



## NATIONAL ENDOWMENT FOR THE HUMANITIES

OFFICE OF GRANT MANAGEMENT

### **Notice of Delegation of Authority Section 106 Consultation under the National Historic Preservation Act (NHPA), National Endowment for the Humanities Infrastructure and Capacity Building Challenge Grants, and Sustaining Cultural Heritage Collections Programs**

Dear NEH Award Recipient,

After reviewing your organization's funded grant application, the National Endowment for the Humanities (NEH) has identified construction, alteration, renovation, or ground disturbing activities in your project that represent an "undertaking" under the National Historic Preservation Act (NHPA) ([54 USC 300101 et seq](#)). Consequently, NEH needs to conduct further review and consultation under Section 106 of the NHPA (Section 106) (54 [USC](#) § 306108) prior to releasing NEH funds.

Historic properties include any district, site, building, structure, or object that **is eligible for or listed on the National Register of Historic Places (NRHP)**. NEH has determined that the following activities constitute an undertaking subject to Section 106 review: 1) all new construction and facility expansion projects; 2) alteration and renovation projects where exterior changes to the building façade or surroundings may be made (including roof, windows, and parking lots); 3) projects where interior renovations may be made to a building that is over fifty (50) years old, or is historically, architecturally, or culturally significant; and 4) ground disturbances (such as grading, other site preparation or archeology).

Under Section 106, NEH must assess the potential effects of undertakings on historic properties in your project, and notify and consult with all interested parties, **before you commence work on the project. You may, however, conduct architectural and engineering planning, and acquire necessary licenses, permits, and other approvals before NEH completes its Section 106 review.**

The NHPA regulations [36 CFR §800.2\(c\)\(4\)](#) allow recipients or their authorized representatives – instead of the Federal funding agency – to initiate the Section 106 compliance consultations when authorized to do so by the Federal agency. **Therefore, NEH hereby authorizes your organization to initiate the Section 106 process directly with the State Historic Preservation Officer (SHPO) and Tribal Historic Preservation Officer (THPO) in your district. Your organization may not transfer this delegation of responsibility to any other agency or party.** Although NEH makes every effort to notify respective SHPO/THPOs that your organization is authorized to initiate Section 106 consultations, please present this letter as part of your consultation request. As part of this process, your organization will initiate the Section 106 process, identify historic properties and an assessment of adverse effect (36 CFR §§ 800.3 through

800.5) to the SHPO/THPO. The SHPO/THPO will concur or disagree in writing with the finding.

Your organization may independently perform the Section 106 work and consultation described in 36 CFR §§ 800.3 through 800.5 on behalf of the NEH, except when there is a:

1. Consultation with federally recognized Indian tribes in accordance with federal requirements for government-to-government consultation;
2. Dispute that cannot be resolved within 90 calendar days, regardless of the nature (designation of Area of Potential Effect, suitability of consulting parties, phased identification, eligibility, and effects determinations). The NEH shall be involved in the resolution in accordance with [36 CFR Part 800](#);
3. Consultation for projects where a recipient and SHPO have determined that adverse effects to historic properties are unavoidable;
4. Resolution of adverse effects through a Memorandum of Agreement (MOA) or Programmatic Agreements, where there is a dispute regarding the resolution of adverse effects; or
5. Potential for anticipatory demolition, removal, or abandonment as specified in Section 110(k) ([54 USC §306113](#)) of the NHPA.

In any of the circumstances above, your organization must notify NEH through eGMS Reach and coordinate Section 106 activities with me. In accordance with 36 CFR [§800.2\(c\)\(2\)\(ii\)\(B\) and \(C\)](#), NEH will ensure that it conducts all consultations with Indian Tribes in a sensitive manner respectful of tribal sovereignty and the government-to-government relationship between the Federal Government and Indian Tribes. This letter, therefore, is not intended to modify or limit such requirements nor mandate that Indian Tribes consult with recipients or provide information if the Indian Tribes conclude that consultation should be directly with NEH.

Your organization may use your non-federal matching funds to hire consultants to complete the Section 106 process and other related historic preservation responsibilities. In many cases, doing so is helpful and may streamline the process. Your organization's staff conducting Section 106 activities and any consultants your organization hires to conduct Section 106 activities must have qualifications that meet the [Secretary of the Interior's \(SOI\) Professional Qualifications Standards \(Qualifications\)](#).

**It is important to remember that physical work cannot be initiated on the project until NEH notifies the recipient organization that the Section 106 process is complete.** You must upload all documentation and correspondence with the SHPO/THPO and other consulting parties into eGMS Reach. Information regarding the Section 106 process, resources, and contact information for appropriate SHPO/THPO can be found at [/insert name of NEH Section 106 page once available/](#).

If you have any questions about your and NEH's Section 106 responsibilities, please contact Ann Piesen, the NEH Federal Preservation Officer, at 202.606.8576, or via email at [FPO@neh.gov](mailto:FPO@neh.gov).

Sincerely,



Ann Piesen  
Federal Preservation Officer