

GUIDELINES FOR APPLICANTS AND THEIR CONSULTANTS ON PREPARING HISTORIC PROPERTY IDENTIFICATION REPORTS FOR THE CLEAN AND DRINKING WATER STATE REVOLVING FUND (SRF) PROGRAMS

All applicants seeking Clean Water or Drinking Water SRF financing for construction projects from the State Water Resources Control Board (State Water Board), Division of Financial Assistance (DFA), must comply with both California Environmental Quality Act (CEQA) and the federal cross-cutting regulations. CEQA requires public agencies to assess the impacts of their projects on historical resources. In addition to CEQA, Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended (Section 106), requires federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. (Tip: “undertaking” is a NHPA term equivalent to “project” in CEQA). A historic property is a prehistoric or historic district, site, building, structure, or object that is eligible for or listed on the National Register of Historic Places (NRHP).

The State Water Board administers the SRF Programs. The SRF Programs are partially funded by annual capitalization grants from the United States Environmental Protection Agency (USEPA). Issuance of SRF funds by the State Water Board is considered equivalent to a federal action, thereby necessitating compliance with Section 106. The USEPA has delegated lead agency responsibility to the State Water Board for carrying out the requirements of Section 106.

The State Water Board requires the applicant to provide a complete environmental package with their financial assistance application. The Historic Property Identification Report (HPIR) is key to showing a reasonable and good faith effort was made to identify historic properties. The State Water Board uses this report to make NRHP eligibility determinations and to support the State Water Board’s finding of effect for the undertaking. Documentation of concluded consultation with the State Historic Preservation Officer (SHPO) is required to illustrate compliance with NHPA. The HPIR is part of the State Water Board’s submittal to the SHPO.

SHPO CONSULTATION

The State Water Board is responsible for SHPO consultation. Submit two hard copies of the final HPIR to the State Water Board. One hard copy of the report will be submitted to the SHPO as part of the State Water Board’s consultation package and one will be kept on file.

BEFORE HIRING A CULTURAL RESOURCES CONSULTANT

If you think your project is the type of activity that does not have the potential to cause effects on historic properties, contact DFA, Senior Cultural Resources Officer (CRO)

before contracting a cultural resources consultant. This decision is based on the nature of the undertaking, not on the presence or absence of cultural resources. If the State Water Board determines the undertaking does not have the potential to cause effects, no further study is required. Projects like this would likely involve no ground disturbance, no modification of buildings, and be exempt under CEQA (e.g. replacing standard meters with AMR meters or re-coating tank interiors).

If the CRO determines that the undertaking is a type of activity that has the potential to cause effects, an HPIR will be required, even if the project is exempt from CEQA. Many applicants may have already had a cultural resources report completed for CEQA compliance. Those reports may be used to partially fulfill the requirements of Section 106. Be aware that cultural resources reports written for CEQA assessments often need to be revised or supplemented with additional information to meet NHPA requirements, especially when resources are present in the project footprint (called the area of potential effects [APE] in NHPA).

PROFESSIONAL QUALIFICATION STANDARDS

The HPIR must be prepared by a Principal Investigator(s) who meets the Secretary of the Interior's Standards for Professional Qualifications (SIPQS; 62 FR 33708-33723) in the discipline most relevant to the resource types likely to be in the study area. For example, if the undertaking is located in a city center, a qualified architectural historian may be most appropriate. On the other hand, if an undertaking is located in an area that may have Native American archaeological sites, a qualified archaeologist should be employed. Some undertakings may require more than one expertise. The SIPQS is available at <https://www.gpo.gov/fdsys/pkg/FR-1997-06-20/pdf/97-16168.pdf>.

The report must be attributed to an author and the author must summarize their SIPQS in the report. It is important to note that a graduate degree in the appropriate field and a year full-time experience as a supervisor is required (62 FR 33708-33723). Using unqualified personnel for fieldwork is not acceptable unless accompanied in the field by a SIPQS supervisor.

HISTORIC PROPERTIES IDENTIFICATION REPORT CONTENTS

To comply with NHPA and assist applicants and their consultants, the DFA has prepared these guidelines to help expedite the review and consultation process. Reports not meeting these guidelines will delay the environmental review process.

The HPIR should be a stand-alone document that includes all supporting documentation in the appendices. If the applicant is using information from more than one cultural report, there should be an accompanying explanation of how they relate. A new map showing the APE with resources from all the reports may need to be produced to tie it all together as one submittal.

The State Water Board is responsible for the finding of effect. The HPIR only needs to identify historic properties.

The following is an outline of topics that should be included in the HPIR:

Summary of Findings – This is a succinct synopsis of the report findings, located before the Table of Contents. It is an abstract of the report.

Table of Contents and Table and Figure lists- This allows the reviewer to quickly find information they seek and helps speed up the review process.

Undertaking Description – The undertaking description should include the basic purpose and need and a description and location of the work. It does not need to have technical specifications.

Undertaking Vicinity Map – A map showing the undertaking vicinity or an inset map showing the undertaking location in relation to cities and known landmarks should be included in the report.

Area of Potential Effects – The APE must be described in both horizontal and vertical terms (belowground and aboveground elevation) and should include all components of the undertaking that have the potential to effect cultural resources, such as, construction footprint, staging areas, borrow areas, spoils locations, utility tie-ins, new access roads, vibrations, and visual effects, if applicable. The APE can be contiguous or discontinuous (Tip: If the undertaking is in the early design phase and the exact footprint isn't known, you should start by delineating a "study area", the largest area where work may be done. It is more time efficient to scale a study area down to an APE rather than to add new areas later.)

NOTE – When the APE crosses a historic property, the entire property should be included in the APE, because if part of the property is affected, all of the property, either directly or indirectly, is also affected. See OHP guidance on the APE http://ohp.parks.ca.gov/pages/1071/files/106Checklist_2018_Apr.pdf.

APE Map(s) – The APE map is one of the most important pieces of the HPIR. Provide a map showing the whole APE in an appropriate scale. If there are resources in or near the APE, the APE map should also show all identified resources from both the records search and the survey. The APE and resources should be depicted on one map and additional detail maps may be appropriate when there are resources in or adjacent to the APE. APE detail maps should be depicted at a more detailed scale on an aerial background clearly labeled with APE elements, primary numbers, and street names if appropriate. The entire APE doesn't need to be depicted that way, only the areas that are in or close to resources. At a minimum, maps must have a north arrow, scale bar, scale text, legend, figure number, and title. Resources should also be labeled. Maps produced in GIS are highly encouraged as are digital record search results.

Natural and Cultural Context – A discussion of the undertaking’s prehistoric and historic context should be proportionate to the resources identified. Context aids in identification and is also necessary for evaluation. Provide context that is applicable to the study area and resources identified.

Literature Review – At a minimum, the literature review should include a records search from the appropriate regional Information Center of the California Historical Resources Information System with GIS maps of resources and reports (Hand-drawn records search maps are strongly discouraged). Pre-field research should also include a review of historic-era maps (e.g. General Land Office Survey Plats, USGS topographic quadrangles, Rancho maps, Sanborn Fire Maps, official county maps etc. as appropriate).

Tribal and Additional Consulting Party Coordination – Contact the Native American Heritage Commission and request a Sacred Lands File search of the study area or APE and a Native American contact list. Send letters to the tribes and other interested parties, such as local historical societies, with the undertaking description, map, and contact information. Use the State Water Board provided Applicant 106 Template https://www.waterboards.ca.gov/water_issues/programs/grants_loans/docs/nahc_letter_template_tribal_info.docx) for tribal notification letters if possible. Follow-up all letters with a phone call or email to make sure the parties received the information and to answer questions and receive comments. Document all correspondence in a tracking table, like the one provided on our website, and include all correspondence in an appendix to the report. Lack of responses must also be documented.

Field Inspection Methods and Results– Tailor the field methodology to the APE conditions and kinds of resources that may be present. Describe the ground visibility, kind of survey, and transect intervals if used. If only part of the APE was surveyed either provide a map of the portion that was surveyed or describe it accurately enough for someone else to map it. Document all potential historic properties on the appropriate Department of Parks Recreation 523 forms.

NRHP Eligibility– Evaluate all prehistoric and historic-era sites, districts, buildings, structures, objects, and sites of religious and cultural significance in the APE that are 50 years old or older, that have not already had a consensus determination and are potentially significant for the NRHP. A cultural resource is a prehistoric or historic district, site, structure, or object that is at least 50 years old, regardless of historical significance. To qualify as a historic property, it must meet at least one of the four eligibility criteria listed in 36 CFR Section 60.4 and retain sufficient integrity. <https://www.nps.gov/nr/publications/bulletins/nrb15/>

Evaluations by qualified individuals in the appropriate fields must address each of the four criteria for each resource. If one of the criteria or more apply, the seven characteristics of integrity should also be discussed. A concise and rational argument for or against eligibility must be made for each resource. Recommendations without justification or an appropriate level of research are not acceptable.

NOTE: You must evaluate the entire resource, even if only a part of it is in the APE. If that is not feasible for reasons including, lack of access to private property or the scope of the resource is outside the scope of the undertaking, estimated boundaries may be used to set reasonable limits. Boundaries should be based on historic maps or other documentation, and the reasoning behind the estimations explained. Discuss possible solutions with the CRO.

Appendices – Records Search Appendix: All records search data should be provided, including record search letter, maps of previously recorded resources and surveys, all site records from the record search that are in or adjacent to the APE, and Office of Historic Preservation Archaeological Determinations of Eligibility and Historic Properties Directory printouts. **Tribal Outreach Appendix:** Include the NAHC Sacred Lands File Search request and NAHC response, letters to and from tribes, copies of email responses from tribes, and a communications log detailing all correspondence including follow-up phone calls.

PRECAUTIONS

The following are common areas where cultural resources reports prepared for CEQA fall short of what is required under Section 106.

- A potential historic property is identified in the APE, but not evaluated. A cultural resource is not a historic property until it has been evaluated and found to be historically significant. If a resource is evaluated, it must also be documented on DPR forms.
- Evaluating a portion of a site or district is not acceptable. If an undertaking affects part of a historic property, it affects the whole property. The whole property must be evaluated. There are a few exceptions. If evaluation of a large property isn't feasible, discuss with the CRO.
- The APE is deemed "highly sensitive for buried archaeological sites" and monitoring is recommended as a mitigation. If the APE is highly sensitive for buried sites, additional analysis including sub-surface testing will likely be required. Monitoring may not be used as a substitute for thorough identification efforts.

- “The area has already been disturbed by previous construction” is not a sufficient basis for a “No historic properties affected” recommendation. Disturbance may affect the integrity of a portion of a site, but it doesn’t mean the whole site has been destroyed or is not eligible for the NRHP. Documentation is still required to demonstrate that the proposed undertaking will not affect historic properties or other sensitive resources, such as human remains.
- Recommendations are made for Inadvertent discovery procedures pursuant to CEQA instead of Section 106 post-review discovery procedures (See 36 CFR Section 800.13[b]).

CONFIDENTIALITY

HPIRs often contain confidential information about the location of archaeological sites. The Applicant or their consultant must provide the confidential version of the report to the State Water Board. Please do not upload confidential HPIRs to the State Water Board Financial Assistance Applications Submittal Tool (FAAST). Instead, send HPIRs directly to one of the cultural resources staff listed below that work in the Division of Financial Assistance. Hard copies can be mailed to State Water Resources Control Board, Division of Financial Assistance (Attn: <insert name>) P.O. Box 100 Sacramento CA 95812-0100.

- Wendy Pierce, Senior Environmental Scientist, at (916) 449-5178, or Wendy.Pierce@Waterboards.ca.gov

- Lisa Machado, Senior Cultural Resources Officer (Senior Environmental Planner) at (916) 323-0626, or Lisa.Machado@Waterboards.ca.gov