

Navy Shipyard Infrastructure Optimization Program
National Historic Preservation Act Program – Nationwide Programmatic Agreement
Microsoft Teams Conference Call/Online Consultation Meeting #5
Meeting Summary
1400-1522 hrs EST
October 29, 2020

PARTICIPANTS:

ACHP: Katharine Kerr, Tom McCulloch
HI SHPO: Alan Downer, Julia Flauaus, Stephanie Hacker, Tanya Gumapac-McGuire
ME SHPO: Kirk Mohny, Megan Rideout
NC SHPO: Erik Hein
NTHP: Betsy Merritt
NPS: Elaine Jackson-Retondo, Christopher Johnson, Melia Lane-Kamahele
VA SHPO: Marc Holma
WA SHPO: Allyson Brooks
City of Bremerton: Garrett Jackson
Friends of the Portsmouth Naval Shipyard Museum: Gary Bahena
Friends of the Norfolk Naval Shipyard Museum: Steve Poole
Historic Hawai'i Foundation: Kiersten Faulkner
The Mariners' Museum: Howard Hoega
Pamunkey Indian Tribe: Terry Clouthier
Portsmouth Naval Shipyard Historical Foundation: Ken Goldman
Portsmouth Naval Shipyard Museum: Diane Cripps
Washington Trust for Historic Preservation: Chris Moore
Navy Cultural Resource Team: William (Bill) Manley (CNIC/NAVFAC HQ CR)
Amanda Bennett (PSNS)
Bryana Schwarz (NAVFAC HQ)
Christy Bixler (CNIC/NAVFAC HQ)
Clay Swindell (NAVFAC MIDLANT)
Danielle Page-Pattison (NAVFAC NW)
Darrell Cook (NAVFAC Atlantic)
Deb Loomis (NAVSEA)
Edward Swindell (NAVFAC MIDLANT)
Erika deBroekert (NAVFAC Pacific)
Fuzz Harrison (NAVFAC HQ)
Gordon Meek (NAVFAC MIDLANT)
Heather Robbins (NAVFAC MIDLANT)
Karen Desilets (NAVFAC Pacific)
Katherine Childs (NAVFAC MIDLANT)
Kelly Knight (NAVFAC MIDLANT)
Keith Sellers (NAVFAC MIDLANT)
Kerry Vautrot (PNSY)
James Furuhashi (NAVFAC HI, EV2)
Jenny Dellert (PSNS)
Julie Henkel (OPNAV N45)
Lisa Joy (NAVFAC MIDLANT)
Marcus Robbins
Nathan Stokes (NAVFAC HQ)
Penne Sandbeck (NNSY)
Peter Michaud (NAVFAC PWD ME)
Rose Johnson (NAVFAC HQ)
Scott Keyes (NAVFAC HQ)
Sherry Anderson (NAVFAC Pacific)
William Durig (N CIV USN)

PARTICIPANTS:

Navy PMS-555: Bob Clarke
AECOM Scott Seibel, Chester Cunanan, Kisa Hooks

LOGIN PERIOD

1400-1403

Attendance confirmed through online log-in and roll call by agency.

Slide 2: How to use MS Teams

1400-1400

How to use MS Teams

- 1. Please type your name and affiliation in the chat box.**
2. Unmute your phone at any time by hovering over the icons in the center of the page to reveal the mute/unmute button.
3. We will pause for Q&A throughout the presentation and before ending today.
4. You can also type questions and comments in the chat box.
5. We will post a recording of this consultation session on the SIOP-NHPA website.

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Participants were guided through MS Teams meeting functionality to aid in organization and clear communication.

Slide 4: Meeting #5 Topics and Goals

1401-1401

Meeting #5 Topics and Goals

Discuss process flow and accountability of NPA and LMP from development through implementation.

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The meeting began with a review of the topics and goals to include a:

- a) Discussion of the process and flow and accountability of the Nationwide Programmatic Agreement (NPA) and Local Management Procedures (LMPs) from development through implementation. Questions to answer include:
- How does the NPA work?
 - Where does it get applied?
 - How does it look from the local level stakeholder’s perspective?

Slide 5: Consultation Information

1402-1402

Consultation Information



The Navy's info website <https://navalshipyards-nhpa.com/> provides consultation support information:

1. The Documents section provides copies of meeting notes and presentations.
2. The Programmatic Agreement section includes a list of all parties invited to consult.
3. The preliminary draft NPA will be posted there following this consultation meeting.

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Participants were guided through a brief review of the consultation information available on the website for future reference. The Navy’s Shipyard Infrastructure Optimization Program (SIOP) NPA website is a key consulting party resource for participants. It will be where updates, documents, and meeting minutes are posted as the program develops.

DOCUMENT: NATIONWIDE PROGRAMMATIC AGREEMENT FOR NAVY SHIPYARD

Document Section: Nationwide Programmatic Agreement

1403-1424

Nationwide Programmatic Agreement

Content

- Define standards for professional qualifications and documentation
- Complete LMP Template
- Commit to nationwide supplementary documentation
- Identify mitigation options
- Define periodic reporting and stakeholder engagement protocols
- Define process for dispute resolution

Stakeholder Participation

- Consultation with Signatories, Invited Signatories, Concurring Parties, and NGOs

Complete

- NPA complete when executed by Signatory Parties

The process flow chart illustrates the dynamic between the NPA, creation of the LMP and LMP implementation to support decision-making. The Navy began with an overview of the SIOP program and the need for an NPA to promote consistent and thorough processing to support ongoing Navy maintenance requirements. The NPA is a framework for streamlined compliance with the National Historic Preservation Act (NHPA) implemented with reasonable consistency between shipyards.

Each part of the three inter-related processes (i.e. NPA, LMP, LMP implementation) is organized to address content, stakeholder participation and requirements for completion. The NPA is a framework for NHPA processes (i.e. Section 106) carried out through LMPs. Through this consultation process, the Navy hopes to learn of other mitigation measures that could supplement standard ones given the knowledge base and expertise of the consulting parties (CPs) participating in the drafting of the NPA. The Navy is taking ACHP's recommendation to review previous/existing NPAs as they set precedence on how to streamline the mission-critical projects that would fall under SIOP. Stakeholder engagement is essential to the drafting of the NPA and ongoing compliance through the LMPs. All efforts are subject to periodic reporting and the final version of the SIOP NPA is expected Spring 2021.

All commitments that the Navy makes for the future of the SIOP NPA are subject to Congressional authorization and appropriation. However, the Navy has no reason to believe this would be an obstacle given the genesis of SIOP is a Congressional mandate. At this stage, defining the NPA and how LMP implementation satisfies NHPA responsibilities is taking precedence over defining what constitutes a SIOP project/undertaking.

Discussion 1411-1424

Comment: Mr. Mohney, MESHPO 1411-1413

The definition of a SIOP undertaking is a key part of an NPA but is not shown in the "Content" section of the NPA.

- **Navy response:** We have more work to do on this. A SIOP undertaking is not fully defined at this stage because the Navy will never circumvent its NHPA responsibilities. However, how the Navy satisfies these responsibilities can vary; SIOP is one of these variations that is in the midst of creation. A definition of a SIOP undertaking will result through this consultation process. The SIOP NPA and its associated LMPs are meant to standardize, not eliminate or exempt, any project from NHPA compliance reviews.

Comment: Mr. Holma, VASHP 1413-1420

The need to formally define a SIOP project is important. As discussed in previous meetings, the VASHPO is still concerned about the use/definition of SIOP. Based on recent experience with two Navy projects under VASHPO review, projects appeared to be mislabeled under SIOP. Although we understand the Navy's position that NHPA responsibilities will not be avoided, there is a certain level of streamlining associated with SIOP projects. Unfortunately, if misapplied, the templates can become a "shell game" with money to avoid a full NHPA Section 106 review.

- **Navy response:** The VASHPO concern is understood and valid. SIOP is a program, a mission requirement, to address mission deficiencies. The current focus is to define process, not what constitutes a SIOP projects. To define SIOP project at this stage is premature although the Navy acknowledges the VASHPO's concerns about SIOP being used as a "shell-game" of accountability. The LMPs serve to make sure the Navy adheres to its federal responsibilities regardless of a project's SIOP affiliation.
- **NPS response (Ms. Jackson-Retondo):** Expressed agreement with the VA SHPO.

Comment: Dr. Downer, HISHPO

1420-1423

The critical point from our perspective is we do need to clarify definitions because we're discussing alternative compliance procedures. We understand the need for SIOP. However, our experience with previous/existing PAs is that the Navy has misinterpreted them well beyond their intended scope. HISHPO also needs clarification on what is in the NPA versus what is in the LMP.

- **Navy response:** The next sections address some of the above-mentioned concerns by showing what the NPA does and how the LMP works. Concerns about SIOP definitions are noted and will be more thoroughly defined as the process moves forward.

Document Section: Local Management Procedures

1424-1452

Local Management Procedures

Content

Identify stakeholders

Identify historic properties

Document mitigation options

Establish SOPs for local consultation, discoveries, regular reporting, and similar

Define local dispute resolution process

Stakeholder Participation

Consultation with SHPO, NPS*, Local Govs, NGOs, and the public

Complete

LMP complete when signed by Navy and SHPO

If Navy and SHPO cannot agree, invoke dispute resolution

LMPs provide a decision-making framework (i.e. National Environmental Policy Act [NEPA] alternatives selection, course of action for an area development plan). LMPs are procedures that identify stakeholders, identify historic properties, document mitigation measures, establish standard operating procedures (SOP) and define dispute resolution procedures for each installation. Installations can share lessons learned from projects. Stakeholder participation is just as important in this stage. Completion of the LMP occurs when the Navy and SHPO concur or resolve disputes.

One reason for the creation of the flowchart was to answer the question, what is the legal authority of the LMP? By showing how the LMP ties to the NPA, it helps demonstrate how the LMP responds to the Navy's responsibilities under NHPA. A signed LMP will have full legal authority.

Discussion

1428-1439/1441-1452

Question: Ms. Jackson-Retondo, NPS

1428-1430

Will mitigation options developed under the NPA limit what can be considered under LMP consultation?

- **Navy response:** No. A good list of mitigation options in the NPA supports an easier process at the local level. There should be no limitation to creative thinking when it comes to mitigation measures that the Navy will consider.

Question: Ms. Faulkner, Historic Hawai'i Foundation

1430-1431

The NPA and LMP only address mitigation. What about avoidance and minimization options?

- **Navy response:** Mitigation, as currently used, is an umbrella term that includes avoidance and minimization. All of the creative thinking we've been discussing should also be for avoidance and minimization efforts. There has been an emphasis on mitigation because it is typically the most challenging to address when there are adverse effects.

Question (Ms. Brooks, WASHPO)

1432-1435

Will there be training at the local level on how to do this? We (signatories/agencies) talk to each other but when it comes to local implementation, it is misunderstood. WASHPO finds that non-CRM people who implement PAs either do not understand them or extend them beyond their defined scope. SHPO training is not a bad idea either because we have many PAs with many entities and staff turnover to handle as well, similar to the Navy.

- **Navy response:** Yes. Training will be a part of the LMP and/or included as a stipulation in the NPA whereby Navy-required training for implementation staff is a requirement of the LMP. Training could also be coordinated with the SHPOs. It may be a good idea to include overview training in conjunction with periodic reporting.

Comment (Ms. Kerr, ACHP)

1435-1439

Installation implementation staff should already be fully versed and aware of any NHPA undertakings on base. Hopefully they (i.e. PM-555, Navy CRM personnel) are already involved in this current conversation/process because their involvement would avoid oversimplification or inappropriate application of the SIOP NPA.

- **Navy response:** Yes, those most likely to be involved in SIOP projects are included in the participating Navy CRM personnel and CP community. The Navy CRM personnel identified the need for an NPA when introduced to SIOP, a project with a 20-year lifespan. Ongoing, periodic training is a good idea to address staff changes that are going to happen over the lifespan of the SIOP.

Question (Ms. Jackson-Retondo, NPS)

1441-1452

Would the LMPs have signatories in addition to the Navy signing them?

- **Navy response:** Yes. The LMP would be designed to have SHPO review for concurrence (or resolution). Where there is a National Historic Landmark (NHL), we would also seek NPS concurrence as well. The same would be expected for actual implementation under the LMP. The timelines for this signatory review are a key part of the LMP to plan for on-going maintenance work at the shipyards while meeting NHPA requirements.
- **NPS Question (Ms. Jackson-Retondo):** Why wouldn't a tiered Memorandum of Agreement (MOA) under the NPA suffice rather than creating a new type of agreement? For example, in one of NPS's rail projects there is a PA for the entire rail line, but each segment has its own Environmental Impact Statement (EIS) and MOA. ACHP may be able to comment on this as well.
- **ACHP response (Ms. Kerr):** Yes, this is a possible way to organize large-scale, multiple-undertaking Section 106 projects. In these types of projects there is an overarching PA with projects that support development. Each project is reviewed in accordance with a set procedures and if there is an adverse effect then the specific project receives its own mitigation/MOA.
- **Navy response:** The end-result is the same. The difference is these undertakings are localized per installation and have a 20-year lifespan.

LMP Implementation for Navy Decisions

Content

- Summarize known Navy plans
- Assess effects of known Navy projects
- Evaluate alternatives to avoid, minimize & mitigate adverse effects
- Document Navy commitment(s) for avoidance, minimization & mitigation of adverse effects
- Document consultation with stakeholders on effects and resolutions
- Provide LMP stakeholders with periodic updates on implementation

Stakeholder Participation

- Consultation with all LMP stakeholders

Complete

- LMP implementation for Navy decisions complete when signed by Navy and SHPO
- If Navy and SHPO cannot agree, invoke dispute resolution

LMP implementation occurs when decisions are being made about projects that have the potential to affect historic properties in order to avoid, minimize, or mitigate adverse effects. It is part of the early-development planning process; it is proactive. LMPs review scheduled, forecasted, and potentially existing projects to enable the Navy's commitment to avoid, minimize, or mitigate potential adverse effects to historic properties using signatory/stakeholder signatory engagement as part of its NHPA responsibilities. LMP implementation, similar to LMP creation, is complete when the Navy and SHPO concur or resolve disputes.

Discussion

1455-1516

Question (Ms. Kerr, ACHP)

1455-1512

Is the goal of the LMP to be the administrative record on how projects were reviewed and their respective outcomes as a result of LMP decision-making? In that regard, the LMP becomes part of the Area Development Plan (ADP).

- **Navy response:** Yes, this summarizes the intent. We want to begin this process as early as possible to establish precedence from lessons-learned on previous projects/decision-making processes. This will facilitate future project development (accounted for in Area Development Plans [ADPs]) and also help with quantifying cumulative effects. It will also help with budgeting the funding of mitigation measures for similar projects and becomes part of the long-term preservation planning efforts. This may create a series of MOAs to inform future preservation planning and compliance efforts.

Hearing this rationale is good. One concern is, what if the Navy determines it can no longer implement or maintain a procedure or mitigation measure a few years from now? This type of long-term, good-faith thinking needs to be a part this process.

- **Navy response:** These kinds of questions are important to consider. The LMP framework is the most robust mechanism the Navy has for NHPA accountability. The only guarantee the Navy can provide is a commitment to NHPA responsibilities. In the event that good-faith decisions made for the future today cannot be implemented as planned, the Navy's will always be responsible that any changes be NHPA compliant.

Question (Ms. Faulkner, Historic Hawai'i Foundation)

1512-1516

At Pearl Harbor, we already have a framework parallel to what Bill described. There is a Regional PA, then a Shipyard Modernization PA, then MOAs for individual projects. What is not working with the current framework and how would the new system be better than the existing?

- **Navy response:** What the Navy intends to do is provide a process at the national level for all installations. In that regard, what works and what doesn't at each installation can inform processes at all installations. We want to leverage for national success that minimizes project implementation problems in regard to NHPA compliance.

Next Steps/Closing

1517-1522

Navy will produce the flowchart, post the draft NPA, and an opportunity to provide comment via the project website, <https://navalshipyards-nhpa.com/>. Notification will be sent to all involved on how to access this section of the website so we can track participation. The slides from today will also be posted. We invite comments on the website.

November's meeting will be adjusted due to the Thanksgiving holiday. The current proposal is to move the meeting a week earlier to November 19. However, we will email participants in the near future with an update and/or poll for Meeting #6.

Discussion:

1520-1522

Question (Dr. Downer, HISHPO)

Will three weeks be enough time to make improvements?

- **Navy response:** We will consider that and be in touch with a poll for a time on November 19 or a note to extend the meeting. Our concern is losing momentum due to the upcoming holidays. We want to begin working on the LMP for Pearl Harbor so that there's an NPA in place for the finalization of the current dry dock EIS project.