

FEMA Region 3 Section 106 Adverse Effect Notification Process

- After receiving a complete scope of work, FEMA EHP identifies historic properties within the Area of Potential Effect (APE)
- A qualified¹ EHP specialist will determine the effect to historic properties
- If the project will result in an adverse effect to historic properties, FEMA EHP will coordinate with FEMA program staff to schedule a meeting with the recipient and subrecipient.
- Meeting between FEMA EHP, FEMA program, recipient, and subrecipient will cover the following:
 - Notification of the adverse effect determination
 - Discussion of avoidance measures via change in scope
 - Strategic analysis of project elements to determine if subdivision of project is appropriate and feasible
 - If adverse effect is unavoidable, explanation of next steps in the Section 106 Process and request for potential
- FEMA EHP will send determination of adverse effect to SHPO and Tribes (when applicable) requesting concurrence
- Upon receipt of SHPO and Tribes (when applicable) concurrence, FEMA EHP will initiate treatment measure negotiations with consulting parties to include FEMA, SHPO, Tribes (when applicable), recipient, sub-recipient, and interested parties. Negotiation options for mitigating the adverse effect:
 - Standard Treatment Measure utilizing the Abbreviated Consultation Process according to the Programmatic Agreement; Notify ACHP of adverse effect and intent to use Standard Treatment Measures according to Stipulation II.C.6.a.i of the state-specific Programmatic Agreement
 - Memorandum of Agreement (MOA); Notify ACHP of adverse effect and intent to use an MOA according to Stipulation II.C.6.b of the state-specific Programmatic Agreement
 - (Secondary) Programmatic Agreement (2PA); Notify ACHP of adverse effect and intent to use 2PA according to Stipulation II.C.6.c of the state-specific Programmatic Agreement
- Upon resolution of adverse effects and verification of compliance with other environmental laws and executive orders, FEMA EHP will issue a Record of Environmental Consideration (REC) including any conditions necessary to proceed with a compliant undertaking.
- FEMA program staff will finalize project and obligate funds

¹ According to the Secretary of the Interior's Professional Qualification Standards:
https://www.nps.gov/history/local-law/arch_stnds_9.htm

FEMA Region 3 Section 106 Adverse Effect Notification Process

