



July 2019

## Background

Section 106 of the National Historic Preservation Act requires FHWA to consult with Indian Tribes for undertakings that may affect properties considered to have traditional religious and cultural significance. The following guidance outlines the steps local agencies need to take to fulfill FHWA's tribal consultation responsibilities under Section 106 of the National Historic Preservation Act.

Tribal consultation is part of the environmental review process required under the National Environmental Policy Act (NEPA) of 1969. Failure to conduct tribal consultation will result in the loss or delay of federal funding.

## When do I need to consult?

If your project is classified as a Categorical Exclusion (CE) under NEPA **and** the State Historic Preservation Office (SHPO) requires an archaeological survey. Side note, there is a separate process for Environmental Assessments (EA), please contact an MDOT LAP staff person for more information.

## How do I know who to consult with?

Consultation will need to be initiated with all 12 federally recognized Tribe(s). Contact information for each Tribal Historic Preservation Officer (THPO) can be found on the Michigan department of Labor and Economic Opportunity website , at:

<https://www.miplace.org/historic-preservation/archaeology/michigan-tribal-historic-preservation-officers-and-tribal-cultural-representatives/>

## How do I go about consulting with a Tribe(s)?

Because tribes are recognized as sovereign nations, **consultation must take place between the local agency and Tribal Nation(s)**. All correspondence (written or verbal) must come from the governmental unit. Consultants or other third parties shall be excluded from consultation unless expressly permitted by the Tribe(s). Some Tribal locations may be deemed sacred or culturally sensitive, so please treat all responses from a Tribal Nation as confidential unless otherwise permitted by the Tribe(s).

A template letter for consultation initiation is on the following page of this document. If the local agency or Tribe(s) is uncomfortable with the consultation process, please contact your MDOT LAP area engineer.

## And when the consultation is complete, then what?

Attach the consultation letter and all supporting correspondence to the MDOT LAP Environmental Clearance Form 5323 as part of your environmental clearance submission. The supporting documentation will be needed as part of the environmental review process.

**USE LOCAL AGENCY OFFICIAL LETTERHEAD**

Month Day, Year

Name, Title  
Tribe  
Street Address  
City, Michigan Zip

Dear Prefix Last Name:

Road Name from  
POB Limits to POE Limits  
City (if applicable), County Name, Michigan

The Local Agency is writing to invite the Tribe, on behalf of the Federal Highway Administration (FHWA) and the Michigan Department of Transportation (MDOT), to formally consult regarding the Short Description of Proposed Work on Road Name. This consultation is pursuant to the National Historic Preservation Act (16 U.S.C. §470 et. Seq. and 36 C.F.R. Part 800, Section 106 as amended) and the National Environmental Policy Act.

The proposed work describe including location. Enclosed for your reference is a map which defines the area of potential effect (project study area).

The Local Agency respectfully invites the Tribe to participate in formal Section 106 consultation regarding any traditional cultural or religious places and significant sites that you are concerned may be impacted by the construction of this road / bridge (select on or both) project. We would also like your input regarding concerns you may have about possible social, economic, and natural impacts resulting from the construction of this project.

Please contact me if you have any concerns or would like to discuss this project in more detail at ###-###-####, e-mail, and/or by US mail. If you would prefer to work with the Michigan Department of Transportation regarding this project, please contact Lane Masoud at 517-241-7575 or [MasoudL@michigan.gov](mailto:MasoudL@michigan.gov).

Sincerely,

Name, Title  
Local Agency Name  
(Note: NOT to be submitted by a Consultant)

Enclosure

cc: Lane Masoud, Michigan Department of Transportation  
Lynnette Firman or Monica Uribe, Michigan Department of Transportation (choose one)