Training on the National Historic Preservation Act/Section 106

Introduction

Those of us who have honed our skills working with historic preservation laws by the seat of our pants through trial and error know how complex and confusing these laws can be to those unfamiliar with them. This is especially true with the National Historic Preservation Act (NHPA) We respond to Section 106 actions to assess potential impacts on historic properties, design and implement Section 110-driven projects, make eligibility determinations, and write agreements documents, often on a project-to project basis. In conjunction with these activities we consult with the appropriate federal and state agencies, federally recognized Native American tribes and other stakeholders (such as irrigation and conservation districts). It is important that cultural resources practitioners be grounded in historic preservation laws, and learn the various approaches to implementation of the National Historic Preservation Act. JRI's two-day training course on NHPA is designed to provide a foundation for CRM professionals and the general public to learn, understand and implement the Section 106 process and other requirements of NHPA. The course is designed for anyone who, at some time or another, will have to be part of the compliance and review process for projects covered under the NHPA There are many misconceptions about what NHPA covers and how it relates to other laws such as the National Environmental Policy Act (NEPA) and the Native American Graves Protection and Repatriation Act (NAGPRA).

For the CRM Professional

As a former federal archaeologist/land manager and CRM professional, I can tell you the frustration, for example, of reviewing archaeological inventory reports where the majority of sites eligibility recommendations were either "undetermined pending further testing" or redundantly stated as "eligible under criterion d" with no supporting rationale. I recall having to have large areas re-surveyed as a result. Eligibility recommendations are serious business and each recommendation for every site should be undertaken thoughtfully, because, from an agency perspective, if a site is determined "not eligible" it means that it is not longer involved in the Section 106 process and therefore is vulnerable to destruction. On the other hand, a casual recommendation of "eligible" has to be explained to an engineer or mid-level manager with little or nothing to go on. Thoughtful decision-making is based on a keen understanding of the law, what they require, their subtle and sometimes not-so-subtle manipulation, and philosophical approach. Section 106 actions demand thoughtful consultation, but they can also be controversial. Clients and agencies depend on CRM professionals to provide the most thoughtful and insightful products that they can. Thus, it makes good business sense, as well as intellectual sense, to re-think these issues and our philosophical approaches to them. This is designed to educate and engage CRM professionals in the procedures, steps, approaches and pitfalls of working with NHPA. It combines instruction with

challenging exercises that allow participants to actively work on issues they will, or already have, confronted in their profession. Often there is more than one answer.

For the General Public and Non-CRM Stakeholders

Many entities are engaged in economic development projects that involve federal funding, permits, leases, or land transfers that kick in the NRHP Section 106 process. Private companies and city governments employ architects, engineers, construction personnel and others who are often unfamiliar, and in some cases blindsided, by the hoops they have to run through to complete the compliance process so they can get on with their projects. Most of them are unfamiliar with NHPA and may often perceive the Section 106 process as an "obstacle" which delays their projects. However, if they have a proper understanding of how the process works, what is required and what is not, they can stay ahead of the curve and meet their NRHP obligations in a timely fashion. However, this also demands that federal agency personnel are forthright, clear, and timely in their Section 106 activities.

For this class each participant will receive instructional materials that include: notebooks with Power Point handouts, articles and other documents; and a zip file containing cases of Section 106 Success Stories, Advisory Council documents, statutes and National Register guidelines.

What participants can expect to learn:
- Understanding the historical context of antiquities laws
  A basic understanding of the NHPA statute and regulations
- A working knowledge of Sections 106 and 110
- How to work through a Section 106 exercise
- How to understand and assess traditional cultural properties

Course Outline (Two days)

Day One

Morning- 9:00AM

I. Introduction

II. Overview of NHPA
　　　A. The preservation-development paradox: the "push model" and "sustainability model".
　　　B.   Historical Context: NHPA precursors and related legislation.

BREAK

III. Key provisions of NHPA
       A.   Sections 101, 106 and 110.
       B.   Consultation structures

LUNCH

Afternoon- 1:00PM

IV.   Working with Section 106
       A.   The 106 Process
       B.   Adverse Effects
       C.   Memorandum of Agreement (MOA) and Programmatic Agreement
       D.   Data Recovery Plan
BREAK
       E.   Section 106 and NEPA

V.   Background to Assignment 1
       A.   The Action
       B.   The Assignment.

Adjourn

Day 2

Morning- 9:00AM

I.   Discussion of Assignment 1
BREAK

II.   Working with Section 110
       A.   Historic Properties and State and National Register of Historic Places
       B.   Historic properties and issues of eligibility
       C.   Site management components the site evaluation cycle.
       D.   Eligibility criteria and the "d" problem.
       E.   What is "significance"?

LUNCH

Afternoon- 1:00PM

III.   Traditional Cultural Properties (TCPs)
       A.   Eligibility
       B.   Evaluation
       C.   Examples

D. Assignment 2.

BREAK: 30 minutes

E. Discussion of Assignment 2.

IV.   Summation

Adjourn