

Cultural Resource Coordination

Section 106, Section 4(f), and Chapter 267



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Key Terms

- **Historic** – 50 years old (not always significant)
- **National Register of Historic Places (NRHP)** – the official list of districts, sites, buildings, structures, and objects deemed worthy of preservation
- **Historic Property** – Considered eligible for or listed in the NRHP
- **Undertaking** – A project, activity, or program either funded, permitted, licensed, or approved by a federal agency
- **State Historic Preservation Officer (SHPO)** – Coordinates the state's historic preservation program
- **Division of Historical Resources (DHR)**
 - State agency responsible for cultural resources



Federal and State Law

- **Section 106** of the National Historic Preservation Act (NHPA) of 1966 (Public Law 89-665, as amended)
 - Federal funding or permitting
 - Requires federal agencies to take into account the effects of their undertakings on NRHP listed or eligible historic properties
 - Agencies comply with Section 106 through the process in the implementing regulations, “**Protection of Historic Properties**” (**36 CFR Part 800**)
- **Section 4(f)** of the US Department of Transportation Act (1969)
 - Federal funding or approval from US DOT
 - Requires consideration of park and recreational lands, wildlife and waterfowl refuges, and historic sites for federal transportation projects
- **Florida Statutes (FS) Chapter 267**
 - State funding or permitting
 - Similar process to Section 106 process but FDOT coordinates directly with the Florida Division of Historical Resources (DHR)

NEPA Assignment

- Effective December 14, 2016
- Florida Department of Transportation (FDOT) assumes responsibility for environmental review, consultation, or other action required under any **federal environmental law**
 - NEPA document types (CE, EA and EIS)
 - Environmental regulations/laws (Section 4(f), Section 106, Endangered Species Act, Clean Water Act, etc.)
 - Coordination with Native American Tribes
- FDOT **Office of Environmental Management (OEM)** serves as the lead agency for federally funded projects

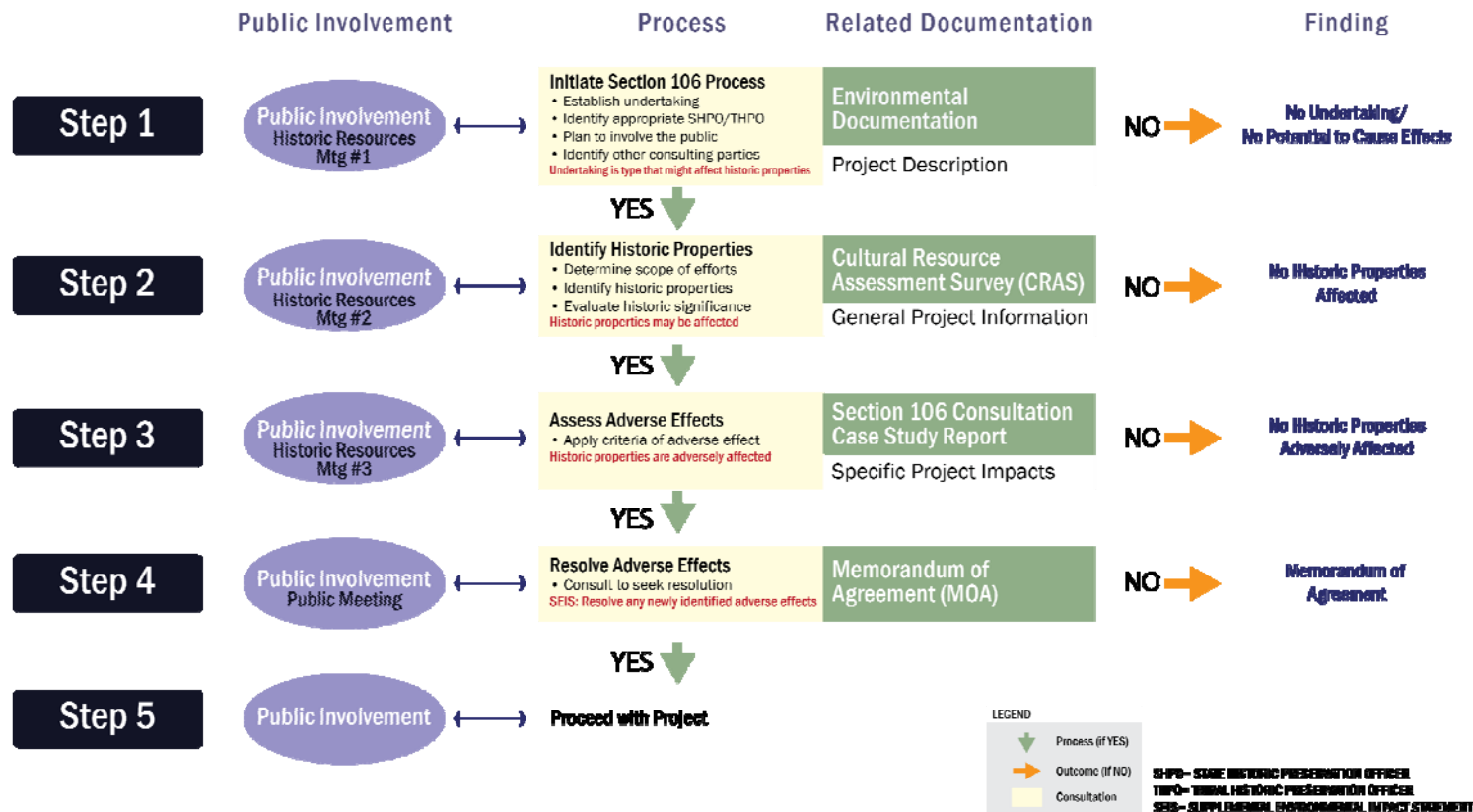


Section 106 Process

- Provides for the **consideration** of alternatives that promote preservation and offers the **public and stakeholders** the opportunity to influence federal decision making
- Encourages, but **does not mandate**, a preservation outcome and recognizes that sometimes there is no way for a project to proceed without affecting historic properties
- Key elements of the process:
 - **Role** of participants (lead agency, SHPO, local government, etc.)
 - Involving the **public** (public hearings, websites, meet with local groups, etc.)
 - **Consultation** - a dynamic, good-faith process of seeking, discussing, and considering the views of other participants and, where feasible, seeking agreement with them
 - **Documentation** of the process and results



Section 106 Process – Flow Chart



Initiate Section 106

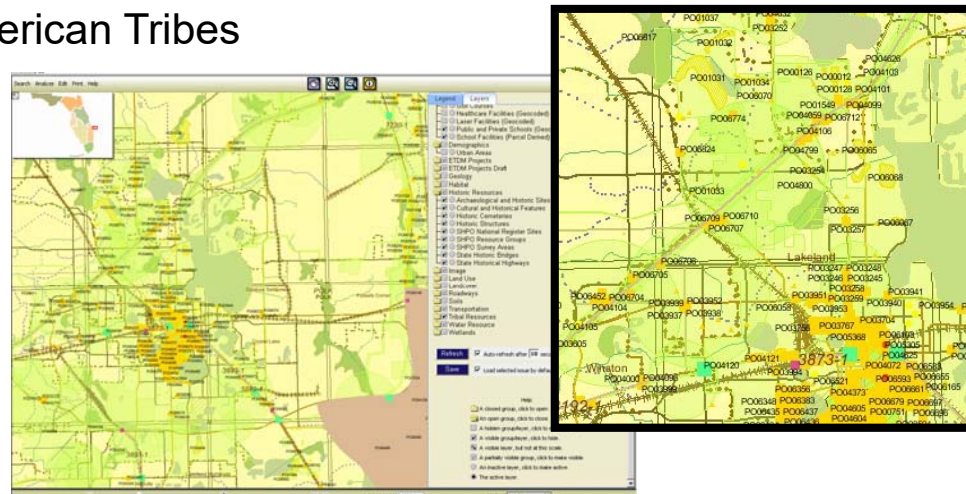
- Does Section 106 apply?
 - Federally owned property? (parks, military base, post office, etc.)
 - Federal funding? (direct funding, loans, grants, etc.)
 - Federal permit? (navigable waterway, environmental, licenses, etc.)
 - Use of federal land? (easement, lease, management, etc.)
- What is an undertaking?
 - A type of activity that could affect historic properties



Identify Historic Properties

- Determine **Area of Potential Effect (APE)**
 - “The geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking.” 36 CFR 800.16(d)





Identify Historic Properties

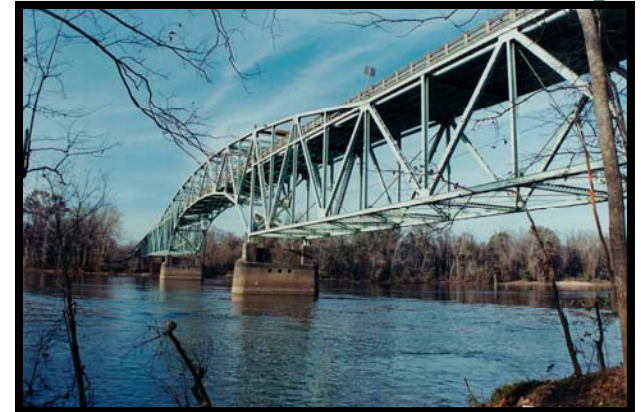
- Minor projects

- Activity types that by nature and definition have no potential or are considered unlikely to affect historic properties
 - Milling and resurfacing
 - Sidewalk
 - Signs and markings
 - Drainage
- Section 106 Programmatic Agreement (PA)
 - Stipulations V and VI
 - SHPO notification for project unlikely to affect historic properties



Identify Historic Properties

- Cultural Resource Assessment Survey (CRAS)
 - Phased approach for corridor studies
 - After alternative alignments developed for PD&E Studies
 - Look at worse case scenario (allow for modifications during design development)
 - Include pond sites (SMF & FPC) in PD&E and Design



Identify Historic Properties

- Cultural resource types
 - Bridges
 - Roads
 - Historic Districts
 - Historic buildings or structures
 - Railroad corridors, canals
 - Parks, historic landscapes
 - Archeological sites



Historic = Generally at least 50 years (some exceptions)

Prehistoric

1968



Includes modern architecture

Evaluate Historic Properties

Apply the criteria for listing in the NRHP:

● Age and Integrity:

- Is the property old enough to be considered historic (generally at least 50 years old)?
- Does it still look much the way it did in the past?

● Significance:

- Is the property associated with events, activities, or developments that were important in the past?
- Associated with the lives of people who were important in the past?
- Associated with significant architectural history, landscape history, or engineering achievements?
- Does it have the potential to yield information through archeological investigation about our past?



Coordination

- FDOT OEM, US Army Corps, etc.— Lead Federal Agency
- FDOT – Lead State Agency
- SHPO/DHR
- Tribal Historic Preservation Officer (THPO) or other Native American tribal representative (6 Federally recognized tribes in Florida)
- Local governments and agencies
- Local historical societies, commissions, neighborhood associations (depends on resources identified)
- General public involvement (can be combined with other project public involvement methods)
- **Document all coordination and public involvement** (even email and phone coordination)

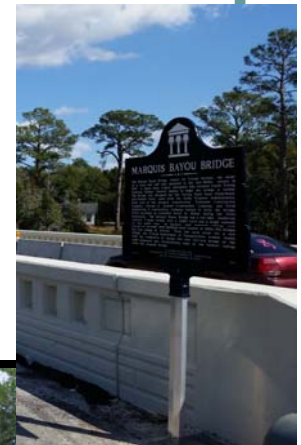
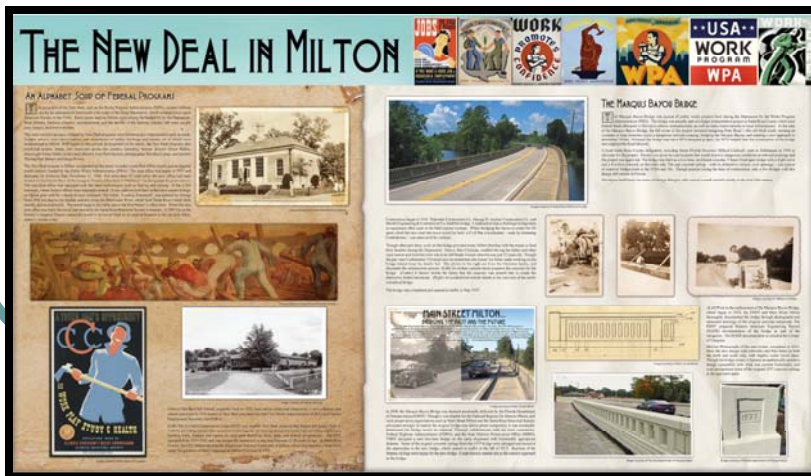
Effects Analysis

- If there are NRHP listed or eligible cultural resources, then evaluate the effects of the project on the resource, in consultation with the SHPO/THPO:
 - No Effect
 - No Adverse Effect
 - Adverse Effect
- Will the effect alter (either directly or indirectly) the characteristics that make the resource NRHP eligible?
- Consider: physical taking, access, use, visual and aesthetics, noise, air quality
- Prepare Effects Analysis Document or Case Study
- Coordinate with consulting parties; Get concurrence letter(s)

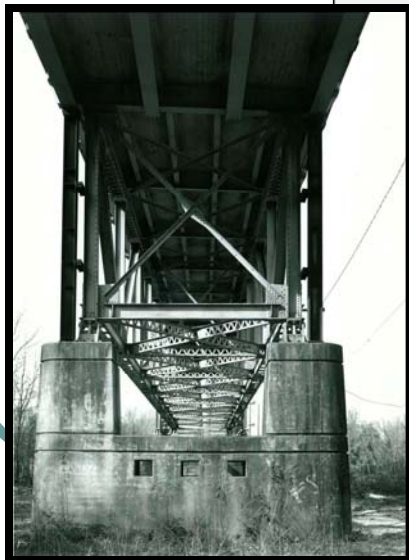
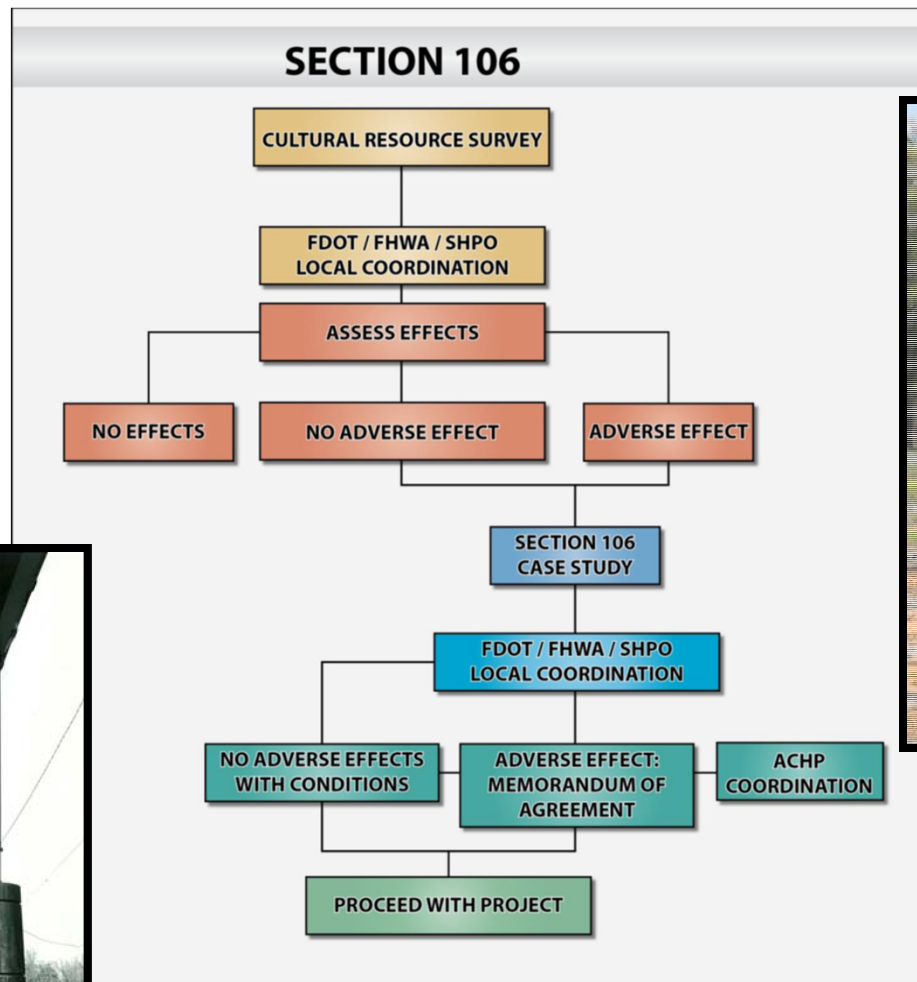


To Resolve Adverse Effects

- ACHP becomes involved
- Coordinate with consulting parties to determine ways to
 - **Avoid,**
 - **Minimize, or**
 - **Mitigate Adverse Effects**
- Modify the project or impose conditions
- Develop and sign Memorandum of Agreement (MOA)

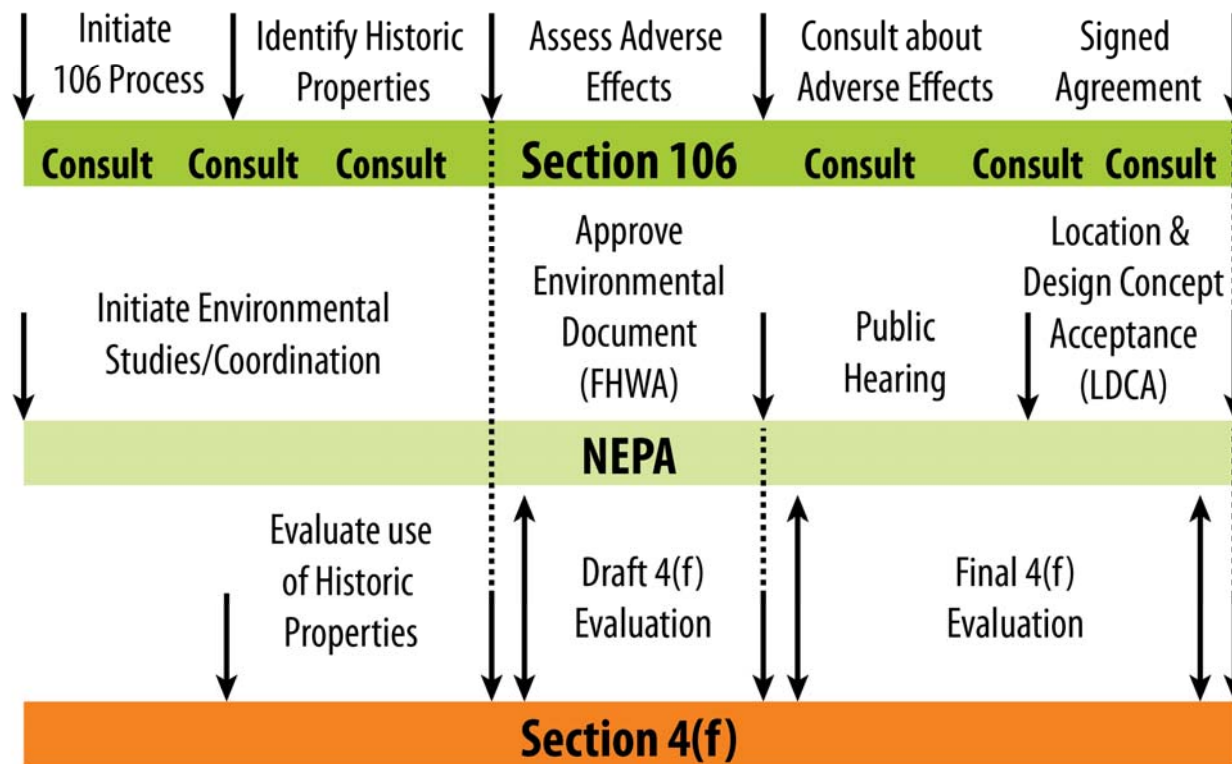


Section 106 Process



Section 106 Process

Integrating Section 106 and Section 4(f) with NEPA



*** The NEPA Public Meetings can also apply for Section 106 Public Involvement if the meeting notice includes Section 106 information.**

Reference Sources

- Guides for FDOT Projects

- PD&E Manual, Part 2, Chapter 12 (Effective June 14, 2017)
- FDOT Cultural Resource Management Handbook

- Websites

- Section 106: <http://achp.gov/work106.html>
- NRHP: <http://www.nps.gov/history/nr/>
- FDOT Native American Coordination process:
<http://www.fdot.gov/environment/na%20website%20files/index.shtm>

