



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

DATE: August 14, 2015
TO: Environmental Consultant Pool
FROM: Lisa Gibson, Senior Environmental Planner
cc: Archeology Consultant Pool
RE: New Procedures for AB 52 Implementation

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Assembly Bill (AB) 52 became effective on July 1, 2015, requiring lead agencies to consider the effects of projects on tribal cultural resources (TCRs) and to conduct notification and consultation with federally and non-federally recognized Native American tribes early in the environmental review process. This memorandum describes new procedures and document templates that the Environmental Planning (EP) division of the San Francisco Planning Department has established to implement AB 52. The referenced document templates are provided on EP's [Consultant & Sponsor Resources webpage](#) under "Documents and Templates."

Updated Initial Study Checklist

We have updated our Initial Study Checklist as follows:

- Renamed topic 4, "Cultural and Paleontological Resources," to "Cultural Resources;"
- Added a new TCR-related question under Cultural Resources; and
- Moved the paleontological resources question from topic 4 to topic 14, Geology and Soils.

Use of this checklist for negative declarations (NDs) and environmental impact reports (EIRs) is effective immediately.

Initial Tribal Outreach

In May 2015, EP initiated discussions with tribal groups listed by the Native American Heritage Commission for San Francisco (all of whom identify as Ohlone) and met with initial tribal group respondents. Outreach goals included determining tribal interest in receiving future notification of projects and identifying potential TCRs in San Francisco. Outreach to additional tribal groups is ongoing. Tribes who have requested notification have been placed on a confidential tribal distribution list.

Tribal Notification

For all projects for which a ND or EIR is required, staff will distribute a "Notification Regarding Tribal Cultural Resources and CEQA" to the tribal distribution list. Environmental consultants may draft this form, but EP staff will distribute the document. The notice gives tribes 30 calendar days to request consultation.

Tribal Consultation

If a tribe requests consultation, consultation must begin within 30 days. EP staff archeologists will lead any consultation efforts and maintain a confidential record. Results of consultation can be summarized in the CEQA document, but certain details cannot be disclosed without written permission of the tribe.

TCR Impact Analysis

EP staff archeologists will conduct screening for potential TCR impacts in tandem with the Preliminary Archeology Review (PAR) process. In general, potential significant impacts to prehistoric archeological resources may be considered potential significant impacts to TCRs. TCR mitigation measures will include consideration of preservation-in-place or avoidance. If that is not feasible, interpretive treatment of the resource may be required. For EIRs, the alternatives analysis will consider TCR impacts consistent with the treatment of other topics. Alternatives will be developed in consultation with EP staff.

We do not envision the need for consultant-prepared TCR technical reports. EP staff will be heavily involved in the drafting of impact analyses for TCRs during these early stages of AB 52 implementation. Over time, consultants will be the primary authors of TCR sections.

Confidentiality

Standard confidentiality requirements regarding certain information and documents pertaining to archeological resources and Native Americans will continue to apply. Furthermore, information submitted a tribe as part of the environmental review and consultation process cannot be included in the environmental document without prior written consent of the tribe. Information submitted by a tribe may be shared with the project sponsor with approval from the tribe. Consultants and property owners/representatives are subject to confidentiality restrictions.

Conclusion

These procedures are subject to change as our experience conducting TCR impact analysis and tribal notification and consultation pursuant to AB 52 grows. In addition, agencies such as the Governor's Office of Planning and Research and the NAHC may provide further guidance that will affect our practice.

Please share this memorandum with your colleagues who will be working on projects in San Francisco. If you have questions, please feel free to contact me at lisa.gibson@sfgov.org or (415) 575-9032. We welcome your feedback and suggestions. Thank you.