

**DEPARTMENT OF PARKS AND RECREATION
OFFICE OF GRANTS AND LOCAL SERVICES**

PROCEDURE FOR SECTION 106

Section 106

All projects recommended to National Park Service for federal funding through the Land and Water Conservation Fund (LWCF) or Outdoor Recreation Legacy Partnership Program (ORLP) must comply with Executive Order 11593 and Section 106 of the National Historic Preservation Act, as amended (Section 106), and its implementing regulations found at 36 CFR Part 800. Applicants must complete the following process, presented in Table 1 below, to document that Section 106 compliance has been met for their project. Section 106 **documentation cannot be older than 5 years** from date submitted to the State Historic Preservation Officer (SHPO) for approval.

Section 106 should be completed early in the project planning process and must be completed before any ground disturbance and/or construction.

Table 1: LWCF Section 106 Process

Step	Phase	Action	Responsible Party
1	Initial Contact	Contacts the Local Agency to indicate Section 106 is required for the LWCF application.	OGALS
2	Tribal Consultation	Request a Sacred Lands File search and contact list from the Native American Heritage Commission. *	Local Agency
3	Consultant Selection	Review the Office of Historic Preservation (OHP) Checklist for Section 106 . The checklist outlines the Section 106 process and requirements. * The Applicant hires a consultant that meets the professional qualification standards set by the Secretary of Interior, found in 36 CFR Part 61. Agencies may wish to refer to the California Historical Resources Information System (CHRIS) Consultant List as a tool: chrisinfo.org . Please note that the Consultants List is maintained by the Eastern Information Center and California State Parks is not endorsing nor guaranteeing the consultants on the list are qualified to perform Section 106. It is the responsibility of the Local Agency to determine if the consultant is indeed qualified.	Local Agency
4	Define Undertaking and Delineate Area of Potential Effect (APE)	Propose a Description of Undertaking (a detailed project scope) and development of an APE (including, if warranted, an Indirect APE and Direct APE). Prepare and submit an APE transmittal letter in Microsoft (MS) Word format * to OGALS that addresses all elements in Section III and III(A) of the OHP Checklist for Section 106 . The APE transmittal letter must include, as attachments, APE map(s) and resumés for consultants/individuals assisting with the Local Agency’s Section 106 tasks demonstrating they meet the <u>professional qualification standards found in 36 CFR Part 61</u> . APE delineation is the most critical step of the Section 106 process to ensure the adequacy of the boundaries for the area of study. The APE is based on the Description of Undertaking, so it is critical that all proposed scope items and their associated construction activities are reported.	Local Agency/ Consultant

* OGALS will provide copies, forms, and/or templates for this task, as applicable.

5	APE Approval	OGALS approves the APE and submits the APE transmittal letter with maps to SHPO, initiating consultation. SHPO has thirty calendar days to provide comments on the adequacy of the APE.	OGALS and SHPO
6	Level of Effort/Finding of Effect	<p>Conducts tasks to identify Historic Properties and propose a Finding of Effect for the project. See Section IV and V in the OHP Checklist for Section 106. Tasks will include, but may not be limited to, the following bulleted items. If resources are identified in or adjacent to the APE, additional steps may be required. Contact OGALS for more details.</p> <ul style="list-style-type: none"> • Request a record search through the appropriate CHRIS Information Center. • Conduct a pedestrian survey and background research to compile the necessary historic context and data for evaluation. • Conduct outreach to interested parties to request input regarding historic, tribal, or archaeological resources. This task includes initial outreach to tribal representatives listed on the NAHC contact list. * Follow up telephone calls must be made to representatives that do not respond to the initial outreach. Outreach can be conducted by the Local Agency and should be done as early as possible, if feasible, anytime between Steps 2 and 6. • Identify the appropriate Finding of Effect for the project. 	Consultant
7	Section 106 Findings Letter	Prepares and submits a Level of Effort/Finding of Effect (LOE/FOE) transmittal letter to OGALS in MS Word format. * The letter must include, as an attachment, a report summarizing the methods and results from Step 6. Other attachments, if not included as appendices to the report, should include a consultation log summarizing the outreach conducted to date as well as all copies of NAHC and tribal consultation documentation, the records search results, and any cultural resource records and/or evaluations prepared or identified as part of the study.	Consultant
8	Concurrence	OGALS reviews the LOE/FOE transmittal letter and report and provides comments or approves the finding. Upon approval, OGALS submits the documentation to SHPO and requests comments on the level of effort, consensus on eligibility determinations, and concurrence on the finding of effect. If eligibility evaluations are included in the submittal, SHPO has up to sixty calendar days to respond. OGALS will notify the applicant upon SHPO concurrence and provide a copy of the response letter. <u>Do not start construction or any groundbreaking until you have the Section 106 concurrence letter and a fully executed agreement is signed by the State of California.</u>	OGALS and SHPO

Email Address for Section 106 Submittals and Questions:

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