

GENERAL OUTLINE OF SECTION 106 PROCEDURES

Following the general outline below is a detailed explanation of activities associated with the Section 106 process. Additional information is posted on the Missouri [State Historic Preservation Office's \(SHPO\) website](#). A flowchart of the process is provided on the final page.

Step 1. **Determine Need**

Local agency must solicit SHPO opinion on the need for a cultural resource survey by submitting a Section 106 Project Information Form. The form is available on the DNR web page (<http://www.dnr.mo.gov/forms/780-1027.pdf>).

Step 2. **SHPO Survey Recommendation**

SHPO reviews project information and offers opinion as to whether further cultural resource investigations are required.

Step 3. **Cultural Resources Survey**

Local agency hires cultural resource consultant to conduct survey if necessary. A report is submitted to the SHPO.

Step 4. **Determination of Eligibility**

If cultural resources are present, the local agency, in consultation with SHPO and FHWA, determines whether a cultural resource is eligible for the National Register of Historic Properties. A cultural resources consultant may need to conduct additional investigations to evaluate the eligibility of some resources.

Step 5. **Determination of Effect**

If historically significant cultural resources are present, the local agency, FHWA, and SHPO determine effect of the project on a National Register eligible property.

Step 6. **Preparation of MOA**

If historically significant cultural resources will be adversely affected by the project, the local agency coordinates with SHPO and FHWA in preparation of a Memorandum of Agreement (MOA). Local agency signs MOA and provides to FHWA, who obtains SHPO's signature and then sends to Advisory Counsel on Historic Preservation (ACHP) for signature (optional) or file.

Step 7. **Mitigation**

The local agency implements stipulations of the MOA. Ultimately the SHPO must concur that the stipulations of the MOA have been satisfied.

STEP 1. DETERMINE NEED

The State Historic Preservation Office (SHPO) must be consulted on the need for a cultural resource survey. The Federal Highway Administration (FHWA) or the Missouri Department of Transportation (MoDOT) may also be consulted on an as needed basis but in almost all cases, the information for the SHPO can be prepared by local agency staff. The following data should be provided to the SHPO:

- A. Section 106 Project Information Form.
- B. If a bridge is present provide information on the bridge's 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.
- C. 7.5 minute (15 minute if 7.5 minutes unavailable) USGS topographic map showing the location of the project and borrow sites. Realignment of roadway should be shown if applicable.
- D. Project plans if readily 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 that shows the size and location of the borrow site. The local agency must send this map to the SHPO its review of 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. If SHPO responds "no survey needed" or "no historic properties affected," Section 106 is complied with and no further Section 106 work is needed.
- B. If the SHPO and the local agency agree that a survey is necessary, a survey should be conducted using a cultural resource consultant to identify historic and/or archaeological resources that may be affected by the proposed project.
- C. If local agency does not agree with the SHPO that a survey is needed, the FHWA must be contacted to make a final determination of need for a cultural resources survey.

STEP 3. CULTURAL RESOURCE SURVEY

- A. Cultural resource surveys typically are limited to the proposed project right-of-way limits and borrow areas. Impacts to architectural resources may include a buffer outside the project right of way so indirect effects are considered.

- B. Cultural resource survey reports should follow the SHPO “Guidelines for Contract Cultural Resource Survey Reports.” However, surveys that 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. The results of the cultural resources survey are submitted to the SHPO.
 - 1. If no cultural resources were identified, the SHPO usually will respond “no historic resources affected.” The Section 106 process is complete and no further action is necessary.
 - 2. If cultural resources were identified, their eligibility for the National Register must be determined.
 - 3. In some cases, additional field investigations may be required for the cultural resource consultant to determine resource eligibility.

STEP 4. DETERMINATION OF ELIGIBILITY

Readily available information should be used to determine National Register Eligibility of identified cultural resources. This information should consist of the results of the cultural resource survey, any subsequent investigations, or other available information such as pictures and available history of structures.

- A. The SHPO is requested to concur or disagree with the eligibility of a cultural resource. The cultural resource consultant should provide an assessment of resource eligibility. The SHPO requires the following documentation (if not previously submitted):
 - 1. Section 106 Survey Memo (<http://www.dnr.mo.gov/forms/780-1718.pdf>).
 - 2. For bridges, HPP Bridge Inventory Survey Form 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 FHWA agree that a cultural resource is eligible for the National Register, a determination of effect (Step 5) is made next.
- C. If SHPO, local agency, and FHWA 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 FHWA disagree on the eligibility of a resource, the local agency should request the FHWA to contact the Keeper of the National Register for a definitive opinion. This process can be lengthy (up to six months), so it should be avoided if possible. The keeper requires submittal of the following documentation:
 - 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 is complete.

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 FHWA. There will be a determination of either “no adverse effect” or “adverse effect.” The SHPO will generally provide its opinion regarding effect along with its determination of eligibility. This opinion should be transmitted to the FHWA.

- A. No Adverse Effect—If the SHPO and/or FHWA find the effect is not adverse, the Section 106 process is complete.
- B. Adverse Effect—If the effect is adverse, the local agency should consult with the SHPO on means to avoid or mitigate the adverse effect. It may be possible to redesign minor portions of the project to avoid adverse impacts to the resource. In addition, interested parties such as holders of permits and owners of affected lands should be allowed to participate in the discussions if they so request.

STEP 6. PREPARATION OF MEMORANDUM OF AGREEMENT (MOA)

If adverse effects to a resource eligible for the National Register cannot be avoided, a Memorandum of Agreement should be prepared through consultation with FHWA, the SHPO, and other appropriate interested parties. The MOA will document mitigation measures for the eligible resource that will be followed. The MOA is sent to the FHWA for signature. The FHWA will forward the MOA to the SHPO and ACHP for their execution. If the project is not controversial, the ACHP will not wish to participate in the consultation and a two-party MOA is prepared without the ACHP’s signature.

- A. For the ACHP to determine whether it will be involved in an MOA, it requires that the following documentation be submitted:

1. A description of the project, including photographs, maps, and drawings, as necessary.
 2. A description of the efforts to identify historic properties.
 3. A description of the affected historic properties, using materials already compiled during the evaluation of significance as appropriate.
 4. A description of the undertaking's effects on historic properties.
 5. A description of any proposed mitigation measures and evaluation of alternatives that were considered to remove or lessen the undertaking's effect.
 6. A summary of the views of the SHPO and any interested parties. The Information to Accompany an MOA must contain explicit documentation of public involvement and input regarding the project's impact to significant cultural resources.
- B. The ACHP will comment on the MOA, indicate it does not require further involvement on the project, or indicate its concurrence with the MOA and desire to be a signatory to the document.
- C. If the adverse effects are to a Native American archaeological site, American Indian tribes with historical interest in the project area may wish to be consulting parties in the preparation and execution of the MOA. FHWA can provide a list of tribes that may wish to be involved. In these cases, the tribes should be provided with the same information that was forwarded to the ACHP.

STEP 7. MITIGATION

Following signature of the FHWA, SHPO, and ACHP (if the ACHP has decided to participate), the local agency will implement the MOA to mitigate the impact on eligible cultural resources. The following mitigation has been used on selected projects:

- A. Historic Bridges—Generally bridges have been advertised for availability and given to interested parties for reuse at another location or demolished if no one is interested. Prior to transfer of ownership or demolition, the Missouri Historic Preservation Program (HPP) is contacted to determine what level and kind of documentation is required for the bridge. If Historic American Engineering Record (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.

More commonly, the SHPO determines the bridges should be documented to a less formal level, with the documentation being sent to the SHPO.

- B. Historic Buildings—The mitigation of historic buildings generally parallels that of historic bridges. Building documentation is done to either Historic American Building Survey (HABS) standards or a less formal level with the information being sent to the SHPO.
- C. Archaeological Sites—Adverse impacts to National Register eligible sites have been avoided through changes in roadway alignment, fencing, and burial under roadway fill. Mitigation of impacts is through excavation. If a site is excavated, a qualified archaeologist must conduct the field investigations, analyze the remains, and prepare a Phase III mitigation report. Artifacts from mitigation excavations are the property of the local agency and must be curated at an archaeological curation facility. If prehistoric human remains are believed to be present, FHWA will require compliance with state burial laws and consultation with appropriate American Indian tribes.

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.

**FLOWCHART OF TYPICAL LPA SECTION 106 PROCESS
FOR NEW OR REVISED PROJECTS**

