



## Frequently Asked Questions About Executive Order 05-05

### **How does Executive Order 05-05 affect projects currently under construction?**

The Executive Order 05-05 focuses on project planning and how cultural resource concerns are integrated as early as possible into the planning for capital projects. If you have projects currently under construction and have all permits in hand, please be aware that Native American remains and archaeological resources are protected if discovered during construction.

### **How long does the process take?**

We attempt to answer phone calls with phone calls, emails with emails, and letters for letters. The vast majority of these projects, 68%, are replied to in just five (5) working days.

### **How does compliance terminology differ in the EX 05-05 process vs. Section 106 process?**

In the EX05-05 the term "impact" typically replaces the word "effect". For defining the project area instead of using "Area of Potential Effect (APE)", the preference is to use the "Area of Potential Impact (API)." The resulting letters will note *no historic properties impacted, no adverse impact, or an adverse impact*. We also use Memorandum of Understanding (MOU) instead of Memorandum of Agreement (MOA).

### **We have lots of projects that we fund over the course of a biennium. Does each one need to be reviewed?**

Yes, these reviews can be completed in an informal meeting with us. We will be looking for capital projects that may affect below-ground resources or structures that are over 50 years of age and older.

### **What kinds of capital projects might be exempt from review?**

Exempt projects would be those that do not disturb the ground nor alter buildings or structures that are 45 years of age or older. Some routine or regularly scheduled maintenance and repair projects may be exempted from review through execution of a programmatic agreement. Also, projects aided by a federal agency action (such as federal funding, license, or permit) will undergo environmental review by DAHP and



tribal governments by the responsible federal agency in accord with Section 106 of the National Historic Preservation Act.

**What about grants and/or loans that we pass-thru to private entities or local jurisdictions?**

It is the responsibility of the funding or program manager to determine whether actions resulting from the disbursement of grants or loans are subject to review under Executive Order 05-05. Grants and loans that typically will **not** trigger a review under Executive Order 05-05 are those used to refinance a previous loan or those that originate from a revolving fund.

**Does consultation with DAHP constitute consultation with affected tribes?**

No, Executive Order 05-05 requires you to consult with affected Tribes in a way that includes a face-to-face meeting or other agreed upon method to discuss the project.

If your agency has a tribal liaison, the tribal liaison should guide you in the decision making process as to which tribes should be consulted for your particular project. The staff tribal liaison should also assist in establishing the proper method of consultation between you and the affected tribe or tribes.

If you need assistance you can contact DAHP or the Governor's Office of Indian Affairs (GOIA) for help. If you are unable to arrange a meeting with affected tribes, please notify DAHP and GOIA of the situation.

**What training opportunities are available to better understand this process and these kinds of resources?**

Currently, we offer a variety of training opportunities at different times of the year through our DAHP Academy Program. Trainings are typically one-day primer on cultural resources law, regulations, and the intent of various preservation program. Please contact Holly Borth at [Holly.borth@dahp.wa.gov](mailto:Holly.borth@dahp.wa.gov) or 360/586-3533 for more information.