



# **National Historic Preservation Act (NHPA) Consultation Process Fact Sheet**

December 2025



# NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA) FACT SHEET

## *National Historic Preservation Act (NHPA) Section 106 Consultation*

### Overview

Section 106 of the NHPA requires Federal agencies to consider the effects of their undertakings (projects) on historic properties. Historic properties are buildings, structures, objects, districts, or archaeological sites that are listed or eligible for listing in the National Register of Historic Places (NRHP).

### SECTION 106 REQUIRES FEDERAL AGENCIES TO:

Identify potentially affected historic properties.

Assess the project's potential for adverse effects.

Consult to avoid, minimize, or mitigate adverse effects, where identified.

NTIA grant awards, particularly for infrastructure development projects, may include Special or Specific Award Conditions (SACs) that recipients must fulfill before a proposed project can be implemented. These SACs will often include a requirement to complete NHPA Section 106 review, which involves consultation with the appropriate State Historic Preservation Office (SHPO), one or more Federally recognized Tribes or Tribal Historic Preservation Offices (THPO), and other interested “consulting” parties.

In a memorandum effective from January 2024 through December 2030 (delegation memo), NTIA has authorized grant award recipients to initiate the Section 106 review process; to identify and evaluate historic properties; and to assess effects. NTIA remains legally responsible for Section 106 findings and determinations and for government-to-government consultation with Tribes.

The Advisory Council on Historic Preservation (ACHP) oversees the Section 106 process and has developed a Section 106 Applicant Toolkit (<https://www.achp.gov/digital-library-section-106-landing/section-106-applicant-toolkit>) to guide recipients assisting Federal agencies with Section 106 review requirements. The ACHP has also issued several “program alternatives” to streamline reviews for communications projects. NTIA Environmental Program Officers (EPOs) are available to advise on the applicability of the [Program Comment for Federal Communications Projects](#), and to assist in ensuring that Section 106 obligations are met.

## NHPA SECTION 106 CONSULTATION

The NHPA requires Federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve; and provides the ACHP, consulting parties, and the public the chance to weigh in on these matters before a final decision is made. Consulting parties may include the ACHP, the SHPO and/or THPO, other agencies, local governments, affected land/property owners, historic preservation organizations, and members of the public with interests in the project. Applicants and recipients of Federal assistance, permits, licenses, or approvals participate in the Section 106 process as consulting parties, but may actively assist the agency in fulfilling the Section 106 review requirements. Certain Section 106 activities must be completed by qualified historic preservation professionals. Recipients are encouraged to hire Secretary of the Interior qualified consultants to engage with SHPOs as authorized representatives.



## NHPA SECTION 106 CONSULTATION

- The recipient should prepare a comprehensive and detailed project description, including maps, as early as possible to begin the Section 106 process promptly.
- The recipient, or an authorized representative of the recipient, will provide this information:
  - To the NTIA EPO for the state to begin Tribal notification (see next section); and
  - To the SHPO for the state in which project activities will take place with a copy of the delegation memo. This submittal must identify a contact person for the recipient, the authorized representative hired to coordinate the review, and the NTIA EPO for the state.
- The recipient, or an authorized representative, is responsible for identifying historic properties. The [\*Program Comment for Federal Communications Projects\*](#) can significantly streamline Section 106 identification requirements. When a recipient includes information identifying historic properties and assessing effect in its initial letter, the recipient may request the SHPO's concurrence on its finding of effect.
- Immediately notify the NTIA FPO or EPO if projects are located on or cross Tribal lands. EPOs will assist with THPO notifications as described in the section below.
- If a project involves more than one state, the recipient will send letters to each state's SHPO.
- Construction or expansion of commercial wireless communication facilities (cell towers) are regulated by the Federal Communications Commission (FCC). NTIA will notify the SHPO when projects include towers subject to streamlined Section 106 review under the FCC's National Programmatic Agreements (NPA). The recipient must then initiate review of the tower(s) using the FCC's electronic systems, E-106 and the Tower Construction Notification System (TCNS). Recipients should notify the EPO of towers with adverse effects. For multi-component projects, NTIA remains responsible for the Section 106 review of infrastructure beyond towers, such as a fiber network. The EPO will assist recipients in determining if this applies.
- Section 106 regulations give the SHPO 30 calendar days to provide its comment on a project's effect on historic properties, provided the initiation letter includes sufficient identification information and a finding of effect.
- When projects have the potential to affect historic or cultural resources, SHPOs may request the completion of a survey of historic properties within the project's Area of Potential Effect (APE). To complete such surveys, the recipient will need to secure the services of cultural resource professionals that meet the requirements and standards specified by the Secretary of the Interior (36 CFR Part 61) for archaeology and/or architectural history.
- Hiring a consultant with state-specific cultural resource experience is almost always beneficial and, in some cases, may be necessary. For example, the State of Utah limits the review of its archaeological site files to professionals holding a state-specific permit.
- Changes to the project limits, route, or scope of work may require additional SHPO consultation and could impact a project's effect determination.
- The NTIA EPO must be notified when an adverse effect on a historic property is identified during project planning or in consultation with the SHPO. Recipients must consider alternatives to avoid adverse effects.
- If adverse effects cannot be avoided, NTIA will work with the ACHP, SHPO, the recipient, and all applicable consulting parties to develop a Memorandum of Agreement (MOA) to avoid, minimize, and/or mitigate the adverse effect(s). The MOA will establish the terms and conditions the recipient must comply with to resolve the adverse effect.
- The recipient should include in its NEPA documentation: the results of the Section 106 review, including copies of SHPO consultation letters; avoidance or mitigation requirements (where applicable); project procedures; and any other substantive information associated with the Section 106 review.



- **A recipient's Section 106 obligations are considered completed when:**
  - The SHPO provides a letter concurring that the project will have No Effect or No Adverse Effect on historic properties and the recipient's Tribal outreach obligations are met; or
  - A MOA is signed between all consulting parties setting forth requirements necessary to resolve any adverse effects identified during the Section 106 consultation; or
  - NTIA notifies the recipient that its Section 106 obligations are otherwise complete.
- NTIA must have documentation that the Section 106 review has concluded before a Finding of No Significant Impact (FONSI) will be signed when an Environmental Assessment (EA) is required.

## TRIBAL PARTICIPATION IN SECTION 106 CONSULTATION

- **Projects on Tribal lands.** Recipients must immediately notify NTIA of projects located on or crossing Tribal lands. NTIA will inform the recipient whether a THPO will act in lieu of the SHPO or if the Tribe will participate in the Section 106 review on the same basis as the SHPO and advise the recipient on how to proceed.
- **Projects Not on Tribal lands.**
  - For Broadband Equity, Access, and Deployment (BEAD) projects, NTIA provides state-based programmatic Section 106 notifications to Tribes using the areas of interest identified in the Department of Housing and Urban Development (HUD) Tribal Directory Assistance Tool (TDAT).
  - For non-state-based grant programs, NTIA uses the FCC's Tower Construction Notification System (TCNS) to facilitate outreach to Federally recognized tribes. Recipients must provide interested Tribes with a comprehensive and detailed project description, including maps.
- Following initial notification, NTIA will provide grantees with a list of Tribes requesting additional project information. Grantees must follow up to provide the Tribe with sufficient information and opportunity to identify historic property concerns.
- If the Tribe/THPO identifies potential impacts to historic properties of Tribal cultural or religious significance, the recipient should immediately notify NTIA.
- NTIA is available to consult with Tribes **upon request at any time** and should always be notified of potential impacts to Tribal historic properties.
- The recipient should retain documentation of any substantive interactions with Tribes/THPOs.
- Tribal outreach typically concludes after 30-45 days unless a Tribe identifies potential adverse effects on Tribal historic properties. NTIA may require the recipient to accommodate reasonable requests from Tribes/THPOs to avoid potential impacts to Tribal historic properties.

