

From Tracie Leix, Local Agency Program Engineer

Local Agency Section 106 Delegated Authority

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This advisory is superseded by any subsequent revisions to the references listed in this index.

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This guidance, effective immediately, applies to Local Agency transportation projects that utilize federal funding or have a federal nexus.

Local Agency Program Section 106 Delegated Authority link:
https://www.michigan.gov/documents/mdot/MDOT_LAP_Section_106_Delegated_Authority_with_FHWA_Letter_10.28.20_706563_7.pdf

Per Section 106 of the National Historic Preservation Act, 36 CFR 800.2(c)(4), and the State Historic Preservation Office (SHPO) the Federal Highway Administration (FHWA) is required to delegate authority before a local agency can initiate consultation with the SHPO on any project.

Prior to initiating consultation with SHPO, the local agency must provide PROOF of FHWA's delegation and the project will either have federal funds or a federal nexus.

Therefore, the items listed below are required to be included with the Section 106 application before a local agency can initiate consultation with the SHPO:

- FHWA Delegate Authority letter dated October 16, 2020 – This letter must accompany every Section 106 application submitted to initiate consultation with the SHPO. A copy of the letter can be found at the link above.

And one of the following items confirming federal funds or federal nexus:

- A screenshot showing the proposed project is listed in a Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP), or
- Documentation that the project is approved by the administering body. Examples include (but are not limited to):
 - Local Agency Program bridge or safety selection letter
 - Office of Economic Development conditional commitment letter
 - Rural Task Force Fiscal Constraint Sheet/Traditional Balance Sheet
 - Other documentation that demonstrates the project has been approved locally if the project has not yet been approved by FHWA (e.g. STIP pending)
 - Federal Permit by the US Army Corps of Engineers