

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

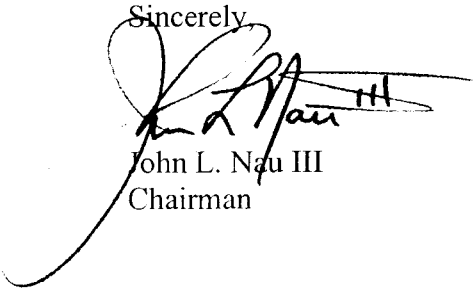
January 10, 2002

Rear Admiral Robert T, Conway, Jr
Commander
Navy Region Hawaii
517 Russell Avenue
Pearl Harbor, HI 96860-4887

Dear Admiral Conway:

The enclosed Programmatic Agreement (PA) regarding the adoption of a Master Development Agreement for Ford Island, Pearl Harbor, Hawaii has been executed by the Council. This action constitutes the comments of the Council required by Section 106 of the National Historic Preservation Act and the Council's regulations. The Council recognizes the Navy for its interest in maintaining the historic values of the Pearl Harbor Naval Complex and the significant features of Ford Island, a property that played such a prominent role in the December 7, 1941 attack. We appreciate the Navy's willingness to work with us to preserve and rehabilitate the significant historic properties on this island in conjunction with your efforts to enhance the quality of life for our sailors. We value the partnership that the Navy formed with our agency, the National Trust for Historic Preservation, Historic Hawaii Foundation, the Hawaii State Historic Preservation Office, the National Park Service, the Oahu Council of the Hawaiian Civic Clubs, the Outdoor Circle, and the Missouri Memorial Association to consider historic preservation issues throughout the Pearl Harbor Naval Complex and look forward to our continued cooperation.

Sincerely,



John L. Nau III
Chairman

PROGRAMMATIC AGREEMENT (PA)
AMONG
THE UNITED STATES NAVY,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND THE HAWAII STATE HISTORIC PRESERVATION OFFICER
REGARDING THE PROGRAM OF:
SALE OR LEASE OF CERTAIN NAVY PROPERTIES;
AND ADOPTION OF A MASTER DEVELOPMENT PLAN FOR FORD ISLAND

WHEREAS, the United States Navy (Navy) proposes a program of: sale or lease of certain Navy properties; infrastructure improvements; construction, rehabilitation or adaptive reuse of facilities at Ford Island; and the assignment or reassignment of Navy functional elements, family housing and supporting activities to Ford Island (hereafter as the Undertaking); and

WHEREAS, by locating and relocating these activities at Ford Island, the Navy expects to make positive use of available lands and historic buildings on Ford Island in order to achieve greater operational efficiency, provide improved housing that is closer to military community support services (clinic, commissary, Navy exchange), and improve the quality of life for its sailors and their families; and

WHEREAS, under consideration at Ford Island as part of this undertaking are the construction of up to 420 additional new family housing units, new Bachelor Quarters for up to 1,000 personnel, a total of up to 250,000 square feet of reuse of existing structures and new construction for administrative space, a consolidated training complex, infrastructure improvements such as roads and utilities, and the private sector utilization of up to 75 acres on Ford Island through a lease agreement; and

WHEREAS, pursuant to the authority under 10 U.S.C. Section 2814, the Undertaking may be funded in part by the sale or lease of presently underutilized Navy lands at outlying installations on Oahu such as the Waikele Branch of Naval Magazine Pearl Harbor, selected Navy-retained lands at the former Naval Air Station Barbers Point, and Iroquois Point/Puuloa Housing areas; and

WHEREAS, other work may be accomplished through conventional means such as the Military Construction (MILCON) Program, Non-Appropriated Funds (NAF), or Family Housing Public-Private Venture (PPV) Authority; and

WHEREAS, the Commander Navy Region (COMNAVREG) Hawaii shall initiate consultation under 36 CFR § 800.6 for any undertaking that may have an adverse effect on a contributing property that is within the U.S. Naval Base Pearl Harbor National Historic Landmark (NHL) and a property that is outside the NHL which is listed or eligible for listing on the National Register; and

WHEREAS, the Navy has established the Undertaking's area of potential effects (APE) defined at 36 CFR § 800.16(d), to be Ford Island, utility corridors in the harbor, Halawa Landing in the mainside, portions of retained lands at the former Naval Air Station (NAS) Barbers Point, Iroquois Point/Puuloa Housing Area, and Waikele Branch; and

WHEREAS, the Navy has determined that the Undertaking may have an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places (NRHP), including the U. S. Naval Base Pearl Harbor National Historic Landmark (PHNHL); and

WHEREAS, Ford Island is located within the PHNHL; offshore of Ford Island are USS Utah and USS Arizona, which are designated National Historic Landmarks; the ex-Missouri, temporarily moored at F-5 and operated as a memorial museum by a non-profit entity, is listed on the NRHP; and on the mainside adjacent to Halawa Landing is USS-Bowfin, a designated NHL; and

WHEREAS, surveys and historical research have identified properties potentially eligible for inclusion in the NRHP at the outlying properties proposed for sale or lease, including prehistoric archaeological sites at Iroquois Point/Puuloa Housing Areas; military period structures (former ammunition tunnels and guard towers), and prehistoric and historic archaeological sites at Waikele Branch; and prehistoric and historic archaeological sites, World War II and Cold War period buildings and structures at the former NAS Barbers Point; and traditional cultural properties in these properties; and

WHEREAS, due to the complexity of the Undertaking and the uncertainty of funding sources, the effects of individual projects on historic properties cannot be fully determined and will not be known until details about such projects are available; and

WHEREAS, members of the public have been notified of the Undertaking through public scoping meetings at two locations on Oahu in May 2000; numerous press releases; individual briefings to state, local and Federal governmental officials; electronic media; and incorporation of this PA in the Draft Programmatic Environmental Impact Statement, which was made available to the public for review and comment and the subject of public hearings at two locations on Oahu on August 1 and 2, 2001; and

WHEREAS, the Navy has consulted with the Advisory Council on Historic Preservation (Council) and the State Historic Preservation Officer (SHPO) (hereafter as the Signatories); and

WHEREAS, the Navy has notified the Secretary pursuant to 36 CFR § 800.10(c) and invited the Secretary to participate in the consultation and to sign this PA; and

WHEREAS, pursuant to 36 CFR § 800.6(c)(2) the Navy has invited the National Park Service (NPS), the Office of Hawaiian Affairs (OHA), the National Trust for Historic Preservation (NTHP), Historic Hawaii Foundation (HHF), and Oahu Council of Hawaiian Civic Clubs (OCHCC) to sign this PA as invited signatories; and

WHEREAS, pursuant to 36 CFR § 800.6(c)(3) the Navy has invited The Outdoor Circle (TOC), the USS Arizona Memorial, Pacific Fleet Submarine Memorial Association, and MISSOURI Memorial Association, Inc. to sign this PA as concurring parties; and

NOW, THEREFORE, the Navy, the ACHP, and the SHPO agree as follows that the Navy will carry out the proposed Undertaking in accordance with the following stipulations to satisfy its responsibilities under Section 106 and Section 110(f) of the National Historic Preservation Act (16 U.S.C. 470).

STIPULATIONS

The Navy will carry out the following measures:

I. FORD ISLAND MASTER DEVELOPMENT

The Navy has issued Request for Proposals (RFP) utilizing a two-phased source selection process to establish an agreement with a Master Developer to assist the Navy in carrying out certain portions of the Undertaking. Such an agreement, known as the "Master Development Agreement" or MDA will provide for a Master Development Plan (MDP), in-kind consideration for property support services and construction, real estate agreements, and environmental compliance.

A. Review of the RFP – The Navy has provided copies of the RFP to the consulting parties. Prior to the release of any RFP amendments that concern historic preservation issues, these proposed RFP amendments will be forwarded via E-mail (or via facsimile to SHPO) to all parties. Parties will have 5 working days from receipt of the E-mail or fax to review the proposed RFP amendments. Absence of comments from any party during this review period indicates concurrence with the proposed RFP amendment.

B. The Navy will ensure that Navy employees who meet the Secretary of the Interior's Professional Qualification Standards for Historical Architect (Federal Register Vol. 62, No. 119, p. 33719, June 20, 1997) will participate in both the Technical Evaluation Board and the Source Selection Board during the evaluation of the MDP.

C. Pearl Harbor Integrated Cultural Resources Management Plan (ICRMP) – Copies of the ICRMP will be made available to the Proposers selected under Phase I to prepare an MDP.

D. MDP -- It is intended that the MDP will address all projects currently under consideration and serve as the comprehensive land use planning document for all projects to be undertaken at Ford Island. The MDP will meet stipulations set forth in 10 U.S.C. 2814, requiring the Navy to submit to the appropriate committees in Congress a master plan for Ford Island before carrying out a transaction authorized by Section 2814.

1. The parties to this PA will be afforded the opportunity to review the draft MDP after the Navy has selected a Master Developer with whom to enter into exclusive

negotiations, and again prior to Navy's approval of the final MDP following completion of the exclusive negotiations. The parties will have 30 calendar days from receipt of the draft MDP to submit comments to the Navy. The Navy will take these comments into account in developing the final draft of the MDP. In addition, the parties will have 14 calendar days from receipt of the proposed final MDP to submit comments to the Navy, which the Navy will take into account in finalizing the document.

2. Prior to implementing the MDP, the Navy will provide copies to all parties.

3. The Navy will notify the parties to this PA in writing of any modifications to the MDP prior to making any such modifications. The parties will have at least 14 calendar days from receipt of notification to respond to the Navy in writing.

II. REVIEW OF INDIVIDUAL PROJECTS AT FORD ISLAND

Although the detailed scopes of individual projects being considered by the Navy at Ford Island are not known at this time, the RFP contains a list of general project requirements as set out in Attachment A. As detailed project scopes are developed, the Navy will initiate consultation as required under 36 CFR § 800.6.

III. PROPERTIES FOR LEASE

A. The Navy will make available for lease Iroquois Point/Puuloa Housing Area, up to 75 acres on Ford Island, and Halawa Landing on the mainside. The specific parcels that will be leased by the Ford Island Master Developer and the details regarding the Master Developer's proposed uses for these leased parcels are not known at this time.

B. Real estate leases shall include appropriate provisions as set out in Attachment B, with specific terms based on known or the potential for historic properties. Further, such lease agreements shall clearly identify historic properties located within the leased premises. The Lessee will be encouraged to adaptively reuse historic buildings and structures within the leased premises, consistent with the provisions of Attachment B.

IV. PROPERTIES FOR SALE

A. The Navy has made available for sale the Waikele Branch of Naval Magazine Pearl Harbor and selected Navy-retained lands at the former Naval Air Station Barbers Point to the Ford Island Master Developer. The specific parcels that will be purchased by the Ford Island Master Developer and the details regarding the Master Developer's proposed uses for these purchased parcels are not known at this time.

B. Prior to conveyance, the Navy will accommodate requests from any party to this PA for site visits to assist in identifying or evaluating historic properties. All access will be subject to reasonable requirements for identification, escorts (if necessary), safety, and other administrative procedures.

C. Any conveyance document will identify all historic properties identified by the Navy as located within the parcels to be purchased by the Ford Island Master Developer.

D. The Navy will complete the survey reports to identify historic properties within the APE and provide the Master Developer copies of documentation pertaining to the historic properties such as location maps, photographs, and technical reports.

E. The Navy may enter into leases or licensing agreements for any of these parcels prior to conveyance in fee simple. Any real estate leases or licensing agreements shall include applicable terms and conditions contained in Attachment B.

F. When any parcel for sale is conveyed in fee simple to the Ford Island Master Developer, all undertakings affecting historic properties will be administered in accordance with applicable State law, including but not limited to Hawaii Revised Statutes, Chapters 6E and 205.

V. PUBLIC INTERPRETATION

A. The fundamental historic aspect that qualified the U.S. Naval Base Pearl Harbor as a National Historic Landmark in 1964 was its function, as an active naval base with a mission to support the U.S. fleet, a mission which has been performed to date and continues into the 21st century. The process of change in physical facilities at Pearl Harbor reflects the continuing change in naval technology and a necessary attribute of Pearl Harbor as an active naval base.

B. The PHNHL boundaries include those land and water areas that are directly and historically associated with its function. All of the water areas of Pearl Harbor are included within the boundaries along with certain adjacent lands. Within these boundaries are also vestiges of Hawaiian uses such as fishponds, four of which remain today. Native Hawaiian oral traditions are also associated with the lagoon.

C. In recognition of the Pearl Harbor's designation as a National Historic Landmark and an appreciation for the Native Hawaiian use, the Navy will develop a plan for the public interpretation of military history, and Hawaiian history and traditions in consultation with the parties of this PA. This may include such measures as displays of historic objects or artifacts, exhibit of historic photographs of Ford Island and Pearl Harbor, video, signage (markers or platforms), or brochures about Hawaiian place names and events on Ford Island and surrounding areas. The plan will include cost estimates and will address potential partnership opportunities for implementing the various components of the plan. The proposed plan will be drafted and circulated to the consulting parties within one year of the date on which this agreement is signed. The consulting parties will have 30 days from receipt to submit comments on the proposed plan to the Navy. The Navy will actively seek partnership opportunities for implementation of the plan.

Ford Trail

D. Prior to construction activities on Ford Island, the Navy will accommodate a Hawaiian groundbreaking ceremony to be coordinated by OCHCC, subject to reasonable

requirements for identification, escorts (if necessary), safety, and other administrative and security procedures.

E. The Navy will consider using Hawaiian names for new streets on Ford Island and will consult with OCHCC and other appropriate organizations to identify appropriate names.

F. The Navy will notify OCHCC of construction activities on Ford Island involving ground disturbance and afford OCHCC access to the construction site to observe activities on a voluntary basis. Any such access will be subject to reasonable requirements for identification, escorts (if necessary), safety, and other administrative and security procedures.

VI. DISCOVERIES

A. If during the performance of the Undertaking, historic properties are discovered or unanticipated effects are found, or a previously unidentified property which may be eligible for inclusion in the National Register is newly discovered, Navy will take all reasonable measures to avoid or minimize harm to the property until it concludes consultation with the SHPO and any Native Hawaiian organization which has made known to Navy that it attaches religious and cultural significance to the property.

B. Navy will notify SHPO and/or the appropriate Native Hawaiian organization as soon as practical and develop actions that will take the effects of the Undertaking into account. Navy will notify these parties of any time constraints. Navy and these parties will seek to mutually agree upon the time frame for this consultation but in no instance will the consultation exceed ten working days. Navy will provide SHPO and/or the appropriate Native Hawaiian organization with written recommendations reflecting its consultation. If the parties do not object to Navy's recommendations within the agreed time frame, Navy will modify the scope of work as necessary to implement the recommendations.

VII. REPORTING REQUIREMENTS

Annually by November 1 of each year, Navy shall provide to all parties to this PA a report that summarizes Navy's activities under this PA. Reports will be transmitted in electronic format and include a summary of properties conveyed and the status of interpretive measures undertaken.

VIII. FISCAL REQUIREMENTS AND SOURCES

The stipulations of this PA are subject to the provisions of the Anti-Deficiency Act, 31 U.S.C. § 1341. Accordingly, any requirement for the obligation of funds arising from the terms of this agreement shall be subject to the availability of appropriated funds for that purpose. This agreement shall not be interpreted to require the obligation or expenditure of funds in violation of the Anti-Deficiency Act.

IX. RESOLVING OBJECTIONS

A. Should any Signatory to this PA object in writing to the Navy regarding how the proposed Undertaking is carried out or the manner in which the terms of this PA are carried out, Navy shall consult with the objecting party to resolve the objection. If Navy determines that the objection cannot be resolved, Navy shall forward all documentation relevant to the dispute to the Council, including Navy's proposed response to the objection. Within thirty days after receipt of all pertinent documentation, the Council will:

1. Advise Navy that it concurs with Navy's proposed response, whereupon Navy will respond to the objection accordingly; or

2. Provide Navy with recommendations pursuant to 36 CFR § 800.2(b)(2), which Navy shall take into account in reaching a final decision regarding its response to the dispute; or

3. Notify Navy that it will comment pursuant to 36 CFR § 800.7(c) and proceed to comment on the subject in dispute.

B. Should the Council not exercise one of the above options within thirty days after receipt of the pertinent documentation, Navy may assume that the Council concurs in its proposed response to the objection.

C. Navy shall take into account the Council's recommendation or comment, provided in accordance with this stipulation, with reference only to the subject of the objection. Navy's responsibility to carry out all actions under this PA that are not the subject of the objection shall remain unchanged.

X. AMENDMENT

Any Signatory may request that this PA be amended, whereupon they will consult in accordance with 36 CFR Part 800 to consider such an amendment. 36 CFR §800.6(c)(1) shall govern the execution of any such amendment.

XI. TERMINATION

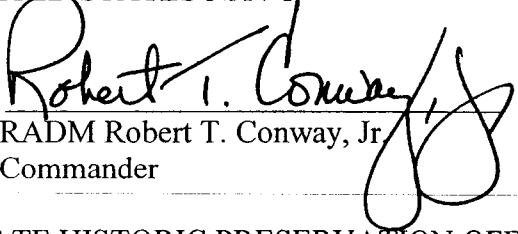
Any Signatory may propose to terminate this PA by providing thirty days notice to the other two explaining the reasons for the proposed termination. The Signatories will consult during this period to seek agreement on amendments or other actions that would avoid termination. In the event of termination, Navy will comply with 36 CFR Sections 800.3 through 800.7.

EXECUTION AND IMPLEMENTATION of this Programmatic Agreement evidences that Navy has satisfied its Section 106 and Section 110(f) responsibilities for the proposed program of: sale of outlying properties in Waialeale Branch of Naval Magazine Pearl Harbor and retained lands at the former NAS Barbers Point; lease of Navy

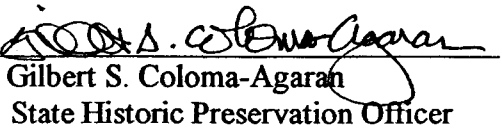
properties at Iroquois Point/Puuloa Housing Area, Halawa Landing and Ford Island; and adoption of a Master Development Plan for Ford Island.

SIGNATORIES

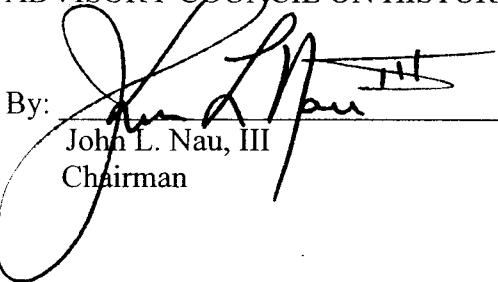
UNITED STATES NAVY

By:  Date: 12-20-01
RADM Robert T. Conway, Jr.
Commander

STATE HISTORIC PRESERVATION OFFICER

By:  Date: 12/7/01
Gilbert S. Coloma-Agaran
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 1-10-02
John L. Nau, III
Chairman

INVITED SIGNATORIES


OFFICE OF HAWAIIAN AFFAIRS

By: _____ Date: _____

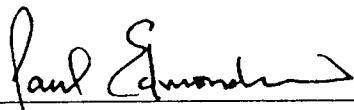
OAHU COUNCIL OF HAWAIIAN CIVIC CLUBS

By: _____ Date: _____

HISTORIC HAWAII FOUNDATION

By:  _____ Date: 1-25-02

NATIONAL TRUST FOR HISTORIC PRESERVATION

By:  _____ Date: December 7, 2001
Paul W. Edmondson
Vice President & General Counsel

NATIONAL PARK SERVICE

By: _____ Date: _____

CONCURRING PARTIES

THE OUTDOOR CIRCLE

By: _____ Date: _____

USS ARIZONA MEMORIAL

By: _____ Date: _____

PACIFIC FLEET MEMORIAL ASSOCIATION

By: _____ Date: _____

MISSOURI MEMORIAL ASSOCIATION, INC.

By: _____ Date: _____

ATTACHMENT A

FORD ISLAND PROJECTS LISTING (Near Term)

PROJECT	SCOPE	FUND SOURCE	EST. FY START
Navy Lodge	LS	NAF	2002
P-491 Sewer Force Main Ford Island	LS	Direct (MCON)	2002
Housing A (33.3 acre) (H-591 & H 381)	140 Units	Direct (MCON)	2002
P-534 Water system Upgrade	LS	Direct (MCON)	2002
Utilities & Site Improvements I: Telecom Main & Dist, Elec Dist	LS	In-Kind	2003
P-528 Electrical System Upgrade	LS	Direct (MCON)	2003
Utilities & Site Improvements II: Ford Island North Sewage Collection System	LS	In-Kind	2004
P-600 Consolidated Fire Fighting Facility (GFE of \$18 Million)	LS	Direct (MCON)	2005
Utilities & Site Improvements III: Ford Island South Sewage Collection System	LS	In-Kind	2005
Administrative Facilities *	LS	Direct (MCON)	2006
Utilities & Site Improvements IV: Ford Island Intersection, Lighting, Roads, Landscaping	LS	In-Kind	2006
Administrative Facilities *	LS	Direct (MCON)	2007
Consolidated Training Campus (Bldg. 39)	LS	In-Kind	2007
Ops/Admin Facilities (Rehab of Bldgs. 26 and 26A)	LS	In-Kind	2008
Housing B (Option to Oahu PPV) Community Facilities Site	Up to 390 Units	PPV	TBD

* Includes Adaptive Reuse

ATTACHMENT B

THE TERMS AND CONDITIONS REGARDING HISTORIC PROPERTIES IN THE LEASE AGREEMENT ARE SUBJECT TO NEGOTIATIONS DURING THE EXCLUSIVE NEGOTIATIONS. ALL TERMS AND CONDITIONS APPLICABLE TO THE SPECIFIED LEASED PARCEL WILL BE INCORPORATED INTO THE LEASE AGREEMENT.

1. Lessee shall not undertake any activity that may affect an identified historic or archaeological property, including excavation, construction, alteration, or repairs of leased premises, without approval of the Government. Subsurface archaeological resources and Native Hawaiian human remains or cultural items may be present on the Leased Premises. If such materials are encountered, Lessee shall stop work immediately, protect the find from damage, and notify the Government. If Native Hawaiian human remains or cultural items subject to the Native American Graves Protection and Repatriation Act (NAGPRA) are inadvertently discovered, work in the immediate vicinity of the find shall cease immediately and notify the Government. Work may need to cease for up to 35 days. With the Government's oversight, Lessee shall carry out inadvertent discovery procedures defined in 43 CFR Part 10, implementing regulations of NAGPRA.
2. Lessee shall not materially modify or change the use or character of the Leased Premises during the term of this Lease without prior written approval of the Government. Any plans and specifications for any such construction, repair, modification, alterations, installations or additions by the Lessee shall be provided to the Government sufficiently in advance of such construction so as to allow the Government time to review and approve such plans and specifications.
3. All construction, repair, modification, alterations, installations, or additions shall be in accordance with the applicable Federal, State, and local laws and ordinances, and without cost to the Government.
4. Lessee shall provide Government with prior written notification and a full description of all proposed Work on Leased Premises, including: information required by Government to comply with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), a projected schedule and cost thereof, and an analysis as to how and why such work will or will not be visible from the exterior of the building situated on Leased Premises, or adversely impact the building structure.
5. Lessee specifically acknowledges that the buildings and features listed in _____ (Exhibit will be specific to the Leased Premises covered in such lease), Historic Resources Identification, attached hereto and made a part hereof, are listed or eligible for listing on the National Register of Historic Places, and therefore require consideration under the NHPA (16 U.S.C. 470) and its implementing regulations (36 CFR Part 800). Therefore, the lessee will submit any proposed aesthetic, structural or landscape

alterations to these buildings or site features to the Government for approval prior to undertaking such alterations. Government review prior to approval will include consultation with the Hawaii State Historic Preservation Officer (SHPO), and may invite participation of the Advisory Council on Historic Preservation (ACHP) in the consultation and other consulting parties.

The following information will be required to permit adequate review and consultation:

- a. A detailed description of the project with photographs, maps, and plan drawings as necessary.
- b. A description of the affected historic properties highlighting their significant characteristics.
- c. A description of the effects of the project on the historic properties and specific identification of those actions being taken that are consistent with The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior, National Park Service, 1997), and those not consistent with these Standards. Proposed actions not in conformance with the Secretary's Standards will require an explanation including discussion of options considered that would have resulted in conformance.

Actions determined to have an adverse effect on historic properties may require an execution of a Memorandum of Agreement (MOA) between the Government and the SHPO (and ACHP if it chooses to participate). Lessee may be invited to sign the MOA. The MOA will stipulate how the action is to be accomplished to minimize adverse effects and complete any required mitigation prior to Government granting approval to proceed to the Lessee. As an invited signatory, the Lessee will be responsible for carrying out any required measures to minimize adverse effects and/or complete mitigation actions.