

Comment Matrix
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10/01/2024	In meeting	Ohio SHPO	Ohio SHPO recommended inclusion of an inadvertent discoveries clause in the agreement, especially in cases of Build-to-Suit Lease Actions.	See Stipulation VIII of the revised draft.
10/01/2024	In meeting	Ohio SHPO	Ohio SHPO asked what VA meant by “notification.”	See Stipulation V – VII and Attachment C of the revised draft.
10/01/2024	In meeting	Maryland SHPO	Maryland SHPO thanked VA for the details provided on the webpage and in the presentation. The Maryland SHPO is supportive of program alternatives when well-defined. The Maryland SHPO looks forward to reviewing the drafts and anticipates submitting comments and suggestions.	VA appreciates the feedback and looks forward to input from the Maryland SHPO.
10/01/2024	In meeting	Maryland SHPO	Maryland SHPO asked what VA would do when using a Build-Out Lease Action in a building more than 50 years of age.	See Stipulation V – VII of the revised draft.
10/01/2024	In meeting	Montana SHPO	Montana SHPO thanked VA for hosting the meeting. MT SHPO appreciated the explicit information.	VA appreciates the feedback and looks forward to input from the Montana SHPO.
10/01/2024	In meeting	Montana SHPO	Montana SHPO asked how VA would determine effects to TCPs without speaking with Tribes in Build-to-Suit Lease Actions.	See Stipulation V – VII of the revised draft.

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10/01/2024	In meeting	Indiana SHPO	Indiana SHPO appreciated the thorough information provided by VA.	VA appreciates the feedback and looks forward to input from the Indiana SHPO.
10/01/2024	In meeting	Indiana SHPO	Indiana SHPO asked how SHPO offices would receive copies of archaeological record checks or results of surveys in Build-to-Suit Lease actions.	VA responded in the meeting that it typically conducts a Phase I archaeological survey in advance of construction and/or development. VA also supplies such information to SHPOs and other parties. See Stipulation V – VII and Attachment C of the revised draft.
10/01/2024	Via email	National Conference of State Historic Preservation Officers	NCSHPO recommended that VA continue to focus on clarity and not to “hesitate to repeat key points or annotate the draft to provide added explanations of intent.”	VA appreciates the guidance of the NCSHPO.
10/01/2024	Via email	National Conference of State Historic Preservation Officers	NCSHPO asked if VA would post the slideshow [presentation] on its webpage.	VA posted the slideshow to the VA HPO website following the meeting.
10/02/2024	In meeting	Choctaw Nation	The Choctaw Nation asked, “The VA complex in Talihina, OK recently closed. Does the VA have thoughts of returning and reusing it since the Veterans in this area are expanding according to the map you showed?”	VA responded that the facility in Talihina was a State Veterans Home, not a VA facility. The Choctaw Nation responded, “Thank you for that clarification. In that case, we have a vacant facility you may be interested in.”

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10/02/2024	In meeting	Choctaw Nation	The Choctaw Nation asked what notification would entail.	See Stipulation V – VII and Attachment C of the revised draft.
10/02/2024	In meeting	Gun Lake Tribe	The Gun Lake Tribe asked “Who would be the main signatories on the nPA? Are there other highlights from the SHPO meeting you can share with us now?”	<p>VA responded that it reached out to NCSHPO, NATHPO, federally recognized Tribes and Native Hawaiian Organizations, Native Alaskan organizations, ACHP, and others. VA is aware that not all Tribes and NHOs are members of NATHPO. NATHPO and NCSHPO would be signatories also the ACHP. VA will review procedures for allowing Tribes that are not members of NATHPO to sign.</p> <p>The ACHP added, “The programmatic agreement shall take effect when executed by the Council, the agency official and the appropriate SHPOs/THPOs when the programmatic agreement concerns a specific region or the president of NCSHPO when NCSHPO has participated in consultation. A programmatic agreement shall take effect on tribal lands only when the THPO, Indian tribe or a designated representative of the tribe is a signatory to the agreement. (36 CFR 800.14(b)(2)).”</p> <p>See the title of the revised draft.</p>
10/07/2024	In meeting	North Carolina SHPO	The NC SHPO noted its good working relationship with VA over the past several years. NC SHPO asked about Build-Out Lease Actions. Many historic buildings are available in the state that may	VA responded that fewer Build-Out Leases have been selected [than other Lease Actions]. VA ORP looks at several different criteria, not just historic status. If a building meets the criteria and is offered, VA will consider it. VA addresses these renovations through Section 106. VA HPO

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			work for leases such as mid-century schools. These types of Lease Actions give the NC SHPO the most “heartburn” with regard to historic properties.	would like to see more Build-Outs including those in historic buildings.
10/07/2024	In meeting	North Carolina SHPO	<p>The NC SHPO noted the proposed nPA seems reasonable. The NC SHPO asked: What are the proposed processes for notifications and determinations? Would there be discussions with SHPOs and Tribes?</p> <p>The NC SHPO noted a need for an exchange of information prior to making a determination especially in the case of Build-to-Suit and Build-Out Lease Actions.</p>	<p>VA responded that the agency requires SOI qualified staff to review all proposed leases. VA is looking to identify historic properties through research early in the process to avoid such properties. VA would reach out to SHPOs and/or Tribes, perhaps informally, as needed. Of VA’s past few decades of lease actions, only one had the potential to affect historic properties, as historic properties tend to not fit the programmatic needs of our medical requirements, and it was problematic. VA executed a programmatic agreement for various potential sites, with that site included. However, a different property was ultimately selected. Therefore, VA is open to reporting.</p> <p>See Stipulation V – VII and Attachment C of the revised draft.</p>
10/15/2024	Via letter	Catawba Indian Nation	The Catawba have no immediate concerns with regard to traditional cultural properties, sacred sites or Native American archaeological sites within the boundaries of the proposed project areas. However, the	<p>VA thanks the Catawba Indian Nation for the information.</p> <p>See Stipulation V – VII and Attachment C of the revised draft regarding notification and Stipulation II for the process for Tribal execution.</p>

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			Catawba are to be notified if Native American artifacts and / or human remains are located during the ground disturbance phase of this project.	
10/09/2024	Via letter	Colorado SHPO	<p>Colorado SHPO noted “note two potentially significant issues in the Consultation Plan:</p> <ol style="list-style-type: none"> 1. Section 110(k) of the National Historic Preservation Act takes a strong stance against those who “with intent to avoid the requirements of Section 106, has intentionally significantly adversely affected a historic property” in advance of a federally-funded or permitted activity (see also 36.CFR.800.9(c)(1)). Although Section 110(k) violations are not common, we encourage the VA to include a mechanism for monitoring Move-In Ready Lease Actions to ensure that the landlord has not intentionally damaged or destroyed historic features/properties in order 	See the Whereas Clauses and Stipulation V – VII and Attachment C of the revised draft.

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			<p>to complete the lease without Section 106 review.</p> <p>2. Regarding Build-Out Lease Actions, we are generally in concurrence with the statements provided in the Consultation Plan for non-historic buildings. However, we are concerned by the statement that in the case of historic buildings, "VA would allow time for review and objections, rather than seeking concurrence." We do not support this position. It has the potential to reduce the Section 106 process from a process of mutual respect and cooperation to one where one party (the VA) holds all of the power, and the remaining parties are reduced to functionaries whose comments may be disregarded at the discretion of the federal agency. We respect that the VA may have the best of intentions here; however, in our experience, agreements constructed</p>	

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			<p>upon these lines inevitably devolve into an exercise in meaningless box-checking, with the agency only seeking 'comment' to show that it did so.</p> <p>We further note that the difference between true consultation and "review and objections" is most keenly felt by Tribal Historic Preservation Offices. As sovereign nations THPOs hold the right to be consulted with on a government-to-government basis, rather than being asked to provide comments.</p> <p>Finally, although the VA will not own the buildings it leases under this Program comment, it retains by nature of being a large federal agency the power to demand concessions from its potential landlords. We strongly believe that making the protection of cultural and archaeological resources a requirement of any lease should be a priority for the VA."</p>	

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10/30/2024	Via letter	ACHP	<ol style="list-style-type: none"> 1. This effort to develop an integrated Section 106 review process of major leasing acquisition, design, and construction is supported by the ACHP. 2. As a general matter, the ACHP concurs that a Nationwide PA is an appropriate strategy for VA to address its Section 106 compliance for these types of activities. 3. VA should review comments received during this consultation period and determine if the proposed Section 106 process or programmatic allowances should be adjusted. During the consultation meetings, some parties raised questions regarding the identification effort for the proposed Build-to-Suit leasing activities, specifically how VA expected to identify traditional cultural places without consultation. The ACHP encourages VA to consider options for consulting with Indian Tribes 	See the revised draft for incorporation of ACHP comments.

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			<p>and other parties in the acquisition-phase of a Build-to-Suit leasing activity, given the potential for these activities to adversely affect historic properties.</p> <p>4. The ACHP suggests VA consider refining the process by which it will notify parties of these decisions based on the types of historic properties that may be encountered, as well as taking into account state-specific survey and reporting standards.</p> <p>5. (4) Once VA reviews and considers written comments on this proposal, providing a draft agreement for signatories to review, and potentially discuss at an upcoming meeting, would be an appropriate next step in the process.</p>	
10/31/2024	Via letter	Alaska SHPO	<p>1. Our office has found that there are too many reasons for properties to have been previously determined not eligible for the National</p>	See Stipulation V – VII of the revised draft.

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			<p>Register of Historic Places to include a general exemption from consultation. We recommend that properties evaluated under Criteria Consideration G be reevaluated if once consideration is no longer applicable.</p> <p>2. Build-to-Suit project do have the potential to adversely affect previously unknown archaeological sites. We recommend that these projects include preliminary survey to reduce inadvertent discoveries.</p> <p>Furthermore, we recommend that protocols for inadvertent discoveries and the discovery of human remains be further developed to provide appropriate guidance.</p>	
11/01/2024	Via email	Rincon Band of Luiseno Indians	The Rincon Band requested a Word copy of the draft nPA.	VA responded on 11/04/2024 with a copy of the draft outline in Word. VA distributed the draft to all parties in December 2024 and January 2025.
11/01/2024	Via email	Georgia SHPO	The Georgia SHPO provided specific comments on the outline.	VA thanks the Georgia SHPO for its comments.

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12/19/2024	Via email	Gun Lake Tribe	The Gun Lake Tribe requested an extension due to the office closure.	VA granted the extension as requested.
12/19/2024	Via email	Pueblo de San Ildefonso	The Pueblo de San Ildefonso declined to participate in this consultation effort.	VA respects the decision of the Pueblo de San Ildefonso.
12/19/2024	Via email	Navajo Nation	The Navajo Nation declined to participate in this consultation effort but asked to be kept informed.	VA respects the decision of the Navajo Nation.
12/19/2024	Via email	ACHP	The ACHP received the draft nPA.	The ACHP sent formal comments on the draft document in February 2025. Those comments are noted below.
12/19/2024	Via email	OHCRA	The OHCRA received the draft nPA.	The OHCRA did not submit additional correspondence nor comments on the draft document.
01/15/2025	Via letter	Alabama SHPO	Alter definition of “disturbed soils” to – “Soils mechanically disturbed to the depth of the proposed undertaking. These soils are unlikely to possess intact and/or distinct soil horizons and have little potential to retain historic properties within their original depositional contexts. This definition does not include agricultural plowing, which typically does not reach depths to	As this agreement is nationwide in scope, VA intends to discuss this matter in the second round of consultation meetings.

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			preclude the presence of intact cultural resources.”	
01/15/2025	Via letter	Alabama SHPO	Alter definition of “historic” to follow the definition of “historic property” found in 36 CFR 800.	VA considered the comment. See Stipulation I.h of the revised draft.
01/17/2025	Via email	Georgia SHPO	The GA SHPO provided in-text edits on the draft nPA.	VA considered the comments. See Attachment A, Stipulation I, and Stipulation VI with Attachment C of the revised draft.
01/23/2025	Via email	Ohio SHPO	<ol style="list-style-type: none"> 1. In lines 181-183 it reads as if the VA is only going to consult under 36 CFR 800 if the leased space is greater than 25 acres or 225, 000 gross square feet. This is awfully large. Is the intent that for anything above that the VA will consult, and anything below that the VA is going to use the PA? Is there a consultation flow chart that might help us understand this? 2. In lines 308-309, and 380 the agreement mentions only using a 2-foot buffer for ground disturbance locations. This might need to be a bit more dependent on the site conditions. 	<ol style="list-style-type: none"> 1. The proposed nPA would not apply to projects that large. Such undertakings would be addressed through a “standard” Section 106 process. 2. The proposed buffer is specific only to utility corridors and extends to both sides of the line. See text edits to clarify in Stipulation VI.a.i.1-2. 3. A draft of the Historic Properties Form is included in the revised draft as Attachment C.

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			3. We would like to see the Notification Form and would like to no more about what information it contains.	
01/24/2025	Via email	Montana SHPO	The MT SHPO provided in-text edits on the draft nPA.	VA considered the comments. See Stipulation I and Stipulation VI of the revised draft.
01/29/2025	Via email	Kansas SHPO	The KS SHPO reviewed the draft and had no comments.	VA appreciates the KS SHPO's review.
01/31/2025	Via letter	Delaware SHPO	<ol style="list-style-type: none"> 1. The DE SHPO requested a draft of the notification form. 2. The DE SHPO asked for clarification about "disturbed soils." 3. The DE SHPO recommended that VA coordinate with the respective SHPO prior to archaeological survey. 4. The DE SHPO requested clarification on the acreage and square footages used to determine applicability of the nPA. 5. The DE SHPO recommended using "Limits of Disturbance" rather than a buffer of 24 inches for utility corridors. 6. In Stipulation IV.d.ii.2., the DE SHPO recommended adjusting the language to "If, 	<ol style="list-style-type: none"> 1. A copy of the draft Historic Properties Form is included in Attachment C of the revised draft. 2. As this agreement is nationwide in scope, VA intends to discuss this matter in the second round of consultation meetings. 3. VA considered the comment. See the requirements of the Historic Properties Form in Attachment C and Stipulation VI.a of the revised draft. 4. VA has specific design criteria based on anticipated patient loads and functions. VA reviewed recent clinic undertakings and determined that 25 acres/225,000 GSF was at the high end for clinic construction and operation. These limits are consistent with the associated NEPA analysis and anticipated impacts. 5. The proposed buffer is specific only to utility corridors and extends to both sides of the

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			after a good faith effort to avoid or minimize adverse effects, VA determines rehabilitation is not feasible while still meeting the goals of the specific leasing undertaking, VA shall consult pursuant to 36 CFR § 800.6 to resolve adverse effects.”	line. See text edits to clarify in Stipulation VI.a.i.1-2. 6. VA considered the comment. See Stipulation V.f of the revised draft.
01/31/2025	Via email	Mississippi SHPO	<ol style="list-style-type: none"> 1. The MS SHPO noted that SHPOs would not be able to draw attention to the significance of a building less than 40 years of age if Build-Out leases were exempted from further review (Stipulation VI.d.iii). 2. The MS SHPO requested clarification on the term “previously disturbed” soils. 	<ol style="list-style-type: none"> 1. VA considered the comment. See Stipulation VI of the revised draft. 2. As this agreement is nationwide in scope, VA intends to discuss this matter in the second round of consultation meetings.
02/03/2025	Via email	Arizona SHPO	The AZ SHPO provided in-text edits on the draft nPA.	<p>VA considered the comments. See the Whereas Clauses, Stipulation VI, and the Attachments of the revised draft.</p> <p>Re size - VA has specific design criteria based on anticipated patient loads and functions. VA reviewed recent clinic undertakings and determined that 25 acres/225,000 GSF was at the high end for clinic construction and operation. These limits are consistent with the</p>

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				associated NEPA analysis and anticipated impacts.
02/11/2025	Via letter	Fort Independence Indian Reservation	The FIIR provided cultural considerations for Build-to-Suit lease actions when consulting with the FIIR.	VA considered the comments provided. See Stipulation VI of the revised draft.
02/19/2025	Via letter	ACHP	The ACHP provided in-text edits on the draft nPA.	VA considered the comments. See the revised draft.