



# United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.  
Washington, D.C. 20240

A3815 (2262)

**JUN 19 2019**

The Honorable Robert Valencia  
Chairman, Pascua Yaqui Tribe of Arizona  
7474 S. Camino de Oeste  
Tucson, Arizona 85757

Dear Chairman Valencia:

I am pleased to approve the plan of the Pascua Yaqui Tribe of Arizona for assuming responsibilities pursuant to 54 U.S.C. 300101 et seq. (commonly known as the National Historic Preservation Act). Enclosed please find your copy of the fully executed agreement by which the Tribe assumes its formal place in the National Historic Preservation Program.

The Pascua Yaqui Tribe of Arizona is the 187th Tribe to assume historic preservation duties that were previously the responsibility of the State Historic Preservation Officer. We look forward to a long and productive relationship with the Pascua Yaqui Tribe of Arizona in this program, and we hope that additional pueblos and tribes will follow your footsteps.

A modest amount of funding is currently available to help support the work of the Tribal Historic Preservation Officer (THPO) of those Tribes assuming historic preservation duties. Our Tribal Historic Preservation Program will notify your THPO, Dr. Karl Hoerig, of the amount of funding available for the Tribe to apply to for Fiscal Year 2020. If you have any questions, please contact the Tribal Historic Preservation Program directly at 202-354-6463 or [THPO\\_Program@nps.gov](mailto:THPO_Program@nps.gov).

Sincerely,

P. Daniel Smith  
Deputy Director  
Exercising the Authority of the Director  
for the National Park Service

Enclosure

AGREEMENT BETWEEN  
THE NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR  
AND THE PASCUA YAQUI TRIBE OF ARIZONA FOR THE ASSUMPTION BY THE  
TRIBE OF CERTAIN RESPONSIBILITIES PURSUANT TO TITLE 54 OF THE UNITED  
STATES CODE (COMMONLY KNOWN AS THE NATIONAL HISTORIC  
PRESERVATION ACT).

WHEREAS, sovereign Indian tribes are uniquely suited to make decisions about historic resources on tribal lands; and

WHEREAS, enhancing the role of Indian tribes in the national historic preservation partnership will result in a stronger and better national effort to identify and protect historic and cultural resources for future generations of all Americans; and

WHEREAS, 54 USC 302702 [commonly known as Section 101(d)(2) of the Act] provides that, "An Indian tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with sections 302302 and 302303 [commonly known as subsections (b)(2) and (b)(3) of the Act],... with respect to tribal land"; and

WHEREAS, in accordance with 54 USC 302702(4) [commonly known as Section 101(d)(2)(A) of the Act], the Tribal Council of the Pascua Yaqui Tribe of Arizona (hereafter "Tribe") has requested approval to assume certain of those functions on Pascua Yaqui Tribe of Arizona tribal lands as defined in 54 USC 300319 (commonly known as Section 301 of the Act); and

WHEREAS, in accordance with 54 USC 302702(2) [commonly known as Section 101(d)(2)(B) of the Act], the Tribe has designated a Tribal Historic Preservation Officer to administer the tribal historic preservation program; and

WHEREAS, in accordance with 54 USC 302702(3) [commonly known as Section 101(d)(2)(C) of the Act], the Tribe has provided to the Secretary acting through the National Park Service a plan that describes how the functions the Tribe proposes to assume will be carried out; and

WHEREAS, 54 USC 300319 [commonly known as Section 301 of the Act] defines "tribal land" to include "(1) all lands within the exterior boundaries of any Indian Reservation: and (2) all dependent Indian communities" (deemed to include lands held in trust by the Secretary for the benefit of the Tribe); and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the Tribe's plan for conformance with the applicable Federal regulations, 36 CFR 60, and 36 CFR 61, and has determined that the plan meets the requirements of those regulations; and

WHEREAS, the National Park Service, on behalf of the Secretary, has reviewed the plan and has determined in accordance with 54 USC 302702(4)(A) [commonly known as Section 101(d)(2)(D)(i) of the Act] that the Tribe is fully capable of carrying out the functions specified in the Tribe's plan; now, therefore,

THE NATIONAL PARK SERVICE AND THE PASCUA YAQUI TRIBE OF ARIZONA DO HEREBY AGREE AS FOLLOWS:

1. The Pascua Yaqui Tribe of Arizona assumes responsibility on lands within the Tribe on tribal lands as defined in 54 USC 300319 (commonly known as Section 301 of the Act) for the following functions set out in 54 USC 302303 [commonly known as Section 101(b)(3) of the Act]:

A. Direct and conduct a comprehensive survey and maintain an inventory of historic and culturally significant properties on tribal lands;

B. Identify and nominate eligible properties to the National Register of Historic Places and otherwise administer applications for listing historic properties on the National Register;

C. Develop and implement a comprehensive, historic preservation plan covering historic, archeological, and traditional cultural properties on tribal lands;

D. Administer the tribal program of Federal assistance for historic preservation within the Tribe;

E. Advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;

F. Cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal agencies, State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;

H. Consult with the appropriate Federal agencies in accordance with 54 USC 306108 [commonly known as Section 106 of the Act] on:

i. Federal undertakings that may affect historic and culturally significant properties on tribal lands;

ii. the content and sufficiency of any plans to protect, manage, or to reduce or mitigate harm to such properties;

2. In accordance with the Tribe's plan noted above, the State Historic Preservation Officer (SHPO) of Arizona, in consultation and cooperation with the Tribe, retains responsibility for the functions in 54 USC 302303 [commonly known as Section 101(b)(3) of the Act], as follows:

- A. Provide public information, education and training, and technical assistance in historic preservation;
- B. Cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of the Act.
- C. Advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance, such as historic preservation income tax credits.

3. The SHPO, in accordance with 54 USC 302702(4)(C) [commonly known as Section 101(d)(2)(D)(iii) of the Act], may exercise historic preservation responsibilities along with the tribal preservation official on tribal lands as defined in 54 USC 300319 (commonly known as Section 301 of the Act) that is neither owned by a tribal member nor held in trust for the Tribe by the Secretary, provided that the owner of such property requests the SHPO's participation.

4. In evaluating the significance of and impact on historic and cultural resources, the Tribal Historic Preservation Officer will consult, as needed, with individuals who meet the Secretary's Standards for the discipline or disciplines that correspond to the resource under consideration. In any case where the individual consulted is not a staff member the Tribal Historic Preservation Officer will retain a record of the consultation.

5. The Tribe's THPO Advisory Review Board (THPO-ARB) will serve as the Tribal Historic Preservation Officer's Advisory Review Board (Advisory Board) for the purposes of this agreement. The Tribal Historic Preservation Officer will, in accordance with 54 USC 302704(3) [commonly known as Section 101(d)(4)(C) of the Act], provide for the appropriate participation in the historic preservation program by the Tribe's traditional cultural authorities through membership on its Advisory Board and through such other means as the Officer deems appropriate. Before making any decision pursuant to this agreement that affects a property of significance to another Tribe or Pueblo whose traditional lands are within the Pascua Yaqui Tribe of Arizona's tribal lands, the Tribal Historic Preservation Officer will consult with the appropriate representative(s) of that other Tribe or Pueblo. The Tribal Historic Preservation Officer will provide for the appropriate participation of the interested public by soliciting public comments in a manner described in the Tribe's plan.

6. The Tribe will carry out its responsibilities for review of Federal undertakings pursuant to 54 USC 306108 (commonly known as Section 106 of the Act) in accordance with the regulations (36 CFR Part 800) of the Advisory Council on Historic Preservation. In the event that the Tribe seeks to substitute its own review procedures for those established by the Council, such substitution is subject to a separate negotiation with the Council, pursuant to 54 USC 302705 [Section 101(d)(5) of the Act].

7. The Tribal Historic Preservation Officer will provide to the National Park Service a brief annual written report on the Tribe's accomplishments pursuant to this agreement. The report will include, at a minimum, the number of additional properties surveyed and added to the Tribe's inventory, the number of Federal undertakings reviewed pursuant to 54 USC 306108 [commonly known as Section 106 of the Act], and a description of any educational activities and programs carried out. The report shall not be construed as requiring the provision of information that the Tribe deems to be sensitive or culturally inappropriate.

8. As of the date of this agreement, the Tribe's Tribal Historic Preservation Officer is Dr. Karl Hoerig. The Tribe will notify the National Park Service whenever there is a vacancy in the position and whenever a successor is designated by the Tribe.

9. The National Park Service will, in accordance with 54 USC 302701(b) [commonly known as Section 101(d)(1)(A) of the Act], foster communication, cooperation, and coordination among the Tribe, the State Historic Preservation Officer, and Federal agencies in the administration of the national historic preservation program. All such efforts by the National Park Service will be on an as-needed basis and will be based on consultation with the Tribe to ensure that tribal values are fully respected.

10. The National Park Service, upon execution of this agreement, will notify all Federal Preservation Officers, the Advisory Council on Historic Preservation, the State Historic Preservation Officer of Arizona, the National Association of Tribal Historic Preservation Officers, and the National Conference of State Historic Preservation Officers that the Tribe has assumed formal responsibility on tribal lands as defined in 54 USC 300319 for all of the functions set out in Item 1 above. In particular, such notice shall make clear that the Tribe has assumed the role of the State Historic Preservation Officer on tribal lands as defined in 54 USC 300319 (commonly known as Section 301 of the Act) for the purposes of consultation on Federal undertakings pursuant to 54 USC 306108 [commonly known as Section 106 of the Act].

11. The National Park Service will consult with the Tribe to determine what technical assistance the Tribe needs and wants in order to enhance its participation in the national historic preservation program. Based on that consultation, the National Park Service will make available to the Tribe such technical assistance as is appropriate and feasible. The Tribe is eligible for grants-in-aid from the Historic Preservation Fund to assist in carrying out the duties it has assumed under this agreement. However, nothing in this Memorandum of Agreement requires the National Park Service to provide financial assistance to the Tribe to carry out the functions it has assumed under this agreement. Only a separate grant agreement, cooperative agreement or contract obligates the National Park Service to provide funding for tribal activities.

12. The National Park Service, pursuant to 54 USC 302702 and 302302 [commonly known as Sections 101(d)(2) and 101(b)(2) of the Act, respectively], and in direct consultation with the Tribe, will carry out a periodic review of the Tribe's program pursuant to Title 54 [commonly known as the NHPA], to ensure that the Tribe is carrying out the program in conformance with the Tribe's plan and with this agreement. To the greatest extent feasible, the review will be a collegial process that involves both the National Park Service and the Tribe in a mutual evaluation and assessment of the program. Preferably, such a review will occur every four years.

13. The Tribe may terminate this agreement for any reason by providing the National Park Service sixty days' written notice of such termination. The National Park Service may terminate this agreement upon determining that the Tribe has not carried out its assumed responsibilities in accordance with this agreement, Title 54 [commonly known as NHPA], or any other applicable Federal statute or regulation. Unless circumstances warrant immediate action, the National Park Service will not terminate the agreement without first providing the Tribe a reasonable and appropriate opportunity to correct any deficiencies.

14. This agreement may be amended only by a written instrument executed by the Tribe and the National Park Service.


15. This agreement shall become effective upon signature by the Director of the National Park Service or his designee, which signature shall not occur until after the Chairman of the Pascua Yaqui Tribe of Arizona has signed the agreement.

FOR THE NATIONAL PARK SERVICE:

  
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P. Daniel Smith  
Deputy Director  
Exercising the Authority of the Director

  
\_\_\_\_\_  
Date

FOR THE PASCUA YAQUI TRIBE OF ARIZONA

  
\_\_\_\_\_  
Robert Valencia, Chairman

  
\_\_\_\_\_  
Date