



PROCESSING PROJECTS FOR SECTION 106 COMPLIANCE

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Cultural Resources

- Any historic site (resource): building, object, structure, landscape, district, or archaeological site
- Historic = 50+ years old
- Cultural resource = Historic resource



Cultural Resources vs Historic Properties



- HISTORIC/CULTURAL RESOURCE is any prehistoric or historic district, site, building, structure, or object that is 50+ years old.
- HISTORIC PROPERTY is any CULTURAL RESOURCE that has been determined SIGNIFICANT
- SIGNIFICANT means it is **included in, or eligible for inclusion in, the National Register of Historic Places** (National Register/NRHP)

Outline

- ~~Definitions~~
- Legal Authorities
- General Section 106 Process
- National Register Criteria
- FDOT's Section 106 Process
- Section 106 PA Stipulations
- Sample documentation
- Final Notes on Qualifications and Public Involvement



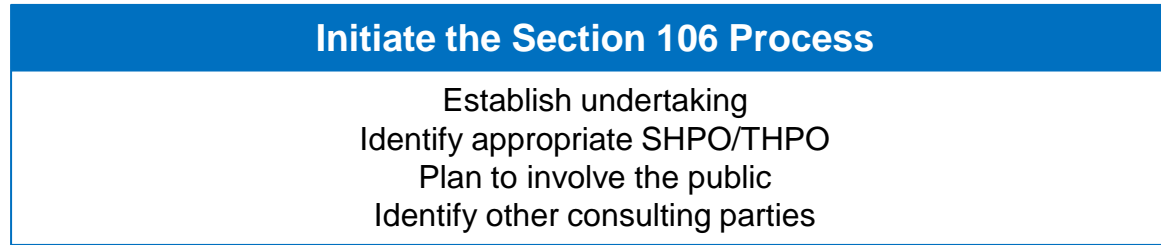
Legal Authorities (for federal projects)

- **National Historic Preservation Act (NHPA) of 1966, as amended**
 - **Section 106 of the NHPA, as codified in 36 CFR Part 800**
- **Programmatic Agreement (PA) among the FHWA, Advisory Council on Historic Preservation (ACHP), Florida Division of Historical Resources (FDHR), State Historic Preservation Officer (SHPO), and the FDOT Regarding Implementation of the Federal-Aid Highway Program in Florida**
 - **Or “Section 106 PA”**
 - **FDOT’s process for compliance**

Consultation Protocols

Section 106 Regulations Flow Chart

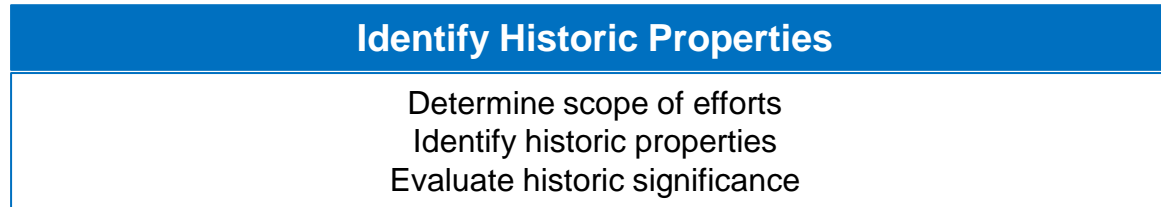
COORDINATION



▶ *No undertaking/
No potential to cause effects*

Undertaking may affect historic properties

COORDINATION



▶ *No historic properties affected*

Historic properties are affected

COORDINATION



▶ *No historic properties adversely affected*

Historic properties are adversely affected

COORDINATION



▶ *Memorandum of Agreement*

FAILURE TO AGREE

▶ **COUNCIL COMMENT**

Step 1: Initiate the Section 106 Process [36 CFR § 800.3]

- **Establish undertaking** (funding, approval) & “potential to cause effects” (assuming historic properties are present)
- Coordinate with other reviews
- Initiate consultation
- **Create public involvement plan**
- **Notify/consult with SHPO* & Appropriate Parties**

*State Historic Preservation Office



EXIT POINT:

- No “undertaking,” or
- no potential to cause effects to historic properties

Step 2: Identify Historic Properties

[36 CFR § 800.4]

- Determine APE
- Identify historic properties
 - Identify cultural resources
 - THEN evaluate for significance
- Consult with SHPO (& other appropriate parties)
- Involve the public



EXIT POINT:

- No Historic Properties present
- No Historic Properties affected

National Register Criteria for Evaluation

36 CFR Part 60.4

7 Aspects of Integrity
&
4 Areas of Significance

The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess **INTEGRITY** of location, design, setting, materials, workmanship, feeling, and association, and:

- A. That are associated with **events** that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant **persons** in our past; or
- C. That embody the **distinctive characteristics** of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, **information** important in history or prehistory.

Step 3: Assess Adverse Effects

[36 CFR § 800.5]

- Apply the criteria of adverse effect
- Consult with SHPO
- Involve the public

EXIT POINT:

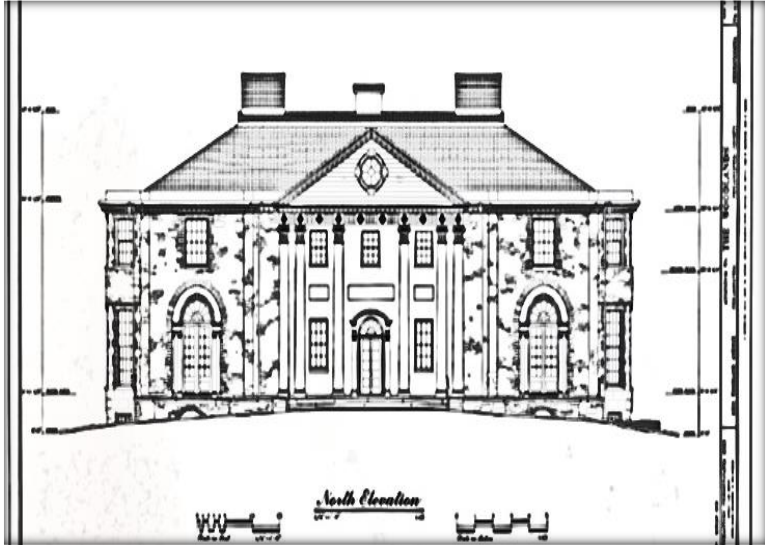
- No historic properties adversely affected



Step 4: Resolve Adverse Effects

[36 CFR § 800.6]

- Notify ACHP
- Avoid, minimize, or mitigate adverse effects
- Consult with SHPO
- Involve the public



EXIT POINT:

- Memorandum of Agreement (MOA) or other appropriate agreement document

FDOT's Section 106 PA & Process

Used for State-Only as well as Federal-Aid Projects

***Stipulation V – Unlikely to Impact**

***Stipulation VI – Unlikely to Adversely Affect**

***Stipulation VII – Standard Review**

**PROGRAMMATIC AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
THE FLORIDA DIVISION OF HISTORICAL RESOURCES, STATE HISTORIC
PRESERVATION OFFICER, AND THE FLORIDA DEPARTMENT OF
TRANSPORTATION REGARDING IMPLEMENTATION OF
THE FEDERAL-AID HIGHWAY PROGRAM IN FLORIDA**

WHEREAS, the Federal Highway Administration (FHWA) implements the Federal-Aid Highway Program (Program) in the State of Florida authorized by *Title 23 U.S.C. § 101 et seq.*, by funding and approving State and locally sponsored transportation projects; and

WHEREAS, the Florida Division Administrator (Administrator) for FHWA is the “Agency Official” responsible for compliance with Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, *54 U.S.C. § 300101 et seq.*, and implementing regulations under *36 C.F.R. Part 800*; and

WHEREAS, the State of Florida, Department of Transportation (FDOT) administers Federal aid highway projects throughout Florida as authorized by *Title 23 U.S.C. § 101 et seq.*; and

WHEREAS, the Director of the Florida Division of Historical Resources (FDHR) serves Florida State Historic Preservation Officer (SHPO) and is responsible under Chapter 267, Florida Statutes (F.S.) (Florida Historical Resources Act), Sections 106 and 110 of the NHPA, and *36 C.F.R. Part 800* to advise, assist, review, and consult with State and Federal agencies as they carry out their historic preservation responsibilities; and

WHEREAS, FHWA has determined that certain transportation projects constitute “undertakings” as defined in *36 C.F.R. § 800.16(y)* which may have an effect upon properties included in or eligible for inclusion in the National Register of Historic Places (NRHP), hereafter referred to as historic properties, and has consulted with the SHPO and the Advisory Council on Historic Preservation (ACHP) pursuant to *36 C.F.R. § 800.14(b)*; and

WHEREAS, FHWA, as a federal agency, has a unique legal relationship with Indian tribes as set forth in the Constitution of the United States, treaties, statutes, executive orders, and court

Section 106 PA Process

Stipulation VI—Review of Projects Considered Unlikely to Affect Historic Properties

Less documentation required for compliance

- The activity must meet the following conditions:
 - Stand-alone project
 - Does not occur on Tribal lands
 - Listed in Exhibit 1 or 2 (Exhibit 2, #57 Recreational Trails)
 - The desktop and/or field review results in **No Historic Resources within the APE**
 - SHPO is notified of the finding and does not object within 30 days of notification

Stipulation VII— Standard Review for Program Undertakings

- Standard process. Follow guidelines in 36 CFR Part 800, Part 2, Chapter 8 of PD&E Manual, CRM Handbook, and FDHR Module 3.

Section 106 Minimal Impact Determination Form

Project Name: I-75 (SR 93) at SR 681 Landscaping
FM#: 438586-1-52-01 **FAP#:** Not Applicable
Project Review Date: 6/4/2018
FDOT District: 1
County(ies): Sarasota
Project Description: The project proposes landscaping improvements to I-75 (SR 93) at SR 681. The project scope includes litter removal; landscaping repair and maintenance, turf and tree installation; irrigation and drainage systems installation. All work takes place within ROW in areas previously disturbed by roadway construction and utilities.

Classification Category (Stipulation V or VI): Stipulation VI - Minor Project Considered Unlikely to Affect Historic Properties

Additional Information for Projects with No Potential to Affect Historic Properties
Used for projects classified under Stipulation V of Florida's Section 106 Programmatic Agreement.

Activity Types with No Potential to Affect Historic Properties select all that apply (Section 106 Programmatic Agreement Exhibit 1):

- 1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- 2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
- 3. Activities included in the State's highway safety plan under 23 USC 402.
- 4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
- 5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
- 6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).

Confirmed Conditions:

- | YES | NO | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | The activity is a stand-alone project |
| <input type="checkbox"/> | <input type="checkbox"/> | The activity does not occur on tribal lands |
| <input type="checkbox"/> | <input type="checkbox"/> | The activity does not include and is not located in or adjacent to any historic resource of 50 years of age or older; nor listed on the National Register of Historic Places; nor is it listed as a National Historic Landmark |
| <input type="checkbox"/> | <input type="checkbox"/> | The activity is limited to activities specified in Exhibit 1 of Florida's Section 106 Programmatic Agreement, 2016 |

IMPORTANT: If all answers are **Yes**, the project meets the conditions set forth in Stipulation V of the Programmatic Agreement. If the answer to any of these questions is **No**, evaluate the project pursuant to the conditions in Stipulation VI of the Programmatic Agreement on page 2 of this form.

- Project Information
- Classification
- Stipulations V or VI
- Stipulation V details

Minimal Impact Potential Determination Form

Description of internal review methodologies used to verify compliance with Stipulation V conditions:

Additional Information for Projects Considered Unlikely to Affect Historic Properties
Used for projects classified under Stipulation VI of Florida's Section 106 Programmatic Agreement.

Identify activity types with No Potential to Affect Historic Properties, as appropriate (Section 106 Programmatic Agreement Exhibit 1):

- 1. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
- 2. In kind replacement or ordinary repair of existing lighting, guardrails, traffic signals, curbs, and sidewalks.
- 3. Activities included in the State's highway safety plan under 23 USC 402.
- 4. Preventive maintenance activities such as joint repair, pavement patching, shoulder repair, and the removal and replacement of old pavement structure.
- 5. Restoration, rehabilitation, and/or resurfacing of existing pavement.
- 6. Restoration and rehabilitation of existing bridge (including painting, crack sealing, joint repair, scour repair, scour counter measures, fender repair, bridge rail or bearing pad replacement, seismic retrofit, etc.).

Activity Types Considered Unlikely to Affect Historic Properties:

Include number(s) and description(s), as appropriate, from Exhibit 2 of Florida's Section 106 Programmatic Agreement, 2016 for project activities.

6. Landscaping.

22. Restore/replace/rehabilitate culverts, inlets, drainage pipes, and systems including safety treatments.

Confirmed Conditions:

- | YES | NO | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The activity is a stand-alone project |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The activity does not occur on tribal lands |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The activity is limited to the activities specified in Exhibits 1 or 2 of Florida's Section 106 Programmatic Agreement, 2016 |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | The desktop analysis and/or field review efforts discussed below resulted in the identification of no historic resources within the project APE |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | There are no National Historic Landmarks within or adjacent to the project APE |

IMPORTANT: If all answers are **Yes**, the project meets the conditions set forth in Stipulation VI of the Programmatic Agreement. If the answer to any of these questions is **No**, this form cannot be used. Evaluate the project pursuant to Stipulation VII of the Programmatic Agreement.

Additional Stipulation V info

Stipulation VI Details

- Exhibit 2 Activity (57 Rec Trails)
- Conditions

Section 106 Minimal Impact Determination Form

- APE Description and Justification
 - INCLUDE MAPS (Location and APE, etc.)
- Description of desktop and field review methodologies used to confirm conditions
- Signature
- Submission instructions

Area of Potential Effect (APE) Description and Justification: Based on the scale and nature of the activities, the project has a limited potential for any indirect (visual or audible) or cumulative effects outside the immediate footprint of construction. Therefore, because of the project type and location of the proposed work, the Area of Potential Effect (APE) for the project was limited to the footprint of proposed activities within the existing ROW.

Description of the desk top and field review methodologies used to confirm the conditions set forth in Stipulation VI: On behalf of FDOT District One, Atkins conducted a desktop review for the project in June 2018. Project plans were reviewed to determine the scope and to establish an appropriate APE based on project type and location. The Florida Master Site File (FMSF) and Efficient Transportation Decision Making (ETDM) Environmental Screening Tool (EST) were consulted to identify previous cultural resources surveys, as well as any previously recorded or potential cultural resources. Additional sources of information included county property appraiser data and Google Earth/Streets.

Based on the review summarized above, FDOT has determined that the I-75 (SR 93) at SR 681 Landscaping (438586-1-52-01) project will not cause effects to historic properties.

The environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by FDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 14, 2016, and executed by FHWA and FDOT.

Signature: _____ Date: 3/19/2019
Environmental Manager, or designee

Processing Instructions: To notify the State Historic Preservation Officer and the Florida Division of Historical Resources of minor projects having no effects to historic properties under stipulations V and VI of Florida's Section 106 Programmatic Agreement, email the completed form to the Compliance and Review Section of the Bureau of Historic Preservation at CompliancePermits@dos.myflorida.com. Use the following standard text in the subject line:

Notification of Minor Project per Stipulations V and VI of the statewide Section 106 Programmatic Agreement

Link to Section 106 PA:
[http://www.fdot.gov/environment/pubs/Section%20106%20PA%20Executed%20Version%201%20via%20Email%202015mar16%20\(3\).pdf](http://www.fdot.gov/environment/pubs/Section%20106%20PA%20Executed%20Version%201%20via%20Email%202015mar16%20(3).pdf)





Stipulation VII—Standard Review for Program Undertakings



(36 CFR §§ 800.3 – 800.7)

- **Cultural Resource Assessment Survey (CRAS) and Report**
 - Should identify and evaluate any resources in the APE
 - Should NOT assess adverse effects
 - Make formal determination:
 - No Historic Properties Affected; OR
 - Historic Properties Affected
 - Receive SHPO concurrence
- **Section 106 Case Report**
 - Assess adverse effects to historic properties
 - Make formal determination:
 - No Historic Properties Adversely Affected; OR
 - Historic Properties Adversely Affected
 - Same submission instructions
 - Receive SHPO concurrence

FDHR'S

Module Three: Guidelines for Use By
Historic Preservation Professionals

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- Appendix A: 1A-32 Archaeological Research Permit; ARPA Permit
- Appendix B: Field Specimen (FS) Log
- Appendix C: FMSF Resource Forms
- Appendix D: FDHR Survey Log Sheet

Step 4: Resolve Adverse Effects (?) [36 CFR § 800.6]

A determination of Adverse Effect to Historic Properties disqualifies a project from being processed as a Type 1 CE



Final Notes

Professional Qualifications

36 CFR Part 61, Appendix A

(a) History

(b) Archaeology

(c) Architectural History

Public Involvement

Must provide the public an opportunity to comment

Can be satisfied by existing Public Involvement procedures, if in place



Resources

- Section 106 PA
- 36 CFR Part 800
- Part 2, Chapter 8 of the PD&E Manual
 - CRM Handbook
 - FDHR Module 3
- AASHTO Practitioner's Handbook
- Each FDOT District has a Cultural Resources Coordinator

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