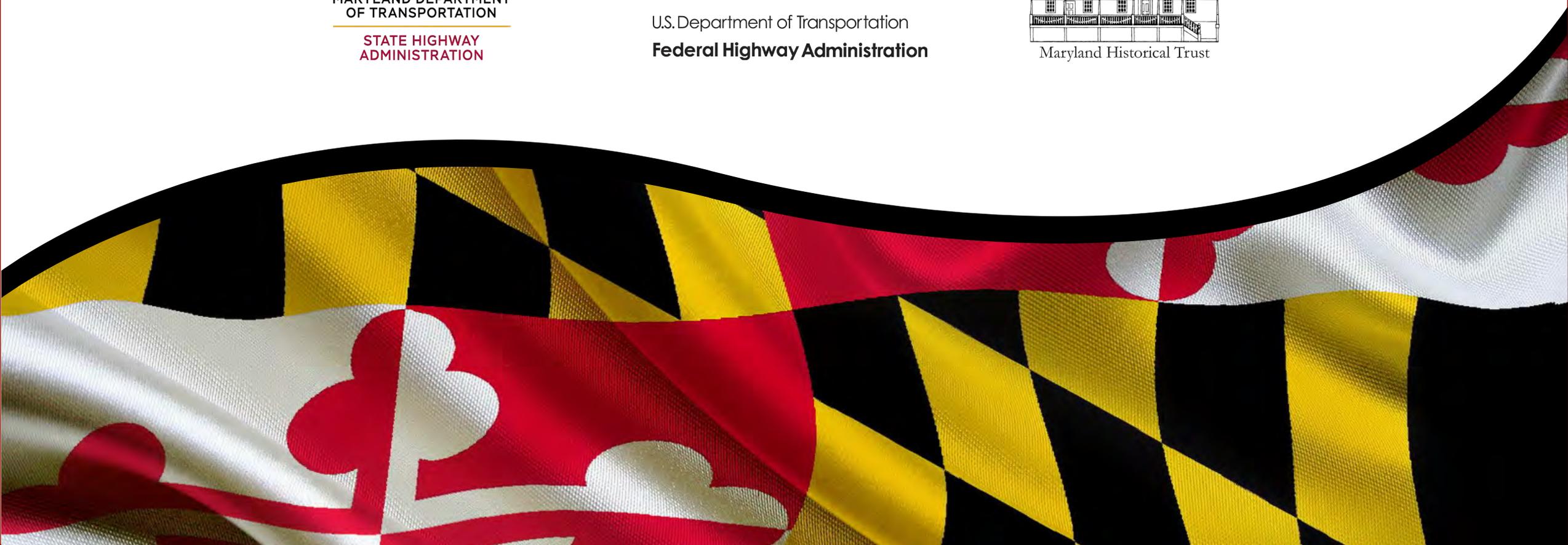
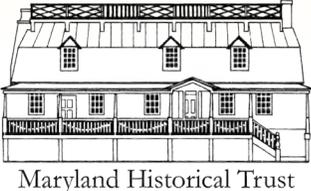


New Streamlined Cultural Resources Reviews for MDOT SHA & Local Programs



HOUSEKEEPING

Today's webinar is being recorded

- MDOT SHA intends to post the recording on our website
- Presentation slides and a link to the recording will be sent to all participants

Audio

- All participants will be muted throughout the webinar
- Call-in number provided in invite for those not using Teams



<https://blog.zoom.us/recording-recap-zoom-recording-webinar/>

HOUSEKEEPING

Q&A following the presentation

- Enter questions into the chat box at any time
- Moderator will monitor for questions



[Howtogeek.com/thumbcache/2/200/e24e0604be1166a3b88a4d6f71d04463/wp-content/uploads/2018/09/vac_lede.png](https://www.howtogeek.com/thumbcache/2/200/e24e0604be1166a3b88a4d6f71d04463/wp-content/uploads/2018/09/vac_lede.png)

TODAY'S PRESENTATION

FHWA and MDOT SHA's Section 106 Programmatic Agreement amendment

- Collaborative effort among FHWA, MDOT SHA, MDTA, MHT, ACHP

PRESENTATION OUTLINE:

- FHWA Welcome
- What prompted this change, and why?
- How will the process that local public agencies are used to change?
- How will Section 106 reviews work, and how will agencies' roles change?
- A word from MHT
- Question and Answer Session

TODAY'S PRESENTERS

- Kari Sprengeler – *MDOT SHA Cultural Resources Local Programs Lead*
 - Facilitator of this presentation
- Jeanette Mar – *Environmental Program Manager, FHWA Maryland Division*
- Juliet Healy – *MDOT SHA Environmental Manager*
- Beth Cole – *Administrator, Project Review and Compliance, MHT*
- Tim Tamburrino – *Preservation Officer, MHT*
- Steve Archer – *MDOT SHA Cultural Resources Team Leader*
 - Available during Q&A
- Jessica Pilarski – *MDOT SHA Senior Public Involvement Coordinator*
 - Comment Moderator

FHWA WELCOME



FHWA Contact: Jeanette Mar, 410-779-7152

Jeanette.Mar@dot.gov

WHAT CHANGED, AND WHY?

What is a Section 106 Programmatic Agreement (PA)??

- A way for FHWA to legally delegate authority and provide an expedited process for actions that have limited potential to adversely affect historic properties

What is the advantage of using a PA?

- FHWA delegates consultation to a single agency (MDOT SHA) that administers federal-aid funds
 - Replaces current standard of local jurisdictions separately consulting with MHT
- Provides an expedited review process for qualifying projects
- Standardizes the process and brings Section 106 reviews to MDOT SHA alongside NEPA reviews



SafeRoutes



Following the PA is required for local public agency (LPA) transportation projects receiving federal-aid funds that are facilitated by MDOT SHA

- Examples of funding programs include:
 - Transportation Alternatives Program (TAP), Safe Routes to Schools (SRTS), National Recreational Trails (NRT), Scenic Byways, Local Government Bridge Program, Appalachian Regional Commission (ARC)
- LPA projects receiving state funds from MDOT SHA will also follow the process outlined in the PA
- MDOT SHA can internally review projects meeting exemption criteria without further consultation with MHT or others
 - Majority of LPA projects will likely be exempt

PA AMENDMENT STREAMLINES NEPA

Cultural resources review incorporated into NEPA the same way it is now

- **Difference:** MDOT SHA will now coordinate on behalf of Local Government
- Local government will no longer need to send letters to MHT

MDOT SHA Environmental Managers (EMs) are now the point of contact between local government and MDOT SHA cultural resources personnel

- Local Government will still provide mapping, project description and plans (if available) to the EM
- MDOT SHA cultural resources personnel will work with MHT to complete coordination and may reach out to the Local Government for follow up items



SO HOW WILL THE NEW CULTURAL RESOURCES REVIEW PROCESS WORK?



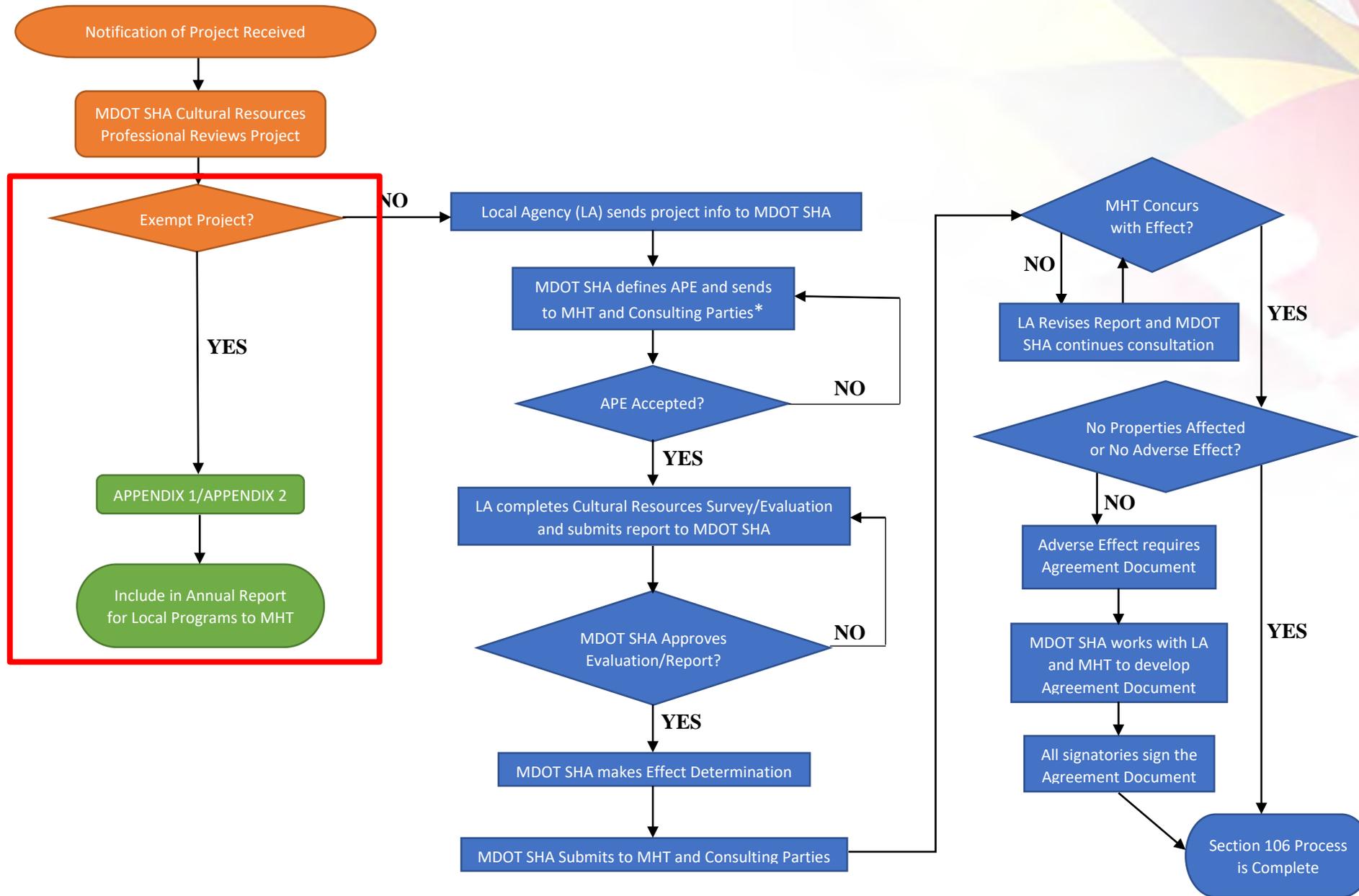
www.workfront.com/blog/project-management-101-the-5-ws-and-1-h-that-should-be-asked-of-every-project

The more project information LPAs provide, the better – for you and us!

- Providing project information early in the process is critical
 - ✓ Good location and project maps
 - ✓ Plans (if available)
 - ✓ Description of project and worst-case limits of disturbance (LOD)



Attachment 1. MDOT SHA Local Programs Cultural Resources and Section 106 Flowchart



*For smaller projects, APE and Cultural Resources Evaluation may be combined where appropriate.

EXEMPT PROJECTS

Appendix 1 – Minimal Potential to Cause Effects

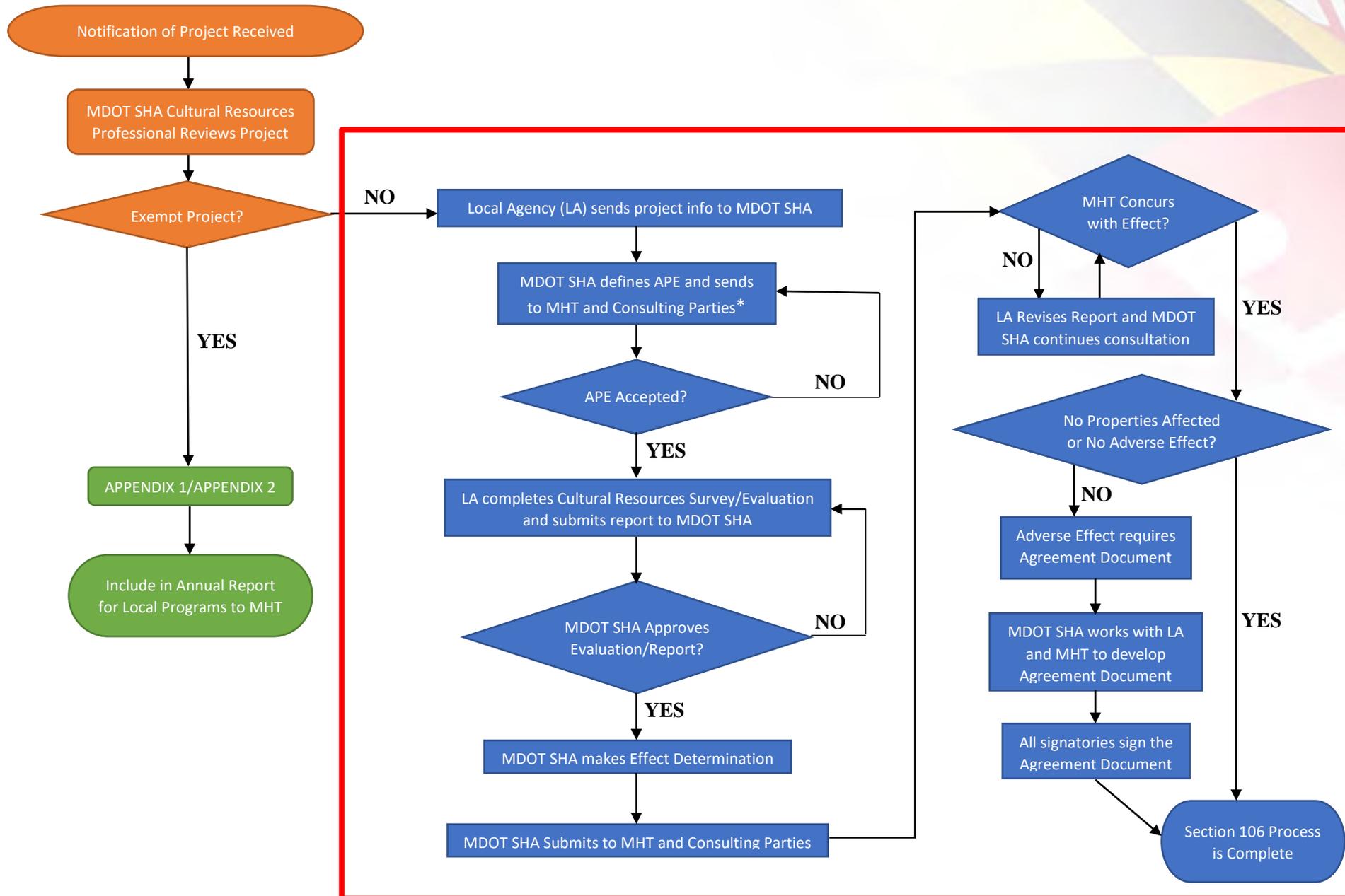
Appendix 2 – Minor Projects

- All projects that appear to fit exemption categories will be assessed by MDOT SHA cultural resources professionals
 - If it fits an exemption category (and the project doesn't change), cultural resources review is done!
 - MDOT SHA provides MHT with reports of exempt projects
 - Exemption documentation will be provided to the EM
 - The EM will provide exemption documentation to LPAs
 - MDOT SHA will facilitate further consultation with MHT and consulting parties



[hiking trail sign](#) | TBR News Media

Attachment 1. MDOT SHA Local Programs Cultural Resources and Section 106 Flowchart



*For smaller projects, APE and Cultural Resources Evaluation may be combined where appropriate.

NON-EXEMPT PROJECTS



Most LPA projects will be exempt!

- Additional coordination required for projects that don't fit exemption categories

Non-exempt projects may need:

- MHT letter coordination without surveys
- Cultural resources survey and reporting
- A very small number will cause adverse effects and require agreement documents and more extensive coordination

INADVERTENT DISCOVERIES

Inadvertent Discovery Plans (IDPs) will almost always be required

- Ensure the on-site contractor has a copy

The IDP template lays out:

- Recognizing Cultural Resources
- On-site Responsibilities
- Local Agency Project Manager's Responsibilities
- MDOT SHA's Responsibilities
- Proceeding with Construction – usually possible even while the find is being examined

ATTACHMENT 2
Inadvertent Discovery Plan
For the (Local Agency Name) (Project Name)

The (Local Agency) plans to construct the (Project) project, located in (County), Maryland. The purpose of this project is to (Purpose).

Approval and funding of this project is conditioned on review of effects to historic properties under Section 106 of the National Historic Preservation Act and/or the Maryland Historical Trust Act of 1985 (MHT Act). As a condition of this approval, in the event of inadvertent discovery of previously unknown and potentially significant cultural resources, or unforeseen effects to historic properties, the following procedure must be implemented.

–Failure to follow the Inadvertent Discovery Plan (IDP) risks violation of state and federal law and loss of project funding–

If an inadvertent discovery is determined by the MDOT SHA to require further evaluation and consultation, MDOT SHA and FHWA will assume responsibility to consult to resolve the discovery and determine whether construction activities will have adverse effects on the resource, in accordance with the terms outlined in the *Amended Programmatic Agreement Among the Federal Highway Administration, the Maryland Department of Transportation State Highway Administration, Maryland Transportation Authority, the Maryland State Historic Preservation Officer, and the Advisory Council on Historic Preservation Implementing Section 106 of the National Historic Preservation Act for Federal Highway Administration Undertakings in Maryland (PA)*. Further detail for all inadvertent discoveries is included in Appendix 3 of the PA, and can be found at this link: <https://www.roads.maryland.gov/mdotsha/pages/Index.aspx?PageId=729>.

A. Recognizing Cultural Resources:
A cultural resource discovery could involve precontact (Native American) or historic period discoveries. These can include:

- Discovery of buried bone, concentrations of oyster shells, arrowheads, old bottles, or dark brown soil containing this type of material.
- Discovery of stone or brick walls, building foundations, cellars, cisterns, privies, wells, etc.
- Accidental damage to a known archaeological site (if indicated on plans as a restricted area) or to a historic building or structure.

B. On-Site Responsibilities:

STEP 1: STOP WORK. If at any point in the project a (Local Agency) employee, contractor, or subcontractor believes that they have uncovered any human skeletal remains, potential archaeological materials, or identifies damage to a standing structure, building, or known archaeological resource, heavy equipment operation is required to immediately STOP in the discovery area and a surrounding buffer (minimum 100 feet) must be established to protect the find. **Any reasonable suspicion that a discovery may be archaeological requires implementation of this procedure.** No media, agency (other than MDOT SHA), or other external contacts should be made until an archaeologist evaluates the discovery and provides additional direction.

STEP 2: NOTIFY ARCHAEOLOGICAL MONITOR. If an archaeological monitor is present at the project, notify them immediately. If there is a monitoring plan in place, the monitor will follow its provisions.

STEP 3: NOTIFY PROJECT MANAGEMENT AND MDOT SHA. Contact the (Local Agency) Project Manager and the Maryland Department of Transportation State Highway Administration (MDOT SHA) Cultural Resources Local Programs Lead. Contact information is provided at the end of this document. MDOT SHA will follow procedures identified in its statewide Programmatic Agreement or a project-specific agreement if applicable. MDOT SHA will work with the Federal Highway Administration (FHWA), Maryland Historical Trust, and other parties as required. The MDOT SHA Cultural Resources Local Programs Lead or other designate will serve as liaison to keep the (Local Agency) informed of the process and resolution.

C. (Local Agency) Project Manager's Responsibilities:

- **Protect the Discovery.** The Project Manager is responsible for taking appropriate measures to protect and secure the discovery site. All work at the location of the discovery must immediately stop, including a 100 foot buffer around the location of the discovery that allows the location to be secure, protected, and intact. Vehicles, equipment, and unauthorized personnel may not traverse the discovery site. Work in the immediate area of the discovery will not resume until treatment of



Attachment 2: Inadvertent Discovery Plan Template for Local Public Agencies

(Local Agency) Contact Information

(Local Agency) Project Manager
(Name)
(Phone Number); (Email)

Alternate Contact:
(Title)
(Name)
(Phone Number); (Email)

MDOT SHA Contact Information

Call down list until connecting directly with MDOT SHA personnel to complete notification requirements. Email should only be used as a secondary means of notification.

Cultural Resources Local Programs Lead
Office (Phone Number); Cell (Phone Number) (Email)

Cultural Resources Team Leader
Office (Phone Number); Cell (Phone Number) (Email)

Assistant Division Chief and Chief Archaeologist
Office (Phone Number); Cell (Phone Number); (Email)



www.zendesk.com/blog/proven-ways-deal-high-call-volume/

LPA RESPONSIBILITIES FOR NON-EXEMPT PROJECTS

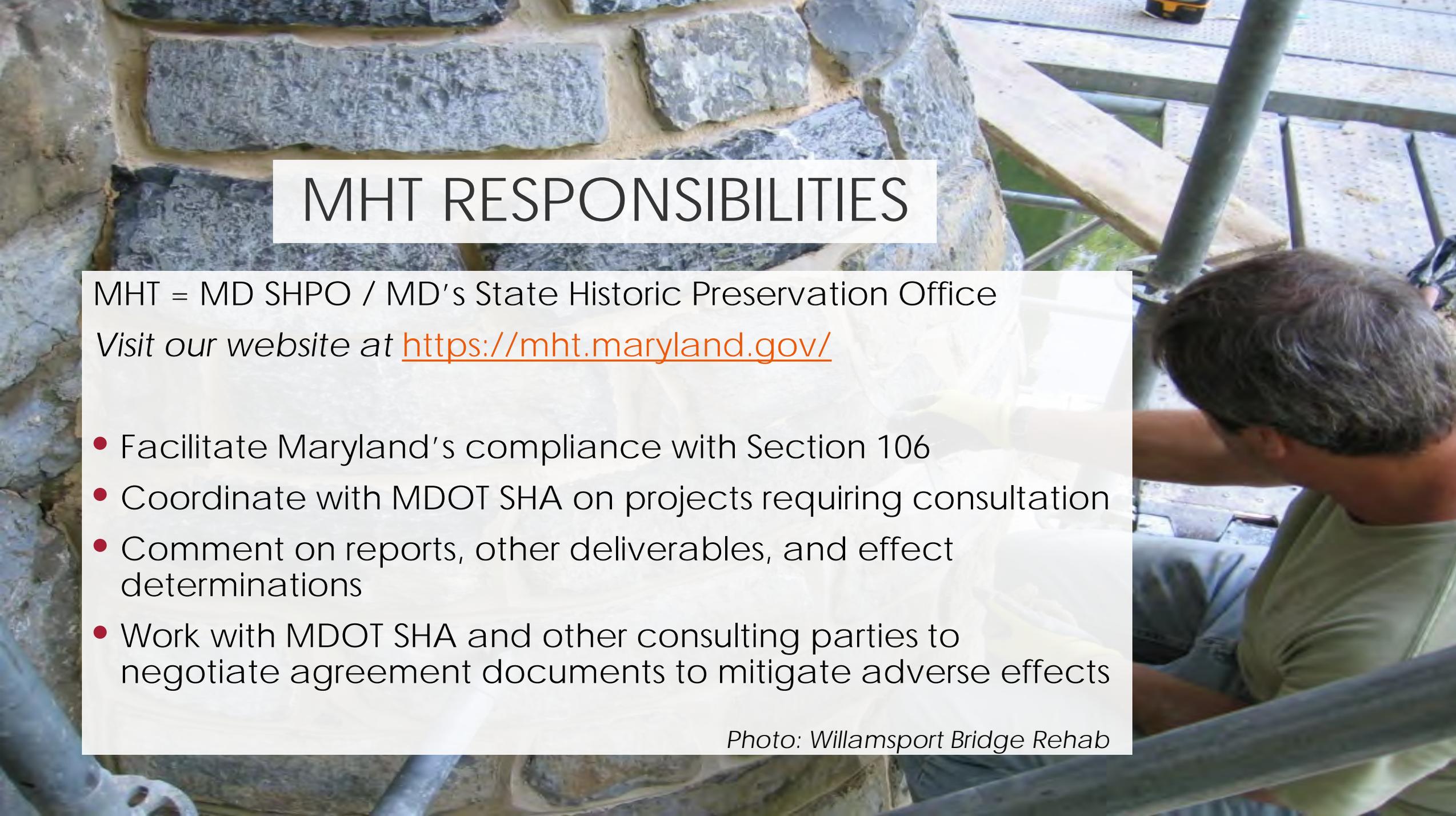
- Provide adequate project information to MDOT SHA through your EM
- Assist MDOT SHA by identifying potential consulting parties with a special relationship to the project we may not know about
 - (property owners, local residents, etc.)
- Conduct/procure any necessary cultural resources studies
 - MDOT SHA will assist in defining scope and other guidance
- Work with their consultants following MDOT SHA's review to make any needed revisions prior to MHT submittal
- Work with MDOT SHA and MHT on any agreement documents to resolve adverse effects (if necessary)

FHWA RESPONSIBILITIES

- Delegate responsibility to MDOT SHA to establish undertaking and initiate Section 106 process in accordance with PA
- Ensure tribal nations are identified and consulted; consult directly with tribal nations upon request
- FHWA will participate in consultation if there is an adverse effect to historic properties

MDOT SHA RESPONSIBILITIES

- Determine whether project fits exemption categories
- Define Area of Potential Effects (APE)
- Conduct all formal consultation with MHT
- Coordinate with tribal nations and consult with other identified Consulting Parties
- Review reports and other deliverables prior to MHT submittal
- Make effect determinations prior to MHT submittal
- Take lead on developing agreement documents if adverse effects are unavoidable



MHT RESPONSIBILITIES

MHT = MD SHPO / MD's State Historic Preservation Office

Visit our website at <https://mht.maryland.gov/>

- Facilitate Maryland's compliance with Section 106
- Coordinate with MDOT SHA on projects requiring consultation
- Comment on reports, other deliverables, and effect determinations
- Work with MDOT SHA and other consulting parties to negotiate agreement documents to mitigate adverse effects

Photo: Willamsport Bridge Rehab

SECTION 106 AND TRANSPORTATION PROJECTS IN MARYLAND



MD 180 Retaining Wall

During the past 5 years, MHT reviewed 2,565 transportation projects with the following findings:

- **Projects with No Effect/No Historic Properties = 1,518**
- Projects with No Adverse Effect = 626
- Additional Information Requested = 402
- Projects with Adverse Effect = 19

Less than 1% of transportation projects resulted in adverse effects on historic properties

WELCOME LOCAL PROGRAMS!

- Maryland's PA for transportation projects has been in effect since 1993, with a proven track record for consultation efficiencies
- MHT welcomes the addition of local programs to the PA
- The new coordination process in the PA should benefit LPA projects by:
 - ✓ Using MDOT SHA expertise to handle consultation
 - ✓ Streamlined review of exempt projects
 - ✓ Timely completion of transportation reviews
 - ✓ Achieve projects deadlines and schedules



New Market Streetscape

Q&A

Use chat box for questions

If we don't get to your question today, email your question to Kari Sprengeler:

ksprengeler@mdot.maryland.gov



www.murrayfitzpatrick.com.au/wp-content/uploads/2014/06/questions.jpg

FOR MORE INFORMATION

Programmatic Agreement: [2021 Programmatic Agreement Amendment](#)

MDOT SHA's Cultural Resources webpage:
<https://www.roads.maryland.gov/mdotsha/pages/Index.aspx?PageId=729>

MDOT SHA's Guidance for Local Public Agencies and
Sub-Recipients of Federal Funds webpage:
<https://www.roads.maryland.gov/mdotsha/pages/Index.aspx?PageId=855>

Maryland Historical Trust's website:
<https://mht.maryland.gov>

Federal-Aid Essentials for Local Public Agencies:
<https://www.fhwa.dot.gov/federal-aidessentials/index.cfm>

CONTACTS

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Will Tardy (MDOT SHA Districts 1-3; Baltimore City; TAP)

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MHT Preservation Officer

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Phone: 410-697-9589



THANK YOU

YOU