



FEMA

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Q&As

HISTORIC PRESERVATION CONCERNS WITH THE HAZARD MITIGATION GRANT PROGRAM (HMGP) EXCEPTION

Q: What types of impacts can property owners anticipate the HMGP Exception will have on historic properties?

The HMGP exception encompasses a variety of projects that may impact historic properties, including buildings, historic districts, and archaeological sites. 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.), 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 at historic properties because some construction activities such as digging, trenching and operating heavy equipment may physically impact known and unknown archaeological 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. FEMA is therefore working closely with its federal, state, and local preservation partners to provide historic preservation information and 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.

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) an opportunity to comment on such undertakings.

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, federal agencies must determine if the undertaking alters any characteristics of the property that qualify it for its eligibility or listing.

(MORE)

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 in American history. The National Register list is administered by the National Park Service of the U.S. Department of the Interior.

When historic properties will be adversely affected by a federal undertaking, Section 106 review often results in the federal agency, the State Historic Preservation Office (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 not to stop projects but to ensure that federal agencies consider historic preservation issues and the views of the SHPO, the ACHP, and the views of the public during project planning.

Q: How do I know if my house or facility is 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 SHPO maintains a list of above-ground National Register properties and districts in Louisiana. Because archaeological sites are often threatened by looting and destruction, the location of these sites is confidential. If FEMA, in consultation with the SHPO and Native American tribal governments, identifies an archaeological site associated with your property that may be impacted by your HMGP project, you will be contacted. For more information on National Register properties in Louisiana, please contact the Louisiana Division of Historic Preservation at (225) 342-8160; for more information on archaeological resources, please contact the Louisiana Division of Archaeology at (225) 342-8160; or visit www.crt.state.la.us.

Properties are also determined to be "historic" at the local level. There are locally-designated historic districts throughout the state that identify, designate, regulate and protect historic properties under local ordinance. The City of New Orleans has numerous local historic districts, as do other parishes and municipalities around the state. Contact your local planning commission, historic district landmarks commission, or parish government to find out if your property is considered to be locally "historic."

Q: If I own a "historic property" how can I preserve its historic significance and still take advantage of the HMGP Exception?

Certain hazard mitigation activities (such as elevation and storm protection measures) can be carried out in a way that does not damage the historic character of a property. In some cases those actions such as demolition and reconstruction may damage the physical qualities that make a property "historically significant." Projects must be designed to take into account the unique physical features of each property that make it "significant" and "historic" and then incorporate historic preservation methods into the project design that will protect the most irreplaceable and historic elements of the property.

Historic preservation professionals and many owners of historic buildings in the United States use standards and guidelines that provide technical advice about historic preservation activities and methods. These standards are called the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (the Standards). The Standards provide advice and direction for repairing and rehabilitating historic properties and can be found at: www.nps.gov/history/hps/tps/standguide. FEMA will also be providing recommendations on construction practices that help to avoid or minimize disturbance to archaeological resources should they be present. While these Standards and recommendations are not mandatory, they are useful in minimizing or avoiding actions that may alter the physical qualities and character-defining features that make a property historic.

Q: What are some complications that I may encounter if I do not carry out an HMGP eligible project in a historically-sensitive manner?

If you have already initiated or completed an HMGP eligible project within the allowable time frames of the program Exception, your property will not be subject to a property-specific historic preservation compliance review (except in those rare cases where property owners are found to have harmed a historic property with the intention of not complying with federal law and will therefore not receive funding). However, FEMA, in order to comply with Section 106 of NHPA, will take your property into account to perform an overall assessment of cumulative effects to historic properties across the region. This assessment will not affect your ability to receive funding.

All other eligible projects initiated after the announcement date and the HMPG Exception period will be subject to the Section 106 review process prior to the initiation of mitigation activities. If a property is determined to be “historic” under federal law, the project may require further review to avoid, minimize or mitigate harm to your historic property. Failure to satisfy these review requirements may delay or even jeopardize FEMA funding.

Because there are many HMGP-funded projects throughout the areas affected by hurricanes Katrina or Rita, 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 this case, the property may not be eligible for future preservation incentive and/or grant programs.

Q: Does my project need to follow the Section 106 review process under the National Historic Preservation Act if I am not eligible for the HMGP program exception?

As a federal agency, FEMA must satisfy the Section 106 review process before it approves your project for funding. FEMA works with the SHPO and any interested Native American tribal government (Tribes) to determine if your property is considered a historic property. If your 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 the SHPO, the ACHP, the Tribes and the applicant for assistance, will determine appropriate ways to avoid or minimize the effect or to “mitigate” the impact of the project.

Q: How is FEMA going to ensure that all the correct laws associated with historic properties are followed?

Following Section 106 of the NHPA, FEMA has consulted and will continue to consult with Native American tribal governments, the SHPO, the ACHP, and the National Trust for Historic Preservation to

ensure that historic properties are adequately considered when providing funding under the HMGP program. 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.

FEMA will also work with Native American tribal governments and the SHPO to comply with all 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?

FEMA

www.fema.gov/gcro

Louisiana State Historic Preservation Office

www.crt.state.la.us

Louisiana Speaks

www.louisianaspeaks.org

National Center for Preservation Technology and Training

www.ncptt.nps.gov

Historic District Landmarks Commission of New Orleans

www.cityofno.com/Portals/Portal99/portal.aspx

Preservation Resource Center of New Orleans

www.prcno.org

National Trust for Historic Preservation

www.nationaltrust.org

National Register of Historic Places

www.cr.nps.gov/nr/index.htm

Advisory Council on Historic Preservation

www.achp.gov