



MEMA



FEMA

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## **FAQs for Applicants:**

### ***Historic Preservation Considerations and the Hazard Mitigation Grant Program (HMGP) Exception***

**Q: What types of impacts can local governments anticipate the HMGP Exception will have on historic properties?**

The HMGP Exception ([www.fema.gov/library/viewRecord.do?id=3125](http://www.fema.gov/library/viewRecord.do?id=3125)) encompasses a variety of projects that may impact historic properties, including buildings, structures, historic districts, and archaeological sites. For example, these projects may elevate historic buildings to avoid water damage in the future, or make modifications that are designed to protect buildings from future storms, such as the addition of storm shutters, strengthening building structural components (doors, roofs, etc.), and relocating utilities or heating/cooling systems. These actions have the potential to affect the appearance and historic materials that make the property “historic” and worthy of preservation. These projects may also impact archaeological sites because some construction activities such as digging, trenching and operating heavy equipment may physically impact recorded and unrecorded resources below ground.

FEMA and its historic preservation partners recognize that the number of projects funded by the HMGP Exception may have the potential for a negative cumulative impact on the overall quality of historic districts or neighborhoods ([www.fema.gov/library/viewRecord.do?id=3124](http://www.fema.gov/library/viewRecord.do?id=3124)). FEMA is therefore working closely with its federal, state, and local preservation partners to provide historic preservation information and some technical advice to enable owners of historic properties to protect themselves against future disasters while maintaining the historic qualities of their properties. More information about how to design your hazard mitigation project can be found at [www.fema.gov/gcro](http://www.fema.gov/gcro) and <http://www.fema.gov/plan/mitplanning/howto6.shtm>.

**Q: What is Section 106 of the National Historic Preservation Act?**

Section 106 of the National Historic Preservation Act (NHPA) is the federal law that requires federal agencies, including FEMA, to take into account the effects of their actions (called “undertakings”) on historic properties and provide the Advisory Council on Historic Preservation (ACHP), a federal agency that advises

the President and Congress on historic preservation, an opportunity to comment on such undertakings ([www.achp.gov/nhpa.html](http://www.achp.gov/nhpa.html), [www.achp.gov/regs-rev04.pdf](http://www.achp.gov/regs-rev04.pdf) and [www.achp.gov/usersguide.html](http://www.achp.gov/usersguide.html)).

In order to determine the effects of a project, the federal agency first must identify and evaluate whether or not historic properties are present. If properties within the project's area of potential effects are found to be eligible for listing in or listed in the National Register of Historic Places (National Register) ([www.nps.gov/history/nr/about.htm](http://www.nps.gov/history/nr/about.htm)), federal agencies must determine if the undertaking alters any characteristics of the property that qualify it for the National Register ([www.nps.gov/history/nr/about.htm](http://www.nps.gov/history/nr/about.htm)).

The National Register is the country's official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archaeological resources. Properties listed in the National Register include districts, sites, buildings, structures, and objects that are significant to history, prehistory or culture.

When historic properties will be adversely affected by a federal undertaking, Section 106 review often results in the federal agency, the State Historic Preservation Officer (SHPO) and other consulting parties negotiating and executing a legally binding agreement, called a Memorandum of Agreement. This document establishes how the federal agency will avoid, minimize or mitigate the adverse effects. The intent of Section 106 is neither to stop projects nor make them ineligible for federal funding, but to ensure that federal agencies consider historic preservation issues and the views of tribal governments, the SHPO, the ACHP, and of the public during agency project planning.

#### **Q: How do I know if an HMGP application contains a historic property?**

The term "historic property" under federal law means a property that is eligible for listing in or that is already listed in the National Register of Historic Places (National Register). FEMA must use this definition when it considers how its project funding will impact historic properties. Categories of properties that may be found eligible for National Register listing include buildings, structures, sites, objects and districts that are significant to history, prehistory or culture. These properties are both above ground (buildings, structures, sites, objects, and districts) and below ground (archaeological sites).

The Mississippi Department of Archives and History, which serves as the SHPO, maintains a list of above-ground National Register properties and districts in the state ([mdah.state.ms.us/hpres/nrfaq.php](http://mdah.state.ms.us/hpres/nrfaq.php)). Because archaeological sites are often threatened by looting and destruction, the precise physical location of such sites is confidential. If FEMA, in consultation with the SHPO and tribal governments, identifies an archaeological site associated with a property on an HMGP application, the grant applicant will be contacted by Mississippi Emergency Management Agency (MEMA) staff coordinating directly with FEMA Historic Preservation staff. For more information on National Register properties and archaeology sites in Mississippi and, please contact the Mississippi Department of Archives and History (MDAH) Historic Preservation Division at (601) 576-6940 or visit their website at [mdah.state.ms.us/hpres/index.php](http://mdah.state.ms.us/hpres/index.php).

#### **Q: How can a property owner preserve a property's historic significance and still take advantage of the HMGP Exception?**

Certain hazard mitigation activities (such as elevation and storm protection measures) may be carried out in a way that does not damage the historic character of a property. In other cases, actions such as

demolition and reconstruction may damage the physical qualities that make a property National Register eligible. Projects should be designed to take into account the unique physical features of each property that make it significant, and then incorporate treatment measures into the project design that will either protect the physical qualities that make the property National Register eligible, or will offset the loss of these elements.

Many owners of historic buildings in the United States use federal standards, guidelines and best management practices to preserve, rehabilitate, restore and reconstruct historic structures. These standards are called the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, also known as "The Standards." ([www.nps.gov/history/hps/tps/standguide](http://www.nps.gov/history/hps/tps/standguide)). While application of these Standards is not mandatory for HMGP projects already initiated, application of the Standards is useful in minimizing and avoiding actions that may alter the physical qualities that make a property historic. The Standards are helpful for HMGP applicants who wish to preserve the significance of historic properties and streamline the historic preservation review process associated with their HMGP application. Property owners and local communities may also find helpful project design information in the FEMA publication "Integrating Historic Property and Cultural Resource Considerations into Hazard Mitigation Planning" (<http://www.fema.gov/plan/mitplanning/howto6.shtm>).

**Q: Will the historic review of an HMGP application be complicated if the hazard mitigation work was initiated prior to March 16, 2008 and was not completed in a historically-sensitive manner?**

For project locations where private landowners have initiated or completed an HMGP-eligible project within the allowable time frames of the HMGP Exception, FEMA will conduct modified Section 106 reviews. FEMA will take the properties into account to perform an overall assessment of cumulative effects to historic properties across the region. This assessment will not impact the private property owner's ability to receive funding.

All other HMGP-eligible projects initiated after March 16, 2008 will be subject to the Section 106 review process; work may not be initiated on these projects until the Section 106 review process has been completed. If a property is determined to be "historic" under federal law, the project may require additional historic review to avoid, minimize or mitigate harm to the historic property. Failure to satisfy these federal review requirements may delay or even jeopardize receipt of FEMA funding.

Because there are many HMGP-funded projects throughout the areas affected by Hurricane Katrina, and many of those projects will be in the same historic neighborhoods, there may be "cumulative effects" on historic districts that may lead to the loss of historic designation. In such cases, the property may not be eligible for future historic preservation-focused incentives and/or grant programs, which are administered MDAH.

**Q: How will HMGP applications be reviewed under Section 106 if the application is not eligible for the HMGP Exception?**

For HMGP-eligible projects that do not qualify for the HMGP Exception, FEMA will need to complete the Section 106 review process prior to the initiation of the work. As the federal agency providing grant money, FEMA will work the SHPO and interested tribal governments to determine if a property listed in an HMGP application is considered a historic property. If the property is considered historic, FEMA will also determine, in consultation with the SHPO and Tribes, what effect(s) the project will have on the property. If an effect is determined to be "adverse" (to have a negative impact on a historic property that

would detract from its ability to be listed in the National Register), FEMA, in consultation with tribal governments, the SHPO, the ACHP and the HMGP applicant, will determine appropriate ways to avoid, minimize, or mitigate the effects of the project.

**Q: How will FEMA ensure that historic preservation laws are followed?**

Pursuant to Section 106 of the NHPA, FEMA is consulting with tribal governments, the SHPO, the ACHP, and the National Trust for Historic Preservation to ensure that historic properties are adequately considered when providing funding through HMGP. These consulting parties developed a review framework for projects affecting historic properties and have begun to identify ways to minimize adverse effects to historic properties (<http://www.fema.gov/library/viewRecord.do?id=3124>). FEMA will also work with tribal governments and the SHPO to comply with other federal laws, regulations and Executive Orders that govern how each agency fulfills its legal responsibilities under federal, state and local laws.

**Q: Where can I go to find more resources on historic preservation?**

*Hazard Mitigation Planning & FEMA Historic Preservation Review*

- FEMA Mitigation Planning How-To Guide #6: Integrating Historic Property and Cultural Resource Considerations into Hazard Mitigation Planning - <http://www.fema.gov/plan/mitplanning/howto6.shtm>
- Environmental & Historic Preservation Guidance for FEMA Grant Applicants - <http://www.fema.gov/plan/ehp/ehp-applicant-help.shtm>
- MEMA Hazard Mitigation- <http://www.msema.org/about/mitigation/>

*Mississippi Historic Resources, Disaster Recovery, and Renewal Efforts*

- MDAH Historic Preservation Division in Jackson -<http://mdah.state.ms.us/hpres/>
- Governor's Office Recovery & Renewal -<http://www.governorbarbour.com/Recovery/links/>
- Mississippi Renewal Forum: Governor's Commission on Recovery, Rebuilding and Renewal - <http://mississippirenewal.com/info/plansReports.html>
- A Pattern Book for Gulf Coast Neighborhoods –Rebuilding Guide - [http://mississippirenewal.com/documents/Rep\\_PatternBook.pdf](http://mississippirenewal.com/documents/Rep_PatternBook.pdf)

*Section 106 Guidance*

- Review and Compliance Frequently Asked Questions - <http://mdah.state.ms.us/hpres/sec106faq.php>
- A Citizen's Guide to Section 106 Review-<http://www.achp.gov/pubs-citizensguide.html>
- Section 106 Regulations Users Guide -<http://www.achp.gov/usersguide.html>

*Technical Preservation Guidance*

- National Park Service Publications—Preservation Briefs & Technical Notes - <http://www.nps.gov/history/hps/tps/publications.htm>
- Avoiding Incompatible Work on Historic Buildings - [http://www.nps.gov/history/hps/tps/tax/incentives/avoiding\\_1.htm](http://www.nps.gov/history/hps/tps/tax/incentives/avoiding_1.htm)
- Identifying Visual Characteristics of a Historic Building - <http://www.nps.gov/history/hps/tps/walkthrough/index.htm>
- NPS National Center for Preservation Technology and Training (Natchitoches, LA) - [www.ncptt.nps.gov](http://www.ncptt.nps.gov)