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GOVERNOR

TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL
THE STATE HISTORIC PRESERVATION OFFICE

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CRAIG A. POTTS
EXECUTIVE DIRECTOR &
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Notice of Policy - May 10, 2024

Re: Statewide Programmatic Approach to Section 106 Submissions for Projects Submitted by state partners or individual applicants for compliance with 36CFR800 (aka Section 106) of the National Historic Preservation Act (NHPA) through the Commonwealth's Office of Broadband Development (OBD)

The **purpose** of this Agreement is to streamline the submission and review process for Office of Broadband Development (OBD) undertakings. The **goal** of this programmatic approach is to accommodate the increased workload for state projects with federal funding, particularly those with multiple project areas per submission. The **audience** for this guidance are our state partners at OBD and consultants meeting the Secretary of Interior's professional qualifications for a preservation field who have their curriculum vitae on file with the Kentucky Heritage Council and who have received a response letter from our office acknowledging that we have had the opportunity to compare the consultants' qualifications with federal guidance.

This document sets forth what information we require based on the project type under the OBD Program. Consultants should compile this information in the form of a detailed overview or literature and records review. The content of this document should include:

- a project description for each location;
- a listing of known cultural resources within the project footprints (archaeological and above ground resources) and/or viewsheds (for above ground resources or mound/village centers, caves, and rockshelters);
- National Register status of each resource; proposed treatments of these resources (or modification of project parameters, if feasible and appropriate);
- the probability for the presence of unidentified cultural resources within the project footprint and/or viewshed, as applicable; and
- the level of cultural resource management effort (proposed Scope of Work) based on these data

Please note: Recommendations provided to KHC by consultants do not constitute or fulfill the Section 106 consultation process. This background research provides our applicants throughout the Commonwealth a streamlined alternative to expedite the review process with the KHC to the extent possible. KHC will use this information to determine what level of additional documentation, investigation, or survey is warranted, if any, and will inform the Office of Broadband Deployment (OBD) or their applicants.

Known Project Types under the Broadband Program include:

- construction of large structures such as central offices or huts, or other structures with concrete pads (Category 1);
- placement new buried lines and small structures (Category 2); and
- placement of antennas and/or lines on existing structures (Category 3)

Any projects elements not covered here shall proceed through the standard complete Section 106 review process. **All submissions must include “Broadband” in the subject line along with the project title.**

Category 1 (Figure 1) - Construction or placement of new huts, central offices, placement of headends, and cabinets, etc –

A full literature and records review as described above is required for all such projects. Please include a Section 106 Coversheet as the cover page to your Literature and Records Review and email your documentation to our dedicated Section 106 email address: khc.section106@ky.gov.



Figure 1. Large structures including staging and access
Example - Fiber hut and access

Category 2 (Figure 2) - Placement of new buried lines and buried small structures, etc –

An archaeological literature and records review is required for the project footprint and surrounding 30 m. No above ground data are necessary provided the ground surface and landscape are returned to the condition they were in prior to placement.



Figure 2 . New buried small structures and lines
Example – Buried Vault

Category 3 (Figure 3) – Above ground placement of pedestals, placements of antennas and/or lines on existing structures –

No individual review is necessary for placement of lines on existing poles or for the placement of small containers as listed above (see image below). Consultants can list these separately within their Literature and Records Review and these projects will likely result in a concurrence with a finding of *No Survey Warranted* and *No Adverse Effect*. A corresponding quarterly table shall be provided to our office on the first days of January, April, July, and October.



Figure 3. Small placements or attachments
Example – above ground pedestal

Criteria to be presented quarterly includes, but is not limited to: Applicant, County, Grantee, Project Title, Project Type, Brief Description, and Project Locations (latitude/longitude or street address). For these Category 3 proposed projects, we would concur with a finding of *No Adverse Effect*.

This Policy shall be in place for two calendar years or until a fully executed Programmatic Agreement is in place, whichever occurs first.

The State Historic Preservation Office is happy to work with our federal, state, and local partners. We look forward to continued conversations and the development of future agreements and processes that serve to protect significant cultural resources throughout the Commonwealth. Should you have questions or concerns please contact our Site Protection Program by emailing nicole.konkol@ky.gov.



Craig Potts, State Historic Preservation Officer
Kentucky Heritage Council Director

5/31/2024

Date