and involved parties as signatories to the PA. However, the Forest should keep in mind that each signatory has the authority to terminate or seek amendments to the PA

Concurring Parties

A concurring party to a PA can be any person or group that was consulted with (consulting party) or involved in the development of the PA. This could include federally recognized Tribes, local governments, groups or individuals with historical connections to the area, groups or individuals with economic connections to certain historic properties affected by the PA, state or locally recognized Tribes that attach religious and cultural significance to historic properties on the Forest, professional historic preservation or archaeological organizations in the area, avocational groups in the area, partners, etc. Signing a PA as a concurring party simply means that the group or individual concurs with the PA. Concurring parties do not have the authority in and of themselves to terminate or amend a PA. If an individual or group that was consulted with or involved in the development of the PA refuses to sign as a concurring party, it does not invalidate the PA. The Forest does, however, need to document why they refused to concur and demonstrate that their concerns were taken into consideration in the development of the PA.