

***Federal
Emergency
Management
Agency***

Public Assistance Program

**Standard Operating
Procedure**

Historic Review



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September 2001

Federal Emergency Management Agency

Historic Review

**Standard Operating Procedure
September 2001**

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Historic Review

Standard Operating Procedure

INTRODUCTION

Purpose

The Historic Review Standard Operating Procedure (SOP) provides procedural guidance to Federal and state personnel and applicants for the integration of historic preservation compliance into FEMA's Public Assistance (PA) Program. It also provides direction to FEMA and State personnel and applicants for the completion of historic review in a consistent and timely manner.

Scope

This SOP describes the historic review process outlined by the National Historic Preservation Act (NHPA), which requires Federal agencies to take into account the effects of their undertakings on historic properties. Federal agencies must consult with parties who have an interest in the effects of the undertaking in order to identify affected historic properties, assess the undertaking's effects on historic properties, and seek ways to avoid, minimize, or treat any adverse effects on historic properties. FEMA complies with NHPA and its implementing regulations (36 CFR Part 800) either by executing statewide programmatic agreements or by following standard regulatory procedures, commonly referred to as the *Section 106 Process*. This SOP outlines the steps required for compliance with NHPA under FEMA's programmatic agreement as well as under the standard Section 106 process.

FEMA is committed to continually reviewing and evaluating its historic preservation program. The agency seeks to incorporate changes in the Section 106 review process and to update when necessary the procedures outlined in this SOP.

Tools Necessary to Complete Historic Review Under Standard Section 106

(36 CFR Part 800: Protection of Historic Properties)

- Programmatic agreement, if executed
- Special Considerations Questions (Appendix A)
- Job Aid Checklist for the Historic Scoping Meeting (Appendix B)
- Project maps and photos (obtain from applicant)

- Assessment Form for Determination of Effect (Appendix A)
- FEMA's Historic Preservation Program Desk Reference

Overview

This document is organized into the following sections:

- **Introduction:** This section briefly discusses the purpose of the SOP and FEMA's responsibilities regarding historic preservation.
- **The Public Assistance Process and Historic Review:** This section describes the process through which FEMA undertakes historic review as part of the PA Program.
- **Roles and Responsibilities:** This section outlines the historic review responsibilities of the applicant, State Emergency Management Agency, FEMA's Environmental Liaison Officer, FEMA Public Assistance personnel, and the Historic Preservation Specialist.
- **Appendices:** This section includes forms and general reference materials.

Note: FEMA uses the term *Special Considerations* to describe issues other than program eligibility that affect the scope of work and funding for a project. Special Considerations include hazard mitigation and insurance in the PA Program, as well as compliance with Federal laws and regulations pertaining to floodplain management, environment, and historic preservation.

This SOP specifically addresses the historic preservation context of Special Considerations. Please refer to FEMA's SOP on Environmental Review for guidelines on the environmental compliance process.

HISTORIC REVIEW AND THE PUBLIC ASSISTANCE PROCESS

This section describes the Public Assistance process of achieving compliance with NHPA using either standard Section 106 review or the terms of an executed programmatic agreement.

Background

In a Disaster Field Office (DFO), the Environmental Liaison Officer (ELO) coordinates both the environmental and historic reviews necessary as a result of FEMA program activities. Within the PA Program, these activities may be delegated to the Special Considerations Liaison, who will work closely with the Public Assistance Officer (PAO), Public Assistance Coordinator (PAC), and Specialists to ensure that historic preservation review is addressed throughout the Public Assistance process.

In order to begin the process to comply with the NHPA, FEMA initiates coordination with the State Emergency Management Agency (SEMA), the State Historic Preservation Officer (SHPO) and/or Tribal Historic Preservation Officer (THPO), and the Advisory Council on Historic Preservation (Council), if appropriate. The primary purpose of this coordination is to establish points of contact within a series of agencies so that required historic preservation review can proceed in an orderly and expeditious fashion.

FEMA works with participating agencies, either prior to or immediately following disaster declaration, to execute a historic preservation programmatic agreement in each state. This programmatic agreement establishes a streamlined historic review process through which FEMA complies with NHPA and other Federal historic preservation legislation. The Council and the National Conference of State Historic Preservation Officers have reviewed FEMA's approach to compliance and endorsed the major concepts in the programmatic agreement. If a programmatic agreement has not been executed in a given state, then FEMA must follow the standard requirements of Section 106 of the NHPA and all steps outlined in its implementing regulations (36 CFR Part 800). Because the programmatic agreement is the result of negotiation between FEMA, SEMA, the Council, and the SHPO/THPO, it is important to review carefully the stipulations for the agreement that has been executed.

Consideration of historic properties is critical to the effective delivery of Federal assistance through FEMA's Public Assistance (PA) Program, Hazard Mitigation Grant Program (HMGP), Pre-disaster Hazard Mitigation, Federal Assistance to Individuals and Households, and Flood Mitigation Assistance (FMA) Program. If FEMA fails to address these issues expeditiously, consequences may include project delays, denial of required permits, legal action, or even the de-obligation of Federal funding. Consideration of historic proper-

ties as early as possible in the implementation of FEMA's programs can prevent many of these consequences.

Pre-Disaster Planning

The periods of time between disasters offer crucial opportunities to prepare for possible future disasters. FEMA regional staff and the SEMA should stay current with any changes to FEMA regulations and policies that may affect NHPA compliance, as well as monitoring any changes to the NHPA and its implementing regulations. The SEMA should maintain a working relationship with the SHPO/THPO. This is particularly important since often there is little regular interaction between the SEMA and SHPO/THPO. At the same time, FEMA should discuss unique historic and archeological issues in the state with the SHPO/THPO.

FEMA's Regional Environmental Officers (REOs) play the most important and central role in pre-disaster planning. To achieve the greatest benefits from early coordination, the following steps outline the sequence of activities that should be carried out:

1. The FEMA REO initiates contact with the SEMA and SHPO/THPO to establish points of contact for addressing future historic preservation issues in the event of a Federally declared disaster. The REO and SEMA should cultivate and maintain a good working relationship with the SHPO/THPO.
2. The REO should take the lead to establish inter-agency contacts, initiate consultation, develop lists of state, regional, and local preservation organizations, and identify major historic preservation concerns in the region.
3. Whenever possible, the REO should make available preparedness measures on protecting historic properties and cultural resources to preservation organizations and cultural institutions.
4. The REO should negotiate and execute a programmatic agreement for the disaster and distribute copies to SEMA and SHPO/THPO. Whenever possible, programmatic agreements should be executed prior to a disaster declaration.

Preliminary Damage Assessments

A Preliminary Damage Assessment (PDA) is conducted by FEMA and SEMA to document the impact and magnitude of a disaster. Its purpose is to verify that the response and recovery efforts needed to respond to the disaster are beyond state and local capabilities. The PDA team generally consists of Federal and state inspectors, a field coordinator, and may include the FEMA REO. The field coordinator should designate a Special Considerations Point of Contact (POC) to expedite the process of collecting information on historic

resources that may be affected by FEMA programs and to generally minimize confusion. PDA team members should obtain any available historic information that the potential applicant can readily provide. Such observations should be noted on the PDA. Due to time constraints, however, there can be no verification of the information provided at the time of the PDA.

The applicant representatives should have a general familiarity with the historic resources associated with their facilities and should be asked to share that information with the PDA inspection teams. The collection of project coordinate location as data (latitude/longitude) using Global Positioning System (GPS) units is encouraged for mapping PDA information.

All information collected during the PDA should be provided immediately to the FEMA Public Assistance Officer (PAO).

Scoping Process

As assigned by the PAO, the Special Considerations Liaison or the ELO is responsible for coordinating with the State, PAO, and the SHPO/THPO on the identification of any potential historic properties that may be affected by Public Assistance activities.

As part of the coordination process, a streamlined strategy will be developed to address potential historic preservation issues. Prior to that coordination, the REO/ELO will work closely with the PAO to interpret the PDA data for potential historic resources and will coordinate with FEMA's Regional Office to obtain FEMA requirements for historic preservation review and other historic preservation issues relating to previous disasters. The ELO will then schedule scoping meetings with the appropriate state and Federal agencies to initiate consultation on historic issues.

After the scoping meetings, the Special Considerations Liaison or the ELO will make Historic Preservation (HP) Specialist staffing recommendations to the PAO. Upon receiving comments from the PAO, the Special Considerations Liaison or the ELO will develop *Disaster-Specific Guidance for Environmental Considerations* (herein called Disaster Specific Guidance), including a section on historic considerations. The PAO will review this guidance at the Field Briefing with all staff members, including the Special Consideration staff.

Applicant Briefings

The State is responsible for conducting Applicant Briefings. FEMA staff, including the ELO, may attend at the invitation of the State. FEMA should encourage the SEMA to invite relevant environmental and historic resource agencies, including the SHPO/THPO.

These briefings are intended to introduce the potential applicants to the various disaster recovery programs. Applicants also have the opportunity to apply for disaster assistance.

Applicant Briefings have a diverse audience and a great deal of information must be given in a short period of time. Because there is little time to address historic review in detail, the SEMA should inform the audience that FEMA has procedures available to assist applicants in the historic review process. The SEMA should also advise applicants that compliance with NHPA requires that damaged historic structures be secured and repair work not begun until historic review has been completed. In the event that structures are in imminent danger of failure, applicants should alert FEMA/SEMA immediately so that important historical information can be recorded before the resource is lost. The Applicant Briefing should end with a question and answer period when applicants can alert the State official of any immediate historic preservation issues or needs. The SEMA should alert FEMA of any such issues following the briefing.

Field Briefing

The PAO will conduct Field Briefings before the PACs begin their Kickoff Meetings. The purpose of the briefing is to inform FEMA staff of potential issues, program priorities, data about the disaster, reporting requirements, and any unique procedures that will be undertaken at the DFO. The PAO, ELO, or the Special Considerations Liaison will present the Disaster Specific Guidance.

After the briefing, all PA Program staff should have a general understanding of known historic requirements, including whether a programmatic agreement has been executed in the affected state(s), and how historic and cultural resources will be identified, evaluated, resolved, and documented.

The Kickoff Meeting

The Kickoff Meeting provides an opportunity for PA Program staff to introduce applicants to program requirements. The PAC, with the assistance of the State-Applicant Liaison (SAL), will schedule and conduct the meeting. The PAC will discuss Special Considerations issues and concerns. The PAC will provide copies of the *Special Considerations Questions* and will stress the need for Section 106 compliance. The PAC will encourage the applicant to bring a listing of damages and estimated costs to begin this discussion. If the PAC knows that an applicant has a significant number of historic resources or issues, a Historic Preservation (HP) Specialist should attend the Kickoff Meeting to address historic review needs. The PAC should review applicant-specific information with the HP Specialist prior to the meeting.

Project Formulation and Historic Review

Project formulation is the process through which eligible projects are identified and reviewed. Information on a project, including a description of the damaged facility and the necessary repairs, must be compiled on a Project Worksheet (PW). Historic issues are also identified at this time with the completion of the Special Considerations Questions form by the applicant and its review by the PAC. Relevant historic information about the damaged facility should be recorded on the PW, including the date of original construction, the identification of any known historic significance associated with the facility, and an assessment of whether the proposed work can be confined to the original footprint of the structure. If possible, photographs of the historic or cultural resource should be included.

Historic review requirements should be addressed at every stage of the project formulation process. At this time, the PAC identifies historic or potentially historic properties and coordinates with the ELO and an HP Specialist to resolve any historic issues. The program's goal is to have the HP Specialist begin the historic review while the applicant or the Project Officer develops each scope of work. The HP Specialist may have to coordinate review with other specialists to address hazard mitigation, insurance, or environmental issues. The HP Specialist is also responsible for keeping the PAC informed on the status of the review efforts.

In the cases where applicants develop their own PWs for small projects, FEMA and the State will validate only a sample, usually 20% of the small projects submitted. However, all projects with potential historic preservation issues are separately reviewed by the HP Specialist and are not part of the 20% that are validated. One of the responsibilities of the Validation Specialist is to confirm that there are no historic review requirements for a project where none were previously noted.

Upon completion of the historic review, the HP Specialist will confer with the PAC on his/her findings and recommendations. The PAC may meet with the applicant on the findings or may request that the HP Specialist do so. The PW is then finalized with all terms and conditions for historic review compliance.

Projects cannot be approved for funding until all compliance requirements have been agreed to, formally documented as required by 36 CFR Part 800, and documented in the Case Management File (CMF). The PAC will advise the HP Specialist as to the proper procedures for entering information directly into the CMF.

USING THE STANDARD SECTION 106 PROCESS

If a programmatic agreement has not been executed before or immediately after the disaster, the following review process should be followed:

Step 1: Initiating the Section 106 Review Process

FEMA is responsible for integrating Section 106 review early in the project planning process. To initiate the standard Section 106 review process, FEMA must establish whether or not an undertaking exists, as defined in 36 CFR §800.3(a). An undertaking can be a FEMA-funded action, project, program, or activity. Since all PA funded activities are considered to be undertakings, FEMA must determine whether the proposed scope of work has the potential to affect historic properties. If FEMA determines that no undertaking exists (36 CFR §800.16(y)), or there is an undertaking but it does not have the potential to affect historic properties, then FEMA has no further responsibilities under the Section 106 process. FEMA should document the steps taken to establish whether an undertaking exists in the project file.

FEMA should initiate the Section 106 review process whenever it is clear that the type of Public Assistance project or activity has the potential to affect a historic property. The potential exists if the project includes work that will not substantially match the pre-disaster condition of the facility, if the project expands beyond the footprint of the facility, and/or if the project involves ground-disturbing activities on previously undisturbed soil. These projects include, but are not limited to, improved or alternate projects, mitigation activities, emergency demolitions, and ground-disturbing activities associated with debris disposal. This potential may become evident during the Scoping Process, Applicant Briefing, or Kickoff Meeting. FEMA, SEMA or the applicant may also record historic issues on the PW or the Special Considerations Questions form.

If FEMA determines that an undertaking has the potential to affect historic properties, it must begin the consultation process with certain agencies, individuals, and the public as defined in the Section 106 regulations. To begin this process, the PAC must forward the PW to the HP Specialist or notify the HP Specialist as soon as the project becomes known. Consulting parties must include the respective SHPO/THPO and SEMA representatives, as well as representatives of the local government with jurisdiction over the area in which the effects of an undertaking may occur, and applicants for Federal assistance (36 CFR §800.2(c)(1)(2)(4)(5)). Furthermore, FEMA must consult with any Indian tribe or Native Alaskan or Hawaiian organization that attaches religious and/or cultural significance to affected historic properties (36 CFR §800.2(c)(3)).

FEMA also consults with the SHPO/THPO to identify any other parties entitled to be consulting parties and invites them to participate in the Section 106 review process (36 CFR §800.3(f)). Other individuals and organizations with a demonstrated legal, economic, or preservation interest may ask to participate, whereupon FEMA must consult with the

SHPO/THPO (36 CFR §800.2(c)(6), 36 CFR §800.3(f)(3)) to determine the validity of their participation. Finally, FEMA must consult with the SHPO/THPO to prepare a plan for involving the public in the Section 106 review process (36 CFR §800.3(e)).

Step 2: Identification and Evaluation of Historic Properties

If a FEMA project or activity has the potential to affect historic properties, FEMA is responsible for determining whether or not the properties are listed or eligible for listing in the National Register of Historic Places. This responsibility includes determining the scope of identification efforts, identifying historic properties, and evaluating their historic significance. Throughout this entire process, FEMA must consult with the SHPO/THPO, Indian tribes, and Native Alaskan or Hawaiian organizations about properties to which they attach religious and cultural significance. The SHPO/THPO should assist FEMA in gathering information about historic properties, review and comment on FEMA's determinations of eligibility and determinations of effect, and provide consultation to resolve any adverse effects.

The identification and evaluation of historic properties must be conducted by someone who meets the Secretary of the Interior's Professional Qualifications Standards, as determined by FEMA's Federal Preservation Officer (FPO).

To determine the scope of identification efforts, FEMA consults with the SHPO/THPO (36 CFR §800.4(a)) to define the Area of Potential Effects (APE), which is the geographic area or areas within which an undertaking may directly or indirectly cause alterations to the character or use of historic properties. FEMA also reviews existing information about historic and cultural resources, seeks information from parties likely to have knowledge of or concerns about the area, and gathers information from Indian tribes and Native Alaskan and Hawaiian organizations.

Based on information gathered, FEMA takes the steps necessary to identify historic properties within the APE. This identification process typically begins with background documentary research followed by an identification survey.

For the purpose of FEMA activities, the term *historic property* generally refers to any building, site, structure, object, or district fifty years of age or older. To be eligible for the National Register of Historic Places, such resources must be significant when evaluated in relationship to major historical trends in a community, state, or the nation. Eligible properties must also possess integrity, or qualities that authenticate a property's historic identity. Some properties less than fifty years old may also be eligible for the National Register if they are exceptionally significant. The ELO or the Special Considerations Liaison should coordinate with the SHPO/THPO to obtain a listing of properties in the declared counties that have previously been determined eligible for the National Register, if available. If a property is not on the list, it still may be eligible for the National Register.

The following are some examples of historic properties that may arise in FEMA activities:

- **Buildings:** residences, courthouses, city halls, factories, schools, libraries
- **Sites:** archaeological sites, battlefields, traditional cultural properties, cemeteries
- **Structures:** bridges, lighthouses, roads, culverts, dams, power plants
- **Objects:** sculptures, monuments, fountains, statuary
- **Districts:** college campuses, central business districts, irrigation systems, industrial complexes, transportation networks

To identify historic properties, FEMA, the State, or the applicant consults with the SHPO/THPO, Indian tribes, and Native Alaskan or Hawaiian organizations to gather information for identifying properties of historic, religious or cultural significance.

If FEMA identifies potentially historic properties, then the HP Specialist, PAC, or Project Officer should consult with the applicant, the SHPO/THPO, Indian tribes, and Native Alaskan or Hawaiian organizations to try to redesign the project so as to avoid all potentially eligible historic properties. If any resources cannot be avoided, then additional evaluation may be required to determine whether or not such resources are eligible for the National Register.

During evaluation, FEMA uses the information gathered in the identification phase to determine the National Register eligibility of properties not previously evaluated for their historic significance. In some instances, FEMA may need to assess the significance of previously evaluated historic properties to determine whether the property's historic integrity may have been affected by the disaster, other intervening acts, or the passage of time.

In consultation with SHPO/THPO, Indian tribes, or Native Alaskan and Hawaiian organizations, FEMA applies the National Register Criteria (36 CFR Part 63) to properties identified within the APE that have not been previously evaluated for National Register eligibility. If FEMA determines that the historic properties meet any of the National Register Criteria, and the SHPO/THPO agrees, FEMA considers the property eligible for the National Register for Section 106 purposes. If FEMA and the SHPO/THPO agree that the Criteria are not met, the property is ineligible for National Register listing.

If FEMA and the SHPO/THPO are not in agreement as to whether a property meets the Criteria, FEMA must obtain a formal determination of eligibility from the Keeper of the National Register of Historic Places (Keeper) pursuant to 36 CFR Part 63. Also, when a Native Alaskan or Hawaiian organization or an Indian tribe does not agree with the finding, it may ask the Council to request that FEMA obtain a determination of eligibility from the Keeper.

Should FEMA determine that there are either no historic properties present or there are historic properties present but the undertaking will have no effect on them, FEMA shall

provide documentation to the SHPO/THPO, notify all consulting parties, and make information available to the public prior to approving the project. If the SHPO/THPO does not object within 30 days, the review process is complete.

Step 3: Assessing Adverse Effects

FEMA must proceed to the assessment of adverse effects when it finds that historic properties are affected or the SHPO/THPO or Council objects to a *no historic properties affected* finding. Adverse effects occur when an undertaking directly or indirectly alters the characteristics of a historic property that qualify it for inclusion in the National Register.

To assess adverse effects, FEMA must 1) notify all consulting parties and invite their response and 2) apply the criteria of adverse effect in consultation with the SHPO/THPO and any Indian tribes and Native Alaskan or Hawaiian organizations attaching religious and cultural significance to identified properties. FEMA must consider the views provided by consulting parties and the public.

No Adverse Effect Determinations

- If FEMA proposes a determination of *no adverse effect* (NAE), pursuant to 36 CFR §800.5(b) and (c), FEMA should submit the finding and all relevant documentation to the SHPO/THPO for a 30-day review period. FEMA should concurrently notify all consulting parties of the finding and submit all relevant documentation as listed in §800.11(e). If the SHPO/THPO concurs with the finding and the Council is not reviewing the finding pursuant to §800.5(c)(3), FEMA may proceed with the action. If the SHPO/THPO does not respond within 30 days, FEMA may assume concurrence and proceed with the action or consult with the Council in lieu of the SHPO/THPO, pursuant to §800.3(c)(4).
- The Council will only become involved in the review of a project if:
 - 1) The SHPO/THPO or any consulting party does not concur with FEMA's finding of *no adverse effect* and efforts to resolve the disagreement are unsuccessful. In this case, FEMA must submit the proposed project and determination, the scope of work, and all accompanying documentation, as outlined in §800.11(e), to the Council.
 - 2) The Council may, on its own initiative, request to review the NAE finding within the 30-day SHPO/THPO review period. This review will generally be in response to a request by an Indian tribe, Native Alaskan or Hawaiian organization, or other consulting party. The Council's decision to review the finding will be guided by the criteria in Appendix A of the regulations.

- If the Council chooses to review the finding, it must comment within 15 days of receiving the documented finding from FEMA as to whether FEMA correctly applied the adverse effect criteria in consultation with the SHPO/THPO. If the Council has not responded to FEMA within the 15-day period, FEMA may assume concurrence and proceed with the project. In the event that FEMA will not conduct the project as proposed in the NAE finding, FEMA must reopen consultation under §800.5(a).

Adverse Effect Determinations

- If FEMA determines that an action will adversely affect a historic property, FEMA must consult further with the SHPO/THPO and other consulting parties identified earlier under §800.3, including Indian tribes and Native Alaskan and Hawaiian organizations, to develop and evaluate effects.
- FEMA must notify the Council of all adverse effect determinations during the earliest phases of consultation, generally as soon as enough background documentation is available to meet the requirements of §800.11(e). The notice should invite the Council to participate when FEMA wants the Council to participate, when the project will adversely affect a National Historic Landmark, or when a programmatic agreement under §800.14(b) will be developed. The Council may also be invited to participate in the case of dispute resolution. If FEMA believes the *Criteria for Council Involvement* (Appendix A to 36 CFR Part 800) applies to the project, FEMA may also provide a written explanation to the Council.
- The Council must advise FEMA within 15 days if it will participate in the consultation process. FEMA may proceed with the consultation if the Council has not responded within the 15-day period. If there is a change in the project or the review process, FEMA should notify the Council. As a result of this notice or on its own initiative, the Council may reassess its decision and determine to participate in the consultation.

Step 4: Resolving Adverse Effects

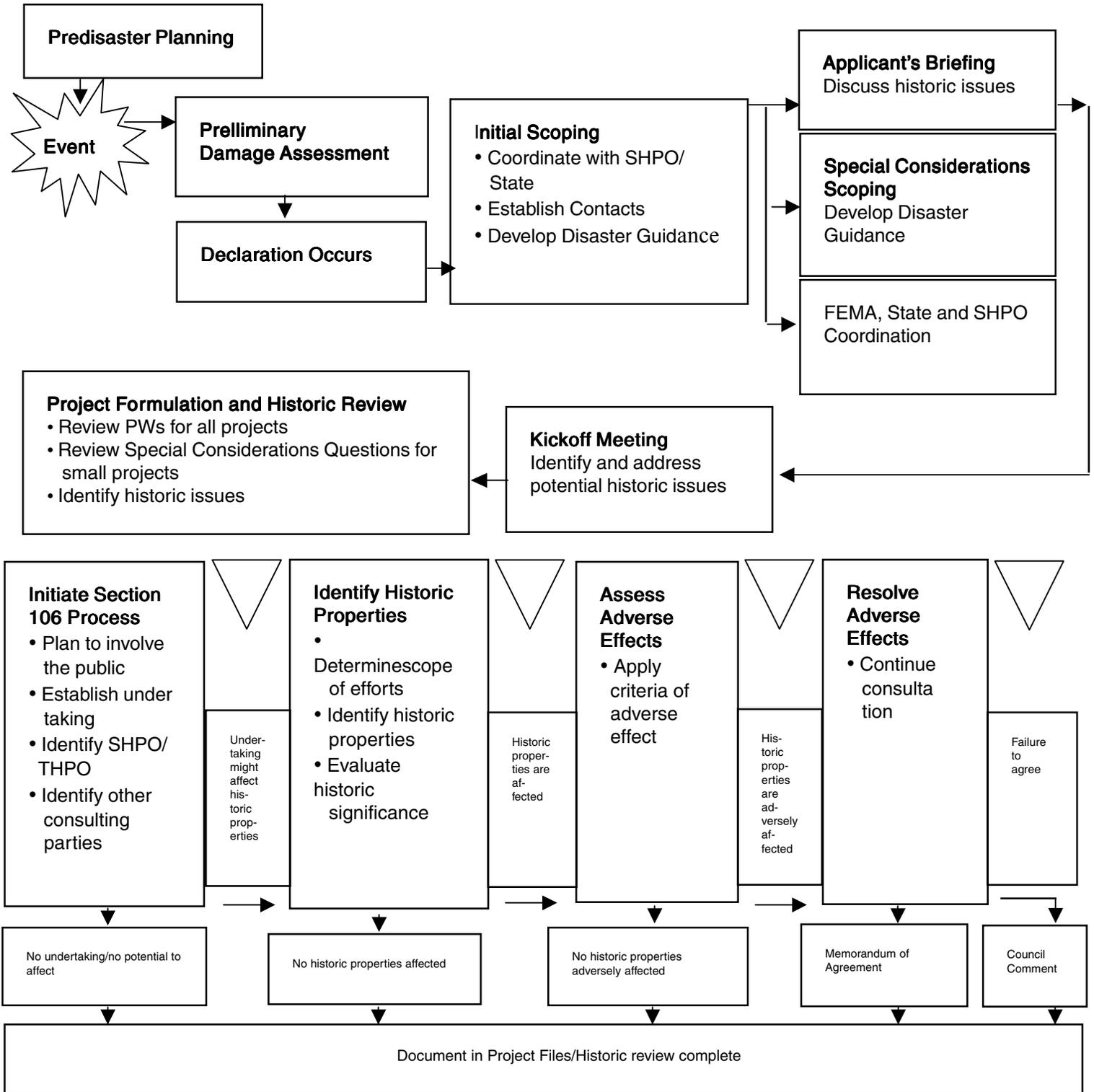
Consultation to resolve adverse effects usually results in a Memorandum of Agreement (MOA), which outlines agreed-upon measures that FEMA will take to avoid, minimize, or treat the adverse effect.

FEMA may not approve project funding until the MOA has been executed. Once executed, all signatories are responsible for ensuring that the terms of the MOA are followed. If consultation is unsuccessful, the Council renders advisory comments to the head of the Federal agency. FEMA takes the comments into account when making a final decision on the undertaking (36 CFR §800.7).

Emergency Review

Undertakings that result from immediate threats to life and safety within the first 30 days of a disaster declaration are considered emergencies for the purposes of Section 106 review. In the event of an emergency, FEMA must follow the emergency review procedures outlined in 36 CFR §800.12. The Federal Coordinating Officer (FCO) or ELO shall certify in writing to the SHPO, the Council, and any Indian tribe or Native Alaskan or Hawaiian organizations that may attach religious or cultural significance to historic properties, the need for FEMA to conduct expedited project review for the emergency. The parties will have seven days to comment on the action. When it is not possible to give seven days for comment, verbal notification to the SHPO/THPO and Council, followed in writing, is acceptable. FEMA must take the comments into consideration before proceeding with the emergency action. Should FEMA determine that it is necessary to extend the emergency review period beyond 30 days, FEMA's Federal Preservation Officer shall consult with the Council.

HISTORIC REVIEW FLOWCHART (STANDARD SECTION 106)



PROGRAMMATIC AGREEMENTS

Programmatic agreements are executed either prior to or immediately following disaster declarations. The programmatic agreement establishes a streamlined historic review process through which FEMA complies with NHPA and other Federal historic preservation legislation. A programmatic agreement is a product of negotiation between FEMA and other Federal and state agencies.

Programmatic agreements are usually disaster-specific, but may also be executed for specific periods of time, such as two or four years. All disaster personnel dealing with historic issues should read and understand the terms of the programmatic agreement for their disaster.

Selected Elements of a Programmatic Agreement

Whereas Clauses

The Whereas clauses at the beginning of a programmatic agreement identify the FEMA programs covered by the agreement and stipulate that the affected State will receive financial and technical assistance from FEMA to administer the disaster assistance programs. The clauses note that an executed programmatic agreement allows FEMA to expedite the historic review process by excluding the Council and SHPO/THPO from review of certain routine activities with little potential to affect historic properties. The body of the agreement itself stipulates the steps necessary to consider the effects of undertakings on historic properties.

Applicability

Programmatic agreements remain in effect for the duration of each identified disaster in a specific state or for the period of time specified in the agreement. The agreement outlines the FEMA programs for which the programmatic agreement is applicable, and states that FEMA has no obligation to consider the effects of Federal assistance to individuals and households with the exception of construction and ground disturbing activities associated with temporary housing. The agreement also specifies that undertakings that do not qualify for review under the terms of the agreement will be reviewed in accordance with 36 CFR Part 800.

Initial Coordination

The agreement sets out the steps necessary to follow at the beginning of a disaster declaration. Specifically, FEMA initiates a scoping process with the SHPO/THPO and SEMA to

establish points of contact and exchange vital information. The SHPO provides a list of historic properties within the declared disaster area and assists FEMA in identifying Federally recognized Indian tribes, Native Alaskan or Hawaiian organizations, historic groups, and individuals to inform them of the implementation of the programmatic agreement. The initial coordination period is also the time when FEMA and SEMA identify potential landfill sites for debris disposal and areas for chipping vegetation debris.

Emergency Project Review

Emergency review procedures may be followed in response to an immediate threat to human health and safety. The emergency review period begins at the time that FEMA determines that an emergency undertaking is required and remains in effect for a period not to exceed 30 days. Procedures are set out for informing the SHPO/THPO of the emergency undertaking and providing available information about the condition of the property, the proposed action, and the measures that would take the adverse effect into account.

Standard Project Review

This section describes the procedures for standard historic preservation review. Certain projects do not require review due to programmatic allowances, as defined in Appendix 1 of the agreement. Information is provided for the review of small and large projects. Procedures are discussed for determining the Area of Potential Effects (APE) of an undertaking and whether the proposed project has the potential to affect historic properties. The Secretary of the Interior's Standards for the Treatment of Historic Properties are taken into consideration and provisions are recommended for the review of undertakings that may have an adverse effect on historic properties.

Resolution of Adverse Effects

This section discusses the need for FEMA to document when an undertaking will adversely affect a historic property. Treatment measures are presented to consider the effects of an undertaking. Information is provided on the development and implementation of a Memorandum of Agreement or Secondary Programmatic Agreements to identify treatment measures and programmatic conditions that will be required to satisfy historic review requirements.

Ground Disturbing and Archeological Activities

Projects that have the potential to affect archeological resources within the APE are reviewed in this section. If archeological properties exist within the APE, FEMA and the project applicant shall consult to develop ways to avoid such properties. All project work shall cease if human remains or burial artifacts are uncovered in the project area.

Tribal Participation

FEMA is obligated to determine if there are Indian tribes, Native Alaskan, or Native Hawaiian groups that might attach religious and cultural significance to historic properties that may be affected by the disaster. Identified tribes are invited to become a party to the programmatic agreement.

Public Participation

Public participation is essential to informed decisionmaking. FEMA consults with the SHPO/THPO to determine if there are individuals or organizations with a demonstrated interest in the preservation of historic resources affected by the disaster.

Anticipatory Actions

FEMA will not grant assistance to an applicant who has intentionally demolished or otherwise significantly affected a historic property with the intent of avoiding historic review requirements.

Signatories

FEMA signatories to the programmatic agreement include the Readiness, Response and Recovery and Flood Insurance-Mitigation Directorates, and the Regional Director for the affected State. Other signatories include the State Emergency Management Agency, the State Historic Preservation Officer, and may include the Advisory Council on Historic Preservation and the Tribal Historic Preservation Officer when tribal resources are involved.

Appendix 1

Appendix 1 lists the project activities, known as programmatic allowances, that do not require review by the Council or SHPO/THPO.

APPLICANT ROLES AND RESPONSIBILITIES

An applicant is a State agency or department, local government, Indian tribal government, Alaskan native village, Native Hawaiian organization, or eligible non-profit organization that submits a request for Public Assistance. During the historic review process, the applicant plays an important role in identifying project-related historic information, which FEMA uses to comply with Federal historic preservation laws and regulations.

What do I need to know first about FEMA's historic review process?

- One goal of the PA Program is to complete the historic review process in a timely manner and with minimal impact on your disaster recovery efforts.
- During the process, FEMA can provide technical assistance in explaining and completing historic review.
- Intentional actions to avoid compliance with Federal historic preservation laws are termed “anticipatory actions” and may result in the denial of funding.

What can I do to expedite the historic review process?

- Tell the Public Assistance Coordinator (PAC) about historic properties associated with any of your projects as soon as possible. Include construction dates and any other relevant historical information in the project scope of work for all buildings and structures. The earlier FEMA knows about these issues, the more efficiently they can be addressed.
- Provide information that will help determine if your project involves historic properties by completing the Special Considerations Questions form as accurately as possible. Include any relevant information in the “comment” section of the form.
- A well-written scope of work can help ensure that the information you are providing to FEMA and SEMA includes all the information they need to successfully complete the historic review process for your project in a timely manner. In addition to clear photographs, detailed maps and accurate construction dates of known or potential historic properties within or near the project area, a detailed scope of work explaining your proposed project, and the methods that will be used to complete it is invaluable. Submittal of this scope of work will allow FEMA to determine what effects, if any, the proposed project may have on historic properties.
- If your project involves historic properties, work with FEMA and SEMA staff while they are completing the historic review process.

What do I need to do first when I discover that a project involves a historic property?

- Secure structures from physical alteration, illegal entry, and future damage.
- Save all easily recognizable damaged architectural details unless doing so is a threat to personal life and safety.
- Make no repairs to a historic property that may alter important features.
- Contact your PAC immediately and indicate the presence of a historic property on the Project Worksheet and Special Considerations Questions forms.

What will happen at the Applicant Briefing?

- In addition to describing FEMA programs, SEMA or FEMA staff will explain the importance of identifying any special considerations, such as historic review, that may be relevant to the recovery effort. The applicant packet includes a copy of the Special Considerations Questions form. (Appendix A).

What will happen at the Kickoff Meeting?

- The PAC or Project Officer (PO) will ask the applicant to identify the projects that may require historic review. Indicate to the PAC or PO those projects that will include work to properties at least 50 years old or that may affect undisturbed land.
- For those projects involving historic properties or undisturbed land, the PAC will explain to you how the necessary historic review will proceed.
- A Historic Preservation (HP) Specialist or Special Considerations Liaison may be present to meet with applicants and collect relevant information to expedite the historic review process. If not, the HP Specialist will contact you if additional information is needed for the historic review.
- The PAC will establish the time limitations for submitting small projects, generally 30 or 60 days. Failure to submit small projects within the established time frame will result in the project being elevated to a more detailed level of historic review.

How can I prepare for the Kickoff Meeting?

- The kickoff meeting is the applicant's opportunity to provide relevant information about damaged properties. Review your list of known historic properties and note the damages and other related considerations for each project. Generally, these considerations include whether there is a known historic property or the presence of pristine or undis-

turbed areas on or near the project site. Note the date of construction and whether the proposed project will change the footprint of the facility. Review the list with your jurisdiction's (city or county) planner responsible for historic preservation.

Do all projects undergo historic review?

- No, but all projects must be screened to determine if historic review is necessary. The first step of this screening is the accurate completion of the Special Considerations Questions form and a complete project scope of work. If historic review is required, the type of proposed work to repair the damaged facility will determine the level of historic review that is necessary.

What if I change the scope of work?

- If the scope of work is altered, immediately notify your PAC. All changes to the scope of work must be reviewed and approved by FEMA before construction begins. If the Disaster Field Office (DFO) has closed, notify SEMA, who will contact FEMA.
- Prepare a short summary of what aspects of the work have or will change and what unexpected conditions were encountered. Be ready to provide this information to the PAC.
- FEMA will review the work and advise you on how to proceed.

What if I encounter archeological properties?

- Cease all construction and ground disturbing activities immediately and contact the THPO/SHPO, SEMA, and FEMA.

What happens if an emergency situation exists?

Emergency situations may exist that pose threats to human safety and therefore require immediate action. If the action may potentially affect a historic property, an expedited review process is available for these situations. If an emergency situation exists:

- Notify the PAC or the HP Specialist as soon as possible with information regarding the emergency situation and any necessary emergency protective measures.
- FEMA will coordinate with you, the SHPO/THPO, SEMA, and the Council to conduct the appropriate historic review.
- If the situation is a threat to life and safety and you are unable to reach FEMA, SEMA or the THPO/SHPO in time to discuss the emergency, try to take photographs before the structure is lost. This may be the only documentation of the structure. Once it is gone, it is lost forever to the community.

Applicant Historic Review Checklist

Pre-Disaster Planning

- Familiarize yourself with the historic designation and significance of your facilities, which might include those listed or eligible for listing in the National Register of Historic Places or the State Register.
- Maintain contact with your jurisdiction's (city or county) planner who is responsible for local historic preservation and alert him/her to the potential need for technical support during the disaster recovery process.
- Ensure that you have the appropriate insurance information, inventories, and related documents available for your historic properties or those containing cultural objects.

Preliminary Damage Assessment

- Review your list of damaged sites for potential historic properties. Ensure that FEMA, SEMA, and Preliminary Damage Assessment (PDA) inspectors note this information in their reports.
- Let FEMA, SEMA, and the THPO/SHPO know if there are any potential historic properties that may pose a threat to human safety. Take photographs at a minimum before the resource is lost.

Applicant Briefing

- If there was significant damage to historic areas in your jurisdiction, relay this information to the SEMA official conducting the briefing.
- Review the information packet received at the briefing for information regarding historic review.

Kickoff Meeting

- Review your list of known damaged sites for potential historic properties.
- Review your list of known damaged sites with your jurisdiction's representative responsible for local historic preservation and note his/her concerns. Bring this information to the meeting, if applicable.

- Review the Special Considerations Chapter and the Special Considerations Questions form in the Applicant Handbook.

Project Formulation

- Provide complete and accurate descriptions of the damaged site and the proposed scope of work to return the facility to its pre-disaster condition, use, or function. Include construction dates and other relevant historical information.
- Complete the Special Considerations Questions form as accurately and completely as possible for each project
- Alert the PAC or PO when the facility will not be returned to its pre-disaster condition, use, or function.
- Assist the HP Specialist in the historic review process as needed.

Project Approval

- Understand the terms and conditions that must be met as a condition of receiving Public Assistance funds.
- Understand that any work undertaken to intentionally avoid historic review or affect a historic property in an unanticipated manner may jeopardize FEMA funding.

STATE EMERGENCY MANAGEMENT AGENCY ROLES AND RESPONSIBILITIES

Depending on the size and nature of the disaster, the State Emergency Management Agency (SEMA) is encouraged to participate in various levels of the Public Assistance process, including assigning an HP Specialist to work in the Resource Pool. These expenses are eligible as grant management cost provisions in accordance with the cost-share provisions outlined in the FEMA-State Agreement.

Following a disaster, do applicants' projects still have to comply with the National Historic Preservation Act?

Yes. Congress has not exempted FEMA and its disaster recovery assistance grants from the requirement to comply with the National Historic Preservation Act (NHPA). This includes actions such as temporary housing, debris removal, and the demolition of privately owned buildings with Public Assistance funds.

Is there any time-critical information that should be provided to applicants or to potential applicants?

Yes. During the Applicant Briefing, SEMA should advise applicants of the following points regarding historic facilities:

- Applicants should secure damaged historic structures and sites from physical alteration, illegal entry, and future damage until compliance issues associated with the NHPA are addressed.
- Applicants should identify historic components of a project as soon as possible. The earlier these conditions are known, the more quickly FEMA can address them. They must be addressed before funding approval.
- Applicants may not initiate demolition or construction on projects for which they are seeking Federal funding prior to NHPA compliance and subsequent approval from FEMA. This includes debris removal and the demolition of private property using Public Assistance funds. Any such *anticipatory actions* may jeopardize Federal funding.
- If it appears that an emergency action will affect a historic property, whether positively or adversely, the applicant must notify SEMA immediately. SEMA will then apprise FEMA of the situation right away. If the affected property is a standing structure, applicants should be directed to take clear, 35mm black & white photos (and color, if possible) of as much of the structure as is safe, prior to any emergency action. The photographs may end up being the only historical documentation the structure ever receives. If the

affected property is an archeological site, it may be possible to mobilize one or more archeologists on an emergency basis to perform some level of data recovery prior to the site's disturbance or destruction.

Should the State invite the State or Tribal Historic Preservation Officer (S/THPO) to the Applicant Briefing?

If it is immediately apparent that there may be a large number of damaged historic properties eligible for Public Assistance, you should request the State Historic Preservation Officer or Tribal Historic Preservation Officer (THPO) and/or FEMA's Environmental Liaison Officer (ELO) to attend the Applicant Briefing.

Where in the Public Assistance Program staffing structure is the State involved in historic review?

At the state level, all historic review should be coordinated through the State Public Assistance Officer (PAO). The State PAO should work together with the FEMA PAO to determine how the coordination of historic issues will take place between the two offices. The State may also have someone in a position equivalent to FEMA's HP Specialist to assist in completing historic review.

What responsibilities does the State have regarding changes to the applicant's scope of work or unexpected discoveries?

The State should notify FEMA immediately if:

- There are any changes to the approved scope of work.
- The project affects a previously unidentified historic property, such as an archeological site, or human remains are discovered.
- The project affects a known historic property in an unanticipated manner.

State Emergency Management Agency Historic Review Checklist

Pre-Disaster Planning

- Maintain contact with the FEMA Regional Environmental Officer to stay current on historic compliance issues.
- Notify the SHPO/THPO of any changes in FEMA's policies, regulations, and laws affecting historic properties.
- Include the SHPO/THPO in disaster recovery exercises.
- Maintain current staff contact lists for the SHPO/THPO and local historic preservation groups.
- Work with FEMA, the SHPO/THPO, and the Council to execute a programmatic agreement before a disaster occurs.

Preliminary Damage Assessment

- Direct State PDA inspectors to note in their reports any known historic characteristics of damaged sites and any potentially emergency situations where a historic resource poses a threat to human life and safety. Photographs should be taken, if possible, of threatened historic or cultural resources, and the SHPO/THPO should be notified.
- Encourage the use of location coordinates by GPS Units for mapping purposes.

Applicant Briefing

- If appropriate, invite the ELO and SHPO/THPO to attend the Applicant Briefing.
 - Tell potential applicants that, although a disaster has been declared, there will be a need for all projects affecting historic properties to comply with the NHPA. Emphasize to the applicants that the compliance process is streamlined to minimize delays to disaster assistance.
- Advise potential applicants that intentionally avoiding historic compliance or affecting historic properties in an unintentional manner may jeopardize funding.

- Instruct the Applicants to:
 - Secure historic properties from physical alteration, illegal entry, and future damage.
 - Identify any historic preservation issues associated with damaged sites as soon as possible.
 - Not begin work on historic properties until NHPA compliance is complete.
 - Alert the State or FEMA if emergency situations exist.

Special Considerations Scoping Process

- Provide a State counterpart to FEMA's ELO or Special Considerations Liaison.
- Attend the special considerations scoping meeting with FEMA and the SHPO/THPO.

Field Briefing

- Include a discussion of historic compliance issues and review of the Disaster-Specific in the briefing's agenda.

Kickoff Meeting

- Support the PAC in addressing project-specific historic preservation issues.

Project Formulation

- Provide Project Officers and HP Specialists with relevant information on historic properties and the review process, as available, to support the project formulation process.

PUBLIC ASSISTANCE OFFICER ROLES AND RESPONSIBILITIES

The Public Assistance Officer (PAO) is responsible for the effective and efficient operation of the Public Assistance (PA) Program. Timely, accurate, and consistent resolution of historic requirements is an important component of that responsibility. The implementation of a Public Assistance Program Operations plan and a staffing plan that includes plans to meet Federal historic preservation laws will help ensure that the desired program goals and objectives are met.

A summary of PAO responsibilities is included in the following checklist. Information below summarizes some of the more critical historic preservation responsibilities of the PAO.

What are the first historic preservation issues I should address?

- First, determine whether or not a programmatic agreement has been executed in the state in which the disaster has been declared. If a programmatic agreement has been executed, obtain a current copy of that agreement from the ELO. If not, immediately contact the Federal Preservation Officer (FPO) and your ELO, if appropriate, to ensure that negotiations are begun to execute the programmatic agreement.
- Contact the ELO as soon as he/she arrives at the DFO to coordinate staffing resources, discuss how historic issues will be addressed at the Field Briefing and Kickoff Meetings, discuss the authority given to PACs for the screening of projects for historic review, and any other relevant issues related to historic review.

How can the Federal Preservation Officer (FPO) assist me on my assignment?

- The FPO can provide assistance in obtaining resources such as Technical Assistance Contractors who have expertise in historic preservation requirements, mission assign tasks to another Federal agency with preservation expertise, and find other means of conducting the identification and evaluation of historic resources.
- The PAO should coordinate with ELO to contact the FPO at FEMA Headquarters.

What should be considered when I am staffing the Special Considerations Liaison position?

- The magnitude and complexity of a declared disaster will determine how you staff the Special Considerations Liaison position. For smaller and more compact disasters, a single person who has a broad understanding of the four Special Considerations Components may be designated as the Special Considerations Liaison. This person may

also serve as the Deputy ELO for small disasters. In this case, the ELO may assume the role of coordinating historic and environmental responsibilities, or may assign this responsibility to a deputy or a specialist. For catastrophic events, there may be several Special Considerations Liaisons, each with responsibility for a particular Special Considerations component.

- On smaller disasters, once the Special Considerations Liaison completes his or her scoping responsibilities and prepares the Disaster-Specific Guidance packets, he/she may be absorbed into the Resource Pool as a specialist. On catastrophic disasters, the Special Considerations Liaison may even be designated as a Deputy PAO.

When should I deploy the Special Considerations Liaison?

- In addition to selection of the Deputy PAOs and PACs, it is critical that the Special Considerations Liaison be part of the initial deployment. The PA Program process has established as a priority the identification and development of resolution strategies for special considerations prior to the initiation of the Kickoff Meetings.

Does the process differ for emergency situations?

- At times, emergency situations exist that require quick action regarding historic properties such as when a building has been damaged to the point of being a threat to safety and must be demolished. The following expedited process exists to handle situations that are a threat to life and safety:
 - The PAC should notify you immediately of the situation.
 - You may advise the PAC to notify the Federal Coordinating Officer (FCO) of the need for FEMA to conduct emergency project review for individual undertakings. You may also request the ELO to notify the SHPO/THPO and the Council. This written notification should include information on the property such as physical description, maps, and photographs as well as work proposed to mitigate adverse effects (See Appendix E: Sample Emergency Notification).
 - Alternately, you may contact the FPO directly or you may request the Special Considerations Liaison to complete this task.
 - There may be situations where the emergency is so immediate that verbal communication with the SHPO/THPO, Council, and FCO is necessary. The FPO can be helpful in facilitating this discussion.

Public Assistance Officer Historic Review Checklist

Pre-Disaster Planning

- Stay informed about FEMA's policies, regulations, and laws pertaining to historic preservation. The REO can provide this information.
- Ensure that such information is forwarded to SEMA.
- Review Program SOPs.
- Remain current on the REO's management reporting requirements for environmental/historic compliance.

Preliminary Damage Assessment

- Direct the PDA inspectors to collect any readily available information on the historic designation of damaged facilities.
- Consider the benefits and use of Global Positioning System (GPS) units to collect location coordinate information (e.g. latitude/longitude) for mapping purposes.

Initial Deployment to DFO

- Deploy a Special Considerations Liaison to begin the scoping process.
- Debrief the ELO on potential Public Assistance environmental and historic issues.
- Consult with the ELO on how Federal responsibilities are to be carried out.
- Coordinate information with the ELO/REO.

Applicant Briefing

- Check with SEMA to determine the nature of FEMA support.
- Encourage SEMA to request attendance of an HP Specialist and a representative from the SHPO/THPO if there are any damaged historic properties.

Special Considerations Scoping Process

- Ensure that the ELO is part of the scoping process and that compliance reporting requirements are identified.
 - Review the ELO or Special Considerations Liaison's recommendations for HP Specialist staffing.
 - Initiate specialist deployment through the ADD System (DAEs) or through Task Orders for Technical Assistance Contractors (TAC).
 - Ensure that the Disaster-Specific Guidance is complete prior to the Field Briefing.
 - Review the Disaster-Specific Guidance as prepared by the ELO or Special Considerations Liaison for completeness and accuracy.
 - Encourage the implementation of a programmatic agreement.

Field Briefing

- Review the Disaster-Specific Guidance completely with the staff and allow adequate time for questions and answers.
- Be specific on whether the PAC will direct all historic issues to the Specialists or if they will be delegated some authority to take historic compliance actions themselves.
- Define the management reports expected from all personnel regarding historic requirements and establish a timeline for submittals.
- Define the types of issues the PAC should elevate for resolution (i.e. policy guidance, controversial issues, etc.).

Project Approval

- Follow established guidelines on an internal quality control process to measure accuracy, timeliness, and consistency in the program.
- When an activity has been mission assigned to another Federal agency, ensure that historic compliance is satisfied. Allow the other Federal agency to handle all SHPO/THPO consultation directly. Request that FEMA be kept apprised of all consultations.

- Prior to DFO closure, finalize all management and status reports. Develop a strategy with deadlines to address any unresolved historic requirements.

PUBLIC ASSISTANCE COORDINATOR ROLES AND RESPONSIBILITIES

The Public Assistance Coordinator (PAC) is a customer service representative assigned to work with an applicant from the time of the disaster declaration through funding approval. The State-Applicant Liaison (SAL) is the title of the State's counterpart to the PAC. Whenever there is a reference to the PAC, it is assumed that coordination with the SAL has taken place.

What is my role in the historic review process?

The PAC has one of the most important roles in conveying the historic review requirements to the applicant and identifying the potential for historic issues in Public Assistance projects. On the front lines of the process, the PAC is in the position to communicate with applicants at the Kickoff Meetings at the beginning of the disaster to collect information about the historic nature of potential projects and to relay information to the applicants about FEMA's historic review process. The PAC is responsible for both the initial and final review of projects and is responsible for forwarding projects requiring historic review to the HP Specialist. The PAC then ensures that the historic review process is complete and documented prior to project approval.

The PAC is responsible for:

- Becoming familiar with the Disaster-Specific Guidance.
- If delegated the authority by the PAO, screening every large project for historic or potential historic requirements.
- Initiating the resolution of all historic issues and ensuring their completion in a timely manner. Appropriate environmental and historic preservation staff should be included in the resolution of all historic issues.
- Keeping the applicant informed of historic review status for their project(s).
- Ensuring that the Case Management File (CMF) has all proper documentation regarding the historic review process.
- Ensuring that all coordination documents are a part of the permanent project file.
- Ensuring that the proper compliance conditions are included on the Project Worksheet, and are completed, as requested.

When does historic review begin?

- Historic review begins with the screening that you, as the PAC, complete on every project to identify any historic considerations that may be associated with that project. If the PAO has not delegated you the authority to screen each project for potential historic issues, you should forward all project worksheets to the HP Specialist for an initial screening. The screening process can begin as early as the Kickoff Meeting or whenever the applicant establishes a list of their damaged facilities.
- As the PAC, you may assist SEMA in discussing historic review requirements at the Applicant Briefing. FEMA does not always attend these briefings, as they are SEMA's responsibility to organize, but FEMA may attend if invited. This task may also be delegated to the Environmental Liaison Officer (ELO) or Special Considerations Liaison.

What resources at the Disaster Field Office (DFO) are available to assist me with historic review?

- This SOP.
- FEMA's CD-ROM entitled "FEMA: Responding to More Than Disasters—National Historic Preservation Act."
- FEMA's Historic Preservation web site (www.fema.gov/r-n-r/hpindex.htm).
- FEMA's Historic Preservation Desk Reference.
- Disaster Specific Guidance for Environmental Considerations.
- Environmental Liaison Officer (ELO).
- Special Considerations Liaison.
- Historic Preservation (HP) Specialist.
- Public Assistance Officer (PAO).

What do I need to do to prepare for the Kickoff Meeting?

- Familiarize yourself with the PDAs for your assigned applicants in order to understand the types of damages or unique situations that your applicants may face. Plan to address these items if the applicants do not.
- Review the Disaster- Specific Guidance. This document should have been distributed and discussed at the Field Briefing. If you do not have the Disaster-Specific Guidance or missed the Field Briefing, contact the ELO or Special Considerations Liaison to obtain a packet.
- Review any available mapped data for your assigned areas. Maps may have been plotted from PDA information or from past disasters. Ask for such information at the

Field Briefing or from the ELO or Special Considerations Liaison.

- Review past disaster historic review issues associated with your assigned area. This should be outlined in the Disaster-Specific Guidance. If not, ask the ELO or Special Considerations Liaison to obtain this information for you.
- Have a general understanding of the steps outlined in the historic review process to be followed for the disaster recovery (you may have to describe them to an applicant). These should be summarized in the Disaster Specific Guidance. If these decisions have not been made, you must meet with the ELO, Special Considerations Liaison, or the PAO to determine how historic review is going to proceed during disaster recovery. Essential questions include:
 - Are there any known historic resources in the disaster area that I should address at my Kickoff Meetings (e.g. covered bridges, archaeological sites, old buildings, cemeteries, farmsteads, forts, mills, industrial complexes, etc.)?
 - Are Indian tribes, Native Alaskan, or Native Hawaiian organizations affected by this disaster?
 - Are there any historic landscapes within the disaster area (such as battlefields, rural farming areas, or heritage tourism byways)?
 - Are there any historically significant ships or airplanes within the disaster area?
 - Are there any sites or structures within the disaster area that have importance to a particular cultural group?
- Request an HP Specialist or representative to attend the Kickoff Meeting, if needed.
- Review the list of Project Worksheet (PW) conditions and Special Considerations Questions for historic review. These should have been distributed at the Field Briefing. If there are any questions, ask at the Field Briefing or ask the ELO or Special Considerations Liaison.
- Note that FEMA will not grant assistance to an applicant who intentionally avoids requirements of historic review by significantly affecting a historic property to which the assistance would apply (for example, when an applicant demolishes a potentially historic resource). This type of action is known as *anticipatory action*.

How do I help the applicant identify historic properties or issues in preparation for the Kickoff Meeting?

- When contacting the applicant to organize the Kickoff Meeting, ask them if they are aware of any historic issues related to potential projects. Remind them to review their list of damages, paying particular attention to any potentially historic properties that may have been damaged. Suggest that they have the list reviewed by their jurisdiction's planner responsible for historic preservation (usually a city or county planner), who may be able to identify historic properties that were overlooked or assist in identifying potential consulting parties. If the applicant will not have a list of damages prepared in time for the Kickoff Meeting, ask them to identify the historic properties they own or operate and historic properties that may be located in areas in which buildings may be demolished for health and safety purposes. Use this information to determine whether you should request an HP Specialist to attend the Kickoff Meeting with you.
- Explain why historic review is necessary, even after a disaster.
- Assure the applicant that FEMA and the State have a commitment to resolve issues in an expeditious manner.
- Refer the applicant to the historic preservation questions on the Special Considerations Questions form.
- Discuss the types of historic properties that you identified in your preparation for the Kickoff Meeting. Use this information to guide the applicant in identifying the historic properties associated with their projects.
- Discuss the possibility of emergency demolition of public or private property, and how the historic review of those actions will proceed.
- Inform the applicant that an HP Specialist can be made available to assist with any questionable issue regarding historic properties.
- Make sure the applicant understands that if several sites are grouped into a project and one of the sites requires historic review, then the entire grouping will be held for approval until the historic issues are resolved. Allow the applicant to make an informed choice regarding their grouping of sites.
- Document your meeting notes in the CMF.
- Notify the HP Specialist of all historic preservation issues discussed at the Kickoff Meeting, and whether any follow-ups are needed.

How is historic review addressed in project formulation?

- As the PWs for small projects are submitted, the PAC reviews the scopes of work with the applicant for completeness, eligibility, and the identification of historic or potentially historic properties. Review the Special Considerations Questions form for completeness and accuracy for each project.
- Identify potential historic properties using the following resources: PDA information, the information provided in the Disaster-Specific Guidance, the PWs, including the applicants' responses to the Special Considerations Questions, and the project descriptions and scopes of work.
- Ensure that the applicant has noted on the PW whether historic properties exist in any project areas. (It is the applicant's responsibility to note the existence of historic properties under the special considerations section of the PW for each project. However, the PAC still has responsibility for ensuring that historic properties are identified and that the PW is completed correctly.) Be sure the date of construction is included in the scopes of work for all structures.
- When a small project has been selected for validation, direct the Validation Specialist to coordinate with the HP Specialist prior to initiating the validation process. The Validation and HP Specialists are to review the PW together. The Validation Specialist can obtain additional information for the HP Specialist, or the HP Specialist may accompany the Validation Specialist on a site visit to obtain the required information.
- The Validation Specialist notes any previously unidentified Special Considerations issues on the Project Validation Form (PVF).
- For large projects, inform the Project Officer of potential historic properties and request that the Resource Coordinator (RC) assign an HP Specialist to work with the Project Officer.
- As directed at the Field Briefing, the PAC prepares periodic status or progress reports for the PAO. These reports should include the status of projects in historic review.
- Completely document the historic review process in the CMF.

Why do I need a Historic Preservation (HP) Specialist or Technical Assistance Contractor (TAC)?

HP Specialists and TACs should be used to provide expert technical assistance to expedite projects that:

- Are large or complex.
- Have substantial public interest or are political in nature.
- Involve unique properties or historic, cultural, or archeological requirements.
- Require the identification and evaluation of historic properties, including determinations of eligibility, determinations of effect and adverse effects, and the development of treatment measures to avoid or resolve adverse effects.

How do I assist in initiating the historic review process?

If the applicant has indicated that a project may affect historic properties or areas of undisturbed ground, you must initiate the historic review process by forwarding the PW to an HP Specialist. Even though an applicant may not know if a historic property exists, you must initiate the review process if there is the potential for unidentified historic or archaeological properties to exist.

If you need additional assistance you may request a HP Specialist through the RC or a TAC through the PAO. These resources should keep you informed of the status of historic review.

What happens if the applicant changes the scope of work (SOW)?

If the applicant has indicated that the approved SOW must be changed, ask the applicant the following questions:

- What do you wish to do that is different from the approved SOW?
- Have any actions related to the revised SOW been undertaken yet? Alert the applicant to the fact that since Federal funding is involved, a review of these changes is required under the National Environmental Policy Act (NEPA) and the NHPA. Caution the applicant that funding is at risk if the work proceeds without completing these reviews.
- Why is the change taking place? Is it being driven by an urgent public health and safety

need? Is it required by codes and standards? Or by unexpected conditions? Will the change classify the project as an improved or alternate project? Is it a hazard mitigation opportunity?

Based on the answers to these questions, you should do the following:

- Request a specialist(s) to assist with environmental and historic review requirements. Establish the necessary priority.
- If the project or the changes have become potentially controversial, alert the PAO immediately.

Does the process differ for emergency situations?

At times, emergency situations exist that require quick action regarding historic properties, such as when a building has been damaged to the point of being a threat to safety and must be demolished. An expedited process exists to handle situations that are a threat to life and safety:

- Notify the PAO and ELO of the situation.
- The PAO may ask you to notify the FCO of the need for FEMA to conduct expedited project review for individual undertakings. You may also be requested to notify the SHPO/THPO and Council. This written notification should include information on the property such as physical description, maps, and photographs, and a description of work proposed to mitigate adverse effects (See Appendix C: Sample Emergency Notification).
- Alternately, the PAO may request the Special Considerations Liaison to complete this task or may contact the ELO or FPO.
- There may be situations where the emergency is so immediate that verbal communication with the SHPO/THPO, Council and the FCO is necessary. The FPO can be helpful in facilitating this discussion.

What steps should be taken in the event of an unexpected discovery or an unanticipated action on a known property?

An unexpected discovery occurs most often when ground-disturbing activity uncovers archeological resources. In the event of an unexpected discovery:

- It is FEMA's policy to avoid archeological sites, and if avoidance is not possible, then to minimize the effects.
- Tell the applicant that FEMA requires them to cease all construction activities in the vicinity of the discovery and to take all reasonable measures to avoid or minimize harm to the property. Such measures may include removing large bulldozers or other heavy equipment that would damage or degrade archeological resources.
- Alert the PAO to the situation.
- Upon receiving direction from the PAO, request an HP Specialist to consult with the SHPO/THPO to develop actions that take into account the effect of the undertaking and provide SHPO/THPO with written recommendations. The PAO may have the Special Considerations Liaison or the ELO facilitate this consultation with the SHPO/THPO.
- The PAC will hold a meeting with the applicant to discuss the modifications to the SOW to implement FEMA's recommendations. Depending on the nature of the project, the PAO and/or ELO may also attend this meeting.
- The PAC will ensure that all documentation has been entered in the CMF.

Public Assistance Coordinator Historic Review Checklist

Pre-Disaster Planning

- Review SOPs between deployments.
- Review executed programmatic agreements.

Preliminary Damage Assessment

- Note any known historic properties or characteristics for every project.
- Ask if location coordinates by Global Positioning System (GPS) units will be taken for the PDA. If not, acquire an area map of sufficient scale to clearly identify areas of concern. USGS charts provide adequate coverage for rural areas whereas property tax maps may be useful within cities and towns.

Initial Deployment to DFO

- Review PDA information.
- Review SOPs.

Field Briefing

- Receive Disaster-Specific Guidance for Environmental Considerations.
- Understand how historic review will take place and the expected general time frames for such reviews.

Kickoff Meeting

- Prepare for the Kickoff Meeting to determine if an HP Specialist should attend.
- When scheduling meetings with applicants, request that they bring any information about potentially affected historic properties with them to the meeting.
- Review the Special Considerations Questions.
- Explain why historic review is required.

- Discuss anticipatory actions.
- Explain what to do if a damaged facility is known to be historic.
- Explain that technical assistance is available for historic review issues.
- Document the meeting in the CMF.

Project Formulation

- Review every project for the existence of historic or potentially historic properties. Use the following to make a determination:
 - Special Considerations Questions.
 - Project Description, including date of construction.
 - Information provided in the Disaster-Specific Guidance.
 - Information provided by the applicant or members of the public.
- Request an HP Specialist as soon as issues are identified.
- Have the historic review proceed concurrently with the development of the scope of work.
- Brief the HP Specialist on the other specialists with whom coordination will be required.
- Alert the PAO if issues appear to be controversial.
- Brief the PO on any historic properties involved with large projects.
- Have the Validation Specialist coordinate with the HP Specialist prior to the validation inspection.
- Assure that all conditions are noted on the PW and that the applicant understands them.
- Assure that the CMF remains updated and complete.

ENVIRONMENTAL LIAISON OFFICER ROLES AND RESPONSIBILITIES

The Environmental Liaison Officer (ELO) serves as an arm of the Federal Coordinating Officer (FCO) and is responsible for ensuring compliance with environmental and historic preservation review activities among all of FEMA's Public Assistance, Individual Assistance, and Mitigation Programs. The ELO position is staffed by the Regional Environmental Officer (REO) or his/her support staff. In disasters where there is no Special Considerations Liaison, the ELO often assumes many of the Special Considerations Liaison's responsibilities for addressing historic and environmental issues in the Public Assistance (PA) Program.

The ELO is responsible for the following historic review activities:

- Conducting environmental and historic preservation compliance training in the Disaster Field Office.
- Interpreting and summarizing the Preliminary Damage Assessment (PDA) information to identify historic requirements affecting the PA Program.
- Compiling current FEMA policies and guidelines on historic review requirements.
- Coordinating with the Regional Environmental Officer, Federal Preservation Officer (FPO), and/or the Office of General Counsel on cultural resource issues and the resolution of complex or controversial issues, as necessary.
- Assisting the FPO, as requested, in the execution of a programmatic agreement.
- Using previous information to initiate the scoping process with the State and the SHPO/THPO and other agencies to identify any unique historic preservation situations in the state or for that disaster.
- Assisting with the preparation of the Disaster-Specific Guidance.
- Working with the Resource Coordinator and PAO to identify HP Specialist staffing and other technical assistance needs.
- Posting relevant historic guidance and documents for the disaster on FEMA's environmental and historic review bulletin board.

The Deputy Environmental Liaison Officer (DELO) assists the ELO at the DFO. The DELO attends FCO and PAO staff meetings, prepares relevant environmental information for Situation Reports, reviews all projects for environmental and historic preservation considerations, updates the Disaster-Specific Guidance, and performs other duties as necessary.

How is historic review addressed in the initial scoping meeting?

Prior to initiating the scoping process, the ELO will begin identifying potential historic requirements that the PA Program will have to resolve. The ELO should initiate a scoping process with the State and the SHPO/THPO, during which the ELO should perform the following:

- Share points of contact among program staff in the Disaster Field Office (DFO).
- Provide a single Point of Contact to the SHPO/THPO, if possible.
- Notify the SHPO/THPO of the declared counties. Ask the SHPO/THPO to provide a list of National Register and State Register properties, geographic areas with high potential for archeological resources, areas where it is known that there are no archeological resources, previously identified traditional cultural properties and known properties of religious and cultural value, if available. If not, coordinate to find ways to easily obtain this information. Note specific regions in the county impacted by the disaster where FEMA-funded undertakings are likely to occur.
- Provide the SHPO/THPO with a summary of types of damages identified in the PDA.
- Collect information for the Disaster-Specific Guidance document from the SHPO/THPO and SEMA.
- Advise the State that the agency must notify applicants in writing that their Federal funding will be jeopardized if they intentionally and adversely affect a historic property (anticipatory actions).
- Arrange a scoping meeting as soon as possible after the initial scoping contact.

What happens at the scoping meeting?

- The SHPO/THPO may provide you with a list of properties eligible for or listed on the National Register and State Register for each county affected by the disaster.
- The SHPO/THPO staff must identify a SHPO/THPO representative to assist FEMA in implementing its historic review process.
- Together with the SHPO/THPO, you should identify and contact organizations having an interest in historic properties to assist in locating damaged historic properties.

- Be prepared to explain the FEMA PA Program process to participants in the scoping meeting.

What is the Disaster-Specific Guidance for Environmental Considerations?

The Disaster-Specific Guidance document is a booklet of important information about historic and environmental issues in a given disaster. It will provide essential details which will help the PACs, POs and the Environmental and Historic Preservation (HP) Specialists perform their review in a timely manner.

The document should be well organized, concise, and relatively short. Consider presenting some of the information in a bulleted format so that it can be easily referenced by users. Do not duplicate information that is already in the SOPs or policies. This guidance is intended to supplement that information.

Developing several Disaster-Specific Guidance packets, each addressing a different historic topic, may be an option. For instance, one packet can deal with the application of the programmatic allowances, if a programmatic agreement is executed, and another could address unique historic situations (such as covered bridges or stone walls) that may need to be addressed within the area of a particular disaster.

The goal is to have the guidance packets prepared, reviewed by both the ELO and the PAO, and finalized for distribution and discussion at the Field Briefing for FEMA/SEMA staff.

What information should be included in the Disaster-Specific Guidance for Environmental Considerations?

Basic information might include:

- Identification of unique historic preservation situations for the disaster. For example, identifying areas where historic events may have occurred, such as, the possible presence of Colonial period cemeteries, Civil War battlefields, or American Indian shell mounds.
- Listing of previously identified historic properties. The list should be sorted for those facilities within the declared disaster areas.
- Summary of any known controversial historic issues associated with past disasters, if available.
- Examples of some of the types of historic facilities that should be given particular attention.
- Methods of public notification and involvement in historic preservation issues.

Environmental Liaison Officer Historic Review Checklist

Pre-Disaster Planning

- Review SOPs.
- Help organize and coordinate needed historic preservation training.
- Talk to FEMA Headquarters staff for updates on historic preservation issues and policies.

Initial Deployment to DFO

- Obtain PDA information and begin review for potential historic preservation issues.
- Inquire whether the PDA information has GIS coordinate locations for mapping.
- Debrief FCO and PAO on progress and status of historic preservation issues.
- Begin to make contacts with the State.
- Review any executed programmatic agreements and renew if appropriate.

Historic Review Scoping Process

- Coordinate with the PAO about his/her desired involvement in the scoping process.
- Make contact with State counterpart to obtain state and disaster-specific information.
- Obtain contact lists for the SHPO/THPO and other historic preservation agencies in the disaster area.
- Obtain from the SHPO/THPO the list of previously identified historic properties, if available, for the counties within the disaster area.
- Identify historic requirements affecting the PA Program.
- Discuss how archeologically sensitive areas will be identified and addressed.

- Make an initial recommendation to the PAO regarding the number and type of HP Specialists required (consider needed expertise such as archeology, architecture, etc.).
- Work with the PAO to determine if the PACs will be delegated any historic compliance authority.
- Develop Disaster-Specific Guidance based upon PAO and State input.
- Obtain emergency recordation procedures from the SHPO.
- Work with the PAO to coordinate environmental/historic representation at the Applicant Briefing and Kickoff Meeting, as needed.

Field Briefing with FEMA/SEMA Staff

- If requested by PAO, present the Disaster-Specific Guidance and allow adequate time for questions and answers.
- Address whether the PACs will direct all historic requirements to the Specialists or will be delegated some authority to take historic compliance actions themselves.
- Define what sorts of issues the PAC should elevate for resolution (i.e. policy guidance, controversial issues, etc).
- Review the use of the PW special considerations codes and standard conditions for historic review.

Project Formulation

- Coordinate the initial screening of projects for historic issues, if the PACs are not delegated this authority.
- Assist the PAO, PACs, Special Considerations Liaison, and HP Specialists in the development of a plan to involve the public for projects requiring historic review.
- Assist the HP Specialists in the resolution of adverse effects and the execution and implementation of agreements.

SPECIAL CONSIDERATIONS LIAISON ROLES AND RESPONSIBILITIES

The Special Considerations Liaison is the person who coordinates special considerations issues in the Public Assistance (PA) Program, including compliance with environmental and historic laws and regulations. The Special Considerations Liaison works closely with the ELO to facilitate the scoping process, identify historic review issues, and perform other duties depending on the nature of the disaster.

In summary, the Special Considerations Liaison is responsible for:

- Interpreting the Preliminary Damage Assessment (PDA) information to identify historic properties associated with Public Assistance projects.
- Summarizing the information obtained from the PDAs and conveying it to the PACs.
- Compiling current FEMA PA policies and guidelines on conducting historic review.
- Coordinating with the ELO and the Federal Preservation Officer (FPO).
- Assisting in the execution of a programmatic agreement, as requested by the FPO.
- Working with the ELO to initiate the scoping process with SEMA, the SHPO/THPO, and other relevant historic preservation organizations that will identify any unique historic preservation situations in the state or for that disaster.
- Assisting in the preparation of the Disaster-Specific Guidance.
- Working with the ELO to develop a plan for public involvement and to identify the appropriate SHPO/THPO and other consulting parties.

How is a Special Considerations Liaison chosen?

- The Public Assistance Officer (PAO) will designate the Special Considerations Liaison(s).
- For smaller disasters, the Special Considerations Liaison responsibilities may be fulfilled by a single staff person. In this case, the Special Considerations Liaison would fulfill the requirements of the historic review scoping process. On larger, more complex disasters, the PAO may decide to have a staff person for each of the Special Considerations components.
- The State is encouraged to appoint a state counterpart to the Special Considerations Liaison.

- The Special Considerations Liaison should review relevant information contained in the previous section on the Environmental Liaison Officer's roles and responsibilities.

Special Considerations Liaison Historic Review Checklist

Pre-Disaster Planning

- Review SOPs.
- Request that your Region/Office send you to any available training on historic preservation.
- Visit the FEMA web site to become familiar with policies and issues on historic preservation.

Initial Deployment to the DFO

- Obtain PDA information and begin review to identify patterns that may lead to the identification of historic preservation issues.
- Inquire whether the PDA information has GIS coordinate locations for mapping.
- Debrief PAO on progress and status.
- Begin to make contacts with the State.
- Review any executed programmatic agreements.

Special Considerations Scoping Process

- Coordinate with ELO/REO first to avoid the duplication of efforts.
- Coordinate with the Hazard Mitigation Officer about his/her desired involvement in the scoping process.
- Make contact with State counterpart to obtain state and disaster-specific information.
- Obtain contact lists for the SHPO/THPO and other historic preservation agencies in the disaster area.
- Obtain list of properties listed on or eligible for listing in the National Register and those listed in the State Register, if available. Review the listings and summarize only those facilities within the disaster area.

- Identify historic properties (types, location, number) affecting the PA Program.
- Discuss how archeologically sensitive areas will be identified and addressed.
- Make an initial recommendation to the PAO regarding the number and type of HP Specialists required (consider needed expertise such as archeology, architecture, etc.).
- Develop Disaster-Specific Guidance based upon ELO, PAO, and SEMA input.
- Work with the PAO to determine if the PACs will be delegated any historic compliance authority.

Field Briefing

- If requested by PAO, present the Disaster-Specific Guidance and allow adequate time for questions and answers.
- Define what sorts of issues the PAC should elevate for resolution (i.e. policy guidance, controversial issues, etc).
- Review the use of the PW special considerations codes and standard conditions for historic review.

Project Formulation

- Coordinate the initial screening of projects for historic issues, if the PACs are not delegated this authority.
- Assist the PAO, PACs, ELO, and HP Specialists in the development of a plan to involve the public for projects requiring historic review.
- Assist in the resolution of adverse effects and the execution and implementation of agreements.

HISTORIC PRESERVATION SPECIALIST ROLES AND RESPONSIBILITIES

Historic Preservation (HP) Specialists are technical experts who identify and evaluate historic properties, apply the Secretary of the Interior's Standards and Guidelines to proposed projects, and negotiate and draft agreement documents. HP Specialists may work with the Public Assistance Coordinators (PACs), Project Officers (POs), other specialists, the applicant, and the SHPO/THPO to bring a scope of work into conformance with the Standards and Guidelines. The HP Specialists work under the guidance of the ELO within the PA program.

In order to comply with the National Historic Preservation Act (NHPA), HP Specialists who carry out the following responsibilities must meet the Secretary of the Interior's Professional Qualifications Standards, as determined by FEMA's Federal Preservation Officer (FPO).

- The identification and evaluation of historic properties, including determinations of eligibility.
- Determinations of effect and adverse effects.
- The development of treatment measures to avoid or resolve adverse effects.

The FPO certifies when the HP Specialist meets these standards and may assist in identifying Technical Assistance Contractors (TAC) or individuals from FEMA, other Federal agencies, or State agencies who may meet the Professional Qualifications Standards.

Following a disaster, do applicants' projects still have to comply with the National Historic Preservation Act?

- Yes. Congress has not exempted FEMA and its disaster recovery assistance grants from the requirement to comply with the NHPA. This includes actions such as temporary housing, debris removal, and the demolition of privately owned buildings with Public Assistance funds.

How is a HP Specialist chosen?

- The PAC will request that the Resource Coordinator (RC) assign an HP Specialist to identify historic requirements. A PO and other Specialists may also request that an HP Specialist be assigned. These actions should be coordinated with the ELO.
- The RC will select the Specialist from the resource pool of FEMA, SEMA and TAC

personnel, and assign that person to the PAC to handle historic requirements. Coordination with the ELO is necessary.

What types of assignments may be given to the HP Specialist?

- The HP Specialist may be assigned to attend a Kickoff Meeting with a PAC. This assignment will be made if the PAC determines that there could be a significant number of historic properties affected by potential Public Assistance projects. For example, if the applicant's project is in Charleston, South Carolina, it may be assumed that numerous historic requirements will arise even before specific projects are identified.
- The HP Specialist may be assigned to work with an applicant to address historic issues at the same time the applicant develops the scopes of work for small projects.
- The HP Specialist may be assigned to work with a PO as they develop the scope of work for a large project.
- If a historic issue is discovered after a Project Worksheet (PW) has been completed for a small or large project, then an HP Specialist will be assigned to resolve that issue and coordinate the resolution of the issue with the PAC or PO and applicant.
- The HP Specialist may be assigned to a small project that has been selected for validation. The historic issue would be resolved concurrently with the validation process and the HP and Validation Specialists would coordinate accordingly. The PAC or PO, in coordination with SEMA, must clearly indicate if they want the specialist to work directly with the applicant or through the PO/PAC.

When is historic review conducted?

- The applicant and PAC will identify projects for which historic review must be initiated based on answers to the Special Considerations Questions, the Disaster-Specific Guidance, and through the evaluation of scopes of work.
- The PAC will initiate the historic review process once FEMA has determined that the project has the potential to affect a historic property.
- All historic documentation will be reviewed with the PAC in accordance with the direction given in the Disaster-Specific Guidance. If the project requires a comprehensive NEPA review, involving an Environmental Assessment (EA) or Environmental Impact Statement (EIS), further coordination is required with the ELO.

- Projects that are undergoing validation may have historic issues identified during the validation process and will be forwarded to the HP Specialist for historic review.

I've received my assignment. What do I do first?

- Once you have received your assignment from the RC, report first to the ELO or Special Considerations Liaison and then to the PAC to pick up copies of the PWs you will be reviewing in addition to any other relevant information concerning your assignment.
- The PAC will review each assignment with you and explain the scope of the issues as they are currently understood.
- Once you have received the assignment and met with the PAC, formulate a strategy for dealing with the requirements. You should reference the Disaster-Specific Guidance prepared by the ELO or Special Considerations Liaison as concise program compliance guidance for PACs, POs, and Specialists, as they complete the Section 106 review process. If it is necessary to obtain additional information from the applicant, brief the PAC on the need to contact the applicant and then make the necessary contact.
- Discuss with the PAC any concerns or issues that might become apparent during the historic review process.
- When applicable, prepare a list of historic properties no longer eligible for listing on the National Register because they have lost their integrity as a result of the disaster, and consult with the SHPO/THPO for guidance.

The following points apply when historic review is being conducted simultaneously with the validation process:

- Be aware that the Validation Specialist may contact you to determine if there are any historic requirements that should be noted.
- Communicate with the Validation Specialist to meet jointly with the applicant whenever possible to expedite the historic review and save the applicant time and effort.

How is historic review conducted?

- Follow the appropriate review process (under Standard Section 106 or under the programmatic agreement) outlined in the front of this document.

What historic review activities might occur after work commences?

FEMA may require the applicant to stop construction and/or any ground-disturbing activities in the vicinity of an unexpected discovery and require the applicant to take all reasonable measures to avoid or minimize harm to the property. If this happens, tell the PAC and PO that work should cease until the issue is resolved. The ELO, PAO, and FCO may also be advised depending on the nature of the discovery. It is important to document the project file of all such activities.

- If an unexpected discovery occurs, consult with the SHPO/THPO to develop actions that take into account the effect of the undertaking. Provide the SHPO/THPO with written recommendations.
- If the State advises FEMA of changes to the scope of work, review additional work items and determine if they will have an effect on the historic property.

What happens when historic review is complete?

- Document all decisions and any conversations with the applicant in the CMF as directed by the PAC. Also document in NEMIS general comments for specific PWs.
- Scan all related documents, including correspondence, forms, photographs, and agreements into the CMF.
- Notify the SHPO/THPO that historic review is complete.
- Upon completion of the historic review, the PAO will release Specialists back to the RC or the Resource Pool.

Historic Preservation Specialist Historic Review Checklist

Pre-Disaster Planning

- Visit the FEMA web site for current information on FEMA and historic preservation at www.fema.gov/r-n-r/hpindex.htm.
- Review the SOPs.

Field Briefing

- Review the Disaster-Specific Guidance for Environmental Considerations.
- Know whether the historic review will proceed under the programmatic agreement or the Section 106 review process.
- Obtain Geographic Information System (GIS) and United States Geological Survey (USGS) maps of the disaster area(s) from the DFO or the SHPO/THPO.
- Consult with the ELO or Special Considerations Liaison for an update on FEMA policies and guidance on historic review.
- Know the name of the SHPO single point of contact.

Kickoff Meeting

- If assigned to attend a Kickoff Meeting:
 - Review the anticipated applicant issues with the PAC.
 - Review Disaster-Specific Guidance.
 - Review any available mapped information.
 - Determine what your role will be at the meeting.

Project Formulation

- Consult with the ELO regarding how Federal responsibilities are to be carried out.
- If assigned to assist the PAC with project screening for historic requirements, review projects for historic or potential historic requirements. Use the following to make a determination:

- Special Considerations Questions Form.
 - Project Descriptions.
 - Information provided in the Disaster-Specific Guidance.
-
- Alert the PAC, ELO, or PO if issues appear to be controversial or if there is a need for specialists to address previously unknown issues such as environmental or historic compliance.
 - Keep the PAC or PO informed of the status of your resolution efforts.
 - Coordinate with the Validation Specialist if assigned a small project that was selected to be validated.
 - Document all meeting notes, memos, correspondence, phone calls, decisions, etc. in the CMF.

PROJECT OFFICER ROLES AND RESPONSIBILITIES

Project Officers (PO) serve as resources for the applicant in the development of projects and cost estimates for large projects. Because POs assist applicants in the development of the scope of work and provide other technical assistance, they are in the position to identify historic issues as they arise and to ensure that a Historic Preservation (HP) Specialist becomes involved with the project.

Following a disaster, do applicants' projects still have to comply with the National Historic Preservation Act?

- Yes. Congress has not exempted FEMA and its disaster recovery assistance grants from the requirement to comply with the National Historic Preservation Act (NHPA). This includes actions such as temporary housing, debris removal, and the demolition of privately owned buildings with Public Assistance funds.
- The PO is responsible for:
 - Notifying the PAC when a project may potentially affect a historic property or undisturbed ground.
 - Requesting an HP Specialist to conduct the historic review for a project involving historic properties.
 - Familiarizing him/herself with the Disaster-Specific Guidance for Environmental Considerations.
 - Keeping the applicant and the PAC informed of historic review status for the project(s).
 - Ensuring that the proper compliance conditions are included on the Project Worksheet (PW), and verifying that the conditions have been met.

When does historic review begin?

- Historic review begins with the screening that the PAC completes on every project to identify any historic considerations that may be associated with that project. It is therefore important to keep the PAC informed of all potential historic issues associated with a project. The screening process can begin as early as the Kickoff Meeting or whenever the applicant establishes a list of their damaged facilities.

What resources at the Disaster Field Office (DFO) are available to assist me with historic review?

- This SOP.
- USGS and GIS maps.
- Historic properties lists.
- FEMA's CD-ROM entitled "FEMA: Responding to More Than Disasters—National Historic Preservation Act."
- FEMA's Historic Preservation web site (www.fema.gov/r-n-r/hpindex.htm)
- Disaster-Specific Guidance for Environmental Considerations.
- Environmental Liaison Officer.
- Special Considerations Liaison.
- HP Specialist.
- Public Assistance Officer.

Why do I need an HP Specialist or Technical Assistance Contractor (TAC)?

HP Specialists and TACs should be used to provide expert technical assistance to expedite projects that:

- Are large or complex.
- Have substantial public interest or are political in nature.
- Involve unique properties or historic, cultural, or archeological requirements.
- Require the identification and evaluation of historic properties, including determinations of eligibility, determinations of effect and adverse effects, and the development of treatment measures to avoid or resolve adverse effects.

How do I assist in initiating the historic review process?

- If the applicant has indicated that their project(s) may affect historic properties or areas of undisturbed ground, you must initiate the historic review process by notifying the PAC and forwarding the PW to an HP Specialist. Even though an applicant may not know that a historic property exists, you must initiate the review process if there is the potential for unidentified historic or archeological properties to exist.
- If you need an HP Specialist, you may request one through the PAC. You may request a TAC through the PAO.

What happens if the applicant changes the scope of work (SOW)?

If the applicant has indicated that the approved SOW must change, find out from the applicant what will be done differently and why the change is taking place. Ask the applicant the following specific questions, remembering that the answers may change the historic review process:

- Is demolition part of the change to the SOW? If so, additional review may be necessary if the facility being demolished is potentially historic.
- Will the change re-classify the work as an improved or alternate project? If so, will there be a change in what will happen to the original facility?
- Have any actions related to the revised SOW been undertaken yet? Alert the applicant to the fact that since Federal funding is involved, a review of these changes is required under the National Environmental Policy Act (NEPA) and the NHPA. Caution that funding is at risk if the work is proceeding without completing these reviews.
- Why is the change taking place?
- Is it being driven by an urgent public health and safety need? If so, the action may be an emergency and may justify an expedited review. Contact the PAC, PAO, and ELO immediately.
- Is it required by codes and standards? If so, this may affect the ability of the project to meet the Secretary of the Interior's Standards and thus may require additional review.
- Has the applicant encountered unexpected conditions related to historic or archeological resources? If so, advise the applicant to stop work immediately and consult with FEMA.
- Is it a hazard mitigation opportunity? If so, additional review may be necessary to determine whether the mitigation will cause an adverse effect to historic properties.

Based on the answers to these questions, you should do the following:

- Request a specialist(s) to assist with environmental and historic review requirements. Establish the necessary priority.
- If the project or the changes have become potentially controversial, alert the PAC immediately.

Does the process differ for emergency situations?

- At times, emergency situations exist that require quick action regarding historic properties, such as when a building has been damaged to the point of being a threat to safety and must be demolished. An expedited process exists to handle situations that are a threat to life and safety. If there is an emergency situation, notify the PAC immediately, who will take the appropriate steps to that historic review is completed expeditiously.

What steps should be taken in the event of an unexpected discovery or an unanticipated action on a known property?

An unexpected discovery occurs most often when ground-disturbing activity uncovers archeological resources. In the event of an unexpected discovery:

- It is FEMA's policy to avoid archeological sites or to minimize the effects of the action if avoidance is not possible.
- FEMA will require the applicant to stop all construction and ground-disturbing activities in the vicinity of the discovery and to take all reasonable measures to avoid or minimize harm to the property. Such measures may include removing large bulldozers or other heavy equipment that would damage or degrade archeological resources.
- Alert the PAC to the situation.

Project Officer Historic Review Checklist

Pre-Disaster Planning

- Review SOPs between deployments.

Field Briefing

- Receive Disaster-Specific Guidance for Environmental Considerations.
- Understand how historic review will take place and the expected general time frames for such reviews.

Project Formulation

- Review the project(s) for the existence of historic or potentially historic properties. Use the following to make a determination:
 - Special Considerations Questions.
 - Project Description.
 - Information provided in the Disaster-Specific Guidance.
 - Information provided by the applicant
- Request an HP Specialist as soon as issues are identified.
- Have the historic review proceed concurrently with the development of the scope of work.
- Brief the HP Specialist on the other specialists with whom coordination will be required.
- Alert the PAC of potential historic issues and keep the PAC informed of the status of the historic review.
- Assure that all conditions are noted on the PW and that the applicant understands them.

GLOSSARY

Adverse Effect

Harm to historic properties directly or indirectly caused by a Federal agency's action. The adverse effect may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association.

The Advisory Council on Historic Preservation (Council)

Congress established the Advisory Council on Historic Preservation as an independent Federal agency composed of a twenty-member council that advises the President and Congress on historic preservation issues and administers the provisions of the National Historic Preservation Act (NHPA), including Section 106 and Section 110. The Council is responsible for reviewing the policies and programs of Federal agencies and recommending to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs.

Area of Potential Effects (APE)

The Area of Potential Effects is the geographic area or areas within which an undertaking may cause changes in the character or use of historic properties, if any such properties exist (36 CFR Part 800.2 [c]). This area always includes the actual site of the undertaking, and may also include other areas where the undertaking will cause changes in land use, traffic patterns, or other aspects that could affect historic properties.

Disaster-Specific Guidance

This document summarizes the findings of the Special Considerations Scoping Process. The Disaster-Specific Guidance does not document the scoping process, but is intended to give concise, specific guidance to the PACs, POs, and Specialists for the identification and resolution of disaster-specific special considerations. Typically, the Disaster-Specific Guidance would be prepared by the Environmental Liaison Officer or the Special Considerations Liaison(s). Several guidance documents can be developed for a particular disaster.

Evaluation

The process by which the significance and integrity of a historic property are judged and eligibility for the National Register of Historic Places is determined.

Federal Undertaking

Serving as the trigger for Section 106 review under NHPA, an undertaking is any Federal project, activity, or program that involves the expenditure of Federal money and can result in changes in the character or use of historic properties. The project, activity, or program must be under the direct or indirect jurisdiction of a Federal agency or licensed or assisted

by a Federal agency. These activities may include construction, rehabilitation and repair projects, demolition, licenses, permits, loans, loan guarantees, grants, Federal property transfers, and many other types of Federal involvement.

Historic Property

A historic property is any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places. This term includes properties of traditional religious and cultural importance to an Indian tribe, Native Alaskan or Native Hawaiian organization.

Identification

Persons meeting the Secretary of the Interior's Professional Qualification Standards gather information about historic properties in order to evaluate the eligibility of properties for the National Register. Eligible properties must meet one or more of the National Register Criteria for Evaluation. The four criteria are:

- A) Association with events that have made significant contributions to history
- B) Association with historically significant persons
- C) Design or construction distinction
- D) Ability to provide information about history or prehistory

Memorandum of Agreement (MOA)

A Memorandum of Agreement is a legally binding document resulting from consultation that establishes the treatment measures FEMA and other consulting parties will take to avoid or reduce the adverse effects a specific project, program, or activity may have on historic properties. Signatories include FEMA and the SHPO/THPO, and may include SEMA, the Council, or other consulting parties assigned responsibilities in the MOA. The ELO will provide a standard format for the agreement, although the terms should be negotiated among the consulting parties. Whether or not the Council decides to participate in the development of the MOA, FEMA must submit the final MOA and any substantive revisions or additions to the Council. If the Council is participating in the development of the MOA, the Section 106 process is not completed until the MOA is signed by all consulting and concurring parties. If the Council is not a signatory, the Section 106 process is not completed until the day the signed MOA and any additional supporting documentation is received by the Council.

National Historic Preservation Act (NHPA)

In response to the rapid loss of historic properties from Federally funded urban renewal activities and construction of the interstate highway network across the United States in the 1950s and 60s, Congress passed the National Historic Preservation Act in 1966. The intent of this legislation was to ensure that all Federal agencies, including FEMA, consider

historic properties in their project planning and execution, and to encourage States to begin their own historic preservation programs. The primary components of the Act are the expansion and maintenance of the National Register for Historic Places as the nation's official list of historic properties worthy of preservation, the creation of the Advisory Council on Historic Preservation and State Historic Preservation Offices, and the requirement that each Federal agency establish a historic preservation program, designate a Federal Preservation Officer, and consider the effects of Federal undertakings on historic properties.

National Register of Historic Places

The national list of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering, and culture. The National Register is maintained by the Secretary of the Interior.

Section 106

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to consider what effects their actions may have on historic properties. To that end, each project involving historic properties must follow a pre-established review process to explore how to reduce or avoid potential adverse impacts. In order to streamline this review, FEMA has developed and carries out its historic preservation responsibilities under a programmatic agreement, which takes the place of the standard Section 106 process. If a programmatic agreement has not been executed, then FEMA must follow Section 106 and its implementing regulations (36 CFR Part 800) to comply with NHPA.

State Historic Preservation Officer (SHPO)

The official appointed or designated to administer the State historic preservation program, pursuant to section 101(b)(1) of the National Historic Preservation Act.

Tribal Historic Preservation Officer (THPO)

The tribal official appointed by the tribe's chief governing authority or designated by a tribal ordinance or preservation program who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on tribal lands, in accordance with section 101(d)(2) of the National Historic Preservation Act.

Secretary of the Interior's Professional Qualifications Standards

Standards published in 36 CFR Part 61 are used by the National Park Service to define the minimum education and experience required to perform identification, evaluation, registration, and treatment activities. In some cases, additional areas or levels of expertise may be needed, depending on the complexity of the task and the nature of the historic properties involved. FEMA's FPO determines whether someone meets the Standards for FEMA identification and evaluation efforts.

Traditional Cultural Property (TCP)

A traditional cultural property is any property eligible for inclusion in the National Register because of its association with the cultural practices or beliefs of a living community that are rooted in that community's traditions and are important in maintaining the continuing cultural identity of the community. An example of a TCP is a location associated with the traditional beliefs of a Native American group regarding its origins, its cultural history, or the nature of the world. Federal agencies must treat TCPs as historic properties under Section 106. For further guidance, see National Register Bulletin 38 entitled *Guidelines for Evaluating and Documenting Traditional Cultural Properties*.

APPENDIX A

PUBLIC ASSISTANCE FORMS FOR HISTORIC REVIEW

The following Public Assistance forms will assist in the proper completion of the historic review process, and the most updated versions are available on FEMA's Public Assistance Website (<http://www.fema.gov/r-n-r/pa/appfrm1.htm>):

- **Project Worksheet (PW)** (Form 90-91)
The PW is the form used to document projects. This form contains the information necessary to approve the eligible scope of work and itemized cost estimate prior to funding. The PW includes instructions for completion.
- **Special Considerations Questions** (Form 90-120)
This form documents potential issues, other than program eligibility, that must be addressed before Federal grant money can be obligated to repair or restore damaged facilities. These issues include flood insurance, historic preservation and environmental laws and hazard mitigation.
- **Assessment Form for Determination of Adverse Effect** (Form 90-122)
Once historic properties have been identified for a specific Public Assistance project, this form documents the historic status, application of adverse effect criteria, and conclusions made about steps necessary to complete historic review.

APPENDIX B CHECKLIST FOR HISTORIC REVIEW SCOPING MEETING

The following checklist is intended to assist the Environmental Liaison Officer (ELO) (and his/her designees) and the Special Considerations Liaison with the scoping meeting in accordance with the National Historic Preservation Act (NHPA). The following should be accomplished during the meeting(s).

1. Answer questions that the SHPO/THPO may have about the Public Assistance Program.
2. Arrange for coordination between FEMA and SHPO/THPO staff to review projects in accordance with Section 106 and its implementing regulations. To facilitate coordination FEMA and the SHPO\THPO should:
 - Establish points of contact and exchange staff names, titles, addresses, and phone numbers.
 - Determine acceptable procedures for FEMA to access SHPO files, if necessary during FEMA's review process.
3. Coordinate with the SHPO/THPO to receive lists of sites in National Register and State Register.
4. Obtain an inventory, maps, or a sensitivity assessment of archeological sites establishing where there is a high probability, likely probability, and no probability of archeological resources in the declared disaster.
5. Identify potential historic compliance issues within the disaster area associated with disaster response and recovery such as:
 - Damage to any historic sites.
 - Location of any severely damaged areas where there are high concentrations of historic properties or archeological sites.
 - Damage to any cultural properties such as important archival material or artifacts that might not be listed in the National Register but are eligible and require immediate attention.
 - Potential demolition of any historic properties or excavation of sensitive archeological areas.
 - Disposition of damaged architectural details.
 - Historic resource-free location of landfill sites for debris disposal.
6. Obtain names and phone numbers of organizations and individuals that may have information about the effect of an undertaking on particular historic properties.

APPENDIX C
SAMPLE EMERGENCY NOTIFICATION

Mr/Mrs/Ms [name]
Historic Preservation Officer
Advisory Council on Historic Preservation
[Address 1]
[Address 2]

Re: Presidential Disaster Declaration FEMA-xxxx-DR-xx, [location]

Dear [name]:

Numerous structures were damaged or destroyed in [location] as a result of [type of disaster] on [date]. As a result of the [disaster], the [name of property] was severely damaged. The City determined that the [name of property] was in imminent danger of collapse onto a city street, creating a serious public safety hazard. On [date], the City, working closely with the property owner, directed partial demolition to render the structure safe.

This is to confirm that you were notified and afforded opportunity to comment on [date], in accordance with 36 CFR §800.12(b)(2) regarding this structure. Due to the serious nature and urgency of this situation we were unable to provide you with a seven-day notice per the regulation.

We were able to take photographs of the structure before partial demolition occurred and are working with the [SHPO] on the disposition of the negatives and photographs. I am enclosing photographs for your information and files. If you have any questions about this emergency action, please do not hesitate to call me at [phone number].

Sincerely,

[Federal Coordinating Officer or Environmental Liaison Officer]

Enclosures

cc: [SHPO]
[PAO]
[FPO]
[SPAO]

