Georgia Department of Transportation
Office of Environmental Services
Environmental Procedures Guidebooks

Cultural Resources
Assessment of Effects

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OVERVIEW

Assessment of Effects (AOE) documentation details the Georgia Department of Transportation's (GDOT's) efforts to identify project effects to National Register of Historic Places (NRHP) listed and/or eligible historic properties within a project's area of potential effects (APE) as part of compliance with Section 106 of the National Historic Preservation Act or the Georgia Environmental Policy Act (GEPA). For GDOT projects, Section 106 compliance is generally required due to Federal Highway Administration (FHWA) funding or the need for a permit from the US Army Corps of Engineers, Savannah District (USACE) pursuant to Section 404 of the Clean Water Act.

A historic property, as defined by the National Historic Preservation Act, means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource. For ease and clarity of use within this guidebook, when it is necessary to distinguish between archaeological resources and the built environment, the term "historic resource" refers to the built environment only; and "archaeological resource" refers to archaeological sites only.

This guidebook establishes the basic standards for compiling and submitting an AOE for each historic property identified within a project's APE. It should be used in conjunction with the GDOT Cultural Resource Manual (CR Manual), which details implementation of the 2019 Programmatic Agreement (PA) between FHWA, USACE, the Advisory Council on Historic Preservation (ACHP), the State Historic Preservation Officer (SHPO), federally recognized tribes (Tribes), and GDOT. Specific guidance included in the CRM is incorporated into this document by reference.

Section 106 Programmatic Agreement and Cultural Resources Manual

Following identification of historic properties within a project APE, Historians and Archaeologists who meet the Secretary of the Interior's Professional Qualification Standards compile AOE documentation to detail project effects to the historic properties and provide justification and support for the effects findings. Depending on the funding or permitting for a project, AOE documentation may be required under Section 106, GEPA, or both.

For projects requiring a USACE permit, two AOE documents may be required if USACE does not take full jurisdiction of the project: one for USACE jurisdictional areas as determined by the Scope of Analysis (SOA) for the USACE permit area subject to Section 106, and another for areas outside of the USACE permit area but still subject to GEPA.

Section 106 AOE documents are submitted to the lead federal agency and to the SHPO for concurrence; GEPA documents are not. For all projects, regardless of funding or permit requirements, Tribes and consulting parties receive AOE documentation for comment through Section 106 or GEPA consultation. If adverse effects are determined and cannot be avoided, mitigation measures should be proposed in the AOE document and formalized in a Memorandum of Agreement (MOA) for Section 106 purposes or a GEPA Mitigation Request Form (MRF).

CRITERIA OF ADVERSE EFFECT

AOE documentation details GDOT's application of the criteria of adverse effect to historic properties within a project's APE by evaluating the proposed project activities in relation to a resource. Section 106 of the National Historic Preservation Act defines the Criteria of Adverse Effect as follows:

> *An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.* 36 CFR 800.5(a)(1)

Section 5.1 of the CR Manual and PA Stipulation VII offer specific guidance on the consultation and documentation required for this evaluation. These same criteria are used for GEPA projects.

AVOIDANCE AND MINIMIZATION OF PROJECT EFFECTS

Both Section 106 and GEPA require avoidance and minimization of adverse effects to historic properties and are prioritized in that order. If avoidance of historic properties is not possible then mitigation is required.

- Avoidance is completely avoiding historic properties, i.e. no acquisition or damage within an NRHP boundary or other impacts that would result in an adverse effect.
- Minimization is the reduction of impacts to reduce harm to the historic properties, which may result in a no adverse effect finding or less harm to an adversely affected resource.

Preparation and Coordination Prior to AOE Documentation

Send the historic property boundaries to design and prepare for the Avoidance and Minimization Measures Meeting (A3M) in accordance with current GDOT procedures.

- Prior to the meeting, Historians and Archaeologists share historic property information and boundaries with the planning and design team, who in turn share the project's preliminary conceptual design. The resources and potential impacts are identified prior to the meeting in the A3M tracking database filled out by environmental and design subject matter experts.
- At the meeting, the Historian and Archaeologists contribute to the overall project effects discussion with other environmental subject matter experts, designers, and planners and more specifically discuss ways to avoid and/or minimize impacts to historic and archaeological resources and their contributing features and/or deposits.
- After the A3M and as needed, the Historian and Archaeologists should continue to coordinate with designers to avoid and minimize project impacts. The A3M tracking database must be filled out by the designer and environmental subject matter experts to reflect the decisions made at the A3M. The information in the database is incorporated into the AOE and the Environmental Impacts Table (ERIT).

Every effort should be made to avoid Right-of-Way (ROW) or easement acquisitions that could lead to destruction of a historic or archaeological resource or contributing portions thereof. If impacts cannot be avoided, design alternatives could include utilizing the existing alignment or a new location alternative to avoid a historic or archaeological resource.

Avoidance and minimization is a critical component for FHWA projects subject to Section 4(f), which requires study of prudent and feasible alternatives to avoid adverse effects to historic properties and often entails a lengthy legal review. The exploration and description of avoidance alternatives through the Section 106 process are also components of the Section 4(f) evaluation. Although less frequently applicable than with historic resources, archaeological resources can be subject to Section 4(f) if they are considered worthy of

preservation in place. Prepared by the Environmental Analyst, the Section 4(f) Evaluation is discussed in detail in the Environmental Analysis guidebook *Section 4(f) Overview*.

Preparation for the A3M

Effects assessments should include consideration of all project activities, whether permanent or temporary, including the built roadway improvements, proposed ROW and easements, and all associated construction activities. Considerations include but are not limited to clearing and grubbing activities (typically within all project ROW and construction limits), construction (grading, cut, fill, trenching, heavy equipment movement, etc.), demolition of structures (demolition easements), erosion control (trenching for silt fence, etc.), construction and traffic staging (vehicular activity, material storage, trailers, temporary access roads, etc.), and utilities (relocations). If the project is subject to Public Interest Determination (PID) procedures, in which GDOT participates in the cost of utility relocations, the effect of the utility relocations on historic properties should be considered in the AOE. Regardless of whether or not a project is PID, all utility work such as sewer replacements, etc. included in the GDOT plans, and therefore construction contract, should be taken into account for their effects on historic properties. In addition to the above, inquiry should be made at the A3M regarding any required geotechnical investigations for the project that may potentially result in impacts to a historic property to ensure proper avoidance occurs to avoid or minimize impacts.

Use the following table as a guide for discussions with designers. This list is not meant to be exhaustive, but rather to be used as a guide for potential approaches for avoiding and minimizing effects to historic properties:

Table 1 – Avoidance and Minimization Discussion Points

Options/Considerations	Methods
Relocate alignment and/or shift project activities	> Shift the roadway away from the historic property or contributing feature > Use a temporary bridge or offsite detour and/or relocate or reduce drainage infrastructure
Remove or reduce proposed easement or required ROW within historic property boundaries	> Reduce acquisition requirements by suggesting narrower lanes, a reduced cross section, changes to slopes, and/or the reduction or removal of sidewalks > Use retaining walls and structures to reduce acquisition impacts, but also consider structure height, appearance, and context sensitive design and/or materials to ensure the structure is itself not an adverse effect. Consideration for potential impacts to archaeological features should also be given to construction methods (tie backs, etc.)
Reduce construction limits within or adjacent to historic property boundaries	> Use orange barrier fence to limit project activity in proximity to a historic property or its contributing features, such as buildings, landscape features (including tree root systems), and archaeological features > Seek design variances and /or exceptions on a case-by-case basis to avoid or reduce impacts (These require special approval from the GDOT Director of Engineering, Chief Engineer, and in some instances, FHWA)
Require special construction methods	> Implement hand grubbing and clearing near and within sensitive areas

Indirect and cumulative effects analysis, where applicable, may identify "reasonably foreseeable effects…that may occur later in time, be farther removed in distance, or be cumulative." Under Section 106 or GEPA, this analysis is focused on the individual historic and/or archaeological resources and take into account each resource's physical condition/stability, the presence or absence of municipal historic preservation ordinances that may support a historic property's preservation, applicable land use ordinances and zoning, and the project's potential for induced growth. Note that separate indirect and cumulative effects analysis for National Environmental Policy Act (NEPA) compliance occurs at a broader, community level.

Application of the criteria of adverse effect as indicated above will result in one of three findings: No Effect, No Adverse Effect, or Adverse Effect. For further information regarding consultation on the various findings described below, including when SHPO concurrence is not required see Stipulation VII of the PA and Section 5.1 of the CR Manual.

No Effect

A No Effect finding is made when a listed or eligible historic property will not be impacted and can be documented in one of two ways. The No Effect finding will be documented in an No Historic Properties Affected (NHPA) document if all identified historic properties are evaluated with a No Effect finding, or in an AOE document if other historic properties are present and being impacted by the project.

No Adverse Effect

A finding of No Adverse Effect is made when an undertaking's effects do not meet the Criteria of Adverse Effect to any historic properties.

A No Adverse Effect finding is valid for individual historic properties within an APE where project effects are identified but do not alter any historically significant characteristics or contributing features in a manner that diminishes their integrity. This finding is documented in an AOE.

Adverse Effect

A finding of Adverse Effect is made when an undertaking's effects to any historic and/or archaeological resource meet the Criteria of Adverse Effect. In this case, the project has been determined to alter a historic property's historically significant characteristics or contributing features in a manner that diminishes their integrity. Although every effort should be made to avoid or minimize adverse effects, if an Adverse Effect is found, mitigation to resolve the identified adverse effect is required.

Although the Adverse Effect finding is for an individual resource effect evaluation as documented in an AOE, if any historic or archaeological resource is found to be adversely affected, then the project's overall finding is Adverse Effect. This is equally true if the highest level of effect is a No Effect or No Adverse Effect finding.

DOCUMENTATION

As outlined in the CR Manual, the determination of effect may be documented in one of several ways as determined by the level of effect (CR Manual Section 5.1). For projects with no listed or eligible historic properties, the effects finding will be documented in an NHPA or Archaeological Report, and for projects where listed or eligible resources are present, the finding will be documented in an NHPA or AOE. Document templates are available in the Cultural Resources Template Library; funding and/or permitting will determine which template to use.

Comprehensive Reporting

As applicable, the AOE should address effects to both listed or eligible historic and archaeological resources; archaeological resources whose eligibility is unknown but lack significant data potential in the APE are not included in the AOE. If both historic and archaeological resources are present, or a historic property is listed or eligible for both historic aboveground and archaeological features, the AOE is a collaborative effort between the Historian and Archaeologists that should be reflected in project scoping. If there is a preponderance of a resource type, it is logical for that resource type's subject matter expert to lead the document production effort, while the other discipline provides relevant resource information, effects assessment, and support. Documentation should be prepared by the appropriate subject matter expert (i.e. Historians cannot assess effects to archaeological resources, and vice versa).

Federal Funding/Permitting or State Funding

Funding and/or permit requirements will determine the lead federal agency, if applicable and the required document type(s).

Table 1 – Required Effects Documentation by Project Funding/Permitting

Action	Lead Agency	Effects Documentation
Federal funding	FHWA	Sec 106 NHPA* and/or AOE
State funding, no permit	GDOT	GEPA NHPA* and/or AOE
State funding, Federal permit	USACE *full* jurisdiction	Sec 106 NHPA* and/or AOE
State funding, Federal permit	USACE *partial* jurisdiction	Sec 106 NHPA* and/or AOE; and GEPA NHPA* and/or AOE

*NHPA or equivalent Archaeological documentation (i.e. ASR)

USACE Scope of Analysis: Partial Jurisdiction

Depending on the nature and extent of impacts to Waters of the US, USACE may take full or partial jurisdiction of a state-funded project as indicated in their Scope of Analysis (SOA) determination for the 404 permit (33 CFR 325, Appendix B). Using the SOA, the APE is drawn by applying a 100-meter radius from the impacted waters. Upon receipt of the SOA with a partial jurisdiction determination, the Historian will use the WOTUS impact map obtained from the project Ecologist to draw the 100-meter radius and determine which of the identified historic and archaeological resources are located within the project's APE.

Separate guidance on mapping for USACE projects with partial jurisdiction is available on the Cultural Resources Sharepoint Site.

When USACE takes partial jurisdiction of a state-funded project, two effects documents may be required: a Section 106 document for historic properties within the USACE's SOA and a GEPA document for historic properties outside of the SOA. A historic and/or archaeological resource could appear in both a USACE effects document and a GEPA effects document with separate analyses dependent on its location in relation to the USACE's SOA. Examples could include a historic district or large agricultural resource where some portions are in the SOA and others are not, and where different project activities are occurring and may cause different effects. In these instances, only the impacts of the project that fall within the USACE's SOA should be addressed in the Section 106 effects document. All other impacts will be addressed in the GEPA effects document, without duplication of effects already considered within the USACE jurisdiction. This may result in two different effects findings for the same resource between the two documents.

No Historic Properties Affected Report

The NHPA report documents the finding that the project will not affect historic properties. An NHPA document may also be a combined document when a project type (such as a maintenance project with curb cuts or a signal upgrade project) is found to be No Potential to Cause Effect for archaeology. In those instances, the NHPA serves as a combined report for both history and archaeology. There are three different instances in which an NHPA document is appropriate, each with a corresponding template:

No Resources Present

If no resources 50 years of age or older are identified within the project's APE, then a determination of No Historic Properties Affected is made and documented in a NHPA Report for history and an Archaeological Short Report (ASR) for archaeology. No signed concurrence from SHPO is required.

No NRHP Listed or Eligible Resources Present

In situations where resources 50 years of age or older have been identified within the project's APE but have been determined not to be listed or eligible for the NRHP (through consultation with the SHPO via a Historic Resources Survey Report for historic resources), then a determination of No Historic Properties Affected is made and documented in an NHPA for historic resources. No signed concurrence from SHPO is required. For archaeological resources, this finding is documented in the Archaeology Short Report or Phase I Report Transmittal.

NRHP Listed or Eligible Resources Present but No Effect

Where NRHP listed or eligible historic properties have been identified within the project's APE, but, due to the nature and scope of the undertaking, the project would have no effect to those resources, then a determination of No Historic Properties Affected is made and documented in the NHPA document. The documentation will explain why the proposed

project activity would have no effect to historic or archaeological resources and any contributing features. SHPO's signed concurrence is required.

Assessment of Effects Document

The AOE document addresses determinations of No Effect, No Adverse Effect, or Adverse Effect. It utilizes, as appropriate, information contained in the approved Historic Resources Survey Report and/or Archaeology Report. When historic resources and/or archaeological resources will be adversely affected, mitigation commensurate with the project effects is required and should be proposed within the AOE. Once agreed upon, the proposed mitigation will be formally documented in a MOA or GEPA MRF.

Report Contents

The AOE document template includes instructions as well as required content and formatting and must be followed. The following section highlights important considerations for some but not all of the sections of the AOE document and supplement the instructions provided in the template itself.

Description of the Undertaking: This is a project description consistent with prior cultural resources documentation; discrepancies should be explained. A project location map and resource location map, or a combined map, should be included in the document.

For projects with partial USACE jurisdiction, the project description should include a brief description (one or two sentences) of the overall GDOT project but focus primarily on describing the USACE jurisdictional area as identified in the USACE's SOA response for the project's permit. The project location map should be referenced in this section, and the figure should clearly indicate the USACE's jurisdictional area as defined by the USACE's SOA response. Only historic properties that fall within the USACE's jurisdictional area should be shown on maps within the USACE document.

Identification of Historic Properties and Public Involvement: This is a discussion of background research, cultural resources survey results, consultation, and public involvement efforts. Note that historic resource numbers are not used in the AOE, rather proper names are used.

Public involvement should be commensurate with the nature of the historic properties and the magnitude of the potential effect and may include but is not limited to notification letters, consultation and public meetings, and community and stakeholder outreach. Public involvement noted here may be a combination of efforts undertaken as part of Section 106 or GEPA coordination, or project level efforts conducted by the Environmental Analyst and Project Manager. Additionally, if a Public Information Open House (PIOH) was held for the project, this section of the AOE should reference the meeting and whether or not any comments pertaining to historic properties were received.

Description of Historic Properties: Brief summaries of each historic or archaeological resource are provided in this section. While lengthy summaries are not necessary as the

detailed survey documentation is appended to the AOE, the summary should include a brief resource description, identify the NRHP area(s) of significance and eligibility as well as include a brief description of the NRHP boundary. The reference to the Appendix where the PIFs and/or DOEs are located should also be cited here.

Assessment of Effects: For each historic and archaeological resource, a detailed discussion of direct, indirect, and cumulative effects that may or may not be caused by the project. Effects can include but are not limited to destruction or physical damage; change in use; change to setting; visual changes; atmospheric impacts; audible impacts (refer to FHWA or GEPA noise guidance on the Cultural Resources SharePoint site, as applicable); and/or indirect and cumulative effects from project-induced land use changes. Assessment of indirect effects, where applicable, should be coordinated with GDOT Environmental Analyst.

Historic districts are complex resources, and the assessment of effects can become bogged down in too much detail. The approach for evaluation should be to describe generally the areas of required ROW or easement within the district and focus more closely on areas where the required ROW, easement, or construction activities within existing ROW are adjacent to contributing resources/features and will be directly affected. Graphics showing construction limits should illustrate these areas of focus. Additionally, districts often contain individually listed or eligible historic properties which should be evaluated individually as well as within the district as a contributing feature, if the individual resource is within the ROW, easement, and/or construction limits of the project. For historic districts that contain archaeological sites that contribute to the eligibility of the district, the site should be included within the overall assessment of the district itself and does not need to be evaluated separately unless it is also individually eligible. The site should be noted in the description of the historic district, and impacts to archaeological deposits accounted for in the effects assessment.

Although the AOE template guides discussion of potential project impacts, the preparer(s) should adapt the effects assessment to each project's specific potential to impact each historic and/or archaeological resource. The preparer should review all relevant plans sets to determine the extent of potential project impacts including the mainline plans, tie-ins, cross-sections, staging, and utility plan sets. Information on Cultural Resource Design needs for effects assessments, including relevant plan sheets and corresponding DGN layers, is available on the Cultural Resources Sharepoint site for further reference.

Amounts of required ROW and easement within an NRHP boundary should be provided in square feet as well as in linear feet measured from the existing ROW line to the back edge of the proposed acquisition. If the amount varies, the variable amounts should be provided. If the land use is temporary easement or driveway easement, this amount should be provided in linear feet as described above.

Include a construction limits graphic depicting the project in the area of each historic property, using the plan sets referenced above, as applicable. Because the document's public audience may not be familiar with reading plans, construction limits graphics should

highlight, color code, and/or annotate the resource boundary and relevant plan details which may include the following: proposed orange barrier fence, existing and proposed edge of pavement, existing and proposed ROW and easements, cut and fill lines, temporary bridges, utilities, and any other project components that may affect the historic property. This graphic should be focused on and zoomed-in to areas of potential project impact in relation to the resource boundary, and embedded in the body of the report, not in an appendix. If a resource has a large boundary, multiple figures showing the full extent of the resource in relation to the project and subsequent details may be required. Figures may use the project plan sheets directly or overlay the project design files on an aerial map. The *Cultural Resources Example Graphics* reference document offers examples of plan sheets with and without aerial overlays.

Cultural Resource Example Graphics

Photographs of affected areas conveying details relevant to the effect assessment should be included within the body of the report and keyed to the construction limits graphic.

Summary: A brief statement summarizing the individual effects assessments for each resource and the project's overall effects determination. For an AOE containing five or more resource assessments, a table should be included in Appendix D summarizing the individual assessments.

Sample Table:
*Indicate No Effect, No Adverse Effect, or Adverse Effect for each of the criteria of effect.

Summary of Effects						
	Physical	Setting	Use	Visual	Atmospheric	Indirect
Name of Resource						

Alternatives to Avoid Adverse Effect: Discussion of alternatives developed by project planners and designers to avoid potential adverse effects, if applicable, and why alternatives were rejected and/or not further studied. Refer to the A3M tracking database and meeting notes and conduct additional discussion with designers as needed.

Planning to Minimize Harm and Proposed Mitigation: Discussion of planning to minimize harm to historic and/or archaeological resources. Planning to minimize harm could include various methods as discussed during the A3M and documented in the A3M tracking database, including but not limited to alignment shifts or relocations; reduction of design features, construction limits, and/or acquisitions; designation of Environmentally Sensitive Areas (ESAs); and use of orange barrier fence. If there are no adverse effects to resources, mitigation will not be proposed, and the title for this section should be revised accordingly by removing "and Proposed Mitigation" from the heading.

If an adverse effect has been determined, proposed mitigation commensurate with the identified effects should also be included. A separate draft MOA for federal undertakings or MRF for state funded projects including the proposed mitigation measures is also required for internal circulation at GDOT.

Appendices: The contents of the appendices are detailed below. Additional information may be included in the appendices as applicable, such as other relevant correspondence from project consultation including meeting notes, presentation slides, and examples of proposed design and material features, etc. Additional appendices may also be created, as needed.

- *Appendix A:* Includes applicable notification letter and any correspondence from SHPO, Tribes, and/or other consulting parties, and, as applicable, the USACE's SOA response letter;
- *Appendix B:* Includes applicable documentation for all identified archaeological and historic resources including Property Information Forms, Determinations of Eligibility (DOE) (see Additional Documentation section below), and NRHP listings or nominations;
- *Appendix C:* GHBS bridge survey form and management plan; and
- *Appendix D:* For five or more resources, a summary table that identifies the findings of effect for all of the criteria of adverse effect for each resource should be included here.

Quality Control

All documents produced by GDOT Cultural Resource Section staff are reviewed for quality and accuracy through peer review and/or manager review prior to transmittal to agencies, Tribes, or consulting parties. Similarly, for consultants, GDOT's current quality assurance and quality control (QAQC) procedures must always be followed. These procedures require that all documentation, including the AOE, must be reviewed by a separate subject matter expert for the applicable discipline (i.e. a qualified professional who meets the Secretary of the Interior's Professional Qualifications Standards for History or Archaeology), and that the QAQC process be documented as part of the submittal.

For subconsultants completing an AOE for a design or prime consultant, the document must be provided to that prime consultant for review. The prime consultant must then provide a letter verifying their review and that the document corresponds to the current design and meets quality expectations; this prime verification letter is also a component of the AOE submittal.

Common Mistakes to Avoid

- Incorrect template utilized relative to Federal funding, Corps permit, GEPA
- Copy and paste errors
- Inconsistencies in and between the project description, assessments, and/or prior documentation; lack of or inaccurate measurements
- Graphics do not contain critical project info, contain inaccurate or inconsistent information related to text, or are difficult to read
- Historic and/or archaeological resources and NRHP boundaries are incorrectly shown or are inconsistent with prior survey documentation; ineligible resources are indicated in graphics
- Identification of Historic Properties and Public Involvement sections lack information regarding prior reporting and SHPO and Tribal consultation
- Avoidance alternatives and justification for preferred design not provided; minimization efforts are not detailed; and/or proposed mitigation not appropriate for significance of resource or magnitude of effect
- Required items missing from appendix

Submission and Review

Consultants will submit draft copies of the AOE to the GDOT project historian and/or archaeologist to circulate for review and comment; note that both GDOT reviewers should receive an individual copy when the AOE contains both historic and archaeological resources. Additional copies of the report will be requested upon completion of the review process.

For Section 106 projects, the GDOT historian or archaeologist will conduct all coordination and transmittals to the SHPO, Tribes, and consulting parties, who will have 30 days to review the AOE and provide concurrence and/or comments. Per an interagency agreement, the SHPO will respond in 14 days to NHPAs, ASRs, and previously reviewed MOAs and 21 days to survey reports and AOEs. Any disagreements regarding effects should be coordinated with GDOT cultural resources staff. If GDOT accepts SHPO, Tribe, and/or consulting party comments disagreeing with an effect determination, the historian and/or archaeologist will revise the AOE and provide the revised report to GDOT for review. For GEPA projects, the AOE is transmitted only to Tribes and consulting parties for comment by GDOT.

For federally-funded projects requiring an Environmental Assessment or Environmental Impact Statement, the timing of SHPO consultation on the Assessment of Effects Document must be taken into consideration with the NEPA documentation. For EA or EIS level projects, the Cultural Resources AOE cannot be transmitted to SHPO, tribes, and consulting parties until the draft environmental document is transmitted to FHWA for review. If necessary, a technical assistance meeting with SHPO may be held to discuss preliminary effects assessments for a preliminary verbal agreement prior to submittal of the document for review, however a formal request for an effects determination cannot be made prior to a declaration that the project rises to the level of an EA or EIS.

Refer to CR Manual Section 5.1 and the PA for consultation procedure flowcharts.

Section 4(f) De Minimis Finding

If an FHWA project requires land from a historic and/or archaeological resource that constitutes a use as defined in Section 4(f), but the effect is not adverse, the AOE transmittal letter will request the SHPO's acknowledgement of a *de minimis* finding. The Historian or Archaeologists will measure and provide the area of proposed impacts, including the amount of required ROW and/or permanent easements, within the National Register listed or eligible boundary. Section 4(f) applies only to archaeological resources that warrant preservation in place, i.e. their significance does not derive solely from data potential that can be obtained through data recovery.

Per the 2020 policy agreement "Programmatic 4(f) Evaluation for Bridge Replacements within Historic Districts," for bridge replacement projects that would replace a historic bridge in a historic district, FHWA and GDOT will evaluate the Section 4(f) use of the bridge using the nationwide programmatic agreement and consider uses to other contributing

properties via another Section 4(f) evaluation. In the event that the use of other contributing properties would be considered no adverse effect under Section 106, FHWA and GDOT would make a de minimis determination for the historic district and request SHPO's acknowledgement via the Section 106 AOE transmittal letter.

Advisory Council on Historic Preservation Coordination

For Section 106 projects where an adverse effect has been identified, and the SHPO has concurred with the finding of adverse effect, the GDOT Historian or Archaeologists will request that the lead federal agency official invite the Advisory Council on Historic Preservation (ACHP) to participate in the resolution of adverse effects. The ACHP will respond to the request to participate in the consultation within 15 days.

If the ACHP decides to participate in the Section 106 consultation process, consultation with SHPO, ACHP, Tribes, and other consulting parties continues until an agreement on how to resolve the adverse effects of the undertaking is achieved and is stipulated in the MOA. Similarly, if the ACHP decides not to join in the Section 106 consultation process, consultation with the SHPO and other consulting parties continues until an agreement on how to resolve the project's adverse effects is achieved.

Memorandum of Agreement/Mitigation Request Form

Projects determined to have an adverse effect under Section 106 require a MOA to resolve the effects. The MOA is a legal document that details the agreed-upon mitigation stipulations for resolution of the adverse effects. For GEPA projects, mitigation measures for adverse effects are stipulated in the MRF. A draft MOA/MRF is prepared and submitted with the draft AOE; however, the draft MOA is not finalized until coordination with the ACHP is complete.

Appropriate mitigation should be recommended based upon the relative significance of the adversely affected historic and/or archaeological resource(s) commensurate with the anticipated level of impact to the historic property. In recommending mitigation, considerations should include but are not limited to the target audience, format, distribution, and project schedule. The description of proposed mitigation stipulations in the initial draft MOA may be conceptual; the consultant and/or GDOT staff will develop the stipulations' details together.

Mitigation is determined on a project-by-project basis; mitigation on past GDOT projects has included archival photography, historic narratives, public history materials, and archaeological data recovery. A general list of past mitigation efforts is included in the CRM Section 5.1 and template language for common mitigation stipulations such as archaeological data recovery and PARs can be found on the Cultural Resources Template Library.

Mitigation required for projects sponsored by local municipalities or counties is funded by those entities; thus they are also included as invited signatories along with GDOT. As an

invited signatory, the local sponsor must be consulted in advance and agree with the mitigation proposed in the draft AOE/MOA.

Following OES Administrator approval, GDOT transmits the draft MOA with the AOE for review by the SHPO, the lead federal agency, the Tribes, other consulting parties, and the ACHP, if participating in the consultation.

When timing the circulation of a final MOA for signature, the preparer should be aware of the MOA's role within the larger context of environmental project planning. For projects requiring an Environmental Assessment under the National Environmental Policy Act (NEPA), FHWA typically signs the MOA after the PHOH prior to ROW authorization and will not sign a project's environmental document until the MOA is ratified. For USACE projects, the MOA must be ratified prior to the USACE's issuance of the permit, and permit conditions related to fulfilment may be included. USACE will review the MOA and permit application concurrently.

Final development and execution of agreed-upon mitigation measures, including review of research designs and draft materials, will be executed by GDOT staff in coordination with the lead federal agency, SHPO, Tribes, and consulting parties, as specified in the MOA.

For GEPA projects, coordination with consulting parties and Tribes regarding adverse effects is conducted and finalized by GDOT.

Signatories

A Memorandum of Agreement's required and invited signatories have the sole authority to execute, amend, or terminate the agreement. Required signatories to a MOA include the lead federal agency, the SHPO, and may include the ACHP.

Invited signatories include GDOT and may include Tribes, project sponsors, or a party that assumes a responsibility under a MOA, such as a consulting party and like required signatories have the authority to execute, amend, or terminate the agreement. A concurring party may be added to the MOA to indicate their agreement with its terms but would have no authority over the agreement itself.

Invited signatories and concurring parties are identified and determined through consultation on the project effects and coordinated with the GDOT Historian and/or Archaeologists, as applicable. Required and invited signatories are included in the MOA's title; concurring parties are included in the document's whereas clauses.

Schedule and Duration

The MOA will indicate the timing of the completion of mitigation as it relates to the certification of a project for construction (i.e. before project letting for construction, during construction, or prior to completion of construction). For example, archaeological resource data recovery and historic resource photo-documentation is completed before a project's letting for construction. During construction stipulations may include historic or

archaeological resource monitoring and reporting. Implementation of the MOA is typically completed before the end of project construction and release from the contractor.

After ratification of the MOA by the signatories, and filing of the ratified MOA with the ACHP, all stipulations contained in the ratified MOA must be satisfied. All MOA stipulations will be included in the project's Environmental Commitments Table. Once the MOA is executed, compliance with Section 106 has been achieved and concluded. All ratified MOAs and MRFs should be entered and tracked in the Cultural Resources Mitigation Tracking Database.

SHPO TECHNICAL ASSISTANCE

For complex Section 106 projects, a Historian and/or Archaeologists may deem it beneficial to seek coordination or a technical assistance (TA) meeting with the lead federal agency, SHPO, and/or Tribes prior to submission of the AOE. In these cases, the GDOT Historian or Archaeologist determines if the meeting is needed and is responsible for scheduling, inviting attendees, and meeting preparation. A consultant should never contact the lead federal agency, SHPO, or Tribes independently for technical assistance with a GDOT project without explicit written permission from GDOT cultural resources staff.

Preparation for a TA meeting on the part of the consultant should be thorough and include relevant documentation that conveys the issues or concerns the meeting is meant to address. Any information to be presented should be provided to the GDOT Historian and/or Archaeologists for review prior to submitting to the lead federal agency, SHPO, and/or Tribes; this information should then be provided to the TA participants from 1 to 2 weeks before the TA meeting.

All presentations to the lead federal agency, SHPO, and/or Tribal staff should be organized and concise, and the project Historian or Archaeologist will prepare a memo documenting the meeting and any decisions made. The memo will be sent to the GDOT Historian or Archaeologist for review and transmittal to the lead federal agency, SHPO, and/or Tribes, and, as applicable, the final version should be appended to the AOE.

Technical Assistance meetings for EA/EIS level projects ahead of the formal submittal of the Cultural Resources AOE for official concurrence should document the discussion and preliminary effects findings, however the discussion and documentation of the meeting shall not be considered formal concurrence. A subsequent submittal of the Cultural Resources AOE to SHPO for review and concurrence will follow in accordance with the draft environmental document submittal to FHWA.

ADDITIONAL DOCUMENTATION

Design changes may necessitate additional reporting after completion of the AOE and MOA; refer to the table below and CR Manual Section 5.1.

Table 1 – Reevaluation Documentation

Project scenario	Documentation
Addition ROW, incl. w/in historic property boundary that does not change effect	Re-evaluation memo to file; no SHPO concurrence
Construction easements, incl. w/in historic property boundary that does not change effect	Re-evaluation memo to file; no SHPO concurrence
Minor alignment shifts	Re-evaluation memo to file; no SHPO concurrence
Cross street and side street tie-ins and minor extensions	Re-evaluation memo to file; no SHPO concurrence
Change in APE beyond coverage in original survey reports	History and/or archaeology survey report addendum, and/or AOE addendum, and/or MOA addendum
Changes in effects findings to historic and/or archaeological resources	Revised AOE, and/or revised MOA

There may be additional considerations for Addendum or Revised AOEs in coordination with the GDOT Cultural Resources personnel.

DETERMINATIONS OF ELIGIBILITY

All eligible archaeologist sites must include a Determination of Eligibility as an appendix to the AOE. The goal of the DOE is to provide a summary of the Phase I archaeological report to accompany the AOE document. The contents should include a brief description of the site, its NRHP significance and integrity, as well as representative maps and photographs. Each DOE should include the following headings and information:

- Requesting Agency
- Property Name
- Location
- Property Owner Name and Address
- Represented in Existing Surveys
- Description
- Significance
- Integrity
- Bibliography
- Geographical Data
- Photographs
- Personnel
- SHPO Concurrence Letter

DOEs for sites that fall within an area of partial Corps Jurisdiction can include a full description of the site, however all maps included within the DOE must clearly show the area of Corps jurisdiction in relation to the full site boundary. The DOE should be submitted as an appendix within the draft AOE document submitted for OES review.

NEXT STEPS

Barring design changes or other factors, completion of the AOE and/or ratification of the MOA or MRF stipulations generally concludes the Section 106 or GEPA process; either no adverse effects were identified, or they have been adequately mitigated during consultation.

Full compliance with Section 106 and/or GEPA requires completion of all mitigation stipulations, the fulfillment of which must be documented, and may require review and acknowledgement by MOA signatories, such as the SHPO, Tribes, or consulting parties. The implementation of some stipulations may continue through the construction of the project, such as historic and/or archaeological resource monitoring if included in the MOA.

Guidebook Revision History

Revision Description	Relevant Sections	Revision Date
Initial Publication	All	11/1/2022