

ANNUAL REPORT
IMPLEMENTATION OF THE
SECTION 106 PROGRAMMATIC AGREEMENT
JULY 1, 2005 - JUNE 30, 2006

CULTURAL & COMMUNITY STUDIES OFFICE
DIVISION OF ENVIRONMENTAL ANALYSIS
CALIFORNIA DEPARTMENT OF TRANSPORTATION
SACRAMENTO, CALIFORNIA

October 2006

EXECUTIVE SUMMARY

This report documents the effectiveness of, and summarizes actions carried out under, the Section 106 Programmatic Agreement (PA) from July 1, 2005 through June 30, 2006, in accordance with Stipulation XVII D.1-D.2 of the PA. It includes only those projects for which Section 106 consultation was initiated and concluded under the PA from July 1, 2005 to June 30, 2006.

The California Department of Transportation (Caltrans) handled nearly 1,470 Federal-Aid Highway projects. Of these, fewer than 10 percent required external review. The summary results of these PA actions can be found on page 2. No major problems or objections to the manner in which the terms of the PA are being carried out were evident in this period of time. A summary of the effectiveness of the PA will be found on page 4. The PA continues to improve project delivery by delegating much of the Section 106 process to Caltrans.

At the same time, the PA has accomplished a reduced workload for both the Federal Highway Administration (FHWA) and the State Historic Preservation Officer (SHPO) in that routine projects, or those that do not involve any cultural resources, are reviewed internally by Caltrans Professionally Qualified Staff (PQS). Eighty-five percent of projects for the reporting period were exempted from further review following screening by PQS. Fewer than half of the remaining projects required SHPO review, and the majority of these reviews were requests for concurrence in eligibility findings, with notification only of project effect findings.

The results of this report demonstrate the effectiveness of the PA as an environmental compliance streamlining tool and likewise exhibits that Caltrans PQS continue to do a good job of ensuring that effects to cultural resources are taken into account without a loss in quality of work.

ACKNOWLEDGMENTS

We would like to thank the in-house PA team of the Caltrans Headquarters Cultural and Community Studies Office (CCSO), under the direction of Greg King, Office Chief, and overseen by Jay Norvell, Chief, Division of Environmental Analysis (DEA). Glenn Gmoser, Jill Hupp, and Gloria Scott of CCSO and Blossom Hamusek of District 2, Jackie Wait of District 10, and Marty Rosen of District 11 delivered training on the PA in the reporting period to Caltrans PQS and to other Caltrans and local agency staff. Shawna Abafo of the DEA Interagency Relations and Staff Development Office met with District cultural staff to provide instruction in using the interagency tracking database.

Grateful thanks are also extended to Valerie Levulett and the District 5 cultural resources staff for their efforts in forming a team with District engineers and Landscape Architecture to review routine project activities for the purpose of identifying proposed amendments to Attachment 2 on screened activities.

Additional thanks go out to all Districts for providing written summaries of their PA activities and for their thoughtful comments and suggestions for this report.

We also recognize and appreciate that implementation of the PA continues to be aided by assistance and guidance from SHPO and FHWA.

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
ACKNOWLEDGEMENTS.....	ii
TABLE OF CONTENTS.....	iii
INTRODUCTION.....	1
SUMMARY RESULTS OF PA ACTIONS.....	2
EFFECTIVENESS OF THE PA.....	4
QUALITY ASSURANCE MEASURES.....	8
REMAINING CHALLENGES.....	9
RECOMMENDATIONS.....	11
CONCLUSION.....	13

TABLES

Table 1: Activities Under the PA.....	2
Table 2: Historic Property Survey Reports.....	2
Table 3: Effect Findings.....	3
Table 4: Hours Saved By Screening.....	4
Table 5: Hours Saved By Exempting Properties from Evaluation.....	5

APPENDICES

Appendix A: Proposed Amendments to Attachment 2.....	follows page 13
--	-----------------

INTRODUCTION

The Programmatic Agreement among the Federal Highway Administration, the Advisory Council On Historic Preservation, the California State Historic Preservation Officer, and the California Department Of Transportation Regarding Compliance with Section 106 of the National Historic Preservation Act, as It Pertains to the Administration of the Federal-Aid Highway Program in California (PA) went into effect on January 1, 2004, streamlining Caltrans procedures under Section 106 of the National Historic Preservation Act. This report documents the effectiveness of, and summarizes activities carried out under, the Section 106 PA. It covers actions for which Section 106 consultation was initiated and concluded between July 1, 2005 and June 30, 2006, in accordance with Stipulation XVII D.1 and D.2 of the PA. Projects that were “in progress” with findings still pending as of June 30, 2006 are not reflected in this report; the results of those consultations will be reported in future annual reports once Section 106 has been completed. Projects for which consultation was initiated prior to the PA implementation were likewise not included in this reporting.

In accordance with Stipulation XVII.D.3, Caltrans is providing notice to the public that this report is available for public inspection and will ensure that potentially interested members of the public are made aware of its availability, and that the public may provide comment to signatory parties on the report. These findings are now submitted to the Federal Highway Administration (FHWA), the Advisory Council On Historic Preservation (ACHP), the California State Historic Preservation Officer (SHPO), and the Caltrans Director and District Directors.

SUMMARY RESULTS OF PA ACTIONS

The PA authorized Caltrans to carry out much of the compliance process under Section 106 of the National Historic Preservation Act. As such, the PA continues to improve project delivery while taking effects to cultural resources into account, achieving significant project cost and time savings.

According to data provided by the Districts, Caltrans processed 1,468 Federal-Aid Highway projects during this reporting period (see Table 1). The majority of these, 1,246 (85 percent), were exempted from further review after appropriate screening by Professionally Qualified Staff (PQS). Of the remaining 222 projects, 121 projects (8 percent) were documented to Caltrans files only when identification efforts revealed that no resources requiring evaluation were present, while only 101 projects (7 percent) required external review by SHPO (see Tables 2 and 3).

Table 1: Activities Under the PA

Projects Completed – Total	1,468
Caltrans Projects	959
Local Assistance Projects	509
Number of Projects Screened – Total	1,246
Caltrans Projects	796
Local Projects	450
Projects Not Screened – Total	222
Caltrans Projects	136
Local Projects	86

Table 2: Historic Property Survey Reports (HPSRs)

HPSRs to File – Total	121
HPSRs to File – Caltrans Projects	72
HPSRs to File – Local Projects	49
HPSRs to SHPO – Total	101
HPSRs to SHPO - Caltrans	64
HPSRs to SHPO - Local Projects	37

As shown below in Table 3, of the 222 projects that were not screened, 205 (92 percent) resulted in effect findings of No Historic Properties Affected or No Adverse Effect with Standard Conditions. Under the PA, No Historic Properties Affected findings are documented to Caltrans files (if no cultural resources requiring evaluation were present) or are sent to SHPO for notification purposes only. The PA likewise allows Caltrans to send documentation of findings of No Adverse Effect with Standard Conditions directly to SHPO for notification only.

Of the 101 projects submitted to SHPO for review during the reporting period, 84 had effect findings of No Historic Properties Affected or No Adverse Effect with Standard Conditions. In this, Caltrans saved a minimum of 60 days per project in not having to send the documentation to FHWA for review and forwarding to SHPO, and in not having to request SHPO concurrence with these particular effect determinations. This provision also saves FHWA and SHPO staff time in not having to review documentation for projects that are not affecting, are avoiding, or are not adversely affecting historic properties.

Only 15 (7 percent) of the 222 non-screened projects concluded with No Adverse Effect or Adverse Effect findings. Nine resulted in No Adverse Effect findings, while 7 went forward with adverse effects (see Table 3). These findings require review by FHWA and subsequent forwarding to SHPO for review and concurrence. While the process here is little changed from the pre-PA procedures, as Table 3 reveals, few projects actually reach this stage.

Table 3: Effect Findings

Total Effect Findings	222
No Historic Properties Affected	182
Documented to File Only	121
Notification to SHPO Required	61
No Adverse Effect with Standard Conditions	23
No Adverse Effect	09
Adverse Effect	07

The resolution of Adverse Effects generally involves the execution of a Memorandum of Agreement (MOA). This activity was not delegated to Caltrans under the PA, although Caltrans PQS are typically able to work directly with SHPO in drafting and negotiating the MOA. This is the most complex area of consultation. It was anticipated that by eliminating routine projects and lesser effect findings from SHPO review, SHPO staff would be able to concentrate on the limited number of projects that do have potential to adversely effect historic properties. Prior to the PA, MOAs could take several months to negotiate, and Districts report that under the PA the timeframe is approximately the same. From the SHPO's perspective, the time needed to review an MOA is dependant upon the quality of the draft document; a document requiring much revision will take longer to review, as it involves more work by SHPO staff. From Caltrans' standpoint, the resolution of adverse effects does not constitute a large workload issue, because so few projects actually reach this stage (see Table 3). The summary result of all Caltrans' activities under the PA for this reporting period, is that *overall* the PA remains an invaluable streamlining tool, as discussed in the next section.

EFFECTIVENESS OF THE PA

The results presented above demonstrate that the PA is an effective program alternative for taking into account effects of the Federal-Aid Highway Program on historic properties. By delegating authority to Caltrans to perform the functions of FHWA and SHPO for much of the Section 106 process, the PA has achieved the following efficiencies for the current reporting period:

- Over 90 percent of projects screened or documented to Caltrans files only.
- Project schedules benefited from time saved by far fewer submittals to review agencies and by less time spent waiting for those reviews.
- More than 69,500 estimated hours saved by exempting projects from review.
- Approximately 2,260 estimated hours saved by exempting properties from evaluation in accordance with Attachment 4 of the PA.
- Time and expense saved by foregoing Phase II archaeological excavations when sites can be considered eligible and protected by an Environmentally Sensitive Area designation.
- Eliminated or reduced review times by SHPO and FHWA.

Time and Cost Savings

The most notable time savings under the PA is the ability to exempt routine projects from further review after appropriate screening by Caltrans PQS pursuant to Attachment 2. More than 1,200 projects (85 percent of all Federal-Aid highway projects for the reporting period) were screened, with an estimated combined time savings of 69,549 hours statewide for both Caltrans and Local Programs projects (see Table 4).

Table 4: Hours Saved By Screening

Total Number of Projects Screened	1,246
Caltrans Projects	796
Local Projects	450
TOTAL Estimated Hours Saved by Screening (Attachment 2)	69,549
Hours Saved on Caltrans Projects	49,966
Hours saved on Local Projects	19,583

Districts were asked to track the estimated hours saved by being able to screen projects and to provide this information to Headquarters for this annual reporting. Districts have developed various methods for calculating the savings based on their experience with handling these types of projects prior to the PA; most apply a flat per-project figure, while others use a tiered system proportionate to the nature and scope of the project (for example, “minimal” projects save 40 hours, “large” projects 145 hours). The estimated savings for all twelve Districts ranged from 10 hours per project to 280 hours per project, with the average being 51 hours saved per project. While the total estimated time saved by screening might seem high, it is not an unreasonable approximation of the actual savings. At least one District felt that they had, in fact, likely underestimated the actual savings.

For example, District 7 cited two projects (an electrical loop detector repair/replacement, and a fiber optic closed-circuit television installation) in which a total of 88 hours were saved by the ability to screen these activities. Without the PA, an Archaeological Survey Report (ASR) would have been prepared for every location along multiple alignments, utilizing time and resources that are better spent on more complicated undertakings with potential to affect cultural resources.

Despite the estimated savings, Districts also reported that the average workload remains considerable. Hence the time savings might be viewed as a measure of more efficient project delivery, in that the screening process has allowed Caltrans to move projects along much more quickly than could be accomplished without the PA. The projects that were screened moved through the Section 106 compliance process promptly (in some cases with a 1-day turnaround), whereas without the PA there would have been a backlog of projects for the same time period given existing staffing levels and workload.

Of the 1,246 projects screened for this reporting period, 796 (64 percent) were Caltrans projects. Therefore, Caltrans saved an estimated 49,966 hours by screening, or 28 person-years.¹ At the average salary earned by an Associate Environmental Planner Archaeologist or Architectural Historian (the classification that most Caltrans PQS occupy), Caltrans saved the equivalent of roughly \$1,606,750 in staff time by screening alone over the course of this reporting period.²

Although it is not possible to calculate precise savings for Local Programs projects, it is probable that local agencies achieved more or less equivalent time and cost savings by not having to hire consultant specialists to prepare technical studies for routine projects.

Table 5: Hours Saved By Exempting Properties from Evaluation

Estimated Hours Saved by Exempting Properties from Evaluation (Attachment 4)	2,262
Hours Saved for Caltrans Projects	1,314
Hours Saved for Local Projects	948

¹ One person-year is equal to 1,760 hours.

² Using the average salary of 4,782 per month, multiplied by 12 months and 28 person-years.

A time savings was also achieved for the 222 projects that could not be screened. The ability of qualified Caltrans staff and consultants under the PA to exempt properties from evaluation, for example, saved an estimated 2,262 hours (see Table 5). Districts provided estimates of time saved based on the approximate number of properties exempted, versus the estimated time that would have been expended evaluating these properties. This reported time savings is likely actually much higher, as not all Districts tracked this information.

Although this information is not formally tracked, Districts also reported that a major time and cost saving aspect of the PA is the ability to consider sites to be eligible without conducting subsurface testing, and protecting the sites with an Environmentally Sensitive Area (ESA) to reach a No Adverse Effect with Standard Conditions finding, per PA stipulations VIII.C.3 and X.B.2(ii). As one District noted, “It is with these types of projects that we see the most significant time and costs savings since we are not required to evaluate the significance of every archaeological site within the [Area of Potential Effects] APE if it can be protected through the use of an ESA.” These provisions also benefit cultural resources, in that they allow Caltrans to avoid unnecessary subsurface testing of archaeological sites.

Finally, Caltrans has realized still more time savings in reduced or eliminated review times by FHWA and SHPO. Of the 222 projects (out of a total of 1,468 projects for the reporting period) that could not be screened, more than half (121, or 55 percent) were documented to file only. For the remaining 101 projects that did require SHPO review, time savings was achieved through Caltrans’ delegation under the PA to act on behalf of FHWA in consulting directly with SHPO on determinations of eligibility, thereby eliminating at least 30 days review time at FHWA. By delegating the responsibility for determining the APE and identification of historic properties to Caltrans, the PA saves an additional 60 days per project in review time at SHPO. Review time at FHWA and SHPO for a determination of eligibility has therefore been reduced from no less than 120 days before the PA to 30 days under the PA. As one District noted, “several projects that were not screened benefited from the use of the PA, because in many cases SHPO commented within 20 to 25 days.”

Additional review time is also saved by Caltrans’ delegation under the PA to provide concurrent notification to FHWA and SHPO of No Historic Properties Affected and No Adverse Effect with Standard Conditions findings. This eliminates at least 30 days of review time at FHWA, and because Caltrans does not seek SHPO’s concurrence in these notification-only findings, 30 days of review at SHPO. As discussed in the previous section, 84 percent of projects requiring SHPO review during this reporting period fell under one of these two effect findings.

The PA also continues to have a time savings benefit for the partnering agencies as well. Only 101 out of 1,468 total projects for the reporting period required SHPO review. Fewer than seven percent of those projects incurred effects that required FHWA and SHPO consultation.

Other benefits of the PA

- Several Districts noted that the complexity of dealing with emergency projects has been simplified under the PA, allowing PQS an efficient way to manage these types of projects. For example, in one District multiple storm drains were damaged or rendered ineffective as a result of heavy rains over the previous year. Emergency repairs could be carried out efficiently because PQS were able, under the PA, to quickly study the entire affected area and focus studies on those areas that had potential to affect historic properties.
- A number of Districts also commented that local agencies are happy with the PA, and that the rapid turnaround of projects due to screening in the words of one, “at times provokes cheers from Public Works Directors.”
- Several Districts noted that not having to get an FHWA engineer to sign APE maps continues to be a tremendous timesaving, particularly in remote Districts.
- Most Districts cited the 30-day review at SHPO for most projects as a tremendous benefit, as is having the option of moving forward without a response after 30 days has passed.
- One District noted that having a single branch to coordinate Section 106/PA guidance has contributed to a unified Caltrans and a consistent approach.
- One District referred to the PA’s APE delineation guidance in Attachment 3 as a benefit, because it allows PQS to draw APE boundaries that reflect realistic, rather than arbitrary, project effects on historic properties.
- One District estimates that without the PA it would need at least double the current staff to maintain the same level of Section 106 compliance.

Accomplishments

Several Districts provided “PA success stories” - examples of projects where the PA worked particularly well in streamlining the Section 106 compliance/project delivery process:

District 4 cited the San Tomas Bike/Pedestrian Trail project in Santa Clara County. The project, which involved the construction of 1.25 miles of pedestrian and bike path along the San Tomas Aquino Creek in the city of Santa Clara, required the preparation of an ASR and HPSR before the project could proceed. An APE map for the project incorporating comments and suggestions made by Caltrans PQS was finalized and signed in one day, which would not have been possible before the PA went into effect. Timely review of the APE map, the ASR and HPSR by Caltrans, and our ability under Stipulation VI.B.7 of the PA to conclude that our Section 106 obligations had been met (without consultation with SHPO due to the absence of cultural resources requiring evaluation) allowed the local agencies to retain important funding and proceed with the project as originally scheduled.

Another example provided by District 4 is the Russian River Bridge Emergency Replacement project on State Route 128 in Sonoma County. In this instance, the provisions of the PA enabled the District to expedite the completion of Section 106 for an extremely high-profile project. The project posed no risk to potentially eligible resources, but the report production and approval

process would have taken months without the PA with a project schedule that would only allow weeks.

District 6 noted that the PA allowed PQS to keep commitments made to Project Management regarding the Garces Circle Bridge Replacement Project in Kern County. PQS prepared a Finding of No Adverse Effects without Standard Conditions pursuant to the PA, and total review time at FHWA and SHPO was less than 45 days.

District 6 also cited the Peach Avenue Couplet Project in the city of Clovis, Fresno County. Through the use of the PA, specifically the ability to exempt properties from evaluation, delegated APE responsibilities, and reduced SHPO review times, PQS were able to complete the Section 106 process with little effort. PQS took on the project and were able to bring a project that had been at risk of delivery failure to a successful conclusion on time with two days to spare. The Clovis City Manager wrote a letter to both the District 6 Director and Caltrans Director regarding the “excellent assistance” that Caltrans PQS gave the city.

Finally, District 7 reported that the ability to directly consult with SHPO on the First Street Widening Project in Los Angeles has kept this local agency project on track.

More Results of PA Activities

Caltrans PQS continue to implement the PA conscientiously and make good decisions while still taking advantage of the PA’s streamlining opportunities, as evidenced by the lack of major problems, failures, or public objections during this reporting period. There were no reported inadvertent effects to historic properties, ESA failures associated with PA actions, foreclosures, or formal objections to the manner in which the terms of the PA are being carried out.

QUALITY ASSURANCE MEASURES

The streamlining benefits of the PA described in the previous sections would not be meaningful if Caltrans was unable to maintain quality control measures consistent with those of FHWA before the PA. Under the PA, Caltrans PQS are charged with ensuring that cultural resources are properly taken into account and that there is no loss in quality of work. The results of this report indicate that this responsibility is being handled well overall. To ensure that this level of quality continues, Caltrans District staff and Caltrans Headquarters Cultural Communities Studies Office (CCSO) implemented the following:

- District 9: CCSO delivered a PA training session to Local Assistance staff and local agencies in June 2006 in Bishop.
- District 12: CCSO delivered a one-day training session in Irvine for District Local Assistance staff in May 2006.
- Headquarters: CCSO, with assistance from District 2 and District 10 cultural staff, delivered a 12-hour training class for Caltrans PQS in Sacramento in April 2006.

Other, ongoing quality assurance measures will include:

- Regular statewide teleconferences addressing PA/106-related questions.
- Periodic “Section 106 Bulletins” sharing SHPO and FHWA comments statewide.
- Continuing visits by CCSO to the Districts to review documents retained in Caltrans files.
- Bulletins, teleconference notes, and other guidance posted on the CCSO website.
- Peer reviews by CCSO staff, as requested by Districts.

REMAINING CHALLENGES

While the overall feedback is highly positive, Districts have reported that a few challenges remain, primarily relating to staffing and internal working organizational issues, as follows:

Communication among PQS who work in regionalized Districts and consensus among those Districts regarding the level of effort required for screening projects in areas where there is potential for Native American concerns was cited as a problem by one District.

One District has recently been asked to screen “GoCalifornia” projects and others at the Project Initiation Document (PID) stage. The District finds this problematic because these projects may change as they are actually designed and by screening them so early in the process, there is a risk that project delivery could be delayed, if the design changes involve activities that are not “screenable” or have potential to affect historic properties. If that were the case, the project would no longer qualify as screened, and more extensive Section 106 compliance studies would be required, and the project schedule may not have budgeted adequate time for this.

Some Districts reported difficulty in finding the time to balance the review and oversight of Local Assistance projects with their own demanding project delivery workload, particularly when it involves accelerated project delivery schedules associated with storm damage and restoration projects.

One District noted that review of Local Assistance projects is especially difficult as many submissions are lacking adequate mapping, project descriptions, or other important project elements, requiring more work from PQS to get the information needed to complete Section 106 compliance for the project. Another specified that if the quality of local agency-prepared documents submitted to Caltrans were improved, the time required to review them “would not be a factor.” On a similar note, one District reported that the majority of consultants hired by local agencies in this District do not consistently follow Caltrans and SHPO guidance for conducting an appropriate level of effort to identify historic properties in cases where a simple surface (ground) survey is not sufficient to determine the potential for buried archaeological deposits. Nor are the local agencies inclined to authorize the work (such as subsurface testing or review of historic maps and soil surveys) recommended by Caltrans PQS as necessary to document that potential for buried resources was adequately considered. While these problems are not specific to the PA, it is recognized that review and approval of all documents prepared under the PA, including local agency documents, is an added responsibility for PQS.

A challenge previously reported and reiterated by a District was that PQS assigned to work with Local Assistance projects were subject to frequent questioning by local agencies, particularly with regard to decisions about why particular projects cannot be screened, or why PQS are requiring studies for specific projects based on the local agency's interpretation of the PA. Despite PA training provided to the counties and their consultants, assistance from Headquarters staff when requested in providing review of local government documents, and the clear legal requirements of the PA, certain counties continue to object to PQS having oversight responsibility, including interpretation of the PA and the appropriate level of documentation and reporting requirements.

One District noted that Environmental Planning and Local Assistance are the only two divisions/departments that know about the PA. This District has had some resistance from Caltrans Project Managers about signing the APE Map. In one instance, it took the intervention of the Division Chief, and a copy of the signed PA to convince a particular Project Manager that his signature was required on an APE Map.

While not strictly PA-related, one District suggested that it would be helpful if Headquarters made available some basic MOA templates as examples for both the built environment and archaeological resources.

One District identified the completion of the Environmental Handbook Volume II (part of the Standard Environmental Reference) as a critical need in order to provide consultants with an outline of Caltrans cultural resources processes and procedures. The lack of accessibility to those chapters not yet posted on-line is extremely frustrating to those in the Districts who are looking for this guidance.

Several Districts reported that using the interagency tracking ("it") database to record PA-related data for annual reporting purposes remains a challenge.

Addressing the Challenges

Of the issues listed above, those related to staffing and internal District organizational structure are perhaps the greatest challenges, as the PA requires PQS involvement in all projects including Local Assistance, and staff are unevenly distributed in both numbers and qualifications and already seemingly stretched thin in some Districts. Adequate staffing by appropriately trained and qualified PQS at all levels will be essential to continuing to meet the provisions of the PA. It is anticipated that this challenge may be addressed at least partially in the current fiscal year, as several Districts expect to hire additional cultural resources staff.

Completing the Environmental Handbook Volume II as soon as possible is a goal of CCSO, as this will help maintain consistency among the Districts in implementing the PA, and will allow Districts to provide current guidance to consultants. CCSO also provides staff to assist District PQS in working on Local Assistance projects, upon request.

CCSO will continue to provide training for non-PQS Local Assistance staff, local government agencies, and consultants upon request of the District. Training sessions specifically for

Environmental generalist staff are also planned. In addition, more generalists are opting to attend the 12-hour training for PQS. Training for other divisions, such as Project Management, is being considered.

Regarding MOA templates, CCSO currently posts recently executed MOAs on its intranet website for Districts to use as examples. These are documents that have been approved by Caltrans, FHWA and SHPO. Additionally, CCSO has been working with FHWA and SHPO to develop standardized language that will facilitate preparation of “routine” MOAs.

The problem of being asked to screen projects too early in the project development process may be addressed by clearly documenting in any memos, pursuant to Attachment 2 of the PA, that any subsequent changes to the project are not covered, and that PQS will have to review the changes to determine whether the project can be rescreened, or whether additional studies are necessary.

Following up on challenges from the previous reporting period, one District’s principal challenge had been the failure of PQS to copy the Heritage Resources Coordinator (HRC) on project memos or provide the HRC with completed HPSRs. This problem has largely been corrected.

Challenges related to tracking project data for annual reporting purposes can likely be addressed by additional training on how to use the “it” database. The Caltrans Headquarters Interagency Relations and Staff Development Office has provided and will continue to provide this training to the Districts. In addition, CCSO will provide more direct guidance to the Districts regarding specific potentially critical gaps in the data that must be remedied prior to the next annual report.

RECOMMENDATIONS

Caltrans proposes a number of minor changes to Attachment 2 of the PA, which are documented in Appendix A of this report. Several Districts contributed suggestions for amendments to Attachment 2, but District 5 deserves particular recognition for their efforts in forming a team of cultural resources, engineering, and landscape experts to assess the existing list of screenable activities and compile a comprehensive list of recommended additions. The additions include fairly minor modifications to the existing list of activities; deleting the condition that work on category 5 (ineligible) bridges may only be screened if the structures are less than 50 years old; and adding a new screenable activity: the establishment of construction or maintenance staging areas and creation of temporary material stockpiles.

Other Proposed Amendments

Stipulation X.B1: One District suggested delegating to Caltrans the authority to consult directly with SHPO on findings of No Adverse Effect (without Standard Conditions), with concurrent notification to FHWA. In general, this District feels the PA needs to be amended to take into account Section 4(f) of the Department of Transportation Act “de minimis findings as related to Section 106 and the National Environmental Policy Act (NEPA).”

Stipulation XI: Two Districts proposed amending this stipulation to include formal review times for agreement documents.

Discussion:

Caltrans formally requests that the PA signatories consider the proposed amendment in accordance with stipulation XVII.B.1 of the PA. Stipulation XVII.B.2 states that attachments to the PA may be amended through consultation of the signatory parties without requiring amendment of the PA itself.

Regarding the proposed amendment to PA stipulation X.B1, the current procedure is that FHWA consults with SHPO on findings of No Adverse Effect (other than No Adverse Effect With Standard Conditions). FHWA did not delegate this authority to Caltrans primarily because such projects may potentially invoke Section 4(f), therefore FHWA wanted to be involved in those consultations. Under the August 10, 2005 approval of the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” or SAFETEA-LU (H.R. 3), however, if Section 106 consultation results in a finding of No Adverse Effect, Section 4(f) impacts are considered *de minimis*. In a letter dated August 11, 2006 FHWA informed SHPO that when Caltrans notifies SHPO of a No Adverse Effect with Standard Conditions finding or FHWA proposes a finding of No Adverse Effect under the PA, FHWA would make a *de minimis* finding for Section 4(f), regardless of whether SHPO had provided written concurrence. The SHPO concurred with this procedure on August 28, 2006. This letter was intended to address the new *de minimis* provisions without requiring amendment of the PA.

Concerning the suggestion that PA stipulation XI be amended to include formal time frames for resolution of adverse effects, Caltrans recognizes that due to the nature of such consultation, it does not have a legal time frame either in the regulations or in the PA. We believe that Caltrans, FHWA, and SHPO can agree on measures to streamline the agreement document review process outside of the PA, either informally or by incorporating provisions into the May 2005 interagency agreement between Caltrans and SHPO. Efforts to standardize MOA language, as noted above, will also assist Caltrans.

Hence, Caltrans proposes only the amendments to Attachment 2, and does not recommend any amendments to the PA itself at this time.

CONCLUSION

The PA continues to accomplish the goals of the signatory agencies, as evidenced by the results of this annual report. It has improved project delivery by delegating to Caltrans a substantial role in the process for compliance with Section 106 of the National Historic Preservation Act, and achieved considerable project cost and time savings for Caltrans. It has also succeeded in reducing the workload of both FHWA and SHPO staff in that fewer Caltrans projects require external review by these agencies.

Caltrans hopes that the other signatories will agree that the PA is an efficient and effective program alternative for taking into account effects of the Federal-Aid Highway Program on historic properties in California and for affording the ACHP a reasonable opportunity to comment on undertakings covered by the PA. We look forward to meeting with the other signatories to discuss the results of this report.

APPENDIX A

The text below reflects the changes to this attachment as recommended by Caltrans. Added or deleted text is shown in bold and is underlined.

ATTACHMENT 2 SCREENED UNDERTAKINGS

Screened undertakings are those undertakings that have the potential to affect historic properties, but following appropriate screening, may be determined exempt from further review or consultation under this Agreement.

The Caltrans PQS is responsible for screening those individual undertakings that are included within the classes of screened undertakings listed below to determine if those individual undertakings require further consideration, or if they may be determined exempt from further review or consultation under the terms of this Agreement, as prescribed by Stipulation VII.

The undertaking will not qualify as exempt from further review if conditions must be imposed on the undertaking to ensure that potential historic properties would not be affected.

All features of the undertaking, including the identification of mandatory storage, disposal, or borrow areas and construction easements, must be identified prior to the screening process. If additional features are added to a screened undertaking, the undertaking must be rescreened.

This Attachment applies only when the federal undertaking is limited exclusively to one or more of the activities listed below. Additional Section 106 review will be required, following the steps outlined in Stipulation VIII of the Agreement, if the Caltrans PQS determines that the undertaking has potential to affect historic properties.

Classes of Screened Undertakings:

1. Pavement reconstruction, resurfacing, shoulder backing, or placement of seal coats.
2. Minor widening of less than one-half-lane width, adding lanes in the median, or adding paved shoulders.
3. Channelization of intersections or addition of auxiliary lanes.
4. Establishment of chain control areas, park-and-ride lots, maintenance pullouts, **or vista points**.
5. Minor modification of interchanges and realignments of on/off ramps.
6. Minor utility installation or relocation.
7. Installation of noise barriers.
8. Addition of bicycle lanes or pedestrian walkways.
9. Storm damage repairs, such as culvert clearing or repair, disposal or stockpile locations, shoulder reconstruction, or slide or debris removal.
10. Repair of the highway and its facilities.
11. Modification of existing features, such as slopes, ditches, curbs, sidewalks, driveways, dikes, or headwalls, within or adjacent to the right of way, **including construction of retaining walls and installation or replacement of slope protection mechanisms**.

12. Minor operational improvements, such as culvert replacements, median or side-ditch paving, **or construction or replacement of minor drainage systems.**
13. Addition or replacement of devices, such as glare screens, median barriers, fencing, guardrails, safety barriers, energy attenuators, guide posts, markers, safety cables, ladders, lighting, hoists, or signs, **including monuments such as community identifiers.**
14. **Installation**, removal or replacement of roadway markings, such as painted stripes, raised pavement markers, thermoplastic tape, or raised bars, or **soft median barriers such as rumble strips and textured barriers**; or installation of sensors in existing pavements.
15. Abandonment, removal, reconstruction, or alteration of railroad grade crossings or separations or grade crossing protection.
16. Minor alteration or widening of existing grade separations where the primary function and utility remain unaltered.
17. Additions or alterations to existing buildings, such as work on or in office or equipment buildings, maintenance stations, warehouses, roadside rests, minor transit facilities, weigh and inspection stations, toll facilities, or state-owned rentals.
18. Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety; **or modifications for ADA access compliance.**
19. Any work on Category 5 bridges **that are less than 50 years of age**, including rehabilitation or reconstruction.
20. Modification of traffic control systems or devices utilizing existing infrastructure, including installation, removal, or modification of regulatory, warning, or informational signs or signals.
21. Installation of freeway surveillance or ramp metering equipment, **Changeable Message Signs, Intelligent Transportation Systems (ITS) infrastructure, and similar highway management equipment.**
22. Replacement of existing highway signs.
23. Removal or control of outdoor advertising.
24. Projects that eliminate non-fixed hazards, such as removal of objects on roadway, traffic accident cleanup, hazardous waste removal, or fire control.
25. Establishment, replacement, or removal of landscaping, vegetation, irrigation, or **erosion control** systems on state or local public property, including highway and local roads rights of way and building sites.
26. Construction or repair of fish screens or ladders, springs, waterholes, or stream channels (e.g., clearing of debris from streams, ditches, or culverts).
27. Right-of-way activities such as hardship acquisition or acquisition of scenic or conservation easements.
28. Joint or multiple use permits with other agencies or encroachment permits.
29. Preliminary engineering tests, such as seismic, geologic, or hazardous materials testing, that involve buildings or structures or require trenching or ground boring.
30. **Establishment of construction or maintenance staging areas and creation of temporary material stockpiles.**

The Screening Process:

The screening process may include one or more of the following procedures. The process is not limited to the procedures below, nor are all these procedures required for all undertakings. Screening should be appropriate to the specific complexity, scale, and location of the undertaking:

- Literature/records review to determine potential for involvement of historic properties.
- Consultation with Indian tribes who may attach religious or cultural significance to properties within the project area, as appropriate for the scope of the undertaking.
- Field review of project area.
- Review of detailed project plans.
- Consultation with local Native American groups, local historical societies, or knowledgeable informants, as appropriate for the scope of the undertaking.
- Review of aerial photographs, Caltrans photologs, historic maps, or as-built records.
- Review of right-of-way, assessment parcel, or ownership data.

Based on the outcome of the screening process, the Caltrans PQS may determine that individual undertakings are exempt from further review when there is no potential to affect historic properties.

The CE-Section 106 Checklist and/or a memo to the project planner for inclusion in the project file constitute the documentation necessary to complete the Section 106 process for screened undertakings determined exempt from further review, and no further review or consultation will be necessary.