

TEXAS HISTORICAL COMMISSION

real places telling real stories

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

As a Weatherization Assistance Program (WAP) subrecipient, you are receiving federal funding from the Department of Energy (DOE) for weatherization activities. This federal funding is administered by the Texas Department of Housing and Community Affairs (TDHCA). Section 106 of the National Historic Preservation Act of 1966 (16 USC 470f and implementing regulations, 36 CFR 800) requires federal agencies to take into account the effects of their actions on historic properties through a consultation process.

TDHCA has delegated responsibility for initiating consultation 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. Your organization must submit the required information to the THC for Section 106 review before beginning weatherization work to any property 45 years old or older.

The THC will then determine if the property is historic, and if your proposed work will cause an adverse effect. 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). Note that Section 106 does not differentiate between properties that are *listed in* the NR, and properties that are *eligible for* the NR.

In February of 2010, the TDHCA and the THC entered into an agreement that allows for expedited Section 106 reviews for WAP projects. Provisions include: a dedicated THC staff member responsible for all WAP Section 106 reviews; acceptance of emailed submissions; an expedited 7-day review period for emailed submissions instead of the standard 30-day review period; and perhaps most importantly, an exemptions list that includes work items with no potential to cause adverse effect to a historic property. If you are **ONLY** doing work off the exemptions list, you do **NOT** have to submit a Section 106 packet for your WAP property. The interagency agreement, which contains the exemptions list in Appendix A beginning on page 7, is found at <http://www.tdhca.state.tx.us/recovery/docs/10-WAP-THCagreemt.pdf>.

To determine if a project must be submitted for Section 106 review, ask yourself the following two questions:

- Is the building 45 years old or older?
- Am I proposing even one work item that is **NOT** found on the exemptions list?

If you answered 'no' to one or both questions, you do not need to submit the project for Section 106 review. Please document this finding in your project file. If you answered 'yes' to both questions, you are required to submit the Section 106 materials and receive a response from the THC before proceeding with project work.

To prepare a packet for submittal to the THC, please compile the following four basic items:

- Cover letter
- Scope of work
- Photographs
- Location map

Each property must be submitted individually under its own cover letter. The cover letter should clearly state that it is a request for review under Section 106 of the National Historic Preservation Act of 1966, and the source of federal funding (TDHCA Weatherization Assistance Program). The cover letter should also include the complete street address, county, and zip code of the property, and its known or estimated date of construction. Indicate the property's NR listing, if applicable. Historical designations can be checked on the THC's Historic Sites Atlas at <http://atlas.thc.state.tx.us>. Be sure to include your organization's contact information, including the name, title, phone number, and email address of a contact person at your organization.



The scope of work can either be a printout of your assessment software's work order, or a summarized description of the proposed work. You may describe the work in paragraph form, or use bullet points. Do not include the "recommended measures" printout, simply include the scope of work that is actually planned for the property. Be specific wherever possible. For example, if blown-in wall insulation is planned, note whether the holes will be drilled in the interior or exterior walls. If window replacement is planned, note the existing materials and condition, the proposed type of replacement window, and the location of the windows on the house. You may design a checklist for the scope of work if you include notes fields and room to write-in "other work."

The photographs should include at minimum one photograph that clearly shows the entire front of the building. Additional photos that are helpful may include side elevations, detail photos of windows or other architectural elements, and streetscape photographs. Please submit color photographs. The location map may be a printout of a Google map or similar, with the building's location clearly marked. Other attachments that may be helpful are sketch maps showing the building's footprint and window locations, and specs or mock-up sketches depicting the appearance of proposed alterations.

Mailed, hard-copy packets have a 30-day review period, whereas emailed packets have a 7-day review period. To mail or deliver your submittal, please use the following addresses:

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 or private express delivery:
Mark Wolfe
State Historic Preservation Officer
Texas Historical Commission
108 West 16th Street
Austin, Texas 78701

Emailed submissions sent to reviewer Kristen Brown at kristen.brown@thc.state.tx.us have an expedited 7-day review period. If you submit your packet by email, please scan or join the items into a single PDF, rather than attaching a series of individual documents and image files. Keep the total size of the email under 7 MB.

Upon receipt, THC staff will review your submittal. After the reviewer determines the eligibility of the property and the possible effect of the weatherization activities, you 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. The stamped and signed letter should be placed in your project file.

If a property is *listed or determined eligible for listing in the NR*, the THC will carefully review the description of proposed work for its effect to the NR eligible property. An eligible building will generate one of three possible determinations or questions. 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 and the review may be placed in your project file. If the information you submitted does not sufficiently describe the weatherization activities proposed to the building, we will *request additional information*. You must submit this additional information for review along with a new cover letter. Finally, if you are notified by the THC that the property will have an *adverse effect* on the historic property, additional consultation is required. If you receive an adverse effect determination, please contact the THC for additional guidance.

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 Kristen Brown, project reviewer, at (512) 463-5937 or kristen.brown@thc.state.tx.us, or Elizabeth Butman, State Coordinator for Project Review, at (512) 463-6167 or elizabeth.butman@thc.state.tx.us.