



# USET

## SOVEREIGNTY PROTECTION FUND

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*Transmitted Electronically*

September 29, 2025

Travis Voyles  
Vice Chairman, and Acting Chairman  
Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, DC 20001

Dr. David Guldenzopf  
Federal Preservation Officer  
Department of the Army  
110 Army Pentagon  
Washington, DC 20310

Dear Acting Chairman Voyles and Federal Preservation Officer Guldenzopf,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we write to express our concern regarding consideration of the Department of the Army's (Army) National Historic Preservation Act (NHPA) Section 106 Program Comment for "Army Warfighting Readiness Activities and Associated Buildings, Structures, and Landscapes" (Program Comment). USET SPF recently became aware that the Army is planning to submit its Program Comment for consideration by the Advisory Council on Historic Preservation (ACHP) following conclusion of alleged "stakeholder" consultations. While the Army has stated that it sent letters inviting Tribal Historic Preservation Officers (THPOs) and State Historic Preservation Officers (SHPOs) to consult on this Program Comment, these letters did not satisfy NHPA Section 106 requirements to consult with THPOs, and there was no issuance of a Dear Tribal Leader Letter or other correspondence announcing opportunities for direct government-to-government consultation with Tribal leaders.

USET SPF is a non-profit, inter-Tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.<sup>1</sup> USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

The Army is requesting a Program Comment from ACHP to streamline its compliance with Section 106 of the NHPA and its implementing regulations at [36 CFR Part 800](#) prior to undertaking wartime readiness

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<sup>1</sup> USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe—Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

activities. However, the Army has not conducted sufficient Tribal consultation on the proposed Program Comment.

Congress embedded within the statutory language of the NHPA the recognition that places of “traditional religious and cultural importance” to Tribal Nations are historic properties deserving of NHPA protection. 54 U.S.C. § 302706(a). The NHPA recognizes that Tribal Nations have the right to be consulted—and indeed, are required to be consulted—when the federal government makes decisions affecting not just our current Tribal landholdings, 54 U.S.C. § 302702; 36 C.F.R. §§ 800.2(c)(2)(i)(A), 800.3(c)(1), but also lands no longer under our control that hold historic properties to which we attach religious or cultural significance, 54 U.S.C. § 302706(b); 36 C.F.R. §§ 800.2(c)(2)(ii), 800.3(f)(2). The Section 106 process involves identifying historic properties, 36 C.F.R. § 800.4, assessing adverse effects on them, *id.* § 800.5, and resolving those adverse effects, *id.* § 800.6—all in consultation with relevant Tribal Nations.

The Army sending THPOs a letter on the Program Comment—which would replace the typical Section 106 process for future wartime readiness projects—does not satisfy the important Section 106 Tribal consultation process that should have taken place for the Program Comment. This is especially true for places of traditional religious and cultural importance that are now held by the Army. For example, the Army’s Program Comment recognizes that one of the National Historic Landmarks (NHL) includes the Carlisle Indian School NHL District located in Carlisle Barracks, Pennsylvania—and these lands house Tribal Nations’ children held captive on those lands in life and now in death.

The Army also has not engaged in government-to-government consultation activities as directed by [Executive Order \(EO\) 13175](#), “Consultation and Coordination with Indian Tribal Governments.” EO 13175 has, for nearly twenty-five years, required federal agencies to “have an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” Sec. 5(a). The phrase “policies that have tribal implications” is defined as “regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.” The Army never sent a Dear Tribal Leader Letter initiating formal Tribal consultation with Tribal leaders on this Program Comment.

Further, USET SPF is concerned with the Army’s false assertion that the Program Comment does not affect or alter its obligations under federal statutes governing the protection of cultural and historical resources, sacred sites, and ancestors. Specifically, under Section 4.2.4.10 of the Army’s Program Comment, it has stated that, “this program comment does not affect or alter in any way the Army’s responsibilities under the Native American Graves Protection and Repatriation Act, American Indian Religious Freedom Act, or Executive Order 13007 Indian Sacred Sites, or applicable Treaties.” But adoption of the Program Comment in place of a typical Section 106 process for each project—especially when that underlying Program Comment was not properly consulted on—would leave our sacred sites, cultural resources, and ancestors unprotected.

We remind the Army that any effort to condense or streamline cultural resource consultation requirements or weaken protections under NHPA will have reverberating negative impacts to Tribal homelands, cultural and historic resources, sacred sites, and the protection and repatriation of ancestors and cultural items. This is especially important given that the Carlisle Indian School NHL location is part of the Army’s Program Comment. Any efforts to streamline the NHPA review and approval processes of projects absent sufficient

Tribal consultation are concerning, especially given the chronic underfunding of THPOs through the Historic Preservation Fund.

Tribal Nations and THPO offices are disproportionately affected by capacity challenges, unlike our counterpart SHPO offices. This is the result of the persistent failure of the federal government to uphold trust and treaty obligations to fully fund these offices and provide the supplemental technical assistance and resources required to support Tribal Nations to fully participate in these reviews. We remind ACHP and the Army that we continue to experience increased demands to participate in review processes without the necessary funding resources and technical assistance to do so effectively and efficiently.

USET SPF urges ACHP and the Army to halt consideration of the Program Comment until direct consultation activities are pursued and completed with Tribal Nations. We remind the ACHP and the Army that dedicated, government-to-government consultation with Tribal Nations should always occur prior to the drafting, review, and implementation of proposed actions that may affect Tribal homelands, cultural and historic resources, sacred sites, and cultural lifeways. Further, Tribal Nations should never be combined in general "stakeholder" consultation activities with non-Tribal entities. This action fails to uphold agency and statutory consultation directives, as well as inappropriately positions Tribal Nations in a setting that is not conducive to the exchange of sensitive cultural information.

In closing, we urge ACHP and the Army to immediately conduct Tribal consultations to fully ascertain and gather direct Tribal input on how the Program Comment will impact Tribal cultural and historic resources, sacred sites, and the protection and repatriation of ancestors. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at [LMalerba@usetinc.org](mailto:LMalerba@usetinc.org) or 615-838-5906.

Sincerely,



Chief Kirk Francis  
President



Kitcki A. Carroll  
Executive Director