

ANNUAL REPORT

**IMPLEMENTATION OF THE
SECTION 106 PROGRAMMATIC AGREEMENT**

JANUARY 1, 2004 -JUNE 30, 2005

**CULTURAL & COMMUNITY STUDIES OFFICE
DIVISION OF ENVIRONMENTAL ANALYSIS
CALIFORNIA DEPARTMENT OF TRANSPORTATION
SACRAMENTO, CALIFORNIA**

September 2005

EXECUTIVE SUMMARY

This report documents the effectiveness of and summarizes actions carried out under the Section 106 Programmatic Agreement (PA) from January 1, 2004 through June 30, 2005, in accordance with Stipulation XVII D.1-D.2 of the PA. It includes only those projects for which Section 106 consultation was initiated and concluded under the PA from its implementation on January 1, 2004 to June 30, 2005.

At the conclusion of this first reporting period the PA had been in use for 18 months. During that time, Caltrans handled over 1,450 Federal-Aid Highway projects. Of these, fewer than 20 percent required external review. The summary results of these PA actions can be found on page 2. No major problems or objections to the ways in which the terms of the PA are being carried out were evident in this period of time. The PA has proved successful at streamlining a substantial amount of the Section 106 compliance process for projects covered by the Federal-Aid Highway Program in California without compromising historical resources. A summary of the effectiveness of the PA will be found on page 4.

As noted in the *Statewide Consistency Review of the Section 106 Programmatic Agreement, January 1-June 30 2004* dated December 2004 (Interim Report)¹, the PA has improved project delivery by delegating to Caltrans a substantial role in the process for compliance with Section 106 of the National Historic Preservation Act, and has achieved considerable project cost and time savings for Caltrans.

At the same time, the PA has accomplished a reduced workload for both the Federal Highway Administration (FHWA) and the State Historic Preservation Officer (SHPO) in that routine projects, or those that do not involve any cultural resources, are reviewed internally by Caltrans Professionally Qualified Staff (PQS). More than 80 percent of projects for the reporting period were exempted from further review following screening by PQS. Fewer than half of the remaining projects required SHPO review, and the majority of these reviews were requests for concurrence in eligibility findings, with notification only of project effect findings.

The results of this report demonstrate the effectiveness of the PA as an environmental compliance, streamlining tool and likewise exhibits that Caltrans PQS have done a very good job of shouldering the responsibility for ensuring that effects to cultural resources are taken into account without a loss in quality of work.

Caltrans is providing notice that this report is available for public inspection and ensuring that potentially interested members of the public are made aware of its availability and that they may comment to signatory parties on the report pursuant to Stipulation XVII.D.3 of the PA.

¹ Copies of this report are available from the Caltrans Headquarters Cultural and Community Studies Office or online at: <http://www.dot.ca.gov/hq/env/cultural/index.htm>.

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We would like to thank the in-house PA team of the Caltrans Headquarters Cultural and Community Studies Office (CCSO), under the direction of Greg King, Office Chief, and overseen by Jay Norvell, Chief, Division of Environmental Analysis. Margaret Buss, John Sharp, Dorene Clement, Glenn Gmoser, Jill Hupp, and Anmarie Medin of CCSO and Marty Rosen of District 11 delivered training on the PA to Caltrans PQS, Caltrans Local Assistance staff, local agencies, and consultants.

We also again thank the following individuals for their intelligent and insightful contributions in assisting CCSO with PA consistency field reviews to all 12 districts in 2004:

Germaine Belanger, Headquarters Local Assistance
Chris Brewer, District 6
David Bricker, District 8
Jody Brown, District 3
Jennifer Darcangelo, District 4
Kelly Hobbs, District 6
Valerie Levulett, District 5
Daryl Noble, District 3
Marty Rosen, District 11
Kelda Wilson, District 5

In addition, an in-house review team consisting of Dorene Clement, Glenn Gmoser, and Jill Hupp conducted a series of follow-up PA consistency review visits to several districts in May 2005. Germaine Belanger from the Headquarters Division of Local Assistance and Gina Moran of the Headquarters Office of Interagency Relations also assisted with some of these reviews.

We again express our appreciation to Caltrans cultural resources staff and management statewide for their participation in the PA consistency reviews, and for the courteous reception and cooperation extended to the PA review teams.

Additional thanks go out to District 2, District 4, District 5, District 11, and District 12 for providing written summaries of their PA activities and for their thoughtful comments, input, and suggestions for this report.

We also gratefully recognize that the PA has been aided by generous assistance and guidance from the SHPO and FHWA.

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
ACKNOWLEDGEMENTS.....	ii
TABLE OF CONTENTS.....	iii
INTRODUCTION.....	1
SUMMARY RESULTS OF PA ACTIONS.....	2
EFFECTIVENESS OF THE PA.....	4
QUALITY ASSURANCE MEASURES.....	9
REMAINING CHALLENGES.....	11
RECOMMENDATIONS.....	13
CONCLUSION.....	14

TABLES

Table 1: Activities Under the PA.....	2
Table 2: Historic Property Survey Reports.....	2
Table 3: Percentages.....	3
Table 4: Effect Findings.....	4
Table 5: Hours Saved.....	5

INTRODUCTION

The Programmatic Agreement among the Federal Highway Administration, the Advisory Council On Historic Preservation, the California State Historic Preservation Officer, and the California Department Of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as It Pertains to the Administration of the Federal-Aid Highway Program in California (PA) went into effect on January 1, 2004, substantially streamlining Caltrans procedures under Section 106 of the National Historic Preservation Act. This report documents the effectiveness of and summarizes actions carried out under the Section 106 PA. It covers actions for which Section 106 consultation was initiated and concluded between January 1, 2004 and June 30 2005, in accordance with Stipulation XVII D.1 and D.2 of the PA. Projects that are “in progress” with findings still pending are not reflected in this report; the results of those consultations will be reported in future annual reports once the projects have realized Section 106 compliance. Projects for which consultation was initiated prior to the PA were likewise not included in this reporting.

In accordance with Stipulation XVII.D.3, Caltrans is providing notice to the public that this report is available for public inspection and will ensure that potentially interested members of the public are made aware of its availability and that the public may comment to signatory parties on the report. These findings are now submitted to the Federal Highway Administration (FHWA), the Advisory Council On Historic Preservation (ACHP), the California State Historic Preservation Officer (SHPO), and the Caltrans Director and District Directors.

SUMMARY RESULTS OF PA ACTIONS

Upon going into effect on January 1, 2004, the PA authorized Caltrans to carry out substantial elements of the compliance process under Section 106 of the National Historic Preservation Act. In its first 18 months, the PA has improved project delivery while continuing to take effects to cultural resources into account, achieving considerable project cost and time savings by:

- Significantly reducing the volume of documents submitted to FHWA and the SHPO.
- Defining properties and activities that do not require outside review under Section 106.
- Allowing concurrent notification to FHWA and the SHPO of certain effect findings.

Districts were required to track their PA activities, and CCSO collected and compiled the information. The data revealed that during this first reporting period, Caltrans handled 1,451 Federal-Aid Highway projects (see Table 1). Of these, 121 (eight percent) required external review by the SHPO. More than 1100 (80 percent) of all projects were exempted from further review after appropriate “screening” by PQS in accordance with Stipulation VIII and Attachment 2 of the PA; another 156 projects (11 percent) were documented to file only, when identification efforts revealed that no resources requiring evaluation were present (see tables 2 and 3).

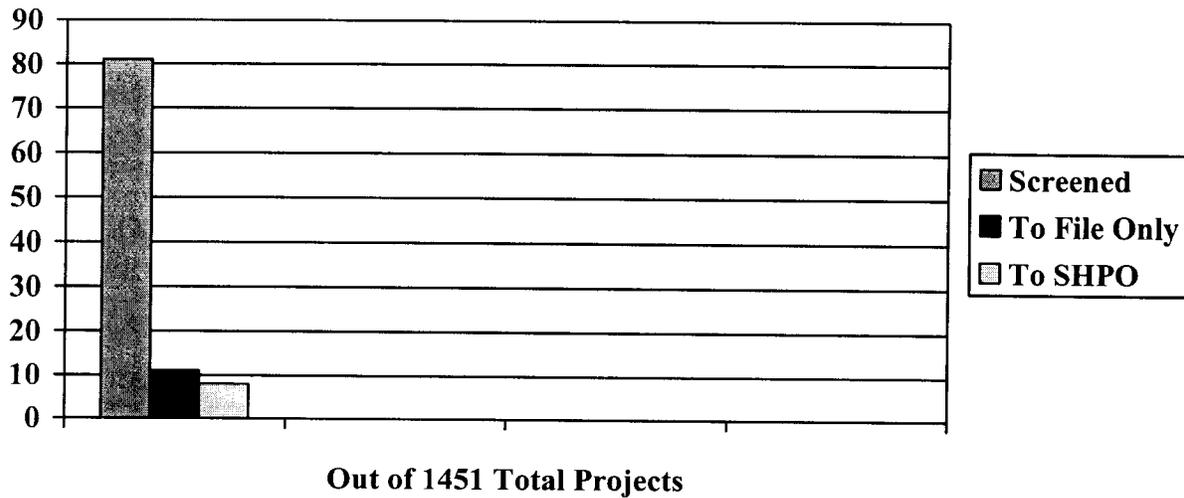
Table 1: Activities Under the PA

Projects Completed – total	1,451
Caltrans Projects	899
Local Assistance Projects	546
Number of Projects Screened – total	1,174
Caltrans Projects	777
Local Projects	397
Projects Not Screened – total	277
Caltrans Project	128
Local Projects	149

Table 2: Historic Property Survey Reports

HPSRs to File – total	156
HPSRs to File – Caltrans Projects	66
HPSRs to File – Local Projects	90
HPSRs to SHPO – total	121
HPSRs to SHPO-Caltrans	62
HPSRs to SHPO- Local Projects	59

TABLE 3: Percentages



As shown in Table 4, of the 121 projects submitted to the SHPO for review during the reporting period, 111 (91.7 percent) resulted in effect findings of either No Historic Properties Affected or No Adverse Effect with Standard Conditions. With both of these findings, the PA allows Caltrans to send documentation directly to the SHPO for notification only. This saves Caltrans a minimum of 30 days in not having to send the documentation to FHWA for review and forwarding to the SHPO, and another 30 days in not having to request SHPO concurrence with these particular effect determinations – a minimum of at least 60 days “savings” per project. Additionally, it saves FHWA and SHPO staff time in not having to review documents for projects that would have no effect to historic properties, or in the case of Standard Condition rehabilitation projects, might in fact be salutary.

Eight of the 121 projects (6.7 percent) resulted in No Adverse Effect findings, requiring review by FHWA and subsequent forwarding by FHWA to SHPO for review and concurrence (see Table 4). While this process is little changed from the pre-PA procedures, the number of effect documents requiring review by FHWA and SHPO has been significantly reduced under the PA.

Similarly, just two (1.7 percent) projects requiring FHWA and SHPO consultation to resolve Adverse Effect findings concluded Section 106 consultation during the reporting period (see Table 4); both resulted in the execution of a Memorandum of Agreement (MOA). Although the consultation process at this stage remains essentially unchanged, by allowing Caltrans to reduce the number of projects with lesser effects going to SHPO for review, the PA has enabled SHPO staff to focus efforts on those relatively few projects that may actually impact historic properties.

Table 4: Effect Findings

No Historic Properties Affected	244
Documented to File only	156
Notification to SHPO required	88
No Adverse Effect with Standard Conditions	23
No Adverse Effect	8
Adverse Effect/MOA	2

It should be noted that a number of MOAs for projects in which Section 106 consultation was initiated prior to the PA were executed after the PA went into effect. These projects are not included in this report, as these projects were subject to 36 CFR Part 800, not the PA. A number of other projects resulting in or likely to result in adverse effect findings that began Section 106 consultation under the PA are also not included because that consultation is either still ongoing or was concluded after the reporting period ended. The results of these projects will be recorded in subsequent annual reports.

The summary result of Caltrans' activities under the PA in its first year and a half has proven the PA to be a successful and effective streamlining tool, as discussed further in the next section.

EFFECTIVENESS OF THE PA

The results presented above demonstrate that the PA is an effective program alternative for taking into account effects of the Federal-Aid Highway Program on historic properties by reducing or eliminating project work effort and review requirements so that these efforts are concentrated on projects that have potential to affect historic properties.

By delegating authority to Caltrans to perform the functions of FHWA and the SHPO for much of the Section 106 process, the PA has achieved the following savings for this annual reporting period:

- Over 90 percent of projects exempted from external review or documented to Caltrans files only.
- Project schedules benefited from time saved by far fewer submittals to review agencies and by less time spent waiting for those reviews.
- More than 46,000 estimated hours saved by exempting projects from review.
- In excess of 15,000 estimated hours saved by exempting properties from evaluation in accordance with Attachment 4 of the PA.
- Time and money saved by foregoing Phase II archaeological excavations when sites can be considered eligible and protected by an Environmentally Sensitive Area designation.
- Eliminated or reduced review times by the SHPO and FHWA.

- Sampling of the SHPO’s project log-in/log-out data shows substantial reduction in SHPO turnaround time on Caltrans projects, from weeks or months in some cases, to an average of 25 days.

Time and Cost Savings

As noted in the previous section, the PA has achieved tremendous time and cost savings for Caltrans and local agencies. The ability to exempt certain minor projects from further review after screening by Caltrans PQS pursuant to Attachment 2 of the PA has brought about the most notable overall savings. Nearly 1200 projects (80 percent of all Federal-Aid highway projects for the reporting period) were screened in accordance with Attachment 2, with an estimated time savings of 46,393 hours statewide for both Caltrans and Local Programs projects (see Table 5).

Table 5: Hours Saved

Estimated Hours Saved by Screening (Attachment 2)	46,363
Estimated Hours Saved by Exempting Properties from Evaluation (Attachment 4)	15,955
Total Hours Saved	62,318

Districts were asked to track the estimated hours saved by screening projects and to provide this information to Headquarters for annual reporting purposes. Districts had various methods for calculating the savings based on their experience with handling these types of projects before the PA; most have applied a flat per-project figure, while others have employed a tiered system proportionate to the nature and scope of the project (for example, “minimal” projects save 40 hours, “large” projects 145 hours). The estimated savings for the twelve districts ranged from eight hours per project to 280 hours per project, with the average being roughly 80 hours saved per project. While the total estimated time saved by screening might seem high, it is not an unreasonable approximation of the actual savings. Those districts in which PQS did not review all Local Assistance projects prior to the PA tended to estimate less time savings by screening projects than those districts that were already accustomed to seeing all projects, because the screening procedure is generally viewed in such districts as having added to the PQS workload rather than reducing it. However, most districts concur that involving PQS in the review of all projects is a benefit of the PA that will ultimately both save time and protect resources, because qualified cultural resources staff are now making decisions about which projects have the potential to affect historic properties.

Despite this estimated savings, districts also reported that the average workload remains high. In some cases staff are stretched exceedingly thin. Hence the time savings might alternately be depicted as a measure of more efficient project delivery. The screening process has allowed Caltrans to move projects along much more quickly than could be accomplished without the PA. The projects that were screened moved through the compliance process promptly, whereas

without the PA there very likely would have been a backlog of projects for the same time period given existing staffing levels and workload.

Of the 1174 projects screened for this reporting period, 777 (66.2 percent) were Caltrans projects. Therefore, Caltrans saved an estimated 30,712 hours by screening, or 17.5 person-years.² At the average salary earned by an Associate Environmental Planner Archaeologist or Architectural Historian (the classification that most Caltrans PQS fall under), Caltrans saved the equivalent of roughly \$1,502,235.00 in staff time by screening alone over the course of this reporting period.³ Although it is not possible to calculate similar savings for Local Programs projects, it is certain that local agencies achieved more or less equivalent time and cost savings by not having to hire specialists to prepare technical studies.

A time savings was also achieved for the 277 projects that could not be screened. The ability of qualified Caltrans staff and consultants under the PA to exempt properties from evaluation, for example, saved an estimated 15,955 hours. Districts were asked to provide estimates of how much time was saved by exempting based on the approximate number of properties exempted, versus the estimated time that would have been expended evaluating these properties. This reported time saving is likely actually much higher, as not all districts tracked this information.

Many districts also reported a significant savings on behalf of both Caltrans and local agencies by Caltrans' delegation to delineate and approve Area of Potential Effects (APE) maps in-house. This was especially appreciated in the more remote districts, who would previously have to wait for an FHWA representative to make a periodic visit to the region before a map could be signed. It was also noted that this delegation makes it easier for Caltrans to revise the maps when warranted by project design changes.

Another major time and cost saving aspect of the PA is the ability to consider sites to be eligible without conducting subsurface testing, and protecting the sites with an ESA to reach a No Adverse Effect with Standard Conditions finding, per PA stipulations VIII.C.3 and X.B.2(ii). Savings are realized by the ability to forgo archaeological Phase II investigations, preparing evaluation documents, and preparing MOAs. One district reported a savings of 30 months (4076 hours) for two projects involving a total of five sites, based on estimated time savings in Exhibit 2.3 of the Caltrans Environmental Handbook Volume II, "Time and Effort Required for Cultural Resources Compliance." Another district noted that the formalized process of using an ESA with a finding of No Adverse Effect with Standard Conditions has been very useful for protecting sites without incurring the high cost, amount of time, and damage to archaeological sites that would otherwise be incurred by having to make National Register eligibility determinations.

Finally, Caltrans has realized still more time savings in reduced or eliminated review times by FHWA and the SHPO. Projects in which no cultural resources requiring evaluation for eligibility to the National Register of Historic Places were identified may be documented to Caltrans' files only, without having to be sent to FHWA for approval or to SHPO for review. Of the 277 projects (out of a total of 1451 projects for the reporting period) that could not be screened, more than half (156, or 56.3 percent) were documented to file only.

² One person-year is equal to 1760 hours.

³ Using the average salary of 4,769 per month, multiplied by 18 months and 17.5 person-years.

For the remaining 121 projects that did require SHPO review, substantial time savings was achieved through Caltrans' delegation under the PA to act on behalf of FHWA in consulting directly with SHPO on determinations of eligibility, thereby eliminating a minimum of 30 days review time at FHWA. By delegating the responsibility for determining the APE and identification of historic properties to Caltrans (meaning that Caltrans is not required to seek the SHPO's concurrence in such findings), the PA saves an additional 60 days minimum per project in review time at SHPO. Review time at FHWA and SHPO for a determination of eligibility has therefore been reduced from no less than 120 days before the PA to 30 days under the PA. A sampling of SHPO's project log-in/log-out database shows that the average turnaround time for SHPO review of projects submitted under the PA during the annual reporting period is 25 calendar days.⁴ Under a provision of the PA, if the SHPO does not respond to Caltrans' request for concurrence on eligibility within 30 days, Caltrans may move forward to the next step of the Section 106 process without waiting further for concurrence from the SHPO. In this reporting period there were five instances where districts opted to take advantage of this provision after due consideration of the circumstances and risks.

Additional review time is also saved by Caltrans' delegation under the PA to provide concurrent notification to FHWA and SHPO of No Historic Properties Affected and No Adverse Effect with Standard Conditions findings. This eliminates at least 30 days of review time at FHWA, and because Caltrans does not seek the SHPO's concurrence in these notification-only findings, 30 days of review at SHPO. As discussed in the previous section, more than 90 percent of projects requiring SHPO review during this reporting period fell under one of these two effect findings.

The PA has clearly had a time-savings benefit for our partnering agencies as well. Only 121 out of 1451 total projects for the reporting period required review by the SHPO. Less than ten percent of those projects incurred effects that required FHWA and SHPO consultation. By significantly reducing the volume of documents submitted to both FHWA and the SHPO, the PA has decreased their workload and enabled their limited staffs to focus efforts on larger, more complex projects.

Problems

Most of the problems encountered with implementation of the PA have been minor, and have largely been addressed, as discussed in the Interim Report. Some of the internal issues mentioned, such as remembering to copy the Caltrans District Heritage Resource Coordinator (HRC) on screening memos and memos to file, continued beyond the first six months of the PA but are being handled through continued education and training.

One more serious occurrence of inconsistency with the PA was reported. A project in District 2, the Herlong Roadway Rehabilitation on State Route 395 in Lassen County, was documented to Caltrans' files only, ostensibly because no cultural resources requiring evaluation were identified within the project APE. Cultural resources were in fact identified within the APE and evaluated. The HPSR for the project, approved February 2005, includes an Archaeological Survey Report reporting the identification of "portions of four archaeological resources" within the APE, and an

⁴ Based on a sampling of 138 submittals. These include determination of eligibility findings, findings of effect (including complex adverse effects), and multiple submittals for the same project, when SHPO had requested additional information.

Extended Phase I Testing Excavation (XPI) report dated September 2003 that recorded and evaluated “the portions of these archaeological sites” that lie within the project APE. The XPI concludes that within the Caltrans right of way, the four sites “do not have substantial or meaningful deposits, and all lack significant information potential.” The portions of the sites outside the right of way were not subject to subsurface testing. The report draws no conclusions regarding the eligibility of the sites in their entirety, and only portions of the sites were included in the APE (originally approved by FHWA in 2003; re-approved by Caltrans PQS under the PA in January 2004). Because the HPSR was documented to Caltrans’ files only, the SHPO was not afforded an opportunity to comment on the conclusion that the four sites lack information potential. The report is also inconsistent with PA Attachment 3, which states, “If any part of a property may be affected, the APE will generally encompass the entire property, including the reasonably anticipated or known boundaries of archaeological sites.”

CCSO has recommended to District 2 that the HPSR be forwarded to SHPO. It appears that this is an isolated occurrence, rather than a widespread misapplication of the PA. CCSO has provided guidance to the districts regarding appropriate PA procedures for this type of situation at a teleconference (January 2005), in 106 Bulletins, and in formal training. To address any potential confusion and help ensure that appropriate PA procedures are followed hereafter, however, CCSO will revisit the topic at subsequent PA teleconferences and emphasize it in future PQS training deliveries.

Accomplishments

Two districts provided “PA success stories” - examples of projects where the PA worked particularly well in streamlining the Section 106 compliance/project delivery process:

District 4 cited the Duhig Road project on State Route 121 in Napa County, an important safety project that will adversely affect two complex prehistoric archaeological sites. The district surmises that the eliminated or reduced review times by FHWA and the SHPO under the PA and the delegation to consult directly with the SHPO shortened the turnaround time for this project by one year, thereby enabling Caltrans to meet an aggressive project delivery schedule that could not have been accomplished under 36 CFR Part 800.

District 5 cited the Price Canyon Road Widening project as an example of time and cost savings realized by using ESAs. The proposed project to widen the roadway through a deep cut on both sides of the traveled way; the cut is topped by a rich prehistoric village site with burials. Chumash were extremely concerned about potential impacts to the sites, including impacts as a result of archaeological testing. Engineers redesigned the project to create a special retaining wall that would avoid having to remove any material from the top of the slope where the sites occur. The PA was implemented partway into the environmental phase of the project, allowing the district to take advantage of the PA’s streamlining benefits once it was determined that the sites could be protected from all effects by establishing ESAs. The cultural resource study timeline was hence greatly reduced in not having to conduct Phase II testing to establish eligibility of the sites, as well as by shortened review times at SHPO.

More Results of PA Activities

With the one notable exception described above, Caltrans' PQS continue to implement the PA conscientiously, expend an appropriate level of effort, and make good decisions while still taking full advantage of the PA's streamlining opportunities, as evidenced by the lack of major problems, failures, or public objections during this annual reporting period. There were no reported cases of inadvertent effects to historic properties or ESA failures associated with any PA actions during the reporting period. However, it must be noted that many screened projects, as well as the majority of projects using ESAs to protect properties from project effects, have not yet moved to the construction phase or have not yet completed construction. Two instances of post-review discoveries that occurred over the course of the last year and a half were in conjunction with projects approved prior to implementation of the PA.

Likewise, no foreclosures were reported, nor were there any formal objections from either signatory parties or the public to the manner in which the terms of the PA were carried out. There was one instance in which the SHPO disagreed with an eligibility determination, but the project was located partially on tribal land and was therefore not subject to the PA.

One district reported that the PA has made the project delivery process as it relates to cultural resources more predictable, thereby allowing Caltrans to build more accurate delivery schedules and balance workload among staff.

Another advantage of the PA that several districts commented on is that Caltrans staff has a more direct relationship with the SHPO, which helps expedite communications. Caltrans receives correspondence directly from SHPO rather than having them go to FHWA first, then to Caltrans.

Districts also noted that the PA has led to better guidance for both Caltrans staff and consultants. Out-of-date guidance has been replaced by the updated Environmental Handbook Volume II, and additional useful forms and templates have increased the time-savings aspect of the PA. One district stated that the implementation of the PA has led to an increase in the training, qualifications, and effectiveness of Caltrans staff.

QUALITY ASSURANCE MEASURES

None of the streamlining benefits of the PA described in the previous sections would be meaningful if Caltrans had not been able to maintain quality control measures consistent with those of FHWA before the PA. Under the PA, Caltrans PQS are charged with ensuring that cultural resources are properly taken into account and that there is no loss in quality of work. The results of the quality assurance program and consistency review of PA-related work statewide provide evidence that this responsibility has been accepted and handled well overall.

As noted in the Interim Report, during the first six months of the PA, CCSO conducted quality assurance and consistency reviews of all PA-related work statewide. This effort included reviews of all documents to be submitted to FHWA or the SHPO under the PA; visits by a team of CCSO

and district staff to all twelve districts to review documents retained in Caltrans files; field reviews of selected projects; meetings with district cultural and Local Assistance staff; and individual written reports summarizing the visit results to each district. Follow-up visits to several random districts were conducted by CCSO in May and June of 2005.

In December 2004 CCSO created a Section 106/PA Coordination Branch, which has the primary responsibility within CCSO in providing information and guidance to the districts on PA-related matters, with the intention that this single point of contact will ensure greater consistency among the districts.

At the outset of the PA, CCSO implemented a “PQS Certification” process for all Caltrans cultural resource staff who would work under the PA. The process involves attending an intensive training session covering all aspects of PA procedures, including annual reporting requirements and submitting a professional qualifications form to CCSO for review. An initial training session for Caltrans District Heritage Resource Coordinators (HRCs) was held in Sacramento in late 2003 prior to the implementation of the PA, followed by a roll out of training to all cultural staff in the districts. A second phase of training was delivered for new cultural staff in Sacramento in March 2005, with several HRCs again in attendance.

Caltrans District 4 and CCSO cultural staff presented workshops on the PA for the Society for California Archaeology annual meeting in Riverside in March 2004; CCSO likewise conducted a workshop for the California Council for the Promotion of History annual meeting in Eureka in September 2004. Caltrans District staff and CCSO have also provided training for Caltrans Local Assistance staff, local agency representatives, and their consultants as follows:

- District 1: CCSO delivered two PA training sessions to Local Assistance staff and local agencies in September and November 2004 in Eureka and Ukiah.
- District 2: District PQS gave a one-day training session in Redding for District Local Assistance Engineers, local agency staff and their consultants.
- District 4: Cultural PQS presented a workshop on the PA in Oakland for Local Assistance staff in September 2004. CCSO also conducted a one-day training for Local Assistance staff in spring 2004, and for consultants in May 2005.
- District 5: District PQS Local Assistance staff provides ongoing outreach efforts to provide guidance and materials on the PA to local agencies in the San Luis Obispo region, and conducts an annual Section 106 training session.
- District 6: District PQS Local Assistance staff has given PA training for local agencies as part of environmental planning workshops in Fresno and Bakersfield.
- District 7: District PQS have conducted PA training in cooperation with local transportation planning and public works agencies of Los Angeles and environs.
- District 8: District PQS delivered an overview of the PA for the South Tehachapi Team Building Management Meeting in Riverside in January 2004.
- District 11: District PQS provides extensive, ongoing training and guidance on the PA to Local Assistance staff and local agencies and their consultants in the San Diego area.

Other, continuous quality assurance measures include:

- Regular statewide teleconferences addressing PA/106-related questions.
- Periodic “Section 106 Bulletins” sharing SHPO and FHWA comments statewide.
- Bulletins, teleconference notes, and other guidance posted on the CCSO website.
- Peer reviews by CCSO staff, as requested by districts.

In addition to the above, CCSO will continue efforts to maintain quality control by producing additional guidance and delivering more training during the next reporting period. Training sessions for consultants in the Sacramento area and for Local Assistance staff in District 2 are planned for the fall of 2005, and District 12 has requested training for Local Assistance. In anticipation of districts hiring new cultural staff, another round of intensive PQS training will likely occur in early 2006. CCSO will also continue to conduct periodic PA consistency visits to the districts to ensure that documents remaining in-house are fully consistent with the PA.

REMAINING CHALLENGES

While the overall feedback is highly positive, districts have reported that a few challenges remain, primarily relating to staffing and internal working organizational issues.

- Working with Local Assistance and local agencies: While most districts report that the process works very well in their areas, working with the Local Assistance office continues to be a challenge for some districts that do not have PQS staff working in the Local Assistance office, particularly those where cultural staff was not routinely involved in Section 106 review for Local Assistance projects prior to the PA.
- Two districts reported that PQS who are assigned to work with Local Assistance projects are subject to frequent questioning by local agencies, particularly with regard to decisions about why particular projects cannot be screened, or why PQS are requiring studies for specific projects based on the local agency’s interpretation of the PA. This problem is compounded in one district where PQS report that senior management often does not back up their decision-making authority under the PA.
- Some districts noted that non-PQS Local Assistance staff who prior to the PA customarily signed off on projects without cultural involvement, as well as some of the local agencies that they work with, view the PA process as an added burden rather than a streamlining tool. On the other hand, most districts reported that Local Assistance engineers and local agencies alike are very pleased with their results and turnaround times.
- Districts reported that some Caltrans project managers, project engineers, local assistance engineers and local agencies are assuming in advance that certain projects can be screened and are therefore not allowing enough time to complete their Section 106 studies.
- For some districts that do not have PQS staff working in Local Assistance, balancing their workload between local programs and Caltrans projects continues to prove difficult.

- Several districts reported some difficulty in working with other federal agencies when a Federal-Aid Highway project occurred on or affected land under the jurisdiction of these agencies. In general, problems arise because agencies have their own programmatic agreements and expressed reluctance to follow our PA procedures.
- Recording PA-related data into the interagency tracking (“it”) database for annual reporting purposes remains a challenge. Data that was inaccurate, incomplete, or not entered at all made it more difficult for some district HRCs and CCSO to prepare the annual report. Not all districts are recording required project information in the “it” database. In some districts staff neglected to copy the HRC on screening memos, memos to file, and other compliance-related correspondence making it challenging for the HRC to enter or verify database information. This was especially problematic in cases where PQS work on projects in districts other than their own; the HRCs in the project districts had no information on the status of those projects.

Addressing the Challenges

Of the issues listed above those related to staffing and internal district organizational structure are perhaps the greatest challenges, as the PA requires PQS involvement in all projects including Local Assistance, and staff are unevenly distributed in both numbers and qualifications and already seemingly stretched thin in some districts. Adequate staffing by appropriately trained and qualified PQS at all levels will be essential to continuing to meet the provisions of the PA. Districts that are dependent on a very few cultural staff are especially vulnerable to the risk of project delivery delays under circumstances of even temporary staff absence. It is anticipated that this challenge may be addressed at least partially in the current fiscal year, as several districts expect to hire additional cultural staff.

CCSO has also been requested to provide training for non-PQS Local Assistance staff in some districts in the current fiscal year. In addition, CCSO has offered to provide staff to assist district PQS in working on Local Assistance projects, upon request. It is encouraging that several districts that were having particular difficulty working with their Local Assistance offices at the outset of the PA have since reported that those relations have greatly improved.

The problem of other federal agencies objecting to use of the PA when projects occur on or affect land under their jurisdiction can possibly be addressed through outreach to these agencies. CCSO and district PQS may be able to conduct a teleconference with agencies that are reluctant to use the PA or provide these agencies with an overview that addresses any concerns they may have about the ability of the PA to take effects to cultural resources into account during the Section 106 process.

Challenges related to tracking project data for annual reporting purposes can likely be addressed by additional training on how to use the “it” database. The Caltrans Headquarters Office of Interagency Relations has expressed a willingness to provide this training to the districts, as well as one-on-one demonstrations for individuals. In addition, CCSO will provide more direct guidance to the districts regarding specific potentially critical gaps in the data that must be remedied prior to the next annual report.

RECOMMENDATIONS

Districts have provided the following suggestions for amendments to the PA and to Attachment 2 of the PA, which are presented here for discussion among the signatory parties.

Proposed amendments to Attachment 2:

Districts provided the following suggestions for the classes of screened undertakings list:

- Installation of new traffic signals (current list refers only to modification of existing features).
- Add “installation of rumble strips” to class number 14.
- Installation or modification of roadside call boxes.
- Addition or replacement of Rock Slope Protection.
- Edit class number 19 to allow any work on Category 5 bridges (regardless of age)

Proposed amendments to the PA:

Stipulation X.B1: Several districts suggested delegating to Caltrans the authority to consult directly with the SHPO on findings of No Adverse Effect (without Standard Conditions), with concurrent notification to FHWA.

Discussion:

The proposed amendments to the Attachment 2, “classes of screened undertakings,” are recommended as reasonable. Regarding class number 19, Caltrans is completing an update to its 1984-1986 historic bridge survey, which evaluates bridges built in 1960 or earlier. Bridges that were rated Category 5 are not eligible regardless of their age therefore any work on a Category 5 bridge would not have the potential to affect historic properties. PA Stipulation XVII.B.2 provides that attachments to the PA may be individually amended through consultation of the signatory parties without requiring amendment of the PA itself.

Regarding the proposed amendment to PA Stipulation X.B1, the current procedure is that FHWA consults with the SHPO on findings of No Adverse Effect (other than No Adverse Effect With Standard Conditions). FHWA did not delegate this authority to Caltrans because such projects may potentially invoke Section 4(f) of the Department of Transportation Act, therefore FHWA wanted to be involved in those consultations. Under the August 10, 2005 approval of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” or SAFETEA-LU (H.R. 3), however, if Section 106 consultation results in a finding of No Adverse Effect, Section 4(f) impacts are considered *de minimus*. Therefore it is not unreasonable to consider delegating to Caltrans the authority to consult directly with SHPO on findings of No Adverse Effect. Conversely, there are other provisions of SAFETEA-LU that may also have significant implications for the PA and would thus require further amendment of the PA. Hence, Caltrans does not recommend that any amendments to the PA be undertaken at this time. The above-proposed amendment was included in this report for future consideration by the signatories.

CONCLUSION

The PA has clearly accomplished the goals of the signatory agencies, as evidenced by the results of this annual reporting period. While some challenges remain, Caltrans PQS, who are responsible for carrying out the terms of the PA, have demonstrated their commitment to intelligent and conscientious implementation of its provisions.

The PA has been in place for 18 months. It has proved successful at streamlining a substantial amount of the Section 106 compliance process for projects covered by the Federal Aid Highway Program in California without compromising historical resources. It has improved project delivery by delegating to Caltrans a substantial role in the process for compliance with Section 106 of the National Historic Preservation Act, and achieved considerable project cost and time savings for Caltrans. It has also succeeded in reducing the workload of both FHWA and SHPO staff in that fewer Caltrans projects require external review by these agencies.

Caltrans hopes that the other signatories will agree that the PA is an efficient and effective program alternative for taking into account effects of the Federal-Aid Highway Program on historic properties in California and for affording the ACHP a reasonable opportunity to comment on undertakings covered by the PA. Caltrans looks forward to meeting with the signatories to discuss the results of this first annual report.