



SOCIETY FOR AMERICAN ARCHAEOLOGY

August 15, 2023

Joy Beasley
Associate Director, Cultural Resources,
Partnerships, and Science
National Park Service
1849 C Street NW, Room 3316
Washington, DC 20240

Dear Ms. Beasley,

The Society for American Archaeology (SAA) is pleased to present the following comments to the National Park Service (NPS) Cultural Resources, Partnerships, and Science Directorate regarding the NPS intent to create a Nationwide Programmatic Agreement (NPA) to facilitate the efficiency of Section 106 compliance procedures for federal cultural resources financial assistance activities. While we appreciate the intent of this effort, we have a number of concerns about the direction of the initiative as described in the project documents and make some suggestions on language that should be included.

The SAA is an international organization that, since its founding in 1934, has been dedicated to research about and interpretation and protection of the archaeological heritage of the Americas. With more than 5,500 members, the SAA represents professional and avocational archaeologists, archaeology students in colleges and universities, and archaeologists working at tribal agencies, museums, government agencies, and the private sector. The SAA has members throughout the United States, as well as in many nations around the world.

Our comments are divided into two sections—general observations regarding the entire outline and then notes on specific line items in the document.

General comments and suggestions:

1. A list of definitions needs to be included, as the outline contains terms whose meanings are unclear; e.g., “subaward,” “programmatic allowances,” etc.
2. The NPA needs to include a provision requiring periodic reviews throughout the life of the agreement to assess how well it is working. This consultation should take place with multiple stakeholders—including tribal cultural representatives—and not just State Historic Preservation Officers and Tribal Historic Preservation Officers (THPOs).
3. The NPA should also include language specifying the consequences of failure to comply with the document.

4. It is our understanding that as of this writing, multiple THPOs had not received the formal letter from NPS announcing this effort. This is a major concern that indicates the need for further outreach.
5. Historically, the one-size-fits-all approach rarely worked with programmatic agreements, including NPAs. Each of the financial assistance programs listed in the outline of the NPA serves different groups and pursues different objectives. There is a risk that the NPA as envisioned will be so broad that it will result in confusion for stakeholders or water down Section 106 compliance.
6. While we appreciate the desire to see greater efficiency when it comes to proceedings under the Native American Graves Protection and Repatriation Act (NAGPRA), the inclusion of NAGPRA undertakings in the NPA (at least as described in the outline) would cause more confusion and delay than is experienced at present. For another federal agency to have burial lands under its jurisdiction fall under this envisioned NPA, that agency would have to be a signatory to the NPA. Some agencies are statutorily obligated to facilitate tribal burials on land under their control (e.g., the US Forest Service and the Department of Defense). It is unclear how an NPA can be reconciled with this current reality. For this and other reasons, the SAA recommends that the eventual NPA not apply to or include NAGPRA grant undertakings.
7. The NPA outline does not address how grants issued for projects on lands or properties managed by other federal agencies will be handled.

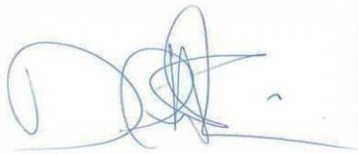
Specific comments:

1. Page 5—“The proposed PA would acknowledge the involvement of NPS professionals meeting the *Secretary of the Interior’s (SOI) Professional Qualifications Standards*.” NPS professionals meet Office of Personnel Management (OPM) standards, not SOI standards, which are more stringent and specific than the OPM standards. This needs to be clarified.
2. Page 8—“[W]elcomes an opportunity to consult with Tribal Nations . . .” Is NPS going to initiate the consultations?
3. Page 8 references an evaluation of the grant programs, but no data from this evaluation are included. Who carried out this evaluation, and is there a report documenting the shortcomings that the proposed NPA would remedy? Having that information would give stakeholders a better sense of the overall situation.
4. Page 10—“Who are the anticipated signatories . . .” The National Council of State Historic Preservation Officers is listed but not the National Association of Tribal Historic Preservation Officers. Does that mean NPS is going to consult with each THPO individually?
5. Page 10—“NPS anticipates existing Section 106 agreements that may apply to programs covered by this agreement will continue to be utilized unless terminated or expire.” Are these nationwide agreements, or are they park specific? We suggest including a list of these agreements so that parties will have an idea of how many of these agreements there are, and when they expire.
6. Page 13—The term “Lead Federal Agency” needs greater clarification. For grants issued for projects on lands or resources that other federal agencies manage, is NPS assuming the lead federal agency role?

7. Page 14—The section dealing with “Post-Review Discoveries” needs to include language concerning anticipatory demolition.
8. Pages 12–14—Language on professional qualifications for NPS and applicants should be included here.
9. Page 18 acquisition of a burial site—If the NPA would extend to lands managed by other federal agencies, those agencies may consider the acquisition a Section 106 undertaking.
10. Page 19—Some of these activities may require an Archaeological Resources Protection Act (ARPA) permit if conducted on federal lands; if so, clarification is needed.
11. Page 19—Repair, rehabilitation, stabilization and protection, and preservation are all Section 106 undertakings. Who will determine that they conform to SOI standards?
12. Page 20 Section G Survey, Inventory, and Documentation—These activities may also need an ARPA permit; need to clarify.

We look forward to working with you in the weeks ahead on this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Sandweiss", is written over a light blue grid background.

Daniel H. Sandweiss, PhD, RPA
President