

# APPLICATION COVER SHEET

**Name and Address of Tribe:** Provide both the legal and commonly used name if they are different. Include additional addresses for the Tribe's physical address for overnight or express mail delivery.

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**Name of Contact Person:** Tribal Historic Preservation Officer or tribal representative

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**Address**

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**Telephone:** (    )    -

**FAX:** (    )    -

**E-mail:**

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## Required Documentation Checklist:

I. A signed, written request to assume SHPO functions on tribal lands from the Tribe's chief governing authority.

II. If Item I. does not designate the THPO; please include separate documentation such as an additional resolution, tribal ordinance or executive letter of appointment that identifies the THPO.

III. A program Plan that contains the eight following elements:

A.1. A description of tribal lands including,

a.) acreage, and

b.) a map(s) if the Tribe has lands in trust outside the reservation boundaries.

2. A description of program staff or consultants needed to provide the THPO with access to individuals who meet the Secretary of the Interior's professional qualifications standards.

3. A description of how you have established an advisory review board to provide advice for the THPO.

4. An explanation of how the program provides appropriate participation for the Tribe's traditional cultural authorities, by representatives of other Tribes whose traditional lands may now be within your Tribe's jurisdiction, and by the interested public.

5. An acknowledgement required by the Act that non-tribal property owners within the boundaries of your tribal lands may request the participation by the SHPO in addition to the THPO in any decisions pursuant to the Act that affect that property.

B.1. a.) A list of NHPA functions the Tribe is proposing to assume and,

b.) A list of functions that will remain with the State.

2. A description of how each assumed function will be performed.

3. A description of your current Historic Preservation program or activities as they relate to the SHPO function the Tribe is proposing to assume.



## TRIBAL HISTORIC PRESERVATION OFFICER (THPO) PROGRAM

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### General Discussion

A request to assume State Historic Preservation Officer (SHPO) functions, (the proposal) may be submitted at any time during the year, but an application accompanying that request must be received prior to **May 31** in order to be considered eligible for funding in the next fiscal year. This will ensure that all Tribes who request the assumption of SHPO responsibilities have an equal and fair opportunity for funding in the following fiscal year.

To maximize available time for plan revisions and to facilitate the certification process, NPS encourages the submission of Tribal Historic Preservation Office program applications as early as possible before the May 31 cut-off date. Annual funding allocations for approved THPO programs are made shortly after the beginning of each fiscal year (October 1). **To participate in a given year funding allocation, your THPO program must be approved by the beginning of that fiscal year, October 1.**

**Please read the guidelines carefully before starting a draft of your program plan.** Applicants are encouraged to contact the Tribal Preservation Program Manager to clarify any aspect of the application's required components, or of the approval process. You may share a rough draft of your proposal for comment to help improve your THPO Program Plan before a formal submission, (that is, complete with a tribal resolution), of your request. Your submission will be acknowledged immediately upon receipt and a written response provided within forty-five days.

Final approval of a proposal is a signed Agreement executed between the Tribe, the National Park Service and the U.S. Department of the Interior for assuming SHPO responsibilities on tribal lands. The Tribe's THPO Program becomes eligible for federal grant funding upon Agreement approval. While the THPO Grant is non-competitive and annually recurring, the funding must be applied for in a separate process that requires an approved scope of work (or work plan) and a budget.

Please submit your Tribe's THPO proposal in a Word-processing or PDF file by email to:

[james\\_bird@nps.gov](mailto:james_bird@nps.gov)

**Unbound** hard copies of an original application are acceptable, however, and may be submitted **by mail to:**

James Bird, Chief  
Tribal Preservation Program  
NPS, WASO, HPS, (2255)  
1201 Eye St. NW  
Washington, D.C. 20005.  
Telephone: 202-354-1837.

# NATIONAL PARK SERVICE TRIBAL HISTORIC PRESERVATION OFFICER APPLICATION INSTRUCTIONS

## INTRODUCTION

The National Historic Preservation Act [NHPA Section 101(d) (2)] was amended in 1992 to provide that federally recognized Indian Tribes might assume all or any part of the functions of a State Historic Preservation Officer (SHPO) with respect to tribal lands. These amendments recognized that the national historic preservation program is strengthened by providing Indian Tribes with the opportunity to be full partners in the program. Tribal assumption of these functions is an exercise of the government-to-government relationship between the United States and the Indian Tribes.

The SHPO functions that a Tribe may assume "...with respect to tribal lands..." are listed in the Act in section 101(b) (3) and are included in these application materials as Appendix A. For the purposes of this program, tribal lands are defined in Section 301 (14) of the NHPA:

**"Tribal lands"** means —

- (A) all lands within the exterior boundaries of any Indian reservation; and
- (B) all dependent Indian communities.

There are several important points to understand about this statutory definition.

First, within the boundaries of an existing reservation, the ownership status of the land makes no difference. A Tribe would assume jurisdiction for this program everywhere within the reservation boundaries. Second, this definition differs substantively from the definition of "Indian Country" found elsewhere in federal statute. Specifically, this definition of tribal lands does not include individual allotments held in trust outside existing reservation boundaries. Legal guidance issued to NPS specifies that a Tribe may not assume responsibility for SHPO functions on individual allotments outside of reservation boundaries. Third, in contrast to individual allotments, legal guidance affirms that lands held in trust for the benefit of a Tribe outside an existing reservation do fall within the meaning of tribal lands for the purposes of this program. Finally, legal guidance to NPS indicates that lands outside an existing reservation that are owned by a Tribe in fee simple but not held in trust are not dependent Indian communities and so are not tribal lands for the purposes of this program.

*Definitions of terminology used in this document can be found in NHPA Section 301, (16 U.S.C. 470w — Definitions).*

The Act states that, "*A Tribe may assume all or any part of the functions... of a State Historic Preservation Officer...with respect to tribal lands,...*" provided that the Tribe:

- I. Submit an official request from "*...the tribe's chief governing authority...*"
- II. Designate, through appointment by the chief governing authority or by ordinance, "*...a tribal preservation official to administer the tribal historic preservation program,...*"; and
- III. Provide a plan that describes how the functions to be assumed will be carried out.

In reviewing a proposal from a Tribe, the National Park Service (NPS), acting on behalf of the Secretary of the Interior, must determine from the materials submitted by the Tribe whether that Tribe's preservation program is, in the words of the Act, "...*fully capable of carrying out the functions specified in the plan...*" , [101(d)(2)(D)(i)]. This application's three major components are designed to assist the Tribe in providing NPS the materials and information necessary to support a determination that the Tribe is "fully capable".

## **I. SUBMITTING A REQUEST FROM YOUR TRIBE'S CHIEF GOVERNING AUTHORITY**

Your Tribe's official request to assume SHPO functions on tribal lands must be a written resolution adopted by and signed on behalf of your Tribe's chief governing authority. The resolution must clearly indicate the governing authority's intent to assume SHPO functions pursuant to the National Historic Preservation Act. ***Please include your tribal resolution as Item I of your proposal.***

## **II. DESIGNATING A TRIBAL PRESERVATION OFFICIAL**

If the resolution included above as Item I also designates by name an individual as Tribal Historic Preservation Officer (THPO) to administer this program, no further information is necessary. ***If the THPO is not designated in the resolution, include as Item II separate documentation of the designation of a THPO.*** That designation may be by tribal resolution, or it may be by tribal ordinance. Where your tribal ordinance specifies that a certain position, such as the Cultural Resources Department Manager, within the tribal government shall serve as THPO, you should include both a copy of the ordinance and the name of the individual currently holding the designated position. In case your Tribe wishes to delay the permanent appointment of a THPO until after your proposal has been approved by NPS, you must designate an Acting THPO to serve as the point of contact for the program until the permanent appointment is made. The selection criteria for a THPO are completely at the discretion of your tribal governing authority. Your Tribe may establish whatever qualifications for the position that best suit the Tribe's needs.

## **III. PREPARING A PROGRAM PLAN**

A Program Plan includes two components. The Program Administration contains five separate elements and the SHPO functions component has three.

### **A. Program Administration**

1. A description, including total acreage, of your tribal lands in accordance with the NHPA definition cited above.
2. A description of the staffing and/or consulting arrangements that have been made or will be made to provide your THPO with access to individuals who meet the Secretary of the Interior's professional qualifications standards.
3. A description of how you have established or will establish an advisory review board to provide advice to your THPO.

4. Descriptions of how you will provide for appropriate participation in your program by the Tribe's traditional cultural authorities, by representatives of other Tribes whose traditional lands are now within your Tribe's jurisdiction, and by the interested public.
5. An acknowledgment that any non-tribal property owners within your tribal lands may request the participation of the SHPO in addition to the THPO in decisions pursuant to the Act that affect that property.

## B. SHPO Functions

1. a.) A list of the SHPO functions that your Tribe proposes to assume, and  
b.) A list of the SHPO functions, if any, to remain the responsibility of the State.
2. A description of how the Tribe will carry out each of the functions that it is proposing to assume.
3. A description of the Tribe's current historic preservation program or activities as they relate to the SHPO functions that you propose to assume.

Detailed instructions for each of these elements of your Program Plan follow.

### **III.A.1. PROVIDE A DESCRIPTION OF TRIBAL LANDS, INCLUDING TOTAL ACREAGE, IN ACCORDANCE WITH THE NHPA DEFINITION.**

A description of tribal lands provides a clear understanding of the area of jurisdiction for which the tribe is assuming historic preservation responsibilities from the SHPO. The NPS uses tribal lands acreage, whether it is a reservation and/or trust lands, as a factor in determining the amount of THPO grant funding available to each tribe for program administrative support. The tribe's fee title and individual allotted lands outside the reservation are not tribal lands for this program. They should not be included in the total acreage of tribal lands. Please include in the application:

a.) the total acreage of lands within the exterior boundaries of the Tribe's reservation regardless of the ownership status (tribal, private, State, or Federal).

If there are lands held in trust for the benefit of the tribe outside the boundaries of the reservation, or if the tribe does not have a reservation but does have land held in trust by the Secretary for the benefit of the tribe than please also include:

b.) the total acreage of those lands and a map or maps of those lands.

### **III. A.2. HOW WILL YOU INCLUDE INDIVIDUALS WHO MEET THE SECRETARY OF THE INTERIOR'S PROFESSIONAL QUALIFICATIONS STANDARDS IN YOUR PROGRAM?**

While your Tribe can determine for itself the necessary qualifications for your Tribal Historic Preservation Officer, that individual must have access to individuals who meet the Secretary of the Interior's Professional Qualifications Standards, (Appendix C.). The function of these individuals is to advise the THPO as necessary on activities and questions pertaining to the existence of, significance of, and possible impacts upon historic, cultural and archeological resources.

Current regulations (encoded at 36 CFR 61.4) require SHPOs to have on staff an archeologist, an architect or architectural historian and a historian who meet the Secretary's Standards (see the attached standards for these three professions). For Tribes that seek to assume SHPO functions, this requirement is modified in recognition that workloads, program emphasis and available

funding may make such full-time staffing inappropriate. Your Tribe may arrange for access to individuals in these disciplines on whatever basis best suits the Tribe's workload and resources. For example, your Tribe may wish to have a full-time or part-time archeologist on staff, while arranging to consult with an architectural historian or historian case by case as the need arises. Based on the functions that your Tribe seeks to assume and/or on the nature of resources on your land, your Tribe may also propose that access to certain of these disciplines is not necessary.

*Please include as Item III.A.2., a description of the arrangements you have made or are making in your program to include individuals who meet the Secretary's Professional Qualifications Standards.*

### **III.A.3. HOW DO YOU PROVIDE FOR AN ADVISORY REVIEW BOARD IN YOUR PROGRAM?**

An advisory review board (the board) performs a specific review function in the National Register nomination process. It also provides advice to the THPO on the direction and priorities of the THPO program.

Regulations for States require that a majority of the members of the State review board be individuals who meet the Secretary's Professional Qualifications Standards. Similar to the amended staffing requirements above, this requirement is modified for Tribes. While your Tribe's review board membership does not need to meet the Secretary's Standards for Professional Qualifications, the review board must consist of individuals knowledgeable and interested in historic preservation and/or tribal culture, so that the board can offer meaningful advice to your THPO. When your board is formally reviewing a National Register nomination, your THPO must ensure that the board has the benefit of advice from an individual who meets the Secretary's Standards in the profession(s) appropriate to the resource under consideration.

How the advisory review board is established and appointed is at the discretion of your Tribe. The THPO may establish and appoint the board, unless the Tribe's chief governing authority provides for some other method.

*Please include as Item III.A.3. a discussion of your advisory review board that includes a description of how it is appointed, a demonstration that its members are knowledgeable and interested in the THPO program, and an assurance that it will have access to appropriately qualified individuals when it reviews any National Register nominations.*

### **III.A.4. HOW WILL YOU PROVIDE FOR THE APPROPRIATE PARTICIPATION OF TRIBAL CULTURAL AUTHORITIES, REPRESENTATIVES OF OTHER INTERESTED TRIBES, AND THE INTERESTED PUBLIC IN YOUR PROGRAM?**

Your Tribe is the best judge of the appropriate participation of your tribal cultural authorities in the THPO program. Whether through representation on your advisory review board or through participation at the staff level, or through some other arrangement that reflects the Tribe's needs, your plan must describe how the THPO program will have the benefit of advice from the Tribe's cultural authorities.

Your tribal lands, within which you propose to assume these duties, may include some traditional lands of one or more other Tribes. Your THPO program must provide for participation by representatives of these other Tribes in a way that ensures that your THPO is aware of and considers their concerns for properties that are significant to them. The plan must include an affirmation that the THPO will provide notice to other Tribes that may have an interest in an undertaking on reservation lands before a decision pursuant to this program is made that may affect that property.

Appropriate participation in the THPO program by the interested public means that, at a minimum of at least once a year, the THPO solicits and considers comments from the interested public on the goals, priorities and activities of the THPO program. Whether the THPO fulfills this requirement by soliciting written comments, by holding a public meeting, or by some other means is at the discretion of the THPO. The THPO should use the tribal government's usual and accepted methods for notifying the community of opportunities to comment on matters under consideration by the tribal government.

*Please include as Item III.A.4. a description of how the program will "...provide for appropriate participation by (i) the Tribe's traditional cultural authorities; (ii) representatives of other Tribes...; and (iii) the interested public." [§101(d) (4) (C) (ii)]. Please include in that description a list of Tribes that may have traditional lands within your present tribal lands boundaries.*

### **III.A.5. ACKNOWLEDGE THAT A NON-TRIBAL PROPERTY OWNER WITHIN YOUR TRIBAL LANDS MAY REQUEST THAT THE SHPO PARTICIPATE ALONG WITH THE THPO IN CARRYING OUT THESE FUNCTIONS WITH RESPECT TO THAT PROPERTY.**

The National Historic Preservation Act specifies that your Program Plan must acknowledge that, "with respect to properties neither owned by a member of the Tribe nor held in trust by the Secretary for the benefit of the Tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b) (2) and (b) (3) of this section." [§101(d) (2) (D) (iii)].

*Please include this acknowledgement as Item III.A.5.*

### **III.B.1. WHAT FUNCTIONS DO YOU PROPOSE TO ASSUME?**

Please refer to the list of SHPO functions in Appendix A. They are cited verbatim from the NHPA and may be simply copied directly into your proposal. Additional explanatory notes for the functions are provided in Appendix B. Please note that when the NHPA was amended to include Section 101 (d) (2), the THPO authorization language, the list of functions in Section 101 (b) (3) was not revised to include separate or additional language to fit tribal applications. The functions list should use the terms *Tribal Historic Preservation Officer* and *Tribe* in place of the terms *State Historic Preservation Officer* and *State* to apply to the tribal program properly. In addition, the Act provides that your Tribe may assume all or any part of the SHPO functions. Partial assumption may take the form of dividing the functions between the Tribe and the State, or it may take the form of sharing certain functions. For example, a Tribe may wish to assume a function as

it pertains to certain resource types, but not to others. In any case, where a Tribe chooses partial assumption, the Tribe may choose later to assume some or all of the functions that originally remained with the SHPO.

*Using the list in Appendix A, please include as Item III.B.1.*

*a.) the list of functions you propose to assume, and*

*b.) a list of the functions, if any, that will remain the responsibility of the SHPO.*

### **III.B.2. HOW WILL YOU CARRY OUT THE FUNCTIONS THAT YOU PROPOSE TO ASSUME?**

To demonstrate that the Tribe is capable of performing the NHPA responsibilities it is requesting to assume, please provide a description of how you will carry out each of the SHPO functions you propose to assume. Some of these functions, such as educating the community or cooperating with other governments, can be carried out in various ways at the discretion of the Tribe. Other functions, such as the National Register nomination process or the Section 106 review process, are governed by detailed regulations. See again the explanatory notes in Appendix B that accompany the list of SHPO functions.

*Please include, as Item III.B.2., brief descriptions of how you will carry out each of the functions that you propose to assume. Where appropriate, be sure that your description demonstrates familiarity and consistency with the applicable regulation that governs that function. Also, where appropriate, be sure that your description explains how individuals that meet the Secretary's Standards will be involved in carrying out a given function.*

### **III.B.3. WHAT CURRENT TRIBAL HISTORIC PRESERVATION ACTIVITIES ARE RELATED TO THE FUNCTIONS THAT YOU PROPOSE TO ASSUME?**

An important part of your Tribe's demonstration that it is "*fully capable of carrying out the functions*" you propose to assume is a description of your current activities that are related to those functions. The Tribe may already have a functioning historic preservation office that is carrying out activities similar to those that you propose to assume in the national program. You may have established an office that carries out cultural resource compliance activities on contract from Federal agencies. The Tribe may have participated in commenting on proposed Federal projects pursuant to Section 106 of the National Historic Preservation Act. The Tribe may also have completed one or more projects that identified, evaluated and/or protected historic, cultural or archeological resources.

The Tribe may have adopted or may be considering a tribal ordinance that protects historic, cultural and/or archeological resources. If the application cites a section of a tribal code containing an element of the program's administrative component, then please append a copy to the application. Documents such as tribal ordinances and preservation plans are not application requirements, and those that you submit are not subject to NPS approval. However, they may support the NPS' determination that the Tribe is *fully capable*.

*Please include, as Item III.B.3., a narrative description of your activities that are related to the functions you propose to assume. If your Tribe has prepared a tribal preservation ordinance,*

*historic preservation plan, or other similar documents, you may enclose them as attachments to your narrative description.*

#### **IV. NATIONAL PARK SERVICE REVIEW OF YOUR PROPOSAL**

When the National Park Service receives your proposal, we will acknowledge receipt. We will review the proposal for completeness and clarity within 45 days of receipt. In the event that NPS needs additional information to complete its files, we will notify the THPO or acting THPO in writing and provide the opportunity to furnish that information. We will also be available at any time to answer any questions you may have about your proposal or about the THPO program.

Once your proposal is complete, we will carry out our statutory obligation to consult with the affected State Historic Preservation Officer(s), the Advisory Council on Historic Preservation and any other Tribes whose traditional lands fall within your current “tribal lands”. We will meet that obligation by sending a copy of your proposal to each of these consulting parties and asking for their comments within 30 days.

Following the 30-day comment period, we will make a decision on your proposal and notify you in writing within 30 days of the end of the consultation period. Upon determining that you are “*fully capable*” of carrying out the functions that you propose to assume, we will send to you a proposed agreement between your Tribe and NPS that sets out our respective responsibilities.

In the event that NPS’ initial decision is not to approve your proposal, you will receive information on how you can reapply or appeal that decision.

#### **V. DEADLINES**

A proposal may be submitted at any time during the year. However, the final submission date to be eligible for a Historic Preservation Fund (HPF) grant for the next fiscal year is **June 30**.

## APPENDIX A

### **STATE HISTORIC PRESERVATION OFFICER RESPONSIBILITIES THAT MAY BE ASSUMED BY INDIAN TRIBES**

*Section 101(d) (2) of the National Historic Preservation Act provides that “A Tribe may assume all or any part of the functions of a State Historic Preservation Officer. . .” Those functions are listed in Section 101(b) (3) of the Act, as follows:*

It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to –

- (A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive Statewide survey of historic properties and maintain inventories of such properties;
- (B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;
- (C) prepare and implement a comprehensive Statewide historic preservation plan;
- (D) administer the State program of Federal assistance for historic preservation within the State;
- (E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;
- (F) cooperate with the Secretary [of the Interior], the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;
- (G) provide public information, education and training, and technical assistance in historic preservation;
- (H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (C);
- (I) consult with appropriate Federal agencies in accordance with this Act on –
  - (i) Federal undertakings that may affect historical properties; and
  - (ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties; and
- (J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

## **APPENDIX B.**

### **EXPLANATORY NOTES FOR SELECTED SHPO FUNCTIONS**

The following notes about SHPO functions listed in Appendix A may be helpful to you in preparing your Program Plan. They highlight the NHPA Section 101 (b) (3) functions where terminology should specifically refer to the tribe, and provide resource information to assist the tribe in drafting its narrative descriptions. In order for the NPS to make the determination that the Tribe is fully capable of assuming certain SHPO responsibilities, the program plan needs to demonstrate a familiarity with and conform to the Secretary's Standards and existing Federal regulations that guide the performance of these duties. All applicants are encouraged to visit the NPS web sites where information of how these responsibilities are carried out can be found, and to use the Secretary of the Interior's guidelines and the appropriate Code of Federal Regulations (CFR) in developing function descriptions.

***(A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive Statewide survey of historic properties and maintain inventories of such properties;***

Please consider that this function would apply to a ...***Reservation-wide survey***... rather than a *Statewide survey*. The Secretary of the Interior's Standards and Guidelines for how this work may be done are posted on the NPS website at [http://www.cr.nps.gov/local-law/arch\\_stnds\\_1.htm](http://www.cr.nps.gov/local-law/arch_stnds_1.htm). The Secretary's Standards are intended to provide broad national principles of archeological and historic preservation practices and methods, and the Guidelines provide broad national guidance on how to apply "the Secretary's Standards".

***(B) Identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register***

Assumption of this responsibility is separate and distinct from maintaining a tribal register of properties significant to the Tribe. For example, if a Tribe assumes the responsibility for nominating properties to the National Register of Historic Places, the Tribe must follow the National Register's nomination procedures, and it must use the National Register's evaluation criteria to assess the significance of the property being nominated. Those procedures and evaluation criteria are specified in regulations encoded at 36 CFR 60. If you are proposing to assume responsibility for the National Register nomination process, your Program Plan's description of how you will carry out that function should demonstrate that you are familiar with the provisions of 36 CFR 60, and that your process will be consistent with its requirements.

If your Tribe proposes to establish and maintain its own tribal register – either instead of or in addition to nominating properties to the National Register – you may establish whatever procedures and evaluation criteria best meet your Tribe's needs. If you choose only to establish and maintain a tribal register, then the responsibility for nominating properties to the National Register will remain with the SHPO, and this responsibility should be listed with those that the Tribe is not assuming.

***(C) prepare and implement a comprehensive Statewide historic preservation plan;***

In similar fashion to function (A), this function should be read to apply to a ***Reservation-wide*** plan rather than a *Statewide* plan. Information about how this work is done can be found on the same NPS website noted in function (A), [www.cr.nps.gov/local-law/arch\\_stnds\\_1.htm](http://www.cr.nps.gov/local-law/arch_stnds_1.htm). Additional published information can be found in the National Register Bulletin # 24: Guidelines for local Surveys: A Basis for Preservation Planning. It is available on the internet at: [www.cr.nps.gov/nr/publications/bulletins/nrb24/](http://www.cr.nps.gov/nr/publications/bulletins/nrb24/).

***(D) administer the State program of Federal assistance for historic preservation within the State;***

For the purposes of this program, the statutory reference to administering the “*State program of federal assistance*” is certainly confusing. While a tribe is obviously not expected to administer the state’s program of federal assistance, the tribe will have to administer the funds it receives for its own historic preservation program. Please simply strike “*State*” and insert “*Tribal*” and “*Tribe*” in the two places where the term State occurs in the sentence. You must include this SHPO responsibility among those you choose to assume, and provide a brief description of how the tribe administers federal funds.

***(H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c);***

The key to this function is the last phrase, “assist local governments in becoming certified”. The National Historic Preservation Act provides for local governments (defined as political subdivisions of the State) with local historic preservation programs that meet guidelines developed by the State and approved by NPS to be certified to participate in the national program. That participation includes eligibility for funding: SHPOs are required to set aside a minimum of 10% of the funding they receive from NPS and to pass those funds on to certified local governments in their respective States. The administration of ten percent (10%) of the Historic Preservation Fund (HPF) for grants to Certified Local Governments (CLG) is stipulated in the NHPA at § 103 (c), encoded in the Code of Federal Regulations at 36 CFR 61.6(f) (2), and more administration details are encoded at 36 CFR 61.7. While a Tribe may certainly assume this function, it would be limited in scope to local governments (defined in the Act as political subdivisions of the State) that are physically within the Tribe’s reservation boundaries. Most tribes have chosen not to assume this function. The following URL is the NPS web site where you can download more information: <http://www.cr.nps.gov/hps/clg/index.htm>

***(I) consult with appropriate Federal agencies in accordance with this Act on –***  
***(i) Federal undertakings that may affect historical properties; and***  
***(ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties***

This function is generally referred to as the Section 106 review process. It is separate and distinct from any review function your Tribe may be carrying out pursuant to your own tribal authority. If your Tribe assumes the SHPO’s responsibility for commenting on the possible effects of proposed Federal undertakings, the Tribe must carry out that responsibility in accordance with the regulations (36 CFR 800) of the Advisory Council on Historic Preservation. The Tribe’s authority within that arena is set out in that regulation. The description in your Program Plan of

how you will carry out this function must demonstrate that you are familiar with the provisions of 36 CFR 800, and that you will carry out the function in a manner that is consistent with that regulation. On the other hand, if the Tribe has adopted an ordinance requiring tribal approval and a permit for activities on tribal land that may affect historic or cultural resources, the terms of that ordinance are set out by the Tribe to meet its own needs. The two processes are separate and do not substitute for each other.

*(J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.*

Known informally as the “Tax Act program”, this function stems from a provision of Federal law that allows the owner of an income-producing building listed on the National Register to claim a Federal income tax credit for a portion of the expenses incurred to rehabilitate that building in accordance with the Secretary of the Interior’s Standards. If your Tribe assumes this SHPO function, you will be called upon to review architectural plans and specifications and to work with building owners to ensure that their projects are consistent with the Secretary’s Standards. You will be responsible for making a recommendation to NPS as to whether the project meets the Secretary’s Standards.

The regulations that guide the administration of this function are found at 36 CFR 67: **Historic Preservation Certifications Pursuant to Section 48(g) and Section 170(h) of The Internal Revenue Code of 1986**. If you choose to assume this function, your description of how you will carry it out must show that you are familiar with the provisions of 36 CFR 67 and that you will carry out the function in a manner consistent with that regulation. Your discussion, in Item III. A.2., of access to appropriately qualified individuals must describe your access to someone qualified to review plans and specifications for compliance with the Secretary’s Standards. The following URL will provide a link to the regulations: [www.cr.nps.gov/helpyou.htm](http://www.cr.nps.gov/helpyou.htm)

**Note:** To search for other specific historic preservation related legislation and regulations you may cut and paste the following URL into your internet browser to link to downloadable files: [www.cr.nps.gov/linklaws.htm](http://www.cr.nps.gov/linklaws.htm)

## **APPENDIX C.**

### **SECRETARY OF THE INTERIOR'S PROFESSIONAL QUALIFICATIONS STANDARDS FOR ARCHEOLOGY, HISTORY AND ARCHITECTURAL HISTORY**

These Standards have been in effect since 1977. The qualifications define minimum education and experience required to perform identification, evaluation, registration and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved.

#### **ARCHEOLOGY**

The minimum professional qualifications in archeology are a graduate degree in archeology, anthropology or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;
2. At least four months of supervised field and analytic experience in general North American archeology;
3. Demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time experience at a supervisory level in the study of archeological resources of the historic period.

#### **HISTORY**

The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historic organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

#### **ARCHITECTURAL HISTORY**

The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history, art history, historic preservation or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.