

TEXAS HISTORICAL COMMISSION

real places telling real stories

Memorandum: Compliance with Section 106 of the National Historic Preservation Act of 1966

Your organization has been selected to receive federal funding from the Department of Energy for energy efficiency upgrades and retrofits. This federal funding is administered by the State Energy Conservation Office (SECO). Section 106 of the National Historic Preservation Act of 1966 (United States Code, 16 USC 470f, and Code of Federal Regulations, 36 CFR 800) requires federal agencies to take into account the effects of their actions on historic properties through a consultation process. Historic properties are defined as any prehistoric or historic district, site, building, structure, or object included in, or eligible to be included in, the National Register of Historic Places (NR).

SECO has delegated responsibility for coordination under Section 106 to your organization. Acting in its role as State Historic Preservation Officer (SHPO), the Texas Historical Commission (THC) is responsible for reviewing federally funded projects under Section 106. During this review process you may see references to either the THC or SHPO, which refer to the same entity. We understand that your organization may not be aware of the requirements of Section 106 review, so we have prepared this document to help guide you through the steps involved in this process.

The first step of the Section 106 process is to identify the federally funded action and determine whether it has the potential to affect historic properties. SECO and the THC have entered into a Memorandum of Understanding regarding how to complete Section 106 consultation, which excludes certain activities from review due to their limited potential to affect historic properties. **Please see the Consultation List to determine if your project requires review**, and consult with SECO or our office if you have any questions regarding the exclusions. When consultation is not required, document that finding in your files; written concurrence from the THC is not required.

If your project requires review, the second step of the Section 106 process is to determine if the project is to involve a building that is listed in or eligible for listing in the NR. In order for the THC to determine NR eligibility, your organization will need to submit information on all properties **45 years of age or OLDER** to the THC for review, when work falls outside the exclusions of the Consultation List. You may reference the Texas Historic Sites Atlas at <http://atlas.thc.state.tx.us> to determine if the property already has historical designations. (Please note that projects involving State Archeological Landmarks and all current and former county courthouses must be submitted for review, regardless of the age of the property or the type of work proposed.) General information on how to submit projects and an optional review form are available on the THC website at <http://www.thc.state.tx.us/crm/crmsend.shtml>. Specifically, documentation for each property should include the address (including city and county), known or estimated date of construction, street map with the property location shown, and current, clear overall photographs of the property.

By law, the THC has 30 calendar days from when we receive your submission to review your project and reply to your organization. Your organization will receive correspondence from the THC in response to your submission. If you receive notification from the THC that the property is *not eligible for listing in the NR* or that there are *no historic properties affected* by the project, the Section 106 consultation process is complete.

If a property is *listed or determined eligible for listing in the NR*, the THC will review the description of proposed work for its effect to the NR eligible property. This is the third step of the Section 106 process. It is important that this consultation occur before work commences. Documentation should include a scope of work, plans and specifications, or other detailed description of the project, and additional photographs of areas in which work is to be performed. If the information you submitted does not sufficiently describe the activities proposed to the building, we will request additional information. You must submit this additional information for review along with a new cover letter. By law, the THC has 30 calendar days from when we



receive the additional information to review your project and reply to your organization. Your organization will receive correspondence from the THC in response to your submission regarding the determination of effect for the project. If you are notified by the THC that the project will have *no adverse effect* on the historic property, the Section 106 consultation process is complete.

If you are notified by the THC that the property will have an *adverse effect* on the historic property, additional consultation is required. We will encourage modifications to the project to meet the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (36 CFR Part 68, available on the National Park Service website at http://www.nps.gov/history/hps/tps/standards_guidelines.htm). If this cannot be achieved, consultation with the THC, SECO, the Department of Energy, and the public will be necessary to resolve the adverse effect. Please contact our office for additional guidance.

Additional information on the Section 106 review process is available on the website of the Advisory Council on Historic Preservation at <http://achp.gov>.

We are not able to accept submissions via electronic mail or fax. Please submit all requests for Section 106 consultation to:

Address for delivery by U.S. Mail:

Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711

Address for hand delivery or private express delivery:

Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
108 West 16th Street
Austin, Texas 78701

We look forward to consultation with your office and appreciate your cooperation in this federal review process. If you have any questions regarding your submittal, please contact Linda Henderson, Historian, at linda.henderson@thc.state.tx.us, or Elizabeth Butman, State Coordinator for Project Review, at 512/463-6167 or elizabeth.butman@thc.state.tx.us.