

SECTION 106

FLOWCHART OF TYPICAL PROCEDURES

Step 1. **Determine Need**

Local Agency must solicit State Historic Preservation Office (SHPO) opinion on the need for a cultural resource survey. This is done by submitting a Section 106 Project Information form to the SHPO.

Step 2. **SHPO Survey Recommendation**

SHPO reviews project information and makes recommendation about the need for a cultural resources survey. If the SHPO determines no survey is needed, the project has satisfied its Section 106 responsibilities and no further cultural resources actions are required unless the project scope or limits change.

Step 3. **Cultural Resources Survey**

If the SHPO determines that a cultural resources survey is required, the Local Agency hires a professional cultural resources consultant to conduct the survey. The survey will determine whether there are any cultural resources either in or near the proposed project area. If no cultural resources are identified by the survey and the SHPO concurs that an adequate survey has been conducted, the project has satisfied its Section 106 responsibilities and no further cultural resources actions are needed unless the project scope or limits change.

Step 4. **Determination of Eligibility**

If the cultural resources survey determines there are cultural resources in or adjacent to the project area, the Local Agency in consultation with MoDOT, SHPO and FHWA determine if the cultural resource is a historic property and eligible for the National Register of Historic Places (NRHP). If no cultural resources identified by the cultural resources survey are determined to be eligible to the NRHP, the project has satisfied its Section 106 responsibilities and no further cultural resources actions are needed unless the project scope or limits change.

Step 5. **Determination of Effect**

If a cultural resource in or near the project is determined to be eligible to the NRHP, the effect of the project on the cultural resource is evaluated by Local Agency, MoDOT, FHWA and SHPO. If it is concluded that the project will not adversely affect an NRHP-eligible property, the project has satisfied its Section 106 responsibilities and no further cultural resources actions are needed unless

the project scope or limits change. If the project will adversely affect a historic property, the Local Agency should attempt to modify the project to avoid or minimize projects impacts to the property.

Step 6. **Preparation of MOA**

If a project's adverse effects to a historic property cannot be avoided, the Local Agency coordinates with MoDOT, SHPO and FHWA to prepare a Memorandum of Agreement (MOA) that identifies how the adverse impacts to the historic property will be mitigated. The MOA will specify what actions will be taken to mitigate the adverse impacts to the property, when actions will be taken, and which party has the responsibility to complete the actions. The Local Agency signs the MOA and provide to FHWA from MoDOT to obtain SHPO and Advisory Counsel on Historic Preservation (ACHP) signature. If the historic property is a prehistoric archaeological site that may contain human burials, the SHPO will advise that historic Indian tribes must be consulted.

Step 7. **Mitigation**

The stipulations in the MOA are satisfied. A final report or statement that the conditions of the MOA have been met is usually submitted to the SHPO and FHWA within a timeline specified in the MOA.

STEP 1. DETERMINE NEED

The SHPO must be consulted on the need for a survey. The Federal Highway Administration through the Missouri Department of Transportation may also be consulted on an as needed basis. All SHPO determinations are for only the information or project plans submitted for SHPO review. Should project plans change significantly, the revised plans should be resubmitted to the SHPO. The following data should be provided to the SHPO:

Projects on New Alignment

- A. Construction cost greater than \$150,000:
 - 1. SHPO's Section 106 Project Information Form.
 - 2. SHPO's Bridge Inventory Survey Form providing information on the bridge builder and the year built along with original 3" X 5" or larger photographs showing two views (only for truss, stone arch, and concrete arch bridges more than 50 years old.) The form is not required for bridges less than or equal to 50 years old, but photos are desired.
 - 3. 7.5 minute (15 minute if 7.5 minutes unavailable) USGS topographic map showing the location of the project and borrow sites in undisturbed areas (cultivated fields are considered undisturbed) if the sites total more than 1000 cubic yards. Sites totaling 1000 cubic yards or less need not be located. Re-alignment of roadway should be shown if applicable.
 - 4. Project plans if readily available.
- B. Construction costs less than or equal to \$150,000:
 - 1. SHPO's Section 106 Project Information Form only if total borrow is greater than 1000 cubic yards in undisturbed areas.
 - 2. SHPO Bridge Inventory Survey Form with original 3" X 5" or larger photographs only for truss, stone arch, or concrete arch bridges more than 50 years old. The form is not required for such bridges less than or equal to 50 years old but photos are desirable.
 - 3. 7.5 minute (15 minute if 7.5 unavailable) USGS topographic map only if total borrow is greater than 1000 cubic yards in undisturbed areas. The topographic map should show the project and borrow site location.

Projects on the Same Alignment

Projects on the same alignment that involve little or no previously undisturbed areas generally do not require archaeological review unless the project requires more than 1000 cubic yards of borrow and the source of the borrow is a previously undisturbed areas. However, all buildings and structures, and all truss, stone arch, and concrete arch bridges more than 50 years old are subject to historical review. In addition to the SHPO's Section 106 Project Information Form, the following should be provided:

- A. Projects with over 1000 cubic yards of borrow from undisturbed areas require 7.5 minute (15 minute if 7.5 unavailable) USGS map showing the location of the borrow sites.
- B. Projects with 1000 cubic yards or less of borrow from undisturbed areas required only the SHPO Bridge Inventory Survey Form with original photos for truss, stone arch, or concrete arch bridges over 50 years old.
- C. Project plans if available.

Contractor Furnished Borrow

Borrow pits also need to be evaluated for possible National Register eligible archaeological resources. The local agency should obtain a 7.5 minute topographic map which shows the size and location of the borrow-site. This map should be sent to the SHPO by the local agency for his review for the need to conduct a cultural resource survey.

STEP 2. SHPO SURVEY RECOMMENDATIONS

- A. SHPO reviews information from Step 1 and offers an opinion as to the need for a Cultural Resource Survey.
- B. If local agency agrees with the need for a survey, a survey should be conducted using personnel qualified to review historic and/or archaeological resources. The SHPO can provide a list of qualified cultural resources consultants that can complete cultural resources surveys.
- C. If local agency does not agree with the need for a survey, the Federal Highway Administration may be contacted through the Missouri Department of Transportation to make a final determination of need.
- D. If the SHPO determines no survey is needed, the project has satisfied its Section 106 responsibilities and no further cultural resources actions are required unless the project scope or limits change.

STEP 3. CULTURAL RESOURCE SURVEY

- A. All surveys should generally be limited to proposed project right-of-way limits and borrow areas.
- B. Survey reports should follow the SHPO "Guidelines for Contract Cultural Resource Survey Reports". However, surveys which do not identify cultural resources may be limited to a brief explanation of survey methodology and results along with a 7.5 minute topographic map showing the survey area.
- C. If no cultural resources are identified by the survey and the SHPO concurs that an adequate survey has been conducted, the project has satisfied its Section 106 responsibilities and no further cultural resources actions are needed unless the project scope or limits change.

STEP 4. DETERMINATION OF ELIGIBILITY

Readily available information should be utilized in determining National Register Eligibility of cultural resources. This information should consist of the results of the cultural resource survey or other available information such as pictures and available history of structures.

- A. The SHPO should be requested to determine the eligibility of a cultural resource for the National Register of Historic Places. The SHPO requires the following documentation (if not previously submitted):
 - 1. SHPO Section 106 Project Information Form
 - 2. SHPO Bridge Inventory Survey Form for Bridges accompanied by 3" X 5" photographs, original construction date, and original builder.
 - 3. 7.5 minute topographic map
 - 4. Project plans if available
 - 5. Phase I and/or II archaeological report (for archaeological resources).
- B. If SHPO, local agency, and Federal Highway Administration agree that a cultural resource is eligible for the National Register, a determination of effect (Step 5) is made.
- C. If SHPO, local agency, and Federal Highway Administration agree that a cultural resource is not eligible for the National Register, the Section 106 process is complete. No further action is necessary.
- D. If SHPO, local agency, and Federal Highway Administration disagree on the eligibility of a resource, the local agency should request the Federal Highway Administration to contact the Keeper of the National Register for a definitive opinion. The keeper requires that the following documentation be submitted:
 - 1. Property (bridge name or number) Name
 - 2. Location

3. Classification (a highway bridge)
4. Ownership
5. Requesting agency
6. Representation of structure or archaeological site in previous historic surveys, if any.
7. Description of structure/archaeological site.
8. Significance (based on SHPO eligibility determination)
9. Bibliography (History of bridge or archaeological site in previous research).
10. Geographical Data/Maps (show location)
11. Photographs (Attach one side view and one end view of bridge).
12. Name of individual compiling documentation.
13. Phases I & II cultural resource report if available

If the Keeper finds that the resource is not eligible, the Section 106 process has been completed.

STEP 5. DETERMINATION OF EFFECT

The effects of a project on a National Register eligible property should be determined by the local agency, SHPO, and Federal Highway Administration. There may be no effect, no adverse effect, or an adverse effect. The SHPO will generally provide his opinion regarding effect along with his determination of eligibility. This opinion should be transmitted to the Federal Highway Administration through the Missouri Department of Transportation.

- A. No Effect -- If the SHPO and/or Federal Highway Administration find that project has no effect on an eligible property, no further action is necessary. The Section 106 process is complete.
- B. No Adverse Effect -- If the SHPO and/or Federal Highway Administration find the effect is not adverse the Section 106 process is complete. The local agency should submit the following information to the Federal Highway Administration through the Missouri Department of Transportation for transmittal to the ACHP:
 1. A description of the project, including photographs, maps, and drawings, as necessary.
 2. A description of historic properties that may be affected by the undertaking.
 3. A description of the efforts used to identify historic properties.
 4. A statement of how and why the Criteria of Adverse Effect were found inapplicable.

5. The views of the State Historic Preservation Officer, affected local government, Indian Tribes, Federal agencies, and the public if any were provided. A description of the steps taken to ensure public involvement and comment should be provided.
- C. Adverse Effect -- If the effect is adverse, the local agency should consult with the SHPO on means to avoid or minimize the effect. If adverse effects cannot be avoided, an MOA should be developed and executed. In addition, interested parties such as holders of permits and owners of affected lands should be invited to participate in the discussions if they so request.

STEP 6. PREPARATION OF MEMORANDUM OF AGREEMENT (MOA)

Following consultation with the SHPO and other appropriate interested parties, a Memorandum of Agreement should be prepared. The MOA will document the measures that must be completed to mitigate project impacts to the eligible resource. The MOA should be sent to the Federal Highway Administration through the Missouri Department of Transportation for signature of the Federal Highway Administration, SHPO, and ACHP.

- A. The ACHP requires that the following documentation be submitted:
1. Ask the ACHP if they want to participate in the consultation, if not a two party MOA is prepared without the need for the ACHP signature.
 2. A description of the project, including photographs, maps, and drawings, as necessary.
 3. A description of the efforts to identify historic properties.
 4. A description of the affected historic properties, using materials already compiled during the evaluation of significance, as appropriate.
 5. A description of the undertaking's effects on historic properties.
 6. A description and evaluation of any proposed mitigation measures or alternatives that were considered to deal with the undertaking's effect.
 7. A summary of the views of the State Historic Preservation Officer and any interested persons. It is important that the Information to Accompany an MOA have explicit documentation of public involvement and input regarding the project's impact to significant cultural resources.
- B. While the ACHP may request changes to or provide comments on an MOA, the ACHP typically is involved in only controversial projects or particularly important cultural resources. More commonly, the ACHP will decline to participate in the execution of the MOA although they must be afforded the opportunity to participate in the development and signing of the MOA.

STEP 7. MITIGATION

Following signature of the MOA by all involved parties, the local agency will comply with the stipulations of the MOA to mitigate the impact on eligible cultural resources. The following mitigation measures have been used on selected projects:

- A. Historic Bridges -- Generally bridges have been advertised for availability and given to interested parties or demolished if no one is interested assuming ownership of the bridge. Prior to the transfer of ownership or demolition, the SHPO is contacted to determine what level and kind of documentation is required for the bridge. Historic American Engineering Record (HAER) documentation is required for particularly historic bridges. If HAER documentation is required, the following information should be sent to the National Park Service to determine specific documentation requirements:
1. A description of the project, including photographs, maps, and drawings, as necessary.
 2. A description of the affected historic properties using materials already compiled during the evaluation of significance as appropriate.
 3. A description of the undertaking's effects on historic properties.
 4. Draft Memorandum of Agreement.
- B. Historic Buildings -- The mitigation of historic buildings generally parallels that of historic bridges. Building documentation is done to Historic American Building Survey (HABS) standards rather than HAER standards.
- C. Archaeological Sites -- National Register eligible sites have been mitigated through changes in roadway alignment, fencing, burial under roadway fill and excavation. If a site is excavated, a Phase III mitigation report must be prepared by a qualified archaeologist. If human remains may be preserved at the site, it is important that appropriate historic Indian tribes be consulted prior to site excavation. Artifacts recovered from privately owned property remain the property of the landowner unless the landowner has agreed to a transfer of ownership or the artifacts are directly associated with human burials. Artifacts recovered from publicly owned property are the property of the owning agency. If the Local Agency uses federal funds for a project, federal laws require the archaeological remains be curated at an appropriate institution.

NOTE: One additional copy of the documentation required by the Keeper of the National Register, the Advisory Council on Historic Preservation, and the Historic American Engineering Record or Historic American Building Survey will be transmitted for the Federal Highway Administration files.