

Section 106 and NCGS 121-12(a) Review Procedures for Locally Administered Projects (LAP)

Local Government Agencies (LGA) are responsible for undertaking appropriate reviews to ensure the locally administered projects consider historic properties in accordance with Section 106 of the National Historic Preservation Act and North Carolina General Statute 121-12(a). The LGA must submit the project for review to the Environmental Review Branch of the North Carolina Historic Preservation Office (NC HPO) within the North Carolina Department of Natural and Cultural Resources. The following website should be consulted to determine the submittal process: <https://www.ncdcr.gov/state-historic-preservation-office/environmental-review>. In addition, the NCDOT Project Manager shall be copied on all submittals.

When submitting project review requests, the request should clearly indicate that the project is a Locally Administered Project and indicate the funding source (federal or state) and whether there is a lead federal agency (typically the Federal Highway Administration [FHWA] or the U.S. Army Corps of Engineers [USACE]). Locally administered projects (LAPs) cannot utilize NCDOT's 2020 *Programmatic Agreement Among The Federal Highway Administration, United States Army Corps of Engineers, Wilmington District, North Carolina Department of Transportation, Advisory Council on Historic Preservation, and North Carolina State Historic Preservation Officer for the Transportation Program in North Carolina*.

For projects that receive funding through the Federal-Aid Highway Program (FAHP) and require a survey, the survey must be conducted by a person meeting the [Secretary of Interior Professional Qualifications Standards \(36 CFR 61\)](#). The survey reports shall be prepared in accordance with guidance provided by the North Carolina Department of Natural and Cultural Resources for Historic Structures and Archaeology. Please reference the links below for report requirements:

- [Standards for Historic Structure Survey Reports](#)
- [Archaeological Investigation Standards and Guidelines](#)

If the NC HPO disagrees with the LGA (either its qualified staff or consultant) regarding NRHP eligibility determinations, then additional coordination should occur with NCDOT (either its qualified staff or consultant). If the NRHP eligibility disagreement cannot be resolved to the satisfaction of NC HPO after such coordination with NCDOT, then FHWA will be contacted so that eligibility determinations are resolved prior to progressing to the assessment of effects.

For projects that receive funding through the FAHP and require assessment of effects,

coordination with the Federal Highway Administration (FHWA) is required. The LGA or consultant shall ensure FHWA inclusion by notifying the NCDOT Project Manager, who will then coordinate with FHWA.

Written correspondence from North Carolina Department of Natural and Cultural Resources Environmental Review Branch shall be provided with the NEPA/SEPA documentation to track compliance with this guidance and with Section 106 and/or NCGS 121-12(a), including any survey results and effects findings.

NOTE, for LGA and consultants: When submitting a state funded project for review, please be aware that Section 106 of the National Historic Preservation Act applies to projects that require a federal permit, license or approval. If your project will require a United States Army Corps of Engineers Permit (USACE), Section 106 will apply. The LGA or consultant should coordinate with the appropriate representative with the USACE regarding Section 106 compliance.

Tribal Coordination Protocol for Locally Administered Projects (LAP)

Locally Administered projects funded in part or whole by the Federal Highway Administration (FHWA) need to ensure appropriate Tribal coordination has occurred. The [Tribal Coordination Protocol/Procedures](#) shall be followed, except the attached Start of Study Letter shall be used for locally administered projects. The Start of Study letter shall be on NCDOT letterhead.

September 5, 2019

Mr. Stephen Yerka
Preservation Specialist
Eastern Band of Cherokee Indians (EBCI) THPO
2877 Governor's Island Road
Bryson City, NC 28713

Dear Mr. Yerka,

The **Name of Local Government Agency** is starting the project development, environmental, and engineering studies for [insert project description (e.g. replacement of Bridge No. ## over Y stream on (Road Common Name and S.R.) in Z County)] as project X-1234. The North Carolina Department of Transportation will be providing technical and administrative oversight of this project. The Federal Highway Administration is the lead federal agency for compliance with the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA). The project vicinity map is attached. **The coordinates of this project are approximately 35.186947,-78.375345.**

We would appreciate any information you might have that would be helpful in evaluating potential environmental impacts of the project including recommendation of alternates to be studied. Your comments may be used in the preparation of a NEPA Environmental Document.

In accordance with Section 106 of the NHPA, we also request that you inform us of any historic properties of traditional religious or cultural importance that you are aware of that may be affected by the proposed project. Be assured that, in accordance with confidentiality and disclosure stipulations in Section 304 of the NHPA, we will maintain strict confidentiality about certain types of information regarding historic properties.

If you have any comments or questions concerning this project, or would like any additional information, please contact Tammy Richards, FHWA Transportation Specialist, at tammy.richards@dot.gov or 919-747-7004. Please provide your comments to Tammy by **Date** so that your comments can be used in the scoping of this project.

Thank you,

NCDOT Project Manager Name
NCDOT Project Manager Title

cc: Tammy Richards, FHWA
NCDOT Local Program Management Office (via LPMO@ncdot.gov)
Matt Wilkerson, NCDOT Archaeology Team Leader
Local Government Agency and/or firm doing work for LGA
Ramona Bartos, NCDNCR Historical Resources (via environmental.review@ncdcr.gov)