



Federal Highway Administration

Kentucky Transportation Cabinet

Handbook for Implementing Section 106 of the National Historic Preservation Act

This handbook is the companion to a Programmatic Agreement among the Federal Highway Administration (FHWA), Kentucky Transportation Cabinet (KYTC), State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) Regarding Implementing Section 106 of the National Historic Preservation Act for Federally Funded Road Projects in the Commonwealth of Kentucky (Section 106 Agreement – see Attachment 5). It outlines procedures for coordinating Section 106 activities and reports for KYTC projects where FHWA is the lead federal agency.

For projects where another federal agency is the lead, the current Specifications for Conducting Fieldwork and Preparing Cultural Resource Assessment Reports issued by the SHPO (SHPO Specifications), or another approach approved by the lead federal agency shall be followed.

This handbook does not apply to projects developed through or administered by the KYTC Office of Local Programs.

I. Definitions

- A. Unless otherwise specified, “days” shall refer to calendar days throughout this document.
- B. “Small-Scale” Projects: KYTC’s “Small Scale” projects are typically processed as Categorical Exclusions (CEs) as defined in the National Environmental Policy Act (NEPA), as well as in regulations of the Council on Environmental Quality and FHWA. KYTC and FHWA further subdivide these actions into one of four levels depending upon the degree of impact to environmental resources. For purposes of this Agreement, “Small Scale” projects shall be considered as those satisfying the criteria for processing as CE for Minor Projects (CEMP), CE Level 1 and CE Level 2. Project types that are routinely processed as “Small Scale” projects are identified in Attachments 1 and 2.

- C. “Large-Scale” Projects: KYTC’s “Large Scale” projects are those that involve major reconstruction or new construction, are complex or are controversial and thus have higher potential for causing environmental impacts than “Small Scale” projects. “Large Scale” project impacts are typically evaluated under NEPA using a CE Level 3, Environmental Assessment (EA) or Environmental Impact Statement (EIS).

II. Determining Applicability

A. Establish that the activity is a Federal Undertaking

1. Undertaking means a project, activity or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency; those carried out with federal financial assistance; and those requiring a Federal permit, license, or approval. Most federally funded highway projects are “undertakings” which require the Section 106 process be completed.
2. Section 106 does not apply to state-funded projects, unless a Federal permit or approval is required. In that situation, the Federal agency that is responsible for issuing the permit or approval will be the lead Federal agency for purposes of Section 106. For example, if the project was state-funded but required a Section 404 permit then the Corps of Engineers would be the lead Federal agency for Section 106 purposes.

B. Potential to Affect Historic Resources

KYTC shall consider the nature of the project and determine whether the project type has any potential to affect historic properties. This assessment shall be conducted assuming that historic properties are present in the area.

1. Project types identified in Attachment 1 are those that would not typically result in any affect to a historic property regardless of the setting or surroundings where the work was undertaken. If the undertaking is a type of activity that does not have the potential to cause effects on historic properties, assuming such historic properties were present, KYTC has no further obligations under Section 106.
2. The finding of a project’s potential to affect historic properties shall be documented by completing the KYTC Archaeological and Historic Architectural Investigation Forms (see examples in Attachments 3 and 4). The documentation shall clearly identify the project type as one listed in Attachment 1 of the Section 106 PA.
3. Since the listed project types may not be all inclusive, if KYTC concludes that a project not listed in Attachment 1 has no potential for effects, KYTC shall summarize the basis for the conclusion and document the findings by letter to FHWA copied to the SHPO.

III. Initiation of Section 106 Process

A. Identification of Consulting Parties

There are two types of consulting parties identified in 36 CFR 800.2(c). There are those parties that are specifically identified and a second group that may be project or geographic-specific.

1. The first group of consulting parties that may be involved on most Section 106 Undertakings includes:

- SHPOs;
- THPOs, if applicable (THPOs are involved in Section 106 on tribal lands, none of which are found in Kentucky. However, some Federally Recognized Indian tribes with interests in Kentucky do have THPOs as their points of contact for Section 106 coordination.);
- Federally recognized Indian tribes and Native Hawaiian organizations (it would be extremely unlikely for Native Hawaiian organizations to become involved in a Kentucky project);
- Representatives of local governments (if the project is within their jurisdiction);
- Applicants for Federal assistance, permits, licenses, and other approvals (such as KYTC); and
- National Park Service (if project is on federal parklands or involves a National Historic Landmark).

2. The second type of consulting parties are those that have a demonstrated interest in the undertaking due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties. These consulting parties may include:

- Individual citizens;
- Local historic preservation organizations or interest groups; and
- Federal/State agencies with an interest in the project.

These consulting parties must petition KYTC in writing to formally request recognition as a consulting party. In consultation with the SHPO, KYTC shall either approve or deny those requests. If at any time KYTC recommends denial of a request to become a consulting party, FHWA shall be notified. FHWA will then be responsible for informing the consulting party that their request was denied.

3. The manner and methods for engaging consulting parties shall be commensurate with the scale of the undertaking. For example, where projects are small and affect relatively few individuals, the opportunity for involvement as consulting parties may be communicated through personal meetings with property owners. Where projects

of a larger scale are involved, public meetings, public advertisements, letters of invitation or other means may be used to solicit involvement by interested parties.

B. Coordination

Coordination responsibilities with consulting parties, including the SHPO, are to be managed by KYTC with the following exceptions:

1. In accordance with federal requirements, government-to-government consultation with federally recognized Indian tribes shall be conducted by FHWA.
2. In the event of a dispute, regardless of the nature (designation of APE, suitability of consulting parties, phased identification, eligibility, and effects determinations) FHWA shall be involved in the resolution in accordance with the regulation.
3. Consultation for projects where adverse effects to historic properties are unavoidable shall be led by FHWA (see Section 6. C.).
4. Consultation on Memoranda of Agreement (MOA) shall be led by FHWA.
5. Consultation on Section 4(f) *de minimis* findings shall be led by FHWA.

C. Public Involvement

1. “Small-Scale” Projects:

- a) For projects of this scale, the early involvement of consulting parties and the public is conducted in a manner that is commensurate with the scale of the project, identified resources in the project vicinity and potential for effects to occur. The general public will be made aware of the opportunity to consult on the project through the NEPA public involvement process. For many such projects where the Area of Potential Effect (APE) is very limited to only the immediately surrounding area, letter notification of the few affected individuals in the project area may serve as the method of invitation. Notification of local officials will be considered as achieved through the public involvement process and/or inclusion of projects in the Statewide Transportation Implementation Plan (STIP) and /or the Six Year Highway Plan, though more direct communication on project developments will typically also occur.
- b) For “Small Scale” projects, addressing consulting party and public involvement to satisfy Section 106 requirements may not always be initiated prior to consultation with the SHPO. In such cases, KYTC shall submit its findings to the SHPO along with a summary of the parties thus far involved in the consultation and a request that the SHPO identify any additional parties that are believed important for meaningful project consultation.

Opportunities for public and consulting party involvement for “Small Scale” projects will be provided via a consulting party web page to be developed and maintained by KYTC through which project starts can be announced and interested parties may request inclusion in the consultation process. Through consultation with the SHPO, KYTC has identified parties and organizations statewide that may have an interest in developing projects and shall notify them of the availability of the site once created.

2. “Large Scale” Projects

- a) “Large Scale” projects typically demand a higher degree of public and consulting party involvement since there is an increased potential for effects to historic resources. To assure full and meaningful consultation occurs, the actions identified in this section shall be undertaken.
- b) Early in the project development process, KYTC shall, in writing, advise the SHPO and FHWA that the Section 106 process has formally begun and request their input concerning consulting parties, APE, and public involvement efforts (See sample letter, Attachment 6).
- c) Invitations to Consulting Parties
 - i. FHWA shall issue invitations to all appropriate federally recognized Indian tribes to become consulting parties;
 - ii. KYTC shall issue invitations to all known consulting parties, except federally recognized Indian tribes, and
 - iii. KYTC shall issue invitations to all other potential consulting parties identified by KYTC during early project scoping as well as those that are identified by the SHPO.
- d) Public Notice

KYTC shall use appropriate means to notify the public that the project has been initiated, identify the project point of contact and inform the public that the Section 106 process has begun and ask for the public’s input. This notification may be in the form of a newspaper advertisement which shall also include contact information and should be done concurrent with step III.B.2.b. of these procedures. In lieu of a newspaper notice, this information may also be conveyed through other project related public involvement activities and techniques commensurate with the anticipated impacts from the project.

D. Establishing the Area of Potential Effect (APE)

1. The APE is defined as “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic

properties, if any such properties exist. The APE is influenced by the scale and nature of an undertaking and may be different for different kinds of effects caused by the undertaking” 36 CFR 800.16(d).

2. “Small Scale” Projects

- a) For “Small Scale” projects involving construction within existing transportation corridors, including minor widening, screening for above-ground resources shall consider those properties lying within or immediately adjacent to the proposed right of way. Consideration of all properties lying partially or wholly within a 300 foot wide corridor (150 feet each side of the proposed centerline) shall be considered sufficient to address potential direct, indirect or cumulative effects of the proposed project.
- b) At the discretion of KYTC historic preservation professional, the APE may be expanded or reduced due to local or project specific conditions. In some cases it may be appropriate to base the APE on the view-shed of the project. The SHPO shall be notified of the necessity for deviating from the 300-foot APE.
- c) The APE for archaeological resources shall typically be confined to the limits of the proposed project right of way (including temporary and permanent easements), staging areas, and other project specified locations where ground disturbing activities may occur. Coordination with the SHPO and FHWA on the archaeological APE for “Small Scale” projects is not required, unless there are concerns that indirect or cumulative effects may require expansion of the APE beyond the project right-of-way.

3. “Large Scale” Projects

- a) KYTC shall consult with the SHPO regarding the APE for all “Large Scale” projects.
- b) KYTC shall typically consider the viewshed of the proposed project as the maximum limits for the above-ground APE or shall provide written justification for use of a less expansive area to the SHPO.
- c) The APE for archaeological resources shall typically be confined to the limits of the proposed project right of way (including temporary and permanent easements), staging areas, and other project specified locations where ground disturbing activities may occur. A more expansive APE may be proposed if there are concerns that indirect or cumulative effects beyond the project right-of-way are attributable to the project.
- d) FHWA shall be copied on all coordination letters between KYTC and the SHPO on issues involving Areas of Potential Effect.

- e) If the SHPO does not concur with the definition of the APE as determined by KYTC, FHWA shall review the APE and make a final determination.

IV. Identification of Historic Properties

A. Identification efforts shall include:

1. A review of existing information (e.g., records at the Office of State Archaeology (OSA) and historic site inventory records at Kentucky Heritage Council (SHPO));
2. Seeking the input of all consulting parties and the public; and,
3. Field investigations

B. Identification efforts may be completed by KYTC Subject Matter Experts (SMEs), or at KYTC's discretion, prequalified consultants may be engaged to assist. For "Small-Scale" projects, basic early determinations, such as demonstrating that soils have been previously disturbed, or using standard data sources to determine whether 50-year old or older structures exist within the APE may be performed by KYTC District Environmental Coordinators (DECs). The assignment of these decision points is clearly identified in the Archaeological and Historic Architectural Investigation Forms.

C. Findings of No Historic Properties Present

KYTC shall consider the properties lying within the APE and determine whether there are historic properties present. For "Small Scale" projects, if it is concluded that there are no historic properties present, KYTC shall complete the Archaeological and Historic Architectural Investigation Forms. For project types found in Attachment 1, quarterly reporting of these findings rather than individual project consultation shall be the standard. Otherwise, the Archaeological and Historic Architectural Investigation Forms, incorporating the documentation developed in making the finding, shall be submitted to the SHPO. The SHPO shall have 30 days to comment on the finding. If no comment is received within 30 days, concurrence with the finding is assumed.

For projects listed in Attachment 2, KYTC shall complete the Archaeological and Historic Architectural Investigation Forms and submit to the SHPO, incorporating the documentation developed in making the finding. The SHPO shall have 30 days to comment on the finding. If no comment is received within 30 days, concurrence with the finding is assumed.

Documentation conforming to the SHPO Specifications shall be prepared for all "Large Scale" projects unless otherwise agreed upon by the SHPO.

V. Evaluation of Historic Properties

KYTC shall consider potential historic properties within the APE and determine whether there are properties listed on or eligible for the NRHP of Historic Places.

1. Archival investigations shall identify historic architectural and archaeological sites that have been listed, or determined eligible for listing on the NRHP.
2. Field investigations shall be conducted in accordance with SHPO Specifications.
3. Depending on the size and complexity of the project, it may not be feasible or desirable to simultaneously issue eligibility and effect determinations for above ground resources. As early in the project development process as possible, KYTC shall notify the SHPO of the intent to develop separate eligibility and effect reports and provide an explanation justifying the deviation from SHPO Specifications. If the SHPO should have any objections to the proposed course of action, KYTC shall be notified within 15 days.

VI. Determination of Effect

A. Where historic properties are present within the APE, and there is the potential for the properties to be affected by the undertaking, effects shall be assessed by applying the Criteria of Adverse Effect (per 36CFR 800.5(a)(1)), including an analysis of whether:

1. The project may alter, directly or indirectly, the characteristics that qualify the property for inclusion on the NRHP; and/ or
2. The project may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association.

B. Finding of No Effect or No Adverse Effect

1. "Small Scale" Projects: Assess Effects on Historic Properties

- a) KYTC SMEs shall evaluate the potential for effects to historic properties identified within the APE.
- b) For "Small Scale" projects where historic properties lie within the APE but for which it is determined by KYTC SMEs that the project will have No Effect or No Adverse Effect to Historic Properties, KYTC shall:
 - i. Complete the Investigation Forms;

- ii. Complete Kentucky Heritage Council Site Survey form for any above ground resources and obtain OSA site numbers and complete or update OSA Site form for any archaeological sites;
 - iii. Provide copies of the documentation to the SHPO and any other consulting parties for comment; and,
 - iv. Unless notified of concerns regarding the finding in writing within 30 days, concurrence with the finding will be assumed.
2. “Large Scale” Projects: Assess Effects on Historic Properties
- a) KYTC shall develop appropriate eligibility and effect documentation (per 36CFR 800.11) for the undertaking. This documentation must include eligibility and effect determinations for each alternative.
 - b) When project studies conclude that sites recommended as eligible are not adversely affected by the alternatives under consideration, KYTC shall coordinate directly with the SHPO.
3. When findings of No Adverse Effect to Historic Properties will involve a Section 4(f) *de minimis* “use” of any portion of the property, KYTC shall prepare the appropriate documentation of the effect for FHWA to consult with the SHPO, seeking concurrence with the effect determination and *de minimis* finding (see example letter, Attachment 7).

C. Finding of Adverse Effect

1. “Small Scale” projects where historic properties are found to be adversely affected, KYTC shall:
 - a) Prior to consulting with the SHPO, notify FHWA of the finding of adverse effect.
 - b) In consultation with FHWA, consider project alterations or modifications that may minimize or eliminate the adverse effect.
 - c) When adverse effects can be eliminated, KYTC shall document the determinations in accordance with subsection B of this section.
 - d) When adverse effects cannot be avoided, KYTC shall complete the Investigation Forms and provide them to FHWA for consultation with the SHPO and other consulting parties.

2. For “Large Scale” projects, KYTC shall develop appropriate eligibility and effect documentation (per SHPO Specifications and 36 CFR 800.11) for the undertaking. This documentation must include eligibility and effect determinations.
 - a) When studies conclude that there are eligible sites adversely affected by the project,
 - i. The document will be submitted to FHWA prior to initiating consultation with the SHPO; and
 - ii. The Project Team shall consider reasonable measures to avoid the resources adversely affected or, where unavoidable, shall explore measures to minimize or mitigate the adverse affect.

D. Consultation Requirements

1. With the exception of reports identifying locations of potentially significant archaeological sites, KYTC shall provide an appropriate documentation package to all consulting parties for consideration and comment. To minimize the potential for endangerment of sites from vandalism or theft, Per Section 304 of the National Historic Preservation Act and Section 9(a) of the Archaeological Resources Protection Act, specific archaeological site locations shall not typically be included in documentation made available to the general public. When it becomes necessary to disseminate findings of archaeological investigations, reports shall be modified, redacted or otherwise altered to prevent disclosure of sensitive site location information.
2. The SHPO and all other consulting parties shall have 30 days from the receipt of the notification to comment on the eligibility and effect determinations. If the SHPO does not respond within 30 days, KYTC shall confirm SHPO receipt of the information before assuming concurrence. If any consulting party disagrees and cannot resolve the disagreement within the 30-day review period, they may refer the matter to the Keeper of the NRHP for resolution of eligibility determinations or the ACHP when adverse effect resolution is warranted. The ACHP will have 15 days to make a determination. If the ACHP does not reply within 15 days or request an extension (maximum of 15 additional days), then consultation requirements are considered fulfilled.
3. If the SHPO does not agree with FHWA’s recommendation on eligibility status and the disagreement cannot be resolved, FHWA shall send a request for eligibility determination to the Keeper of the NRHP. The Keeper’s determination is binding.
4. If the SHPO does not agree with FHWA’s recommendation regarding effect, and the disagreement cannot be resolved, FHWA shall solicit the opinion of the ACHP before making a final determination.

5. FHWA shall be responsible for notifying the ACHP of an adverse effect per 36 CFR 800.11e.

E. Resolution of Adverse Effects

1. KYTC and FHWA shall work with the SHPO and appropriate consulting parties (including federally recognized Indian tribes if appropriate) to resolve any adverse effects on historic properties. Resolution will involve avoidance, minimization, and/or mitigation of adverse effects to historic properties.
2. Measures to resolve the adverse effects shall be outlined in an executed Memorandum of Agreement (MOA), which concludes the Section 106 process.
3. The MOA:
 - a) Shall be drafted by KYTC;
 - b) Shall be as specific as possible in terms of avoidance, minimization, and mitigation measures;
 - c) May be reviewed by KYTC legal counsel if the MOA is unique or complex;
 - d) Shall document any proposed phasing of archaeological work;
 - e) Must be signed by FHWA and the SHPO, as well as KYTC and any other parties having implementation responsibilities as concurring parties. For projects where the ACHP has joined the consultation, their signature is also required.
 - f) The opportunity to sign the document as an invited signatory may also be extended to any federally recognized Indian tribes that participated in the consultation and, at the discretion of the Project Team, other consulting parties who may have been key in the resolution of the adverse effects;
 - g) Shall be fully executed prior to the approval of the CE, FONSI or ROD by FHWA;
 - h) Shall be sent to ACHP by FHWA.
4. Unwillingness of an invited signatory to sign the MOA shall not prevent its execution.

VII. Documentation Requirements**A. Reporting for “Small Scale” Projects****1. Reporting by KYTC Professionals**

- a) Determinations that a project is a type that has no potential to affect historic properties (those on Attachment 1) shall be tracked by KYTC and reported to the SHPO and FHWA on a quarterly basis. For projects determined to have no potential to affect historic properties, but that are not listed on Attachment 1, KYTC shall coordinate with FHWA and the SHPO on a project by project basis as described in II. B. 3.
- b) In instances where an adverse effect determination is made, KYTC shall notify FHWA and adhere to the processes outlined in Section VI. C. 1 of this Agreement.
- c) For all other small-scale projects, assessment findings and field investigation data shall be documented using the Archaeological and Historic Architectural Investigation Forms. Where above-ground historic properties are identified within the APE, the documentation shall also include a Kentucky Heritage Council Survey Form. Should archaeological sites be identified, site numbers shall be secured from the OSA and included in the documentation. New or updated OSA site forms must be completed and submitted to OSA before or by the time project materials are curated.
- d) Upon request, copies of the documentation shall be provided to the SHPO and any other consulting parties for their records.

2. Findings resulting from assessments prepared for KYTC by other parties, including consultants or LPAs, shall be reported in conformance with the current SHPO Specifications.

B. Reporting for “Large Scale” Projects

1. Assessment findings and field investigation data shall be documented following the current SHPO Specifications.
2. Should circumstances be such that a lesser level of documentation is considered adequate for documenting a thorough analysis and the decision-making process, KYTC shall propose a modified method to the SHPO and seek their concurrence with the proposed approach.

VIII. Phased Approach to Identification, Evaluation, and Findings of Effect

- A. Circumstances may dictate a phased approach (i.e. not completed prior to project approval and right of way acquisition) to identification of historic properties. Such circumstances may include denial of property access or necessity for deep testing or other invasive methods or techniques on private land. In such, or similar circumstances, phased identification of these properties may be considered prudent.
- B. KYTC shall advise FHWA and consult with the SHPO regarding any proposal for phased identification of historic properties. When an MOA will be executed for the project prior to undertaking the phased work, the terms and conditions for the work shall be specified in the MOA. The MOA shall be signed by the SHPO, FHWA, KYTC and, when participating in the consultation, the ACHP.

IX. Post-Review Discoveries**A. Unanticipated Effects**

If previously unidentified historic properties, or unanticipated effects are discovered after KYTC has completed its review under this Agreement, no further construction in the area of the discovery will proceed until the requirements of 36 CFR 800.13 have been satisfied. KYTC shall consult with the SHPO and appropriate consulting parties to record, document and evaluate NRHP eligibility of the property and the project's effect on the eligible property. KYTC will also consult with any consulting federally recognized Indian tribes that may ascribe traditional cultural and religious significance to affected historic properties. If neither the SHPO, consulting parties, nor consulting tribes submit any objection to KYTC's plan for addressing the discovery within 48 hours, KYTC may carry out the requirements of 36 CFR 800.13 on behalf of FHWA, and the Council need only be notified in the event there is an adverse effect.

B. Human Remains

1. In case of a late archaeological discovery of human remains or evidence of human remains, all project work in the vicinity of the discovery area shall cease immediately. When human remains are encountered the area shall be secured and protected, and procedures for notifying law enforcement officials and the County Coroner will be followed as outlined in KRS 72.020. If the County Coroner and law enforcement officials determine that the "find" is not associated with a modern crime scene, then coordination shall be initiated with the Kentucky Heritage Council and Office of State Archaeology.
2. Measures shall be taken to minimize or mitigate any project impacts to the "find" according to the provisions of 36 CFR 800.13 and relevant state regulations regarding appropriate treatment of graves and venerated objects (including, but not limited to, KRS 525.110, KRS 525.115, and KRS 525.120). An assessment of the "find" and the level of its cultural significance shall be conducted by a professional archaeologist, who shall inspect the remains or objects in situ and record them in

accordance with standard archaeological procedures. Such analysis shall be only as extensive as necessary for the purpose of identifying temporal affiliation.

- a) If the “find” involves prehistoric artifacts or human remains, consultation with the appropriate federally recognized Indian tribes shall be initiated by FHWA.
 - b) Where the remains or objects are determined not to be American Indian, KYTC shall document to FHWA, in writing, the basis for the determination. Once such documentation has been received and accepted by FHWA, excavation of the remains or artifacts may proceed according to normal archaeological procedures or grave relocation processes as specified by law, regulation or policy.
3. Confidential information concerning the late discovery shall be handled according to 36 CFR 800.6 (a) (5), if it is determined to be of an American Indian descent, or according to Section 304 of the National Historic Preservation Act otherwise.

As indicated by signatures below, the agencies agree to follow the guidance in this Handbook in the implementation of the Section 106 Agreement for as long as the Agreement remains in effect.

FEDERAL HIGHWAY ADMINISTRATION



6/7/2011

Jose Sepulveda, Kentucky Division Administrator

Date

KENTUCKY TRANSPORTATION CABINET



6/2/11

Michael W. Hancock, Secretary

Date

Approved As To Form And Legality:




6/1/11

Office of Legal Services

Date

STATE HISTORIC PRESERVATION OFFICE



6/7/2011

Mark Dennen, Executive Director
Kentucky Heritage Council

Date

Attachment 1 – Small Projects Unlikely to Affect Historic Properties
(All work within existing ROW)

1. General highway maintenance, including filling potholes, crack sealing, mill and resurfacing, joint grinding/milling, etc.
2. Guardrail replacement where no new bank stabilization is required.
3. The installation or maintenance of highway signs, pavement markings and/or contemporary fencing within the existing ROW.
4. General pavement marking or “line painting” projects.
5. The installation of raised pavement markers.
6. Herbicidal spraying within existing ROW.
7. Mowing or brush removal/trimming projects within existing ROW
8. Improvements to existing KYTC/County maintenance facilities.
9. Study-type projects (i.e. feasibility studies, etc.).
10. Approval of utility installations along or across a transportation facility provided no drainage of wetlands will occur.
11. Acquisition of scenic easements.
12. Transfer of federal lands to another federal agency pursuant to USC 317 when the subsequent action is not an FHWA action.

Attachment 2 – Small Projects with Potential to Affect Historic Properties

1. Culvert and structure replacement/reconstruction that involve no more than minimal additional right-of-way necessary to grade around the new bridge/culvert plus any necessary channel work
2. Beautification or facility improvement projects (i.e. landscaping, curb and gutter installation, installation of park benches, decorative lighting, etc.)
3. Wetland mitigation activities.
4. Tower lighting projects.
5. Track and rail-bed improvements, maintenance activities or acquisition.
6. Disposal of excess right-of-way or for joint or limited use of right-of-way where the proposed use would have minimal or no adverse social (including highway safety), economic or environmental impacts.
7. Approvals for changes in access control that involve the National Highway System and limited access ROW in accordance with 23CFR Part 710 Subpart D - Real Property Management. (Projects that are processed with federal funds and require changes in access control must be approved by an FHWA ROW Officer.)
8. Transportation corridor fringe parking facilities, park-and-ride lots and ridesharing activities which have no significant environmental impacts.
9. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing, shoulders). When adding through lanes on an interstate or interstate-like freeway, consultation and approval from FHWA is required.
10. Highway safety, truck escape ramps or traffic operation improvement projects including the installation of ramp metering control devices and lighting.
11. Bridge rehabilitation, reconstruction, or replacement.
12. Modification of an existing interchange or the construction of an interchange or a grade separation to replace an existing at grade intersection (with the exception of the interstate system).
13. Noise walls/mitigation projects.
14. Construction of new truck weigh stations or rest areas.
15. The construction of a grade separation to replace existing at grade railroad crossings, or the removal of existing railroad grade separation structures.
16. Rehabilitation, reconstruction or conversion of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.

17. Construction or conversion of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.
18. Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
19. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
20. Construction of KYTC storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant environmental impact.
21. Bridge deck overlays, bridge deck replacements and other maintenance activities, including bridge painting projects provided the project doesn't involve any work within or involve impacts to streams, rivers, scenic river corridors or historic properties.
22. Disposal of excess ROW parcels wholly contained in recent Major Project Acquisitions.
23. The replacement of traffic signals within existing ROW.
24. Installation of new fencing, signs, small passenger shelters, traffic signals and railroad warning devices where no substantial land acquisition, traffic disruption or elimination of on-street parking will occur.
25. Improvement or construction of bicycle and pedestrian lanes, paths or facilities.

- Yes (Describe disturbance or basis for conclusion. Attach photos or maps):

No Historic Properties Affected	
As Determined By:	
<hr/>	
KYTC Representative	Date
Attachments	
<input type="checkbox"/> Project Plans (show date on plans)	
<input type="checkbox"/> Photos	
<input type="checkbox"/> Mapping	
<input type="checkbox"/> Other: <hr/>	
<input type="checkbox"/> Copy EPM	
<input type="checkbox"/> Copy DEC	
<input type="checkbox"/> Copy DEA Archaeologist	
<input type="checkbox"/> Copy SHPO	

- No (Continue)

Sections below to be completed by KYTC Archaeologist

OSA Registration No:

Are there Known Archaeological Resources affected by the project (per OSA database)?

- Yes
 No

Are there Known Archaeological Resources affected by the project (per field visit)

- Yes
 No

Field Investigation Methods

Section 106 Handbook Attachment 3
Archaeological Investigation Form (Master)

- Pedestrian Survey
- Shovel Testing
- Other (Describe): _____
- Acres Surveyed: _____

Date of Field Investigation: _____ **Hours expended in field investigation:** _____

Investigator Name(s): _____

Discuss Field Conditions (Land Use, Ground Cover, Survey Limitations):

Eligibility

- No Resources Identified (per OSA database or field visit)

No Historic Properties Affected	
As Determined By:	

KYTC ARCHAEOLOGIST	Date
Attachments:	
<input type="checkbox"/> Map Showing APE	
<input type="checkbox"/> Photographs	
<input type="checkbox"/> Project Plans	
<input type="checkbox"/> Other: _____	
<input type="checkbox"/> Copy EPM	
<input type="checkbox"/> Copy DEC	
<input type="checkbox"/> Copy DEA Archaeologist	
<input type="checkbox"/> Copy SHPO	

- Resources Identified - No Sites Eligible

Discuss identified resources and eligibility determinations (If eligible or potentially eligible sites are identified, then this checklist cannot be used. Process findings with Phase I Archaeology Survey per SHPO Specifications):

No Historic Properties Affected			
As Determined By:			
KYTC ARCHAEOLOGIST	Date	SHPO Representative	Date
<p>Attachments:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Map Showing APE and identified Archaeological Resources <input type="checkbox"/> Individual Site Maps <input type="checkbox"/> Photographs <input type="checkbox"/> OSA Site Forms <input type="checkbox"/> Project Plans <input type="checkbox"/> Other (Describe): _____ <input type="checkbox"/> Copy EPM <input type="checkbox"/> Copy DEC <input type="checkbox"/> Copy DEA Archaeologist <input type="checkbox"/> Copy FHWA <input type="checkbox"/> Copy SHPO <input type="checkbox"/> Copy OSA 			

If the project plans change then additional archaeological survey may be required. If human remains are discovered or a previously unidentified archaeological site is encountered, work must cease and the KYTC Division of Environmental Analysis be notified immediately.

KYTC Historic Architectural Investigation Form

KYTC Item No:
Route:

County:
Project Description:

Project Type listed in Attachment 1 (in Section 106 Programmatic Agreement)?

Yes (list project activity types)_____

No Potential to Affect Historic Properties	
As Determined By:	

KYTC Representative	Date
<input type="checkbox"/> Copy EPM	
<input type="checkbox"/> Copy DEC	
<input type="checkbox"/> Copy DEA Architectural Historian	
<input type="checkbox"/> Entered into Database for quarterly reporting to SHPO	

No (Continue)

Project Type listed in Attachment 2 (in Section 106 Handbook)?

- Yes (list project activity types)_____
- No (This project is not considered a small scale project under the Section 106 Programmatic Agreement. This checklist cannot be used. Process with full baseline or joint memorandum)
- No (However, SHPO has agreed that this project may be documented using the Historic Architectural Investigation Form)

Project Area of Potential Effect is defined as:

- Within 150 feet of project centerline (Small Scale Project – within existing corridor)
- Within view shed of project (Discuss):
- Other (Discuss):

Are there Historical Resources within the project APE (per KHC database)?

- Yes
- No
- N/A (Explain):

Are there Historical Resources (50 years old or older) identified within the project APE?

- Yes
- No

Date of Field Investigation: _____

Investigator Name(s): _____

Discuss Basis for finding (Historic Mapping, PVA, Building Permit, Date of Construction, Deed/Title, etc.):

NRHP listed or potentially eligible sites/districts (>50 years old) are:

- Not Present within the APE

No Historic Properties Affected	
As Determined By:	

KYTC Representative	Date
Attachments:	
<input type="checkbox"/> Map showing topography, APE and identified Historic Resources	
<input type="checkbox"/> Relevant Photos (Overview and individual resources)	
<input type="checkbox"/> Project Plans	
<input type="checkbox"/> Other (Describe): _____	
<input type="checkbox"/> Copy EPM	
<input type="checkbox"/> Copy DEC	
<input type="checkbox"/> Copy DEA Architectural Historian	
<input type="checkbox"/> Copy SHPO	

- Present within the APE (Continue)

Sections below to be completed by KYTC Architectural Historian

Discuss eligibility determinations (criteria, integrity):

Determination of Effect (when eligible sites have been identified):

- No Historic Properties Affected
- No Adverse Effect (May result in Section 4(f) *De minimis* finding – Document appropriately)

Discuss No Effect/No Adverse Effect Determination:

<input type="checkbox"/> No Historic Properties Affected
<input type="checkbox"/> No Adverse Effect to Historic Properties
 As Determined By:
<hr/>
KYTC HISTORIAN _____ Date _____
SHPO Representative _____ Date _____
 Attachments:
<input type="checkbox"/> Map Showing APE and identified Historic Resources
<input type="checkbox"/> Individual Site Maps
<input type="checkbox"/> Photographs
<input type="checkbox"/> Project Plans
<input type="checkbox"/> KHC Site Survey Forms
<input type="checkbox"/> Other (Describe): _____
 <input type="checkbox"/> Copy EPM
<input type="checkbox"/> Copy DEC
<input type="checkbox"/> Copy DEA Architectural Historian
<input type="checkbox"/> Copy FHWA (w/ <i>De minimis</i> Memo if appropriate)
<input type="checkbox"/> Copy SHPO

- Adverse Effect

Discuss Adverse Effect Determination:

Describe any measures to address adverse effect including additional reporting, research, fieldwork, etc. necessary to address site-specific circumstances:

Describe measures to be employed to mitigate adverse effects:

Memorandum of Agreement

- Has been developed
- Needs to be developed

Adverse Effect to Historic Properties			
As Determined By:			
_____		_____	
KYTC HISTORIAN	Date	SHPO Representative	Date
_____		_____	
FHWA Representative	Date		
Attachments:			
<input type="checkbox"/> Map Showing APE and identified Historic Resources			
<input type="checkbox"/> Individual Site Maps			
<input type="checkbox"/> Photographs			
<input type="checkbox"/> KHC Site Survey Forms			
<input type="checkbox"/> Project Plans			
<input type="checkbox"/> MOA			
<input type="checkbox"/> Other (Describe): _____			
<input type="checkbox"/> Copy EPM			
<input type="checkbox"/> Copy DEC			
<input type="checkbox"/> Copy DEA Architectural Historian			
<input type="checkbox"/> Copy SHPO			
<input type="checkbox"/> Copy FHWA			