

**ANNUAL REPORT (FISCAL YEAR 18):  
PROGRAMMATIC AGREEMENT AMONG  
THE NATIONAL PARK SERVICE, AMERICAN BATTLEFIELD PROTECTION PROGRAM  
AND  
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS  
AND  
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION  
REGARDING THE AMERICAN BATTLEFIELD PROTECTION PROGRAM'S  
BATTLEFIELD PRESERVATION PLANNING GRANTS AND  
BATTLEFIELD LAND ACQUISITION GRANTS**

The National Park Service's American Battlefield Protection Program (NPS ABPP) entered into a Programmatic Agreement ("Agreement") with the National Conference of State Historic Preservation Officers (NCSHPO) and the Advisory Council of Historic Preservation (ACHP), dated September 28, 2016, in order to fulfil and expedite the NPS ABPP's obligations, pursuant to the regulation 36 CFR Part 800, in awarding Battlefield Preservation Planning Grants (Planning Grants) and Battlefield Land Acquisition Grants (BLAGs). This annual report fulfils Stipulation XIV of the Agreement, requiring the NPS ABPP to provide an annual report for Fiscal Year 2018 (October 1, 2017 through September 30, 2018) to NCSHPO and ACHP, and to any Tribal government requesting a copy of the annual report.

**Part 1. Planning Grants and BLAGs awarded in each state**

In fulfilment of Stipulation XIV A. (1): "A list of PLANNING GRANTS and BLAGs awarded in each state and on Tribal lands, including the name of the Applicant and, in the case of BLAGs, the Government Sponsor; exact amount of the award, and the exact acreage acquired with ABPP funding, along with any changes made to the grant project's scope of work. The list should also include the exempted PLANNING GRANT projects and under what exemption, along with BLAGs awarded and funds dispersed with no easement recorded and why."

**Battlefield Preservation Planning Grants (Planning Grants):**

In Fiscal Year 2018, the NPS ABPP awarded twenty Planning Grants, totaling \$1.043 million, to four local governments, four universities, one tribal government and 11 nonprofit organizations to support preservation projects in 12 states.

According to the Agreement (Stipulation III.A.1), activities for which there is no potential to cause effect include: (a) historical research/overviews; (b) GPS/GIS mapping; (c) survey and inventory (no ground disturbance);(d) NHL/NRHP/state register nomination, update, or boundary expansion; (e) preservation planning; (f) heritage tourism interpretive plan; (g) strategic/organizational/administrative planning; (h) viewshed analysis; (i) education activities; and (j) advocacy and support. These activities comprise Programmatic Exclusions and no further consultation is required.

The NPS ABPP determined that eleven Planning Grants proposed activities for which there is no potential to cause effect and, as programmatic exclusions, required no further consultation. The NPS ABPP determined, in consultation with appropriate State Historic Preservation Officers (SHPOs) and Tribal Historic Preservation Officers (THPOs)/Tribal authorities, that the nine Planning Grants that were subject to Section 106 consultation will result in No Adverse Effect.

The following list, organized by state, provides the name of the Applicant, the exact amount of the award, and, if applicable, the programmatic exclusion from Section 106 consultation:

**California:**

Applicant: Pechanga Band of Luiseño Mission Indians  
Project title: Temecula Massacre Battlefield and Cemetery Documentation  
Award amount: \$39,000  
Effects determination: Programmatic Exclusion (a,c)

**Connecticut:**

Applicant: Stonington Historical Society  
Project title: Battle of Stonington Archeological Survey and Interpretation Project  
Award amount: \$52,000  
Effects determination: No Adverse Effect

**Florida:**

Applicant: Gulf Archaeology Research Institute  
Project title: Chucochatti Archeological Documentation Project  
Award amount: \$74,000  
Effects determination: No Adverse Effect

**Hawaii:**

Applicant: American Veterans Hawaii  
Project title: Ewa Phase II  
Award amount: \$63,000  
Effects determination: Programmatic Exclusion (a,e,j)

**Massachusetts:**

Applicant: Town of Montague  
Project title: 1676 Battle of Great Falls (Wissatinnewag-Peskeompskut) Site Identification and Evaluation  
Phase II  
Award amount: \$81,000  
Effects determination: No Adverse Effect

**Maryland:**

Applicant: Anacostia Trails Heritage Area, Inc.

Project title: Battle of Bladensburg Battlefield Trust

Award amount: \$20,000

Effects determination: Programmatic Exclusion (g, j)

Applicant: Preservation Maryland

Project title: Fort Tonoloway Historic Resource Study and Archaeological Research Design

Award amount: \$51,000

Effects determination: Programmatic Exclusion (a,b,c)

**Mississippi:**

Applicant: Friends of VNMP and Campaign

Project title: Champion Hill, Raymond, and Port Gibson Battlefields Interpretive Planning and Feasibility Study

Award amount: \$75,000

Effects determination: Programmatic Exclusion (f,g)

Applicant: University of Mississippi

Project title: Defining the Battlefield of the 1730 Siege at Natchez, Mississippi

Award amount: \$60,000

Effects determination: No Adverse Effect

**New Mexico:**

Applicant: University of New Mexico

Project title: Archeological Investigation of Piedras Marcadas Pueblo: Vazquez de Coronado Battlefield, 1540-1541 Tiguex War

Award amount: \$56,000

Effects determination: No Adverse Effect

**New York:**

Applicant: Fort Plain Museum

Project title: Stone Arabia Battlefield Plan

Award amount: \$50,000

Effects determination: Programmatic exclusion (a,e)

Applicant: Hudson Crossing Park, Inc.

Project title: "Corking the Bottle – Archival Research for Battles of Saratoga"

Award amount: \$45,000

Effects determination: Programmatic Exclusion (a,c,j)

**New York (continued):**

Applicant: The LAMAR Institute, Inc.

Project title: "Struggle for Long Island: Initiating a Study of Revolutionary War Battlefields and Associated Historic Sites"

Award amount: \$60,000

Effects determination: No Adverse Effect

Applicant: The Research Foundation for the State University of New York

Project title: Fort Bull Historical and Archeological Survey

Award amount: \$68,000

Effects determination: No Adverse Effect

Applicant: Town of Plattsburgh

Project title: Interpretive Plan for Crab Island Vista Park

Award amount: \$20,000

Effects determination: Programmatic Exclusion (f)

**Ohio:**

Applicant: Ball State University

Project title: Battle of Peckuwe Site Identification, Documentation, and Public Outreach

Award amount: \$75,000

Effects determination: No Adverse Effect

**South Carolina:**

Applicant: South Carolina Battleground Preservation Trust

Project title: Mapping Civil War Battlefields in Charleston, South Carolina

Award amount: \$72,000

Effects determination: Programmatic Exclusion (b,c)

Applicant: City of Cayce

Project title: Preservation Plan for the Battle of Congaree Creek Battlefield Earthworks

Award amount: \$23,000

Effects determination: No Adverse Effect

**Virginia:**

Applicant: Shenandoah Forum

Project title: Shenandoah Valley Conservation Alliance: Building Capacity for the Future

Award amount: \$20,000

Effects determination: Programmatic Exclusion (g,j)

Applicant: Gloucester County

Project title: Site Documentation for Battle of the Hook, Gloucester Point, VA

Award amount: \$39,000

Effects determination: Programmatic Exclusion (a,c)

Battlefield Land Acquisition Grants (BLAGs):

In Fiscal Year 2018, the NPS ABPP awarded twenty-six BLAGs, totaling \$9,490,421.70, for the acquisition of 1,192.29 acres in eight states. Twenty-three BLAG applications identified preservation easements as the appropriate instrument to protect federal interests in the acquired properties. Three BLAG applications identified a preservation letter of agreement as the appropriate instrument to protect federal interests in lieu of an easement, per Stipulation IV.C.1-3.

The following list, organized by state, provides the name of the Grantee (or Government Sponsor), the exact amount and status of the award, and acreage acquired with ABPP funding. NPS ABPP grant agreements require recordation of the preservation easement or letter of agreement along with property deed. Submission of a copy of the final, recorded preservation instrument to the NPS ABPP is a condition in many, but not all grant agreements. To date, the NPS ABPP has not received a copy of the final recorded preservation instrument for any properties acquired during Fiscal Year 2018.

**Mississippi:**

Grantee: Mississippi Department of Archives and History

Tract/Battlefield: Bailey Tract, Champion Hill Battlefield

Acres: 2.9

Award amount: \$49,527.50

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to NPS ABPP

Grantee: Mississippi Department of Archives and History

Tract/Battlefield: Gore Tract, Vicksburg Battlefield

Acres: 0.61

Award amount: \$82,775.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to NPS ABPP)

**New Jersey:**

Grantee: Municipality of Princeton

Tract/Battlefield: IAS Tract, Princeton Battlefield

Acres: 14.85

Award amount: \$492,875.00

Preservation Instrument: Letter

Status: Awarded; execution of preservation letter awaiting archeological survey and effects determination; acquisition incomplete

**North Carolina:**

Grantee: Lenoir County

Tract/Battlefield: King Tract, Wyse Fork Battlefield

Acres: 205.6

Award amount: \$175,935.00

Preservation Instrument: Easement

Status: Awarded; draft easement not submitted to NPS ABPP; acquisition incomplete

### **Pennsylvania**

Grantee: Chester County

Tract/Battlefield: Birmingham Hill Tract, Brandywine Battlefield

Acres: 13.62

Award amount: \$642,970.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to NPS ABPP

### **South Carolina**

Grantee: Lancaster County

Tract/Battlefield: Horton Tract, Hanging Rock II Battlefield

Acres: 15.47

Award amount: \$42,903.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to NPS ABPP

Grantee: Kershaw County

Tract/Battlefield: Blue Heron Tract, Camden Battlefield

Acres: 278

Award Amount: \$509,898.62

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to NPS ABPP

Grantee: Orangeburg County Soil and Water Conservation

Tract/Battlefield: Daniels Tract, Eutaw Springs Battlefield

Acres: 10.4

Award Amount: \$31,449.03

Preservation Instrument: Easement

Status: NPS ABPP selection for award approved; award pending return of signed grant agreement

**Tennessee**

Grantee: Henderson County

Tract/Battlefield: McDaniel Tract, Parker's Crossroads Battlefield

Acres: 17.98

Award amount: \$105,635.00

Preservation Instrument: Letter (signed July 10, 2018)

Status: Awarded; acquisition complete

Grantee: City of Chattanooga

Tract/Battlefield: Mohr Tract, Chattanooga Battlefield

Acres: 3.61

Award Amount: \$57,065.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to NPS ABPP

Grantee: Tennessee Historical Commission

Tract/Battlefield: Gold Tract, Fort Donelson Battlefield

Acres: 11.18

Award Amount: \$25,430.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition incomplete

Grantee: City of Franklin

Tract/Battlefield: Spivey Tract, Franklin Battlefield

Acres: 0.72

Award amount: (\$637,500.00)

Preservation Instrument: Letter

Status: NPS ABPP selection for award approved; preservation letter awaiting archeological survey/effects determination; award pending return of signed grant agreement

**Virginia**

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Turner Tract, North Anna Battlefield

Acres: 125.7

Award Amount: \$617,200.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to ABPP

**Virginia (continued):**

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Pepmeier Tract, Deep Bottom II Battlefield

Acres: 93.86

Award Amount: \$325,800.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP; acquisition complete; copy of final recorded easement not submitted to ABPP

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Bowyer Tract, Deep Bottom II Battlefield

Acres: 36

Award Amount: \$198,601.00

Preservation Instrument: Easement

Status: Awarded; acquisition incomplete

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Currier Tract, Rappahannock Station II Battlefield

Acres: 12.36

Award Amount: \$1,231,550.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to ABPP

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Vaughn Tract, Appomattox Court House Battlefield

Acres: 7.52

Award Amount: \$95,475.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to ABPP

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Huntfield Tract, Yorktown Battlefield

Acres: 2.79

Award Amount: \$144,252.50

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to ABPP

**Virginia (continued):**

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Battlefield Bluffs Tract, Yorktown Battlefield

Acres: 46.25

Award Amount: \$1,865,000.00

Preservation Instrument: Easement (Copy of final recorded easement not submitted to ABPP)

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to ABPP

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Prince William 234 Tract, Manassas II Battlefield

Acres: 166.37

Award Amount: \$519,515.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition incomplete

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: River Roads Tract, New Market Battlefield

Acres: 13.39

Award Amount: \$143,248.00

Preservation Instrument: Easement

Status: Awarded; acquisition incomplete

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Rock Tract, New Market Heights/Chaffin's Farm

Acres: 33.89

Award Amount: \$193,722.00

Preservation Instrument: Easement

Status: Awarded; acquisition incomplete

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: West Woods 2 Tract, Opequon Battlefield

Acres: 2.25

Award Amount: \$910,500.00

Preservation Instrument: Easement

Status: Awarded; acquisition incomplete

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Marshall Tract/Rappahannock Station II Battlefield

Acres: 0.85

Award Amount: \$240,306.25

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition incomplete

**Virginia (continued):**

Grantee: Virginia Department of Conservation and Recreation

Tract/Battlefield: Wilson Tract/Trevilian Station Battlefield

Acres: 12.46

Award Amount: \$47,751.00

Preservation Instrument: Easement

Status: Awarded; draft easement submitted to NPS ABPP for review; acquisition complete; copy of final recorded easement not submitted to ABPP

**West Virginia**

Grantee: Nicholas County Farmland Protection Board

Tract/Battlefield: Tucker Tract, Kessler's Cross Roads Battlefield

Acres: 99.66

Award amount: (\$103,487.80)

Preservation Instrument: Easement

Status: NPS ABPP selection for award approved; award pending return of signed grant agreement

## **Part 2. Issues to be addressed in FY 2019**

In fulfillment of Stipulation XIV.A.2: “A report, as appropriate, identifying any issues, initiatives or goals that the National Park Service (NPS) ABPP will address in the coming year with regard to its two grant programs, and any guidance or assistance that the ACHP or NCSHPO may provide to help make compliance activities more effective and efficient.”

### 1. Planning Grants

- a. The NPS ABPP has received responses from State and Tribal Historic Preservation Officers which indicate that many preservation partners are unfamiliar with the two grant programs and, more specifically, with the terms of this Agreement by which the agency satisfies its Section 106 responsibilities. In Fiscal Year 2019, the NPS ABPP plans to develop and implement an outreach plan to State and Tribal partners to more fully explain the grant programs, application processes, and grant management responsibilities. The NPS ABPP seeks assistance from the ACHP and NCSHPO in reviewing the terms of the Agreement with consulting parties and discussing roles and responsibilities with partners that are unfamiliar with the NPS ABPP funding opportunities and compliance processes.
- b. Stipulation II.A.5 requires the NPS ABPP to notify SHPOs/THPOs of applications received for projects planned in their jurisdiction. This written notification informs SHPOs/THPOs of projects which the NPS ABPP has determined qualify under a programmatic exclusion and, as such, do not require Section 106 review. For all other projects, notice of applications comprises an initiation of the Section 106 process. During Fiscal Year 2018, responses to the NPS ABPP notices to SHPOs/THPOs suggest that consulting parties may be misconstruing the purpose of the communication and roles and responsibilities, and conflating the merit review process of evaluating applications for award with compliance requirements. In Fiscal Year 2019, the NPS ABPP will revise notifications to SHPOs/THPOs to clarify the notification and, if needed, to solicit recommendations to ensure that the proposed project will result in a No Adverse Effect determination or to continue consultation to develop modifications or alternatives to avoid, mitigate or minimize all adverse effect findings.
- c. Stipulation II.D.4 requires the NPS ABPP to offer SHPOs the opportunity to review and comment on draft products associated with Planning Grants and BLAGs, as conditioned in the grant agreements. The NPS ABPP grant agreements more consistently and explicitly incorporate the requirements for SHPO review and, when appropriate, approval.
- d. Stipulation III.B.2(b) requires the NPS ABPP to consult with SHPOs on projects that “include, or result in, ground disturbing activities” or that “involve potential preservation treatment recommendations” in order to condition the grant agreement, if needed, so that the proposed work satisfies the three criteria specified in the stipulation. The NPS ABPP has determined that “preservation plans” which include preservation treatment recommendations that will not be implemented as part of the current project, as well as archeological research designs proposing *future* ground disturbing activities that are not part of the current project, qualify as programmatic exclusions, as defined in Stipulation III.A.1. The NPS ABPP seeks concurrence on this interpretation.

- e. Stipulation XI requires the NPS ABPP to condition grant agreements for all Planning Grants in order to address post-review discoveries by including language specified in the stipulation. NPS ABPP notes that this language is not relevant to projects that do not involve ground disturbance or other alterations to historic properties. In Fiscal Year 2018 grant agreements, the NPS ABPP complied with this requirement for projects involving ground disturbing activities. The NPS ABPP seeks concurrence with this interpretation of the stipulation.

## 2. BLAGs

- a. Stipulation II.A.6 requires the NPS ABPP to include the “Section 106 Review status” of a BLAG application in “the acknowledgement letter” sent to the “government sponsor and copies to the Applicant, the SHPO...and the conservations easement holder.” The NPS ABPP has streamlined its pre-award process and now includes the “Section 106 Review status” of the BLAG application in a “selection notification letter” following the merit review process and the decision of the awarding officer to recommend the application for award.
- b. Stipulation II.B.2 (a) requires the Applicant to “provide the NPS ABPP and the Government Sponsor all information submitted to or received by the SHPO regarding Section 106 Review as part of the application.” The stipulation also requires the Applicant to “provide the easement holder, in cases where the easement holder is not the SHPO, all information submitted to or received by the SHPO regarding Section 106 Review.” The NPS ABPP notes that BLAG applicants frequently do not fulfil this role and, as a consequence, impede or delay NPS’s ability to make timely effects determinations.
- c. Stipulation II.B.2(c) permits the Applicant to request reimbursement for up to fifty percent of costs associated with identification and evaluation of historic properties. The Applicant’s early initiation of the Section 106 process and prompt response to requests for information from consulting parties will allow inclusion of these costs in the application budget prior to award and expedite land acquisitions, conclusions of consultations, and timely close-out of grants.
- d. Stipulation II.C.2-3 states that the Government Sponsor may “subgrant the Federal funds [BLAG award] to the non-profit organization” but that the Government sponsor will have no role in the Section 106 review process unless the Government sponsor is the SHPO. While the “Applicant” will undertake the preliminary measures to identify historic properties, as defined in Stipulation IV.A.1, and the “Government Sponsor” is not required to participate in the Section 106 process, the NPS ABPP may include provisions and requirements in grant agreements that are the responsibility of the Government Sponsor to implement and enforce related to Section 106 review.
- e. Stipulation II.D.5 requires the SHPO, the Applicant and the NPS ABPP to ensure that easement language is written to meet the requirements of the SHPO and to satisfy the Secretary of the Interior’s *Standards* and Guidelines. Stipulation IV.B.2 requires the NPS ABPP to both condition the grant agreement and notify the proposed easement holder of the requirement of including the SHPO as technical reviewer/approver of certain proposed activities that have the potential to affect historic properties. In Fiscal Year

2018, the NPS ABPP evaluated its easement review process and standardized program reviews of draft easements submitted by the Applicant to ensure that SHPOs are consulted in a timely manner and offered adequate opportunity to provide recommendations and comments for inclusion in the final, executed easement. The NPS ABPP now consistently conditions grant agreements to ensure that SHPOs are provided with the opportunity to review draft easements, including specific provisions for SHPO review/approval of certain activities.

- f. Stipulation IV.A.1 (b) directs the Applicant to “request a letter from the SHPO or other potential easement holder, agreeing to hold a conservation easement on the land or other property interests acquired in perpetuity.” The NPS ABPP notes some confusion between requirements for initiation of the Section 106 process that are outlined in the Agreement and requirements for completing a BLAG application, which are outlined in the NPS ABPP’s Notice of Funding Opportunity. The NPS ABPP requires a written commitment (a conditional commitment is acceptable) from the potential easement holder as part of a complete application for merit review.
- g. Stipulation IV.C.1 permits the NPS ABPP to enter into a preservation letter of agreement with a State government agency, in lieu of a preservation easement, “in cases where a State government will acquire and manage the property acquired by BLAG funding.” The NPS ABPP interprets this alternative as viable and permissible when the State serves as the Government Sponsor and/or provides a written and proximate commitment to take title to the property. Future or conditioned commitments for State acquisition and management of acquired properties leave federal interests in the property unprotected during the interim period; in such cases, the NPS ABPP will require a preservation easement until a preservation letter of agreement with a State government agency is enforceable.

### 3. Programmatic Agreement

- a. During Fiscal Year 2018, the NPS ABPP has been working to fulfil its Section 106 requirements and complete consultations for undertakings associated with the award of Planning Grants and BLAGs. There remains a substantial backlog of incomplete consultations for BLAGs that fall into four categories:
  - i. Undertakings/grants awarded prior to both the Interim Programmatic Agreement (IPA) and this Agreement. The NPS ABPP proposes that these projects do not require Section 106 consultation.
  - ii. Consultations for undertakings/grants awarded under the terms of the IPA and this Agreement in which the NPS ABPP has received SHPO and Tribal recommendations, but has not yet closed out consultations with a formal effects determination letter to consulting parties. During Fiscal Year 2019, the NPS ABPP plans to close out consultations for which there is a finding of No Adverse Effect by communicating an effects determination in formal letters to consulting parties.
  - iii. Consultations for undertakings/grants awarded under this Agreement for which the NPS ABPP has not initiated Tribal consultation. For most of these awards,

the NPS ABPP has made an effects determination and the acquisition is complete. The NPS ABPP is seeking guidance from signatories regarding Tribal consultation and completion of the Section 106 process in order to close out the award.

- iv. Consultations for undertakings/grants awarded under the terms of this Agreement for which the NPS ABPP has not yet made an effects determination but which are likely to result in an Adverse Effect finding and require additional consultation. The NPS ABPP will make an effects determination and continue consultation for projects which have been awarded grants but have not yet satisfied conditions of the grant in order to draw down funding.
- b. The NPS ABPP interprets multiple stipulations of this Agreement that require conditioning grant agreements to effectively require that the NPS ABPP make an effects determination prior to awarding the grant. This marks a departure from past practice in implementing the terms of this Agreement. During Fiscal Year 2019, the NPS ABPP will issue an effects determination and include conditions agreed upon during consultation in the grant agreement.

### **Part 3. Issues to be addressed by Agreement signatories**

In fulfilment of Stipulation XIV.A.3: “A discussion identifying any problems the NPS ABPP encountered in carrying out the terms of this agreement that need to be addressed by the signatories through amendments or development of guidance documents.”

#### 1. Planning Grants

- a. Stipulation III.A.2 (a) lists SHPO review and approval of grant product(s) as a condition of a “No Adverse Effect” or “No Historic Properties Affected” finding. NPS ABPP cannot require a third party action. The NPS ABPP suggests removing the word “approval” in this stipulation in order to provide SHPOs with an opportunity to review the grant products and enable Applicants to successfully complete grant projects even if a SHPO is unable to respond to a request for review of drafts.
- b. Stipulation VIII.B requires the NPS ABPP to deny final payment if the Planning Grant Applicant does not correct all comments received on the technical report, treatment plans, or other documents. The NPS ABPP does not have authority to withhold final payments on grants under 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. The NPS ABPP suggests revising or striking this provision of the stipulation and requests guidance from signatories to this Agreement.

#### 2. BLAGs

- a. As noted above, Stipulation I.A.1 (b) directs the Applicant to “request a letter from the SHPO or other potential easement holder, agreeing to hold a conservation easement on the land or other property interests acquired in perpetuity.” The NPS ABPP requests a discussion of provisions regarding easement review and approval in order to facilitate understanding of and alignment with the NPS ABPP financial assistance requirements and to ensure that sufficient protections of federal interests are expeditiously executed.

- b. As noted above, Stipulation II.A.6 requires the NPS ABPP to “include the Section 106 Review Status of a BLAG Application in the application acknowledgement letter.” The NPS ABPP requests revision of this language to reflect current streamlined practices which notify the Applicant, “Government Sponsor,” and SHPO of the Section 106 process in the NPS ABPP Awarding Officer’s Selection Notification Letter following merit review of the project.
- c. Stipulation II.B.2 states that “eligible applicants are non-profit organizations or state, regional, or local governments seeking to acquire battlefield land or easements on battlefield land.” The Agreement incorrectly identifies “non-profit organizations” as “eligible applicants.” Eligible applicants for BLAGs are limited by statute to state and local governments. The statute permits eligible entities to acquire properties or an interest in properties through a partnership with a nonprofit organization, but the grant recipient and, thus, the party with which the NPS ABPP enters into a grant agreement, is the state or local government. The conflation of the applicant with a non-profit organization participating as a subgrantee has led to confusion regarding the roles and responsibilities of grantees in the grant management process. The NPS ABPP requests that the signatories and concurring parties revisit and revise the identity and roles of Applicants to clarify the roles of Grantees and Subgrantees in both the grant management and compliance processes and introduce language that aligns with statutes authorizing the grant programs.
- d. Stipulation IV.A.2 requires the NPS ABPP to request “comments of any Indian Tribe(s) that may attach religious or cultural significance on or near land associated with the project” *after* receipt of a complete application. The NPS ABPP notes that under current requirements, the merit review process of the Application often runs concurrently with initial opportunity for Tribal review and comments and, thus, the merit review process includes only SHPO recommendations. The NPS ABPP requests that the signatories consider adjusting the initiation of Tribal consultations in order to provide adequate opportunity to comment without introducing appreciable delays to the compliance and award process.
- e. Stipulation VI states that “the NPS ABPP shall conduct government-to-government consultation with Indian Tribe(s) and/or NHOs that attach significance to historic properties that may be affected by...BLAG post-acquisition activities.” Indian Tribes frequently request to be consulted in case of future ground disturbance or inadvertent discovery. In response, the NPS ABPP notes that such activities are not part of the undertaking (acquisition) and agrees to notify the easement holder of the Indian Tribe’s request. The NPS ABPP requests input on developing a consistent process for working with BLAG Applicants and easement holders on how to address the concerns of Indian Tribe(s) about post-acquisition activities.

**Part 4. Additional information**

In fulfilment of Stipulation XIV.A.4: “Any other information the NPS ABPP wishes to provide that might improve the effectiveness of this agreement.”

1. The NPS ABPP has accepted grant applications submitted through Grants.gov, as well as email and paper copies submitted directly to program staff. NPS policy requires submissions through the Grants.gov portal except under exceptional/exempted circumstances. The NPS ABPP intends to align grant applicant processes with required policy in order to expedite the evaluation of applications and awarding of grants: submissions through Grants.gov significantly reduce tracking tasks and data entry required by NPS ABPP staff. This change will permit the NPS ABPP to redirect staff time to providing appropriate technical assistance to applicants, to expeditious review of grant applications and completion of grant management requirements, and to a more proactive strategy for education and outreach.
2. The eleventh recital in this Agreement mentions guidelines for both grant programs provided in “grant manuals” and grant agreements. During Fiscal Year 2018, the NPS ABPP began to revise grant agreements to align with relevant statutes and Uniform Administrative Requirements and to provide clear expectations and requirements for grant recipients. The NPS ABPP will continue to align grant agreement with statutory, regulatory, and administrative requirements. The NPS ABPP has also entered into a task agreement with NCSHPO to employ a Historic Preservation Specialist for a term-limited position to develop tools and aids for applicants and potential applicants to complete successful BLAG applications and to develop sustainable preservation and management strategies for acquired properties. These interim tools will provide guidance to applicants and partners as the NPS ABPP aligns grants management procedures with Uniform Administrative Requirements and completes the mandated Departmental review of all financial assistance guidance.
3. Stipulation IV.C.3 requires recordation of the conditions of the preservation letter of agreement “with the deed of conveyance or in a deed of covenants and restrictions encumbering the property.” Stipulation IV.B.3 implies a similar requirement for the recordation of easements on property acquired with BLAGs. Because many grantees fail to provide executed copies of final preservation instruments, the NPS ABPP cannot verify that federal interests in these acquisitions are protected in perpetuity and cannot close out these grant agreements. During Fiscal Year 2019, the NPS ABPP will implement monitoring requirements dictated by NPS and Department of Interior policy for real property acquisitions to ensure the protection of federal interests.
4. The NPS ABPP is developing a strategy for outreach to state, local and nonprofit partners to expand capacity for battlefield preservation and potential for success in applying for and implementing grant-funded projects. In Fiscal Year 2019, the NPS ABPP plans to develop webinars for target audiences to review and discuss the program mission, preservation needs identified by the battlefield preservation community of practice, and roles and responsibilities in the grants application and management processes.