



**NATIONAL ASSOCIATION  
OF TRIBAL HISTORIC  
PRESERVATION OFFICERS**

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June 28, 2024

Charles F. "Chuck" Sams III  
Director  
National Park Service  
1849 C Street NW  
Washington, DC 20240

Dear Director Sams,

The National Association of Tribal Historic Preservation Officers (NATHPO) has the following comments regarding the National Park Service's (NPS) proposal to develop a Section 106 Program Alternative (PA) for the Land and Water Conservation Fund (LWCF) state and local assistance programs.

NATHPO is the only national organization devoted to supporting Tribal historic preservation programs. Founded in 1998, NATHPO is a 501(c)(3) non-profit membership association of Tribal government officials who implement federal and Tribal preservation laws. NATHPO empowers Tribal preservation leaders protecting culturally important places that perpetuate Native identity, resilience, and cultural endurance. Connections to cultural heritage sustain the health and vitality of Native peoples.

We appreciate that NPS staff have identified that there are problems with how the LWCF is currently conducting Section 106 reviews for state and local assistance programs in general and specifically with Tribal consultation. Unfortunately, the term "program alternative" has become synonymous with "streamlining," and the real problems would not be addressed by expediting the process.

NATHPO shares NPS staff's fundamental concerns about the manner in which the agency is currently conducting Section 106 reviews for LWCF grant programs. As expressed during the NPS' listening sessions with Tribal Historic Preservation Officers (THPOs), we believe that a PA would not strengthen protections for Tribal Nations' cultural resources and sacred places. In fact, a PA would streamline a broken system, rather than fixing it. Rather than working on a PA, NATHPO urges NPS to work on a policy statement that establishes a consultation process that respects Tribal sovereignty and adheres to the National Historic Preservation Act.

The passage of the Great American Outdoors Act (GAOA) in 2020 significantly increased the number of LWCF state and local grants that the NPS was distributing. During an April 23rd, 2024, listening session with Tribal Nations, NPS' State and Local Assistance Division program manager Missy Morrison said the agency is "inundated with (grant) applications because of GAOA." The flood of new grant applications has broken a system that was already not working well. Throughout the two listening sessions that NPS held with Tribal Nations, Ms. Morrison repeatedly said that there was a lack of "consistency" or "uniformity" in how Section 106 is carried out for LWCF state and local assistance programs. She specifically highlighted problems with the "timing and coordination of Section 106 reviews." Ms. Morrison also added, "The process should be more clear."

During the listening sessions, THPO staff said that a PA would not be appropriate for the LWCF state and local assistance programs. During the April 23rd listening session, Johnnie Jacobs, an Archaeologist with the Osage Nation Historic Preservation Office said to Ms. Morrison that a PA would not improve a system that "has not worked out well for most Tribes." Ms. Jacobs added, "We just want agencies to do the basic [Section] 106 well." Cheryl Pouley, the Cultural Protection Coordinator for the Confederated

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Tribes of the Grand Ronde Historic Preservation Office added, “We need to see that the agency can do the basics.”

NATHPO strongly supports the position that NPS should not focus on developing a PA, but rather on fixing the existing process for doing Section 106 for LWCF state and local grants. THPOs and other representatives from Tribal Nations identified these specific problems that should be addressed:

- Tribal Nations are engaged late in the process.
- There is a failure to respect the Nation-to-Nation relationship between Tribal Nations and the federal government.

Neither of these fundamental concerns would be addressed by the review process moving more quickly. Ms. Jacobs noted that the Osage Nation Historic Preservation Office has “not had the best of luck with prototype PAs.” She specifically noted that in her experience these PAs “limit Tribal voices and perspectives.”

There are real implications in failing to address the existing problems with how NPS conducts Section 106 reviews for LWCF state and local grants. Keith Baird, THPO for the Nez Perce Tribe, raised specific concerns about recreational development on archaeological sites and Traditional Cultural Properties. He noted situations in which there is not proper Tribal consultation before amenities, such as bathrooms and trailheads, are constructed. Mr. Baird described an NPS approach he has experienced as, “we don’t have a problem anymore because we have already destroyed it.”

The flood of money into the LWCF program has created an influx of projects that require Section 106 reviews. A necessary part of the solution to this problem is to provide THPOs with the resources they need to efficiently and effectively engage in the process and conduct the reviews.

In Fiscal Year 2025, THPOs are receiving an average of \$104,000 from the Historic Preservation Fund (HPF). NATHPO strongly supports a reauthorization of the HPF which would require that:

- THPOs receive a minimum of 20 percent of the HPF each year, and;
- the National Park Service reviews annually whether THPO funding is keeping pace with the increasing number of THPOs and adjusts the funding accordingly.

We also urge the Administration to propose budgets and Congress to pass appropriations bills that reflect the important role that THPOs play in protecting the places that tell the stories of Tribal Nations.

Funding for THPOs is not an ancillary issue, but rather central to an overall effort to respect Tribal sovereignty and guarantee that the Section 106 process for LWCF local and state grants can be conducted in an efficient manner which also guarantees that Tribal Nations’ cultural resources and sacred places are protected.

Overall NPS’ proposal, and the way in which the associated listening sessions were conducted, reveals a failure to understand the Section 106 consultation process and a lack of respect for Tribal sovereignty.

NATHPO requests that the NPS shelve its efforts to develop a Section 106 PA for the LWCF state and local assistance programs and instead focus its efforts on making sure Tribal Nations are engaged at the beginning of the process by federal agencies.

Moving forward, NATHPO would appreciate if NPS LWCF staff could explicitly let our organization and Tribal Nations know what staffing and funding efforts are being made to ensure that the agency is agile

and responsive to Tribal Nations' concerns about the impact of LWCF state and local grants on cultural resources and sacred places. We look forward to receiving this information and stand ready to have a conversation about how NPS LWCF staff engages with Tribal Nations. We believe that such a dialogue could begin addressing the problems that NPS staff have identified as the impetus for this PA.

Thank you for considering our comments on the proposal.

Sincerely,

A handwritten signature in black ink that reads "Valerie J. Grussing". The signature is written in a cursive style with a large, stylized 'V' and 'G'.

Valerie J. Grussing, PhD  
Executive Director