



# Wyoming State Historic Preservation Office Certified Local Government Handbook

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## **CLG Purpose Statement:**

Since its initial enactment in 1966, the National Historic Preservation Act (also referred to as the Act) has provided a statutory framework for national historic preservation partnerships. Federal, state, tribal, and local governments have well-defined and significant roles in the identification, evaluation, designation, and protection of historic and prehistoric properties. Many federal responsibilities are within the National Park Service, which is a part of the Department of the Interior. Local participation in and coordination with this partnership are provided through the Certified Local Government program. The Wyoming State Historic Preservation Office, located in the Division of Cultural Resources, Department of State Parks and Cultural Resources, coordinates the state's preservation responsibilities, as set out in the national legislation and federal regulations.

According to the National Park Service the purposes of the CLG program are:

- (1) to ensure the broadest possible participation of local governments in the national historic preservation program while maintaining standards consistent with the National Historic Preservation Act, and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation;"
- (2) to enrich, develop, and help maintain local historic preservation programs in cooperation and coordination with the SHPO; and
- (3) to provide financial and technical assistance to further these purposes.

The Wyoming SHPO strives to help local communities achieve their preservation goals, for it is at the local level that preservation efforts are often the most effective. The SHPO encourages each CLG commission or board to make their voices heard in order to preserve the cultural resources of Wyoming.

# Calendar

*Some of these dates are general dates that apply to multiple years; please be aware of specific dates sent by the SHPO throughout the year.*

## **January**

31 - Annual Reports (for previous fiscal year) due to SHPO

## **February/March**

National Register Review Board Meeting

## **June/July**

National Register Review  
Board Meeting

## **August**

31 - Grant Reimbursement Request forms due to SHPO

## **September/October**

National Register Review  
Board Meeting

## **September**

1 - Grant application information available  
30 - Final Grant Project Reports due to SHPO  
30 - End of Federal Fiscal Year

## **October**

1 - Start of Federal Fiscal Year

## **November**

15 - Grant Applications due to SHPO

## **December**

15 - Grant award announcements made

## **PART I: CERTIFICATION OF A LOCAL GOVERNMENT**

- ELIGIBILITY – Any city, county, township, municipality, or any other general-purpose political subdivision of Wyoming may become a Certified Local Government (CLG). It is the local government, and not the commission or board (hereafter referred to as a commission), that is certified. Commissions are responsible to the SHPO only as representatives of the local government. The jurisdiction of the CLG is that of the local government and must coincide with the geographic jurisdiction of the local government for CLG purposes. Each party must meet State CLG requirements pertinent to its CLG activity. These minimum requirements are listed below.
- REQUIREMENTS – In order to become certified, each local government shall comply with the following regulations as stated in 36 CFR 61.6:

### **1. Enforce appropriate state or local legislation for the designation and protection of historic properties.**

- a. Currently, Wyoming does not have legislation for the designation and protection of historic properties. If and when such legislation takes effect in Wyoming, historic preservation review commissions shall enforce it.
- b. If a local government has ordinances for the designation and protection of historic properties, their historic preservation review commission shall enforce it.

### **2. Establish by state or local law and maintain an adequate and qualified historic preservation commission.**

- a. In Wyoming, preservation commissions are created by a City Resolution or County Ordinance
- b. Each commission will consist of at least three (3) and no more than eleven (11) members.
- c. The chief elected official of the local government (the mayor or county commissioner chair) will appoint members to the commission.
- d. Members should be chosen for their interest and/or professional abilities in architecture, history, architectural history, planning, prehistoric and historic archeology, folklore, cultural anthropology, curation, conservation, landscape architecture, real estate, or other related disciplines.

### **3. Maintain a system for the survey and inventory of properties.**

- a. When surveys are conducted, CLG survey data shall be in a format consistent with the Wyoming SHPO inventory requirements and shall not be inconsistent with the Secretary of the Interior's Standards for Identification and Evaluation.
  - b. As of May 6, 2019, the Wyoming Cultural Properties forms should be submitted through WyoTrack online. The online versions of the forms are the Wyoming State Historic Preservation Office's (WYSHPO) submission standard. Printed versions of the form completed in WyoTrack should be submitted along with the Class II or Class III report to the appropriate federal agency. Do not submit the old WYCPF in addition to the WyoTrack version. If you need access to WyoTrack, please contact the Wyoming Cultural Records Office at 307-766-5335
  - c. Visit <https://wyoshpo.wyo.gov/index.php/programs/cultural-records/wyotrack> for User Forms and Additional Resources relating to WyoTrack
  - d. For further assistance, please contact the Cultural Records Office: <https://wyoshpo.wyo.gov/index.php/programs/cultural-records>
- CERTIFICATION AGREEMENT -- The SHPO will prepare, keep on file, and submit to NPS a signed Certification Agreement between itself and the local government that:
  - a. Lists individually, or by specific reference to the State procedures, all requirements and responsibilities common to all CLGs within the State;
  - b. Lists all additional responsibilities and requirements delegated to the CLG by the SHPO; and,
  - c. Includes the signatures of the SHPO and the chief elected local official or their authorized designee(s).
- NPS REVIEW OF CLG APPLICATIONS -- After having determined that a CLG application meets all the requirements in State procedures, the SHPO will forward a request for concurrence to the National Park Service.
- EFFECTIVE DATE OF CERTIFICATION AGREEMENT-- A Certification Agreement is not effective until it is signed by the chief elected local official and the SHPO, and concurred with in writing by NPS. The effective date of certification is the date of NPS concurrence. When NPS concurs with the SHPO recommendation for certification, NPS will notify the SHPO in writing, and send a copy of that letter to the CLG.

## PART II: ANNUAL REQUIREMENTS

Updated Annual Report form available on SHPO Website:

<https://wyoshpo.wyo.gov/index.php/programs/community-preservation-program-clg>

- PUBLIC PARTICIPATION – Provide for adequate public participation in the local historic preservation program as a whole.
  1. Each commission meeting shall be open to the public.
  2. Minutes from each meeting shall be made available for public access.
  3. The commission shall provide for public participation in the National Register of Historic Places nomination process.
  4. The commission shall publish and disseminate their procedures to the public.
  5. The commission shall comply with local, state, and federal public participation regulations.
  6. Each of the above requirements should be included in the City or County Code and the Bylaws or Rules of Practice for the Commission.
- EVALUATION – Per 36 CFR 61.6, the SHPO must monitor and evaluate the performance of each CLG according to written standards and procedures that the SHPO establishes.
  1. Written procedures and standards for evaluating CLG performance in program operation and administration are included in the Request for Certified Local Government Status or referenced therein. These procedures and standards are made available to local governments at the time of application for certification. Standards include elements such as quality, quantity, and timeliness.
  2. SHPO will monitor all CLGs on an on-going basis as part of the annual report process, no less than once every four (4) years.

3. If a CLG's performance is inadequate, the SHPO shall suggest ways the CLG can improve its performance and stipulate a time frame in which the improvements are to be made.
  4. If the SHPO determines that a CLG has not improved sufficiently within the stipulated time frame, the SHPO may recommend decertification of the CLG
  5. The SHPO shall maintain written records for all CLG evaluations
- ANNUAL REPORT – Each CLG shall submit an annual report every year.
    1. The annual report will correspond with the Federal Fiscal Year (**October 1 through September 30**)
    2. The annual report is due to SHPO by January 31 of each year for the preceding Federal Fiscal Year.
    3. If the CLG is unable to meet this deadline, they need to contact the SHPO to arrange for an extension.
    4. CLGs that do not complete an annual report at least once every four years are subject to decertification.
    5. Please use the annual report form found on the CLG Website:  
<https://wyoshpo.wyo.gov/index.php/programs/community-preservation-program-clg/clg-grants>

## **PART III: NATIONAL REGISTER PARTICIPATION**

SHPO NRHP Website:

<https://wyoshpo.wyo.gov/index.php/programs/national-register>

- REQUIREMENTS

1. Both the commission and the chief elected local official of a CLG have the opportunity, under sections 101 (c)(2)(A) and (c)(2)(B) of the National Historic Preservation Act, of reviewing the nominations within their governmental jurisdiction and presenting their opinion on the nominated property's eligibility for listing in the National Register of Historic Places.
2. By federal regulations, CLGs shall provide a reasonable opportunity for public comment to their local constituency, including those instances when the CLG is the nominating party.

- PROCESS FOR NOMINATION REVIEW AND COMMENT

1. Before a property within the jurisdiction of a CLG may be nominated to the National Register by the state, the SHPO will notify the chief elected local official and the commission in accordance with 36 CFR 60 and 36 CFR 61. The SHPO will notify the chief elected local official and the commission at least 60 but no more than 120 calendar days prior to State Review Board consideration.
  - a. Exception: The CLG notification procedures do not apply when a nomination is processed by or through a CLG, which provides its recommendation and report to the SHPO with the nomination package.
  - b. Exception: The CLG notification procedures do not apply where a Federal agency nominates a property under its ownership or control. The SHPO will, however, encourage Federal agencies to coordinate their nominations with CLGs.
2. The commission provides reasonable opportunity for public comment.
3. The commission prepares a report as to whether or not, in its opinion, the property meets the National Register criteria.

- a. When a relevant historic preservation discipline is not represented in the commission membership, the commission shall be encouraged to seek expertise in this area when considering National Register nominations requiring the application of such expertise.
  - b. If the commission recommends the property for nomination, the SHPO will present the nomination to the State Review Board (if the SHPO concurs on the eligibility of the property).
4. Within 60 calendar days of notice from the SHPO, the chief elected local official shall transmit the report of the commission, along with his/her recommendations, to the SHPO.
  - a. If the SHPO does not receive the report and recommendation with 60 days, he/she shall continue the nomination process
5. The nomination, along with any commission comments, is scheduled for consideration by the State Review Board. The State Review Board meets 3 times per year to review and comment on nominations to the National Register.
6. After the State Review Board reviews and comments, nominations determined eligible for listing are forwarded to the Keeper of the National Register.
  - a. If the nomination is not accepted by the State Review Board then it is returned with comments and recommendations on improving the nomination for resubmission at the next Review Board meeting.
  - b. The Keeper has 45 days to accept or return the nomination.
  - c. Once a nomination is accepted by the Keeper it is considered to be listed on the NRHP.

## PART IV: GRANTS

Updated forms are available on the SHPO website:

<https://wyoshpo.wyo.gov/index.php/programs/community-preservation-program-clg/clg-grants>

### **The Wyoming SHPO offers matching reimbursement grants.**

The CLG must provide a match of 40% of the total project cost with either cash or in-kind contribution. The CLG must pay for the entire project before a complete reimbursement can be issued.

As set forth in the National Historic Preservation Act, the SHPO must transfer a minimum of 10 percent of Wyoming's annual apportionment of HPF funds to CLGs for eligible activities.

- APPLICATION DEADLINE – NOVEMBER 15
- ANNUAL NOTIFICATION – SHPO will provide notice to each CLG and each local government whose application for certification is pending within the State notifying them of the availability of annual grant funds. The notification, sent by September 15 of each year, will provide the following information:
  1. Total amount available, or expected to be available to CLGs
  2. State priorities for funding
  3. Selection criteria
  4. Deadline for submitting grant requests
  5. Sufficient written description of the information that must be provided in the grant application
  6. Contacts for additional information or questions about application requirements
- ELIGIBILITY – To remain eligible for CLG grants, the CLG must continue to comply with the conditions of its Certification Agreement and State of Wyoming performance standards.
  1. All CLGs within Wyoming are eligible to compete for funds. However, the SHPO is not required to award funds to all CLGs that are eligible to receive funds.
  2. All activities that are assisted with CLG grants must meet the applicable *Secretary of the Interior's Standards for Archeology and Historic Preservation*.

- TYPES OF PROJECTS FUNDED – All CLG activities that are assisted with grant funds will meet the *Secretary of the Interior's Standards for Archeology and Historic Preservation*.

Preference will be given to these project types ***in the following order***:

1. Preservation Plan: Preparation of a planning document to guide the local government's historic preservation program.
2. Survey: Documentation of cultural resources in a specific geographic area or by theme using Wyoming Cultural Properties Forms.
3. Planning: Revision of a historic preservation ordinance, development of design guidelines, assessment of an individual building, or any other planning-related project.
4. National Register Nomination: Completion of a National Register nomination for a site or district or completion of a Multiple Property Documentation Form.
5. Preservation, Restoration, or Rehabilitation: Physical work on a National Register listed building that meets the Secretary of the Interior's Standards for the Treatment of Historic Properties  
<https://www.nps.gov/orgs/1739/index.htm>
6. Training: Attendance at workshops, conferences, or other training related to historic preservation by board/commission members, elected officials, or town/city/county staff.
7. Public Education: Brochures, websites, booklets, videos, events, and other activities intended to education the public about historic preservation.

- GRANT APPLICATION

The grant application forms can be found on the CLG Grants website:  
<https://wyoshpo.wyo.gov/index.php/programs/community-preservation-program-clg/clg-grants>

### **1. Applicant Information**

List the person who will be responsible for ensuring that the project tasks are completed and the person responsible for the financial recordkeeping for the project. The chief elected official for your CLG is the mayor or commissioner, *not* the chair of your historic preservation commission or board. **Fiscal manager contact cannot be the same person as the project manager or the chief elected official.** Grant applications *must* be signed by the commission/board chair and the chief elected official.

### **2. Project Information**

Provide a succinct title for your project that clearly explains the purpose or goal. (If you are selecting "Preservation, Restoration, or Rehabilitation" for Project Type then a Project checklist and a NEPA Worksheet, must be submitted with your application. If you are selecting "Other" for Project Type you must contact SHPO before continuing the application to ensure your project is eligible for funding.) The Funds Requested section should match the totals of your Project Budget section, so we highly recommend completing the Project Budget first.

### **3. Project Selection**

- Explain why and how you selected this project.
- How does this project further historic preservation initiatives in your community?
- Why is this project important?
- If your CLG has a preservation plan, how is this project is part of that plan?

### **4. Public Benefit**

- Who will benefit from the completion of your project?
- What impact will the project have on your community?
- Does the community support the project?

## **5. Project Description**

A successful grant application will include the following items:

- Description of previous work completed that relates to your project
- A narrative description of the tasks that will be performed that matches your Scope of Work
- Clearly defined goals of your project
- A list of the deliverables that will be produced as a result of your project (at minimum, a final report) as an electronic submission
- Description of how you will publicize your project and engage the public.
- A list of the names and roles of the people who will be involved in completing the project.
- A list of the desired qualifications for a consultant or contractor you wish to hire.

## **6. Preservation, Restoration, or Rehabilitation Project Checklist**

All items on the checklist are required for grant applications requesting funding for the physical preservation of a historic building, also known as “bricks and mortar” projects. Generally, grants funds can only be used on publicly owned buildings listed in the National Register of Historic Places. Privately owned buildings will only be considered if they exhibit a high degree of public interest.

- Brick and mortar projects will require a covenant/easement placed on the deed of the building.

## **7. Scope of Work & Timeline**

Provide a *detailed* outline of each task to be performed as part of this project and note who will be responsible for performing the task. Then list a completion date for each task, including submission of reports and funding requests to SHPO as required tasks. If you are hiring a consultant, be sure to include enough time for hiring a consultant using the procurement/bidding procedures required by your local government and SHPO. *Please note that SHPO should be involved in the selection of a consultant for your project.*

## 8. Project Budget

Please provide your project budget using the form provided. Applicants must provide a 40% cash and/or in-kind match of the **total project cost**. Categories to consider are personnel, consultant, travel costs, supplies, copy costs, newspaper ad for consultant, photography, printing, volunteer duties and hours, etc. Please be as detailed as possible.

Use the following formula to calculate the match required for your grant request, where  $f$  = federal funds being requested and  $m$  = required match:

$$f \times \frac{100}{60} \times .40 = m$$

For example, a CLG requesting \$5,000 of federal funds for a project would calculate their match this way:

$$\$5,000 \times \frac{100}{60} \times .40 = \$3,333$$

Federal rates for hourly volunteer personnel change yearly. Please visit Independent Sector at <https://independentsector.org/resource/value-of-volunteer-time/> to calculate volunteer match. You must use Wyoming rates, not National Rates.

## 9. Attachments

1. For preservation, restoration, or rehabilitation projects: follow the guidelines in the Project Checklist. The Project Checklist must be signed by your board/commission chair.
  2. For all other project types: consider including photographs, maps, letters of support, relevant sections of your preservation plan, or anything else that may support your application.
- APPLICATION PROCESS – Commissions should contact the SHPO to discuss potential project planning and type of consultant needed before preparing a CLG grant application.
1. Prepare a draft scope of work that includes clear historic preservation goals and products and a project budget.

2. Prior to the deadline, if desired, send the draft scope of work and budget to the SHPO for feedback.
3. Be sure to have the Chief Elected Local Official sign the complete application.
  - a. If the CLG is a town or city, the Mayor needs to sign the application.
  - b. If the CLG is a county, the County Commissioner needs to sign the application.
4. Submit the grant application form to the SHPO by November 15.
5. Do not begin work until all parties have signed the grant agreement (state contract).

- SELECTION PROCESS

1. All qualifying grant applications will be individually reviewed and scored by SHPO staff, a representative from the National Register Review Board and a representative of the State Parks and Cultural Resources Commission.
2. Grant awards will be based on evaluation and a point system.
3. CLGs will be notified if their grant application is either approved or denied.
4. If approved, the CLG and its commission will receive a grant agreement (state contract) from the SHPO confirming the grant awarded.
5. Grant agreements must be read and signed by the appropriate representative of the CLG, as well as by the Wyoming State Historic Preservation Officer and State of Wyoming Attorney General staff.
  - a. If the CLG is a town or city, the Mayor needs to sign the grant agreement.
  - b. If the CLG is a county, the County Commissioner and County Clerk need to sign the grant agreement.

- PROJECT AMENDMENT GUIDELINES

1. Commissions shall notify the SHPO of all changes made to their grant-funded project *as soon as possible*.
2. Changes falling under this requirement include, but are not limited to:
  - a. Failure to receive bids on a project requiring re-advertising
  - b. Alterations to the final product resulting from information gathered from research on the project
  - c. Cancellation of project

- HISTORIC PRESERVATION CONSULTANTS – Consultants hired to conduct work for CLG grant projects shall meet NPS standards. If you need

assistance in locating a consultant, or are unsure if they meet NPS standards, please contact the SHPO.

1. CLGs contracting with a consultant should obtain written documentation from the consultant outlining a previous successfully completed project similar to the proposed grant project.
2. Consultant responsibility for product completion should be detailed in the consultant's contract with the CLG.
3. Local Government (City or County) bidding and contracting rules and regulations shall be followed when expending CLG grant funds
4. If a CLG intends to sole source (a non-competitive negotiation) with a particular consultant for services, a sole source justification shall be provided with the grant application. The sole source justification:
  - a. Details all of the reasons for sole sourcing
  - b. Explain any attempts to locate other interested or qualified professionals

- REIMBURSEMENT

1. Reimbursement requests may be submitted earlier but must be submitted no later than August 31 for a grant cycle ending September 30.
2. Use the Revised Grant Reimbursement Request Form on the CLG Grants website in filing for reimbursement.  
<https://wyoshpo.wyo.gov/index.php/programs/community-preservation-program-clg/clg-grants>
3. All costs shall be for expenditures incurred during the project period.
4. All personnel costs will need to be supported by time sheets with appropriate documented information.
5. Upon receipt of the *Reimbursement Request Form*, including all match documentation, a check will be issued to the CLG with the federal funds requested.

- FINAL REPORT – Reports are necessary in order for the SHPO staff to accurately evaluate and monitor the projects funded by grants.

1. A final report shall be signed and submitted to the SHPO by September 30.
2. Use the Revised Grant Final Report Form on the CLG Grants website\_ when submitting reports.  
<https://wyoshpo.wyo.gov/index.php/programs/community-preservation-program-clg/clg-grants>

# **SAMPLE LOCAL GOVERNMENT CERTIFICATION AGREEMENT**

(Cover page for supporting documents)

Pursuant to the provisions of the National Historic Preservation Act, as amended, to applicable federal regulations (36 CFR 61), [proper name of the local government] agrees to:

- 1) Enforce appropriate legislation for the designation and protection of historic properties.
- 2) Maintain an adequate and qualified historic preservation review commission composed of professional and lay members.
- 3) Maintain a system for the survey and inventory of historic properties.
- 4) Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register.
- 5) Adhere to all Federal requirements for the Certified Local Government Program.
- 6) Adhere to requirements outlined in the Wyoming Certified Local Government Handbook, issued by the State Historic Preservation Office.

Upon its designation as a Certified Local Government, [enter local government name] shall be eligible for all rights and privileges of a certified local government (CLG) specified in the Act, Federal procedures, and procedures of Wyoming. These rights include eligibility to apply for available CLG grant funds in competition only with other certified local governments of Wyoming.

STATE:

LOCAL GOVERNMENT:

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SHPO Official

---

Chief Elected Local

---

Typed Name and Title

---

Typed Name and Title

---

Date

---

Date

# **Additional Reading (HPF Grants Manual)**

## **Chapter 26 Glossary**

*Historic Preservation Fund Grants Manual*

<https://www.nps.gov/subjects/historicpreservationfund/historic-preservation-fund-grant-manual.htm>

Certified Local Government (CLG). A local government whose local historic preservation program has been certified pursuant to Section 101(c) of the Act.

Chief Elected Local Official. 1) The elected head of a local government. 2) The mayor, county judge, county executive, or otherwise titled chief elected administrative official who is the elected head of the local political jurisdiction in which a property is located.

CLG Share. HPF grant funds that are transferred to Certified Local Governments in accordance with Section 103(c) of the Act.

Comprehensive Statewide Historic Preservation Plan. Required by the Act, the Comprehensive Statewide Historic Preservation Plan is a major tangible product of the State's Historic Preservation Planning Process. The State Plan is a document that articulates a vision of the future for historic preservation across the State and identifies goals and strategies for achieving them in the future. The State Plan is a tool for the State Historic Preservation Office and others throughout the State for guiding effective decision-making on a general level, for coordinating Statewide preservation activities, and for communicating Statewide preservation policy, goals, and values to the preservation constituency, decision-makers, and interested and affected parties across the State.

Conflict of Interest. A conflict between one's obligation to the public good and one's self-interest.

Contributing Property (Resource). A property or resource that has historical significance through location, design, setting, materials, workmanship, feeling, or association, and adds to the sense of time and place and historical development in a historic property (i.e., a National Register eligible property or resource). See 36 CFR 67.5 "Standards for Evaluating Significance within Registered Historic Districts."

Determination of Eligibility. A decision by the Department of the Interior that a district, site, building, structure, or object meets the criteria for evaluation although the property is not formally listed in the National Register of Historic Places. A determination of eligibility does not make the property eligible for such benefits as grants, loans, or tax incentives that have listing on the National Register as a prerequisite.

District. A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

Feasibility Study. A detailed physical investigation and analysis of a historic property conducted to determine the financial, technical, or economic advisability of a proposed project and/or alternative courses of action.

Grant. For purposes of Certified Local Government grants, this is an award of financial assistance of Federal dollars through the Wyoming State Historic Preservation Office. Awards are provided to carry out specific objectives for a specified period of time consistent with the terms of an approved budget and executed grant agreement.

Grant Agreement. For the purposes of Certified Local Government grants, this is a written contractual agreement and any subsequent approved amendments, between the Wyoming Department of State Parks and Cultural Resources, State Historic Preservation Office and the local government (i.e. Albany County, or Town of Jackson). The Grant Agreement defines the terms and conditions governing the grant award which are agreed upon by both parties.

Historic District. A geographically definable area, urban or rural, that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history. See Registered Historic District.

Historic Preservation. "Historic preservation," or "preservation" includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities or any combination of the foregoing activities.

Historic Preservation Fund. The source from which monies are appropriated to fund the program of matching grants-in-aid to the States (and other authorized grant recipients) for carrying out the purposes of the Act, as authorized by Section 108 of the National Historic Preservation Act.

Historic Preservation Review Commission (Local Commission). A board, council, commission, or other similar collegial body which is established by State or local legislation as provided in Section 101(c)(1)(B) of the Act, and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among:

- A. professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, to the extent such professionals are available in the community concerned, and
- B. such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

Historic Property. Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in the National Register, including artifacts, records, and material remains related to such a property or resource.

Historic Structure Report. The report required prior to development of a historic resource when the work involves fabricating significant missing architectural or landscape features, recapturing the appearance of a property at one particular period of history, or removing later additions.

Identification. Identification is undertaken for the purpose of locating historic properties and is composed of a number of activities which include, but are not limited to archival research, informant interviews, field survey, and analysis. Within a comprehensive planning process, identification is normally undertaken to acquire property-specific information needed to refine a particular historic context or to develop any new historic contexts.

In-Kind Contributions. The value of non-cash contributions provided by the grantee or non-Federal third parties. In-kind contributions may consist of charges for nonexpendable personal property, and the value of goods and services directly benefiting and specifically identifiable to the grant program.

Integrity. The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

Inventory. 1) A list of historic properties determined to meet specified criteria of significance. 2) A list or compilation of what is known about resources within a specified jurisdiction. An inventory includes historic properties and other properties that have been evaluated but not found to be historic.

Local Government. A city, county, parish, township, municipality or borough, or any other general purpose political subdivision of any State.

Matching Share (Nonfederal Share). Matching share (or "cost sharing") represents that portion of total project or program costs not borne by the Federal Government and that is supplied by the grantee or other nonfederal third parties in cash, in-kind, or in services contributed.

Multiple Property Submission. A Multiple Property Submission for nominating properties to the National Register is one which includes all or a defined portion of the cultural resources identified in a specified geographical area. A Multiple Property Submission consists of a Multiple Property Documentation Form, NPS-Form 10-900-b, together with individual registration forms.

National Park Service (NPS). The bureau of the Department of the Interior through which the Secretary of the Interior administers the National Historic Preservation Program.

National Register Criteria. The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

National Register Nomination Form. National Register Nomination Form means National Register Nomination Form NPS-Form 10-900, with accompanying continuation sheets where necessary (Form 10900a), maps, and photographs (and Form 10-900b for Multiple Property Submissions). The forms and accompanying maps and photographs must be completed in accordance with the requirements and guidance in National Register Bulletin 16A, and other NPS technical publications on this subject. Descriptions and statements of significance must be prepared in accordance with standards generally accepted by academic historians, architectural historians, archeologists, and/or other relevant professionals. The nomination form is a legal document and reference for historical, architectural, and archeological data upon which the protections for listed and eligible properties are

founded. The nominating authority must certify that the nomination is adequately documented and technically and professionally correct and sufficient.

National Register of Historic Places. The national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, or culture, maintained by the Secretary of the Interior under authority of Section 101(a)(1)(A) of the Act.

National Trust for Historic Preservation. The private, nonprofit organization chartered by legislation approved by Congress on October 26, 1949 (63 Stat. 927), with the responsibility of encouraging public participation in the preservation of districts, structures, sites, buildings, and objects significant in American history and culture.

Preservation. 1) As used in the Act, preservation includes the identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities or any combination of the foregoing activities. 2) The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

Public Participation. Active involvement of a wide range of public, private, and professional organizations and individuals is essential to the success of State Historic Preservation Office or other grantee programs. The term also includes activities directly related to involving the public in the Statewide Historic Preservation Planning Process, as well as in the identification, evaluation, or protection of a historic or archeological resource. The grantee's Open Project Selection process is an element of public participation. Other elements may include: the development of a public participation program/plan that provides an opportunity for citizens to participate in the development of the annual HPF grant application and/or provides citizens with adequate information concerning program emphasis or purposes and funding requirements; provides for public meetings or hearings to obtain the views of citizens on the substance of the program, including consideration of environmental and other possible effects; and/or provides an opportunity for the public to submit comments.

Request for Proposal (RFP). A set of documents which includes a sufficiently detailed description of the product or service desired to enable a prospective contractor to submit a proposal which includes information that procurement and technical personnel need to evaluate proposals submitted. The request for proposals is the specific term applied to the solicitation used in contracts involving Federal funds when negotiated procurement procedures are used.

Secretary's Standards and Guidelines. The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation which provide technical information about historic preservation activities and methods. The Standards and Guidelines are prepared under the authority of Section 101(f), (g), and (h), and Section 110 of the Act. The subjects covered in the Standards and Guidelines include: Preservation Planning, Identification, Evaluation, Registration, Historic Research and Documentation, Architectural and Engineering Documentation, Archeological Documentation, Treatment of Historic Properties, Professional Qualifications, and Preservation Terminology.

State Historic Preservation Officer (SHPO). The term "SHPO" means State Historic Preservation Officer or office. "SHPO" is used interchangeably throughout this document to refer to the State level organization that will oversee Preservation Project subgrants.

State Historic Preservation Review Board. A board, council, commission, or other similar collegial body established as provided in Section 101(b)(1)(B): (a) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided by State law), (b) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture; and (c) which has the authority to: (i) review National Register nominations and appeals from nominations; (ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund; (iii) provide general advice and guidance to the State Historic Preservation Officer, and (iv) perform such other duties as may be appropriate.

Subgrantee. The agency, institution, organization, other legal entity, or individual to which a subgrant is made by the State or other grantee and which is accountable to the State or other grantee for use of the funds provided. The subgrantee is the entire legal entity even if only one particular component of the entity is designated in the subgrant agreement.

Technical Assistance. Development of skills or the provision of knowledge of the background, meaning, operation, or implications of some aspect of historic preservation. This includes providing assistance to anyone who is not a part of the SHPO staff; e.g., subgrantees, local governments, State or Federal agencies, the public, etc. Issuance of previously prepared material, by itself, does not constitute technical assistance; there must be some significant action added. Mass mailings of brochures, forms, or publications would not count as technical assistance, because they do not require an understanding of what was sent out. On the other hand, answering an inquiry on how to fill out a survey form or a detailed discussion on mortar analysis would constitute technical assistance. For subgrantees, assistance that strengthens their capacity to plan, implement, evaluate, and manage their subgrants would qualify as technical assistance as long as the assistance is substantive as described above.



## Chapter 9 - Certified Local Governments

### *Historic Preservation Fund Grants Manual*

<https://www.nps.gov/subjects/historicpreservationfund/historic-preservation-fund-grant-manual.htm>

#### A. Purpose.

This Chapter presents requirements for the administration and operation of the Certified Local Government (CLG) program. States may amplify minimum CLG requirements so long as any additional requirements are consistent with the Act and applicable Federal regulations, including 36 CFR 61.

The purposes of the CLG program are: (1) to ensure the broadest possible participation of local governments in the national historic preservation program while maintaining standards consistent with the National Historic Preservation Act, and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation;" (2) to enrich, develop, and help maintain local historic preservation programs in cooperation and coordination with the SHPO; and (3) to provide financial and technical assistance to further these purposes.

#### B. Exemptions from CLG Program Participation.

Only grantees such as States, with subordinate general purpose local governments, are required to participate in the CLG Program; other grantees such as the District of Columbia and Insular Areas, have been exempted.

#### C. Participation by Indian Tribes.

An Indian tribe may be certified and participate in the CLG program if the tribe effectively meets the definition of a local government in Section 301(3) of the Act.

#### D. Minimum Requirements for Certification.

Governments are certified when the SHPO and the Secretary (who has delegated this authority to the NPS) certify that the local government has agreed to:

##### 1. Enforce Appropriate State or Local Legislation for the Designation and Protection of Historic Properties.

Federal regulations are found in 36 CFR 61.6. For the purpose of the CLG Program, the Act defines:

"Designation" as "the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government." Designation includes the identification and registration of resources according to State or local criteria which must be consistent with the Secretary of the Interior's Standards for Identification and Registration. Adoption of the National Register criteria is encouraged.

"Protection" as "a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to" a local government becoming a Certified Local Government. The CLG's local protection review process of the Act applies only to properties designated pursuant to State or local laws and procedures. This would not include properties listed on or determined eligible for the National Register of Historic Places unless such properties also were designated under the appropriate State or local process.

In its CLG procedures, each State must define what constitutes appropriate State or local legislation for the designation and protection of historic properties and its enforcement. NPS does not require State or local legislation regarding designation and/or protection as a prerequisite for certification. However, if State and/or local legislation is required in the State's certification procedures, that legislation must be consistent with the Act and with the definitions above (for designation and/or protection).

2. Establish an Adequate and Qualified Historic Preservation Review Commission by State or Local Legislation.

"Historic preservation review commission" means a board, council, commission, or other similar collegial body established by State or local legislation. The members must be appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction. Members must be drawn from professionals in architecture, history, architectural history, planning, prehistoric and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines to the extent such professionals are available in the community concerned, and such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines. NPS regulations regarding commissions are found in 36 CFR 61.6.

- a. If no State law exists that allows the establishment of local commissions, the State will require the local government to establish a commission by law or ordinance, or other official action.
- b. The State may define "adequate and qualified" within the limits of 36 CFR 61.6, but the requirements set shall not be more stringent or comprehensive than the State's requirements for the State Review Board.
- c. A State may specify in its State CLG procedures or incorporate by reference in State CLG procedures, the minimum number and type of professional members that the local government shall appoint to the commission, and indicate how additional expertise may be obtained. A local government may be certified without the minimum number or types of disciplines if it can provide written documentation to the SHPO that it has made a reasonable effort to fill those positions. However, if the SHPO has delegated State Review Board responsibilities to the Certified Local Government for that jurisdiction, the local commission must meet all applicable Review Board requirements, and perform all Review Board responsibilities.

When a professional discipline is not represented in the commission membership, the commission shall seek expertise in this area from persons meeting the Secretary of the Interior's Professional Qualification Standards, as appropriate.

3. Maintain a System for the Survey and Inventory of Properties that Furthers the Purposes of the Act.

The State shall promulgate guidelines for local survey and inventory systems that ensure that such systems and the data produced can be readily integrated into SHPO inventories, the statewide comprehensive historic preservation plan, and other appropriate State and local planning processes. CLG survey data shall be in a format consistent with SHPO inventory requirements and shall not be inconsistent with the Secretary of the Interior's "Standards for Identification and Evaluation." This policy does not apply to survey data produced by local governments before the effective date of CLG certification.

4. Provide for Adequate Public Participation in the Local Historic Preservation Program.

The State shall define in writing minimum requirements for public participation in the conduct of overall CLG activities. These minimum requirements must include provision for open meetings (which must

include public participation in the National Register Nomination process), minutes that are publicly available, and the publication and dissemination of commission procedures, as well as compliance with local, State, and Federal public participation regulations.

5. Satisfactorily Perform the Responsibilities Delegated to it Under the Act.

Each local government must have the legal authority to fulfill the minimum requirements specified by the SHPO in its NPS-approved CLG procedures. See Section L, below, for State Monitoring Responsibilities.

E. State Procedures for Certification.

1. State procedures for certification must include the minimum requirements stipulated in the Act (see Section D, above) and any additional responsibilities to be delegated to CLGs by the SHPO, subject to the restrictions of 36 CFR 61.6 (see Section G.2., below);
2. A description of how local governments can apply for certification;
3. An explanation of the role of the SHPO and NPS in the certification process; i.e., indication that applications for certification will be reviewed by the SHPO and the NPS, and a description of the certification, process, and schedule including time frames for review (see Section G.3., below);
4. A statement that CLG performance in program operation and administration will be evaluated and monitored by the SHPO according to written procedures and standards (see Section L., below); and
5. A method for decertification, or removal of CLG status for cause. (See Section M., below.)

F. Amendments to NPS Approved State Procedures.

1. With the exception of changes required as a result of NPS policy directives or regulatory changes, each State shall follow appropriate consultation procedures as described below when amending NPS-approved State Certification and Pass-Through CLG Procedures:
  - a. For proposed amendments affecting the major requirements for becoming a CLG or operating a CLG program, or the policy for allocating Pass-Through funds, the SHPO must consult with local governments, local historic preservation commissions, and all other

parties likely to be interested in the CLG program and CLG issues; it must consider local preservation needs and capabilities, and invite comments on the proposed amendment from local governments, commissions, and parties in the State likely to be interested. Each State must keep a record of its consultation process and make it available to NPS upon request. The State must allow a 60-day period for public comment on the proposed amendment before it is submitted to NPS. Records of all comments received during the commenting period must be kept by the State and must be made available to NPS upon request. The State should be able to respond to all suggestions that it does not adopt. The sole exception to these requirements is provided in Section F.1.b., below.

- b. For minor changes, technical corrections, and changes required by NPS policy directives, a written notification from the SHPO to all CLGs will be considered adequate.
2. The SHPO must submit proposed amendments to NPS for review. The State must include with its proposed amendment comments it has received (if any) from CLGs. NPS must notify the SHPO of the result of its review within 45 working days of the receipt date of a sufficiently documented proposed amendment.
  3. If the National Park Service approves the amendment(s), the SHPO must: notify all CLGs in writing; and send amended certification agreements to NPS for each CLG affected by the amendment of the State procedures within 120 calendar days.

G. Certification of Local Governments.

It is the local government, and not the commission, that is certified. Commissions are responsible to the SHPO only as representatives of the local government. The jurisdiction of the CLG is that of the local government and must coincide with the geographic jurisdiction of the local government for CLG purposes. However, a local government may perform required CLG activities through existing "historic district commissions" or other qualified agencies or organizations if allowed by State CLG procedures or guidelines. Such arrangements shall be detailed in written agreements in which the SHPO has concurred, that specify the responsibilities, authority, and accountability of each party. Each party must meet State CLG requirements pertinent to its CLG activity.

## 1. Applications for Certification to the SHPO.

- a. The SHPO must review and compare with State procedures the following documentation that must accompany a CLG application submitted by a chief elected local official or his/her designee.
  - 1) The legal instrument(s) creating the commission;
  - 2) Any laws that provide for the designation and/or protection of historic properties within the jurisdiction of the applicant;
  - 3) A list of current or proposed commission members and demonstration of their interest, competence, or knowledge in historic preservation including information sufficient to allow the SHPO to establish the qualifications of professional members. If the membership of the proposed commission does not meet the professional qualifications stipulated in State procedures, the applicant must provide written information concerning how it has sought qualified professionals to participate in CLG activities.
  - 4) A copy of the proposed Certification Agreement (See Section G.3., below).
  - 5) Any other materials required by State CLG procedures.
- b. Records of Applications.  
Each State must keep written records of certification applications and its responses to such applications. The State must respond in writing to certification applications in a timely fashion (generally within 60 calendar days).
- c. The SHPO's review of applications for certification must ensure not only that all required documents are present, but also that the documents meet the requirements of the NPS-approved State procedures, prior to submitting material to the National Park Service. A model checklist for documenting this State review is contained in Exhibit 9-B.

## 2. Limits on Delegation of Authority from SHPOs to CLGs.

SHPOs may delegate additional responsibilities to individual CLGs beyond those stated in Section D above. However, delegations shall not include a. through d.:

- a. The SHPO's statewide coordinating responsibilities derived from the Act as outlined in 36 CFR 61.4(b).
- b. Responsibilities that are specified by law or regulation to be conducted in whole or in part at the State level (see Section J., below);
- c. Federal Preservation Tax Incentive Certifications. NPS regulations prohibit delegation of State signature authority in the preservation tax incentives program. However, 36 CFR 67 requires that a "State Official" must provide the comments and recommendations on certification requests to the NPS.
- d. SHPO responsibilities under the regulations of the Advisory Council on Historic Preservation may be delegated only by agreement pursuant to 36 CFR 800.

### 3. Certification Agreement.

The SHPO will prepare, keep on file, and submit to NPS a signed Certification Agreement between itself and the local government that:

- a. Lists individually, or by specific reference to the State procedures, all requirements and responsibilities common to all CLGs within the State (See Section G.2., above);
- b. Lists all additional responsibilities and requirements delegated to the CLG by the SHPO (but see Section G.2., above); and,
- c. Includes the signatures of the SHPO and the chief elected local official or their authorized designee(s).

### 4. NPS Review of CLG Applications.

After having determined that a CLG application meets all the requirements in State procedures, the SHPO will forward a request for concurrence to the National Park Service. The request for concurrence must include the following.

- a. Signed Certification Agreement. A copy of the signed certification agreement between the CLG and the SHPO.
- b. Signed Review Checklist. A certification by the SHPO that the CLG application is complete and the locality meets the requirements for CLG status. The certification must be in the form of a completed review checklist or other review document. The checklist or review

document must be signed and dated by the SHPO (or designee) or the State CLG Coordinator who completed the checklist while reviewing the application.

5. Results of NPS Review.

If the request for concurrence cannot be affirmed as submitted, the National Park Service will notify the SHPO prior to 15 working days after receipt of the request. The National Park Service shall provide written notice of what is necessary for the request for concurrence to be approved.

6. Effective Date of Certification Agreement.

A Certification Agreement is not effective until it is signed by the chief elected local official and the SHPO, and concurred with in writing by NPS. The effective date of certification is the date of NPS concurrence. When NPS concurs with the SHPO recommendation for certification, NPS will notify the SHPO in writing, and send a copy of that letter to the CLG.

7. Amendments to Local Government Certification Agreements.

- a. Substantive changes in Certification Agreements must be forwarded as a written amendment to the National Park Service for concurrence. NPS written concurrence by letter or fax must be received before the amendment may be considered in effect. Changes in Certification Agreements must be consistent with State procedures and with this Chapter.
- b. When NPS acts upon the SHPO's certification amendment request, NPS will notify the SHPO of its decision in writing, and send a copy of the letter to the CLG.

H. Procedures for Local Government Certification If No Approved State Program Exists.

1. When there is no approved State program, local governments wishing to be certified may apply directly to the National Park Service.
2. To the extent feasible, NPS will ensure that there is consistency and continuity in the CLG program of a State that does not have an approved historic preservation program.
3. If an unapproved State historic preservation program had approved CLG procedures and existing CLGs prior to its loss of Approved State

Program status, NPS will consider the procedures in its review of applications for certification. In such situations the local government shall:

- a. Follow the procedures for certification as set forth in Section G. above, noting that wherever "SHPO" is mentioned, NPS will fulfill, to the extent feasible, the SHPO's requirement or obligation to the local government; and,
- b. Unless directed otherwise by NPS, meet all requirements and fulfill all responsibilities set forth in its State procedures for certification and transfer of funds (see Section I., below), which are beyond the NPS minimum requirements for certification in 36 CFR 61; and,
- c. Unless directed otherwise by NPS, be required to meet all requirements and fulfill all responsibilities set forth in this Chapter.

4. Applications for certification (See Section G.1, above) must:

- a. Be signed by the local chief elected official;
- b. Demonstrate that the local government meets the specifications for certification set forth in 36 CFR 61 (see Section D, above); and,
- c. Meet other requirements specified by NPS.

5. NPS shall review certification applications and take action within 90 calendar days of the receipt date of the certification application.

6. NPS shall be responsible for monitoring and evaluating local governments certified without an approved State historic preservation program in accordance with 36 CFR 61 and procedures set forth in this Chapter.

I. CLG Implementation of the Secretary's Standards.

The SHPO shall provide orientation materials and training in accordance with local needs to CLGs. The orientation and training shall be designed to provide public information, education and training, and technical assistance in historic preservation.

SHPOs should strongly encourage CLGs and local governments interested in becoming CLGs to adopt the appropriate Secretary of the Interior's "Standards for Archeology and Historic Preservation" relevant to their activities, even though they might not expect to regularly receive HPF

funds. Locally developed standards and guidelines governing CLG activities are acceptable if they are consistent with the Secretary of the Interior's "Standards" even though they may not specifically cite them or contain identical wording. However, local guidelines that are not in accord with the Secretary's Standards and/or specifically recommend or require action clearly in conflict with these Standards are not acceptable. The SHPO should work to change these, and must ensure that no HPF funds or matching share contributions are involved in the implementation of unacceptable guidelines.

J. Role of Certified Local Governments in the National Register Nomination Process.

1. If the State Has an Approved Program.

Information on CLG participation in the National Register nomination process is found in Section 101(c)(2) of the Act and 36 CFR 61. General rules for the National Register are found in 36 CFR 60.

The SHPO has the responsibility to oversee the coherence and integrity of the National Register nomination process in the State. SHPOs may not delegate to a CLG the authority to nominate properties directly to the National Register. Otherwise, the SHPO may delegate to a CLG, through State CLG procedures and the Certification Agreement, any of the responsibilities of the SHPO

pertaining to processing National Register nominations. Any delegated responsibilities will be performed in accordance with the requirements for States (including a CLG commission whose membership meets the requirements for State Review Boards). A State may authorize the local preservation commission of a Certified Local Government to act for the State Review Board for the purpose of considering National Register nominations within the certified local government's jurisdiction, provided the commission meets the professional qualifications required for the State Review Board when considering such nominations.

It is the responsibility of the SHPO to work with CLGs to maximize their participation in the National Register nomination process pursuant to the Act, Federal regulations, and State procedures, in a manner that is not biased against any particular type of resource.

a. Notification of Nomination.

Before a property within the jurisdiction of a CLG may be nominated to the National Register by the State, the SHPO will notify the chief

elected local official and the commission in accordance with 36 CFR 61, 36 CFR 60, and State procedures and/or guidelines. The SHPO will notify the chief elected local official and the commission at least 60, but no more than 120 calendar days prior to State Review Board consideration (but see Section J.1.d.2), below). These notification procedures must be implemented as soon as a local government is certified, and apply to all nominations within the jurisdiction of the CLG, for which the State has not begun official owner notification procedures as of the date of certification, except as noted below.

b. Exceptions.

- 1) The CLG notification procedures do not apply when a nomination is processed by or through a CLG which provides its recommendation and report to the SHPO with the nomination package.
- 2) CLG notification procedures do not apply where a Federal agency nominates a property under its ownership or control. Federal agencies should, however, be encouraged by the SHPO to coordinate their nominations with CLGs.

c. The CLG Recommendation and Report.

After providing a reasonable opportunity for public comment, the commission shall prepare a report as to whether or not, in its opinion, the property meets the National Register criteria. Within 60 calendar days of notice from the SHPO, the chief elected local official shall transmit the report of the commission, along with his/her recommendation, to the SHPO. Joint transmittal by the CLG of the nomination and the CLG report and recommendation will facilitate SHPO review and eliminate the need for separate notification and 60-day review by the CLG. (See Section J.1.a, above.)

- 1) If the SHPO does not receive the report and recommendation within 60 days, he/she shall continue the nomination process.

Consistency with the purposes of the Act, and ensuring that National Register decisions take into account local concerns, require that CLGs participate in the National Register nomination process to the maximum extent feasible. A commission should report, and the chief elected local official should transmit the report with his/her recommendations to the SHPO, as often as

possible, or in accordance with State CLG performance standards. If a CLG consistently does not provide nomination reports, the SHPO should seek to determine if appropriate technical assistance would encourage greater participation. (See Section I., above)

- 2) States may define the format of commission reports.
- 3) When a relevant historic preservation discipline is not represented in the commission membership, the commission shall be encouraged to seek expertise in this area when considering National Register nominations requiring the application of such expertise. (See D.2.c, above.) Requisite expertise may be provided through consultation with the SHPO or with persons meeting the Secretary of the Interior's Professional Qualifications Standards. For example, if the commission must review the nomination of a prehistoric archeological site, and no commission member is a prehistoric archeologist, the commission is required to obtain the advice of an archeologist meeting the Secretary's Professional Qualifications Standards for purposes of reviewing the nomination. (See Section D.2, above, or the Glossary for the definition of historic preservation review commission.) If it cannot, it should notify the SHPO.

d. State Action Following CLG Recommendation.

If both the commission and the chief elected local official recommend that the property not be nominated, the SHPO may not nominate the property unless an appeal is filed in accordance with Section 101(c)(2) of the Act and 36 CFR 60. If either or both the commission and the local chief elected official recommend that the property is eligible for nomination, the SHPO will present the nomination to the State Review Board in accordance with the procedures in 36 CFR 60, and 36 CFR 61.

- 1) Any report and recommendation made by the CLG shall be included with any nomination submitted by the State to the Keeper of the National Register.
- 2) The State may expedite the CLG's participation in the nomination process, including shortening the 60-day commenting period, with the concurrence of the CLG as long as owner notification procedures, 36 CFR 60, and 36 CFR 61 have been met.

- (a) Where the State and the CLG agree to expedite CLG participation with respect to a particular nomination, the State must keep records that contain the following information:
  - (1) Name of the CLG;
  - (2) Name of the property;
  - (3) A statement from the CLG declaring that the CLG agrees with the State to expedite the process;
  - (4) Date of concurrence;
  - (5) Signatures of the chief elected local official and the chairperson of the commission; and,
  - (6) Description of the public participation opportunities that have been provided.
- (b) Where the State and the CLG agree programmatically to expedite concurrence on all nominations, or in nominations of particular types or groups of properties, the State must obtain and keep records that contain the following information:
  - (1) Name of the CLG;
  - (2) A statement of applicability to all nominations or nominations of specified types or groups of properties;
  - (3) A statement from the CLG declaring that the CLG agrees with the SHPO to expedite the process;
  - (4) Date of agreement;
  - (5) Description of the public participation opportunities that will be provided; and
  - (6) Signatures of the chief elected local official, the chairperson of the commission, and the SHPO or designee.

2. If the State Does Not Have an Approved Program.

CLGs will assume the nomination responsibilities of the State for properties under their jurisdiction if the State does not have an

Approved State Program. The chief elected local official shall perform the nomination responsibilities of the SHPO as outlined in 36 CFR 60. The commission shall perform the responsibilities of the State Review Board as outlined in 36 CFR 60.

K. HPF Pass-Through to Certified Local Governments.

The SHPO must transfer a minimum of 10 percent of the State's annual apportionment of HPF funds to CLGs for HPF eligible activities. In any year in which the annual HPF grant appropriation exceeds \$65 million, one half of the amount above \$65 million shall also be transferred to CLGs.

1. General Provisions.

All provisions applicable to subgrants apply to CLG Pass-Through subgrants.

2. Eligible Applicants/Activities.

- a. All CLGs within the State are eligible to compete for funds from the CLG pass-through. However, the SHPO is not required to award funds to all governments that are eligible to receive funds.
- b. Only Certified Local Governments are eligible to receive funds set aside for pass-through. Governments attempting to become certified may receive HPF grant assistance, but such funding will not qualify as part of the required minimum 10 percent CLG pass-through.
- c. All CLG activities that are assisted with HPF money or used as matching share must meet the applicable Secretary's Standards for Archeology and Historic Preservation. For example, design review is an HPF allowable cost, provided that the standards used for design review by a CLG meet the Secretary's Standards for the Treatment of Historic Properties (which is the applicable Standard for that activity).
- d. HPF monies used by the SHPO to administer CLG subgrants will not be credited towards the SHPO's CLG 10 percent minimum pass-through requirement.

3. Distributing CLG Pass-Through Subgrants.

- a. Each SHPO must develop and maintain a procedure for allocating its CLG pass-through funds to CLGs in the State, as part of its NPS-

approved State CLG procedures (see Sections E and F, above). The procedures for allocation of CLG funds shall include the following:

- 1) A clear rationale on which funding decisions will be based. The rationale for CLG funding may be the same as the annual SHPO subgrant funding priorities, and may cross reference the annual announcement containing additional details;
- 2) Written guidelines for the review of applications and criteria for selection of applications (for example, a point rating system);
- 3) Provision(s) that the funds awarded to a CLG will be sufficient to produce specific products directly as a result of the funds transferred.

NOTE: If sufficient matching funds are available to the SHPO from other sources, a provision for matching funds need not be an allocation or selection factor for CLG subgrants, so long as the SHPO meets the overall matching requirements for the State's program.

- b. Each SHPO shall ensure that its NPS-approved procedures for the transfer of funds to CLGs and guidelines for allocating those funds are widely publicized so that each eligible CLG has the opportunity to apply for funding. Each SHPO must make an annual mailing to each CLG and each local government whose application for certification is pending within the State notifying them of the availability of annual grant funds. The notification letter or subsequent application materials must include the following information: 1) The total amount available, or expected to be available to CLGs; 2) State priorities for funding; 3) Selection criteria; 4) The deadline for submitting subgrant requests; 5) Sufficient written description of the information which must be provided in the subgrant application, and whom to contact for additional information or questions about application requirements, so that a competitive application may be submitted.
  - c. Historic preservation related activities not covered by the Act and its regulations and guidelines, that are conducted by CLGs, should be consistent with the purposes of the Act and the CLG program; however, these activities are not eligible for HPF grants.
4. Amendments to the State's Procedure for Distributing CLG Pass-Through funds. States must consult CLGs about Amendments to State CLG procedures (see Section F., above).

#### 5. Requirements for CLG Subgrants.

To remain eligible for each year's CLG pass-through, the CLG must continue to comply with the conditions of its Certification Agreement and State performance standards.

SHPOs must ensure that each CLG receiving a portion of the State's annual HPF CLG pass-through:

- a. Adheres to all required administrative procedures and policies for HPF subgrants established by the SHPO, including those set forth in this manual. All costs claimed or applied as matching share must be reasonable, and necessary for proper and efficient conduct of subgrant supported activities in keeping with OMB Circular A-87. Records must evidence compliance with the competitive procurement requirements of 43 CFR 12.76, including small purchase procedures, or competitive negotiation for professional services.
- b. Adheres to requirements mandated by Congress regarding the use of HPF funds. NPS will advise SHPOs of directives contained in annual appropriation laws regarding the use of HPF funds that must be applied to CLGs receiving pass-through funds.
- c. Adheres to requirements specified by the SHPO in the Subgrant Agreement.
- d. Meets the eligibility requirements described in this manual, particularly in Chapter 6, Sections D and E, and Chapter 13, Sections B and C. All CLG activities that are assisted with HPF funds, including the matching share, must meet the Secretary of the Interior's "Standards for Archeology and Historic Preservation."

#### 6. Calculating the CLG Pass-Through.

The 10 percent minimum pass-through is based upon the total amount of all grant awards made to the State in the fiscal year.

- a. States may provide more than the required minimum 10 percent pass-through.
- b. States may not credit themselves, in the current fiscal year's grant, for money subgranted or expended in the previous fiscal year that was in excess of the calculated 10 percent minimum pass-through for the previous fiscal year (e.g., a State cannot use the fact that it subgranted 15 percent of its FY 1995 apportionment to CLGs to

offset subgranting less than 10 percent of its 1996 apportionment to CLGs). Similarly, States may not compensate for a failure in a past fiscal year to achieve the required ten percent minimum pass-through by exceeding the ten percent in a subsequent fiscal year. A minimum of ten percents of each fiscal year's apportionment must be subgranted to and expended by CLG.

- c. Any supplemental award increases the 10 percent minimum pass-through requirement for the recipient State for the fiscal year from which the supplemental award was derived, unless otherwise stated by NPS in the apportionment certificate.
- d. Funds must be transferred from the State to CLGs. Substituting services for cash is not equivalent to transfer of funds. States may provide services to CLGs, as they may to any local government, but such services are considered technical assistance and not part of the required CLG 10 percent minimum pass-through.

7. Commitment of CLG Funds.

Pass-through funds up to the 10 percent minimum that are not subgranted to CLGs by September 30 of each fiscal year will be deobligated by NPS and reprogrammed to other States for CLG purposes.

During the second year of obligational authority, SHPOs may reprogram pass-through subgrant funds to other CLGs within the term of the appropriation and in accordance with NPS' Use or Lose Policy. Following the end of the 2-year Annual Grant period, any funds deobligated must be returned to the United States Treasury.

8. CLG Subgrant Amendment Requests.

Amendments to CLG subgrants will be treated as any other subgrant amendments.

9. Data for End-of-Year Report.

Pass-through subgrants to CLGs must appear in the Project/Activity Database Report, so that NPS may determine whether the amount awarded to CLGs during the fiscal year in review satisfies the 10 percent minimum requirement.

10. CLG Pass-Through Funds Used Outside Boundaries of a CLG.

A CLG may use Pass-Through funds for activities involving historical or archeological resources outside its jurisdiction if:

- a. Such activity is not prohibited by State or local ordinances or State CLG procedures; and,
- b. The activity conducted and the proposed costs are allowable under the provisions of the Historic Preservation Fund Grants Manual; and,
- c. Activities which will occur outside the jurisdiction of the CLG clearly demonstrate a direct benefit to identifying, evaluating, and protecting the historic and archeological resources of the CLG; and,
- d. Both the CLG and the other local government or Indian tribe with jurisdiction agree.

11. Pooling CLG Subgrants.

Subgrants can be pooled by CLGs for specific purposes. For example, several CLGs could pool a subgrant to share the services of a preservation professional who could travel among the CLGs as a "circuit rider." Such an arrangement is permissible when the following conditions are met:

- a. All local governments involved in pooling are certified;
- b. One CLG is designated as the administrator of the subgrant and identifies itself as such in its request for CLG funding;
- c. The CLG designated as the administrator of the subgrant has consented and demonstrates such agreement by submittal of a letter to the SHPO in conjunction with its request to the State for CLG funds. State records and, if required, Project Notifications submitted by the State to NPS must include the following information:
  - 1) Names of all CLGs involved in the pooling of CLG subgrants and signatures of each CLG's chief elected local official or designee;
  - 2) The amount of HPF funds requested to be used in the pool;
  - 3) The donor, source, kind, and amount of each CLG's matching share commitment to the total subgrant, if State procedures require the CLG subgrant to be matched;
  - 4) The proposed product(s) of the subgrant.

- d. When States are required to submit Project Notifications to NPS, in addition to the standard information required, the SHPO must clearly indicate that the subgrant is part of a CLG pooling effort by naming all CLGs involved and designating which CLG is to administer the subgrant. The Project Notification should also include a copy of the request from the CLG designated to administer the subgrant to the SHPO.

12. Delegating Third-Party Administration.

CLG subgrants may be administered by a designated third-party if the CLG indicates in its funding application to the State that it wants any subgrant awarded to it to be administered by a specific organization. Designation of a third-party to administer a subgrant is not a procurement action. Such a delegate agency may be another unit of local government, a commercial firm, a nonprofit entity, or an educational institution as long as it has the administrative capability required by Chapter 8, Section D. The delegate agency cannot be the SHPO or any part of the Department of State Government it is part of. This provision is intended to facilitate such projects as workshops for multiple CLGs, or hiring a consultant to perform services for several CLGs. This provision will eliminate the need to award subgrants to every CLG attending a workshop. It will also negate the administrative burden of the sponsoring CLG processing payments for expenses incurred by attendees from other CLGs.

The subgrant agreement will be executed between the SHPO and the CLG's designated administrative agent provided that the CLG's grant application designates a third party to administer the subgrant. The third party will be paid the subgrant funds upon satisfactory completion of the scope of work and compliance with all conditions of the subgrant agreement. Any CLG receiving grant assistance under this provision must have followed the procedures specified in the State's NPS approved process for transferring funds to CLGs.

13. CLG Subgrants If No Approved State Program Exists.

- a. The method for allocating funds will be determined by NPS in accordance with the procedures set forth for States in 36 CFR 61.7, and this manual.
- b. In order to maintain consistency and continuity in funding allocation policies, NPS will consider State procedures for transferring funds to CLGs.

L. Standards and Procedures for Monitoring and Evaluating CLG Performance.

The SHPO shall monitor and conduct periodic evaluations of CLGs. See Section E.4.

1. States must monitor CLGs on an on going basis, and evaluate each CLG no less than once every four years.
2. States shall establish written procedures and standards to evaluate CLG performance in program operation and administration. Performance standards and procedures must be included in the Certification Agreement, or referenced therein. These standards and procedures must be made available to local governments at the time of application for certification. The procedures and standards for evaluating CLG performance should include elements such as quantity, quality, and timeliness.
3. The SHPO shall maintain written records for all CLG evaluations. States may define the format of the evaluation report/records.
4. The State must promptly notify the CLG in writing of the results of the evaluation.
  - a. If an SHPO evaluation indicates that a CLG's performance is inadequate, the SHPO shall suggest ways to improve performance, and shall stipulate a time period in which those improvements are to be made. (See Section M.2.a., below)
  - b. If, after the stipulated period of time, the SHPO determines that there has not been sufficient improvement in the CLG's performance, the SHPO may recommend decertification of the CLG to the NPS for concurrence. The SHPO must notify the CLG in writing that the decertification process has begun. See Section M.2.b., above.

M. Decertification of Certified Local Governments.

1. Request by SHPO for CLG Decertification.

- a. The SHPO may recommend decertification to the National Park Service after all of the following conditions have been met.
  - 1) The SHPO determines that a CLG's performance does not meet the performance standards specified in the Certification

Agreement or referenced therein (see Section D.5., and Section L., above); and,

- 2) The SHPO specifies to the CLG in writing ways to improve performance within a period of time by which deficiencies must be corrected or improvements must be achieved; and,
  - 3) After the period of time stipulated by the SHPO, the SHPO determines that there has not been sufficient improvement.
- b. Failure to perform acceptably under an HPF subgrant is not in itself sufficient grounds for decertification. The SHPO must notify the CLG in writing prior to, or at the time of, its recommendation to NPS for decertification. The notification must state the specific reasons for the proposed decertification, describe the State's technical assistance efforts, and affirm that the SHPO will notify the CLG of the NPS concurrence with the decertification.
  - c. The SHPO may also recommend decertification if a CLG requests to be decertified in writing. The SHPO must forward a copy of the CLG's letter as an enclosure to the SHPO's request to decertify the CLG. Compliance with the conditions stipulated in Section M.1.a., above, is not required, if the CLG has requested its own decertification.
  - d. If the CLG had been delegated Section 106 responsibilities in its jurisdiction by the State, and a Programmatic Agreement has been executed with the Advisory Council for Historic Preservation, then the SHPO must notify the Advisory Council that the CLG has been decertified.
2. Effective Date of Decertification.
- The SHPO must affirm with the decertification recommendation to NPS that the SHPO has notified the CLG. The local government is decertified if the National Park Service concurs in writing with the SHPO's recommendation to decertify the CLG.
- a. The NPS will notify the SHPO in writing prior to 30 working days after receipt of the recommendation, if there are problems with the recommendation or if the NPS needs more time to review the recommendation.
  - b. Upon receipt of the written NPS concurrence with the SHPO recommendation for decertification, the SHPO must inform the CLG in writing of the decertification, and, if necessary, must take

appropriate action if the decertified local government has a current CLG subgrant (see Section M.3., below).

- c. If the local government wishes to become recertified it must reapply for certification.

3. Decertified Local Governments with Subgrants Awarded Prior to Decertification.

- a. Decertification, by itself, may not constitute grounds for termination of a CLG subgrant unless the terms of the subgrant cannot continue to be met after decertification. If a local government retains its subgrant awarded as a CLG, that subgrant will continue to "count" toward the State's 10 percent minimum pass-through.
- b. Should the subgrant be amended after decertification:
  - 1) Any increase in the Federal share of the subgrant will not count towards the State's 10 percent minimum pass-through; and
  - 2) Any reduction to the Federal share of the subgrant must be reprogrammed to other CLGs if the State's cancellation of the subgrant would result in noncompliance with the 10 percent minimum Pass-Through requirement.
- c. The SHPO may conclude normal subgrant closeout procedures (not termination), unless the terms of the subgrant agreement can no longer be met, in which case the SHPO shall terminate the subgrant.
- d. The SHPO may continue to administer the subgrant awarded to the local government if the local government can otherwise meet the work terms and conditions of the subgrant agreement.
- e. As a consequence of decertification, the local government is no longer eligible for CLG subgrants unless recertified. The local government may, however, be eligible for HPF assistance other than the 10 percent minimum pass-through, if available.

N. Required Recordkeeping.

States shall maintain written records regarding:

1. The development and use of State procedures for certification and transfer (i.e., subgrant) of funds to local governments (See Section D., above);
2. Certification and decertification of local governments (see Sections G. and M., above);
3. Training and technical assistance to CLGs and to local governments (see Section I., above);
4. Transfer of funds (awarding of subgrants) to CLGs (see Section K., above.);
5. Subgrant administration; and
6. Monitoring and evaluation of CLGs (see Section L., above.)