

Ohio State Historic Preservation Office (SHPO) Comments
OPSB 2020 Rule Review
Stakeholder Meeting Questions
04/16/2020

Question 1.e – Staff currently consults with and engages subject matter experts from state and federal agencies to seek and provide information while reviewing projects for possible approval. Can this process be improved? And if so, what recommendations do you have?

- Currently, the OPSB submits electronic versions of the application to our office for review with a Review Form which requests we check the following boxes that apply:
 - o *Our agency had reviewed the application for informational requirements, and it is complete.*
 - o *Our agency has reviewed the application for informational requirements, and it is incomplete. We have attached a list of required additional items needed from the Applicant.*
 - o *Attached is our evaluation of the application. Any comments may be used in the Staff Report of Investigation and the evaluator(s) may be called on to testify on such comments.*
 - o *Our agency requires additional information from the Applicant to complete our evaluation. Attached is a list of requested interrogatories.*
 - o *Our agency has no comment on this application.*
- Our office approves of the submission process (electronic submissions of applications, as they are lengthy and a majority of the application is not pertinent to cultural resource review) but the Review Form and checkboxes are problematic for cultural resource review. If the Applicant has not yet completed cultural resource studies, it is often stated so in the application. In our coordination letter back to OPSB, we request cultural resource studies take place. However, it is unclear, based on the Review Form, if the lack of cultural resource survey makes the application “incomplete”.
- If cultural resource studies have been completed, and we are reviewing them or cultural resource coordination is complete by the time our office reviews the application, we update OPSB on the status of review and check either the application is complete or additional information is needed to complete our application.
- It is unclear to our office how the Review Form is utilized by OPSB and if we are interpreting the checkboxes the same way OPSB does.

Question 2.b – If any such determination is so deferred, should the Board consider unbundling a certificate to construct and operate, and permit construction to move forward while the operating authority is deferred until such time and any open items are addressed? Should certain phases or components of the application be: (1) approved only upon submission of “final design;” or, (2) approved pursuant to more fully developed project information if it is impractical or not feasible to provide final

detailed studies/designs or plans? What should the Board consider when making this determination of feasibility?

3. Cultural resource studies?

- Our office recommends a process similar to the Section 106 process of the National Historic Preservation Act (NHPA) to identify and avoid, minimize, or mitigate adverse effects on historic properties for OPSB projects. The process has four basic steps: establish the undertaking, identify and evaluate historic properties, assess effects to historic properties, and resolve any adverse effects. To assess a project's effects to historic properties, a certain level of design needs to be completed. Construction is not able to move forward until a resolution is agreed upon between the Applicant and the SHPO, and is memorialized in a Memorandum of Understanding (MOU). It will likely be a case-by-case basis if unbundling of the certificate to construct and operate is possible if there is an adverse effect to a historic property.
- Our office recommends OPSB consider the Applicant work with our office to approve a "Scope of Work" for cultural resource studies before certification, and then allowing the cultural resource investigations take place after the certification in adherence of the Scope of Work approved before certification. This process would allow potentially lengthy investigations to happen as the project moves through the OPSB process but give a level of confidence to both the SHPO and OPSB that cultural resource investigations will happen and potential adverse effects to cultural resources will be dealt with according to the already approved Scope of Work.

Question 2.d – To the extent the Applicant submits supportive studies, should the studies be subject to a trustworthiness standard such as the evidentiary standard applicable to expert opinions? If so, what standards? If not, why not?

- Our office has standards for survey and report submission, we ask everyone submitting to our office adhere to the following guidelines. We also ask that all professionals met the Secretary of the Interior's Standard and Guidelines Professional Qualification Standards.
 - o Secretary of the Interior's Standard and Guidelines: Professional Qualification Standards - https://www.nps.gov/history/local-law/arch_stnds_9.htm
 - o Submitting a Project for Review - <https://www.ohiohistory.org/preserve/state-historic-preservation-office/hpreviews/section106>
 - o Archaeology Survey Guidelines – https://www.ohiohistory.org/OHC/media/OHC-Media/Documents/OAI_ArchaeologyGuidelines.pdf
 - o History/Architecture Survey Guidelines - https://www.ohiohistory.org/OHC/media/OHC-Media/Documents/Guidelines-for-Conducting-History_Architecture-Surveys-in-Ohio.pdf
 - o Report Submission Standard - <https://www.ohiohistory.org/OHC/media/OHC-Media/Documents/SHPO/Survey/Report-Submission-Standards-10112018.pdf>

Question 2.f – Should multi-stage projects be required to be filed as one combined application (i.e., transmission line, substation, generating facility)? Why or why not?

- Our office attempts to review multi-stage projects as one complete project (i.e. a solar farm that might be two OPSB applications currently; the energy generating application and the transmission line application), and our coordination will usually address the project as a complete entity. However, for projects that are not energy generating (i.e. transmission line, substations, etc. from companies like AEP, FirstEnergy, etc.) we usually review those projects “as we get them” (in other words, how the cultural resource consultant submits them to us, which is usually just a transmission line, just a substation, etc.) Again, our office doesn’t necessarily have a preference, but for projects that, in our opinion, would be “whole” or “complete” projects, we would view those projects as “one project”.

Question 2.h - What criteria should determine in a proposed change in the facility would result in any material increase in environmental impact or a substantial change in location for purposes of R.C. 4906.07?

- For cultural resource review, an increase in the project footprint could affect culture resource review and/or require additional cultural resource survey to take place. Also, an increase in the height of a structure could require additional cultural resource survey and/or a change of the effects to significant cultural resources.

Question 3.c – How should the Board monitor and enforce the terms of its certificates? More generally, what post-construction monitoring and enforcement procedures should apply, including during the operation and decommission phase?

- Generally, our office is unclear how the construction and operation of a facility is permitted in relation to determining the effect of significant cultural resources and how it is determined by OPSB that those stipulations are fulfilled before construction/operation begins?
- Our office would encourage a process similar to environmental monitoring for significant cultural resources. For example, if a project footprint was redesigned to avoid archaeological sites, monitoring during construction would ensure those archaeological sites are indeed being avoided per any stipulations agreed upon by our office and the Applicant. How do we and/or OPSB know that conditions are met? Could a post-construction report with photographic documentation be provided? Should reporting be a stipulation in the MOU?
- Our office would also appreciate being involved with the decommission phase of projects. Decommissioning could include new staging areas or temporary field office areas, which could further affect cultural resources. Coordination with our office would be beneficial for those resources.

Our office also has some recommendations re: Ohio Administrative Code 4906-4-08 (D) The Applicant shall provide information on cultural and archaeological resources

(1) Landmark mapping. The Applicant shall indicate, on a map of at least 1:24,000 scale, any formally adopted land and water recreation areas, recreational trails, scenic rivers, scenic routes or byways, and registered landmarks of historic, religious, archaeological, scenic, natural, or other cultural significance within ten miles of the project area. Landmarks to be considered for purposes of paragraph (D) of this rule are those districts, sites, buildings, structures, and objects that are recognized by, registered with, or identified as eligible for registration by the national registry of natural landmarks, the state historical preservation office, or the Ohio department of natural resources.

(4) Visual impact of facility. The Applicant shall evaluate the visual impact of the proposed facility within at least a ten-mile radius from the project area. The evaluation shall be conducted or reviewed by a licensed landscape architect of other professional with experience in developing a visual impact assessment. The Applicant shall...

- Though our office recommended the expansion of the landmark mapping from five (5) miles to ten (10) miles in 2016, with the new facilities under review, namely solar energy projects, we believe this expansion is too extreme for most project types. Our office recommends OPSB consider a landmark mapping “sliding scale”, much like the Federal Communications Commission (FCC) does for communication towers. We believe updating the landmark mapping radius requirements allows for a more manageable level of work for the Applicant and more appropriate review for OPSB and the SHPO.