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CHAPTER 26 GLOSSARY

Chapter 1 - Introduction

A. Purpose.
This Chapter describes the framework for the operation of the Historic Preservation Fund (HPF) grants-in-aid program authorized by the National Historic Preservation Act (hereafter referred to as the Act), as amended.

B. Legislative Authority.
As stated in the Act, the Secretary of the Interior is authorized, among other things, to do the following:

1. Maintain a National Register of Historic Places. To expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

2. Issue Regulations for State Historic Preservation Programs. In consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, to promulgate or revise regulations for State Historic Preservation Programs. See 36 CFR 61. These regulations state that the Secretary will approve a State program if he determines that the program: (a) provides for the designation and appointment by the Governor of a "State Historic Preservation Officer" to administer such program in accordance with Section 101(b)(3) of the Act and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes; (b) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and, (c) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

3. Award Matching Grants to States. To administer a program of matching grants to the States for the purposes of carrying out the Act.

4. Award Matching Grants to the National Trust for Historic Preservation.
To administer a program of matching grants-in-aid to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949, P.L. 81-408 (63 Stat. 947), for the purposes of carrying out the responsibilities of the National Trust.

C. Eligible Applicants.
Eligible applicants are: 1) States (as defined in the Act) operating NPS- approved programs; 2) Indian tribes and Native Hawaiian organizations; 3) the National Trust for Historic Preservation (the National Trust); and 4) Certified Local Governments where there is no approved State program. Nonfederal government units, private organizations, corporations and individuals may apply for financial assistance as subgrantees of the States and/or the National Trust under procedures established by these grantees.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

Throughout this Manual the term "grantee" always refers to State Historic Preservation Offices and the National Trust for Historic Preservation. The term "nonprofit organization" refers to the National Trust, but not to State Historic Preservation Offices. Recipients of grants from the SHPO or National Trust are "subgrantees." The subgrantee is the entire legal entity even if a particular component of the entity is designated in the subgrant award document.

D. SHPO Responsibilities.
Section 101(b)(3) specifies the specific responsibilities that the State Historic Preservation Officer must address in administering the State's preservation program (see also Chapter 3, Section B.2):

E. Apportionment of Funds.

1. The Secretary of the Interior apportions obligational authority to eligible States after funds are appropriated by Congress. See Chapter 2.

2. The annual apportionment award to a grantee may be reduced by the amount of unobligated or unexpended funds. Procedures for the adjustment of obligational authority are detailed in Chapter 3, Sections J and K. The Federal funds awarded must be matched by amounts of cash or integral and necessary in-kind contributions. The matching contribution required is 40 percent of the aggregate costs of carrying out projects and programs. Matching fund requirements for Insular areas and the Micronesian States have been legislatively waived (see Chapter 14, Section D.4.).

3. The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such. Awards of assistance shall be made subject to the terms of availability established in Appropriations Acts, the Secretary of the Interior's Apportionment Certificate, and/or further prescribed by terms and conditions of grant awards (generally 24 months). See Chapter 3, Section E.

F. Audit and Oversight.
Each State or direct grantee will execute audits of grant expenditure records in accordance with the single audit requirements of OMB Circular A-133; and 43 CFR 12, Subpart B. See also Chapters 23 and 24.

In accordance with Section 101(b)(2) of the Act, the Secretary shall conduct such periodic program audits as may be deemed necessary or appropriate to ensure that such programs meet applicable accountability standards. The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue burdens on State Historic Preservation Officers.

If, at any time, the Secretary determines that a major aspect of a State program is not consistent with the Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer, until the program is consistent with the Act, unless the Secretary determines that the program will be made consistent with the Act within a reasonable period of time

Chapter 2 - Apportionment of Federal Funds

A. Purpose.
This Chapter sets forth the basis for recommendations that the National Park Service (NPS) makes to the Secretary for apportioning funds appropriated from the Historic Preservation Fund (HPF) to States, Tribes, Certified Local Governments, and other grantees. The methods set forth in this Chapter conform to Sections 101(e) and 103 of the National Historic Preservation Act, as amended, and the regulations for historic preservation programs (36 CFR 61). The methods that this Chapter sets forth apply to all appropriations from the Historic Preservation Fund to the extent that specific Congressional directions do not indicate otherwise.

B. Apportionment of Funds to State Historic Preservation Office Programs.
The National Park Service shall use the following formula to calculate its recommended apportionment of HPF funds to States.

1. Formula Structure:

a. Three-Tiered Apportionment Formula.
The formula will use three sequential tiers as follows below, subject to adjustment for inflation. See Sections B.1.b, c., d., and e. below for details.

1) For annual appropriations up to $20 million (excluding the Freely Associated States of Micronesia – see Section B.4, below), NPS will allocate all funds to Tier 1 (the Base Award – see Section B.1.c. below).

2) For annual appropriations from $20 million to $50 million, NPS will allocate $20 million to Tier 1 (the Base Award) and the balance (i.e. up to $30 million) to Tier 2 (Noncompetitive Factors – see Section B.1.d.below).

3) For annual appropriations higher than $50 million, NPS will allocate $20 million to Tier 1 (the Base Award), $30 million to Tier 2 (Noncompetitive Factors), and the balance to Tier 3 (Preservation Initiatives – see Section B.1.e. below).

b. Inflation Adjustment.
NPS may adjust the maximum dollar amount that it allocates to Tier 1 (or to Tiers 1 and 2 combined) in response to the effects of inflation when warranted and after consultation with the President, National Conference of State Historic Preservation Officers. NPS will base its inflation calculations on the Consumer Price Index that the U.S. Department of Commerce supplies.

c. Tier 1 -- Base Award.
Each State will receive an equal share of Tier 1. Assuming $20 million in Tier 1, this amounts to approximately $357,000 each State per annum subject to inflation.

d. Tier 2 -- Noncompetitive Factors.
NPS will allocate the funds available for Tier 2 equally among three factors.

1) Population. NPS will divide one-third of the funds available for Tier 2 based upon each State's share of the 2000 population of the United States. NPS will use U.S. Census data to make the calculations. NPS will use square roots to control extreme values.

2) Area. NPS will divide one-third of the funds available for Tier 2 based upon each State's share of the total area of the United States. NPS will use U.S. Census/United States Geological Survey (U.S.G.S.) data to make the calculations. For the purposes of this apportionment formula, a State's area includes water boundaries out to the three-mile limit. NPS will use square roots to control extreme values.

3) Historic Resources. NPS will divide one-third of the funds available for Tier 2 based upon each State's share of the total number of residences over 50 years old as defined and identified in the 2000 U.S. Census. NPS will use square roots to control extreme values.

e. Tier 3 – Preservation Initiatives.

1) NPS will base its Tier 3 calculations upon predetermined competitive factors that it develops in consultation with State Historic Preservation Officers and makes known to them no later than the beginning of the fiscal year preceding that of the grant period in which the formula is to be applied.

2) The factor(s) for at least one-half of the funds in Tier 3 will relate directly to local level

a) historic preservation program capacity building and/or

b) identification, evaluation, registration, or treatment of historic and/or prehistoric properties.

3) NPS will put Tier 3 will be in effect only when appropriations are sufficiently more than the Tier 3 threshold to warrant use. If appropriations are only slightly greater than the tier threshold and NPS determines that using Tier 3 would have only a marginal or negligible effect on individual awards would be realized, then NPS will not put the tier into effect. NPS will make this determination after consultation with the President, National Conference of State Historic Preservation Officers.

4) If Tier 3 uses products from the Cumulative Products Table (see Chapter 7) as factors:

a) NPS will select proposed products from among those that NPS can easily verify, and,

b) NPS will require no additional State record keeping solely for apportionment purposes.

5) If a State cannot document performance results that NPS used to apportion Historic Preservation Fund monies under Tier 3 (also see Chapter 25), NPS will, on a case-by-case basis, carry out steps that may include, but are not limited to, the following:

a) adjustment of current award,

b) adjustment of subsequent award,

c) loss of eligibility to participate in subsequent reapportionment(s),

d) loss of eligibility to participate in the apportionment of a particular performance factor(s) in Tier 3,

e) loss of the entire performance-based (Tier 3) allocation,

f) loss of eligibility to participate in a subsequent apportionment, and/or,

g) loss of Approved State Program status.

2. When HPF Appropriations are Level or Decrease.
Each year's total appropriation amount will determine the amount that NPS allocates to Tier 1, Tier 2, and Tier 3. Yearly changes in total appropriation amounts do not change the process except for the amount that NPS has available to allocate to each tier.

This approach will have the following impact on each State's award. If the total appropriation is identical to the previous year's appropriation, each State's award will be identical to the award for the previous year's award unless the data for calculating Tier 3 have changed, the data for calculating Tier 2 have changed, NPS has made an inflation adjustment, etc.

If the total appropriation is less than the previous year's appropriation, each State's award will lose from its Tier 3 component before it loses anything from its Tier 2 component and will lose from its Tier 2 component before it loses anything from its Tier 1 component.

3. Special Situations.
The National Park Service may adjust awards to individual States to meet specific emergency situations or other special situations on a case-by-case basis and after consultation with the President, National Conference of State Historic Preservation Officers.

4. Freely Associated States of Micronesia.
NPS will apportion funds to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau from HPF appropriations to States in a manner separate from the formula in this section and in a manner to be determined by NPS in consultation with the historic preservation officers of the three jurisdictions and the President, National Conference of State Historic Preservation Officers.

5. Notification.
By law, the Secretary will notify each State (with an approved State program) in writing of its apportioned obligational authority within 30 days of the enactment of the regular Department of the Interior fiscal year appropriation. See Section H, below. The 30-day time period for completing the apportionment of funds to the States begins on the date that the President signs the appropriations bill into law.

6. Apportionment of Recaptured Funds.

a. NPS will determine when sufficient funds have been recaptured to warrant reapportionment.

b. The criteria and method of reapportionment will vary depending on the amount and type of funds recaptured and national or specific needs or issues at the time.

c. NPS will determine the appropriate level of consultation based on the amount and type of recaptured funds.

d. Reapportionment does not change the eligible uses of targeted funds (e.g., CLG minimum pass-through). States must us those reapportioned recaptured funds for the general purposes for which Congress targeted them.

e. States from which NPS has recaptured funds are not eligible to receive any of the reapportionment of those funds.

C. Apportionment of Funds to Certified Local Governments.
Each approved State that has a Certified Local Government (CLG) program apportions funds to its CLGs in accordance with the State's approved process for Transfer of Funds to Certified Local Governments. See 36 CFR 61 and Chapter 9.

Where there is no approved State program, the National Park Service will act in place of the State. See 36 CFR 61 and Chapter 9.

D. Apportionment of Funds to Tribal Preservation Programs.
[Reserved]

E. Continuing Resolution Appropriations.

1. Single Continuing Resolution Covering Less Than a Year. If Congress provides Historic Preservation Fund obligational authority through a Continuing Resolution covering less than a year and absent Congressional instruction to the contrary, NPS will distribute funds among the grantees using the regular apportionment formula. NPS will subtract this amount shall from any subsequent apportionment of obligational authority from subsequent Continuing Resolutions or the regular full-year Interior appropriation.

2. Multiple Continuing Resolutions Covering Less Than a Year. If Congress provides Historic Preservation Fund obligational authority through a series of Continuing Resolution covering in total less than a year and absent Congressional instruction to the contrary, NPS will distribute funds among the grantees using the regular apportionment formula. NPS will apply the formula to the cumulative amount appropriated for the year to date and then subtract the amount of the obligational authority previously awarded. NPS will subtract this amount from any subsequent apportionment of obligational authority from subsequent Continuing Resolutions or the regular full-year appropriation.

3. Continuing Resolution(s) Covering a Full Year: Absent Congressional instructions to the contrary, for apportionment purposes NPS will treat a year-long Continuing Resolution appropriation as if it were a regular appropriation.

F. Apportionment of Funds to Other Grantees.
Should Congress designate other entities to receive HPF funding, NPS will prepare necessary instructions or procedures based on circumstances at that time.

G. Targeted Appropriations.
Occasionally Congress provides instructions for all or part of a regular or special appropriation as to the use of funds or as to how NPS must apportion the funds.

1. Congress Specifies Apportionment Factors. If Congress mandates specific apportionment factors, NPS will use them in lieu of the standard apportionment formula.

2. Special Purpose Appropriation. In the case of a special purpose appropriation and in the absence of specific apportionment instructions, NPS will consult with the affected grantees on an appropriate method of apportionment.

3. Regular Appropriation, But Congress Specifies the Use of Part of the Money. Occasionally Congress provides instructions as to the use (as opposed to the apportionment) of part of the regular appropriation. In this situation, NPS will consult with the affected grantees as to whether to develop a special factor to add to the apportionment formula and/or whether NPS should handle the Congressional targeting by grant conditions.

H. Apportionment Certificate.
After the Secretary apportions the funds, NPS by means of an Apportionment Certificate, will notify officially each grantee of the amount of funds (obligational authority) for which the State may apply. NPS will complete this notification before it considers any grantee's grant application (see Chapter 7). For States, NPS will send the Apportionment Certificate to the Governor and to the State Historic Preservation Officer. The Apportionment Certificate will stipulate the amount of obligational authority apportioned and the major terms and conditions of the apportionment. Among these conditions is the stipulation that NPS will obligate the apportioned funds only upon submission of an acceptable grant application, and the stipulation that NPS may reduce the amount apportioned by the amount of unobligated balance at the end of the fiscal year (see Chapter 3, Section K for NPS' "Use or Lose" policy).

The Apportionment Certificate is a notice of fund availability and shall not be treated as an award of grant assistance. NPS will subsequently award grants pursuant to NPS-approved written applications. The Apportionment Certificate and the subsequent NPS grant agreement will specify the time of obligational authority (up to 24 months).

Chapter 3 - Basic Program Requirements for Historic Preservation Fund Grants

A. Purpose.

This Chapter sets forth the fundamental requirements governing annual programmatic Historic Preservation Fund (HPF) grants. (Also see Chapter 6, which describes the eligible activities, ineligible activities, and minimum requirements for conducting HPF grant-assisted activities.)

B. State Program Requirements.

1. Designation of the State Historic Preservation Officer.
The State Historic Preservation Officer (SHPO) is the appointed representative of the Chief Governing Official of the State and must be authorized to assume, on behalf of the State, the obligations imposed by the Act, by the applicable regulations implementing the Act, and by the terms and conditions of the grant. Designation of the State Historic Preservation Officer requires the following procedures:

a. The State Governor or Chief Governing Official designates in writing a State Historic Preservation Officer with authority to represent the State and to be responsible for carrying out the purposes of the Act (see 36 CFR 61).

This written designation requirement is also met when a State Governor or Chief Governing Official appoints an individual to a position whose duties specified by law automatically include the position of State Historic Preservation Officer; e.g., in State X, the Chief of the Historic Preservation Division, Department of Housing is by State law automatically the SHPO.

b. Whenever a new SHPO is designated, or appointed, or an incumbent reconfirmed by the Governor, notification by the Governor shall be mailed to the Associate Director, Cultural Resources, National Park Service, Attention: Historic Preservation Grants Division (also see Section D.4., below, for signature authority to a subordinate) . The notice of designation shall include, at a minimum, the following or substantially similar statement to make clear the State Historic Preservation Officer's authority and responsibilities:

> In accordance with the National Historic Preservation Act, (16 U.S.C. 470a), as amended, I hereby designate [name, title, organization,] as the State Historic Preservation Officer. He/She has been delegated authority to represent the State in carrying out the responsibilities specified in the Act, and in the regulations and administrative requirements established for implementation of that Act.

c. Additionally, a courtesy copy (cc) of the written designation shall be sent (via surface mail, fax or electronically) to the Chief, National Register and National Historic Landmarks Division, and the Chief, Heritage Preservation Services.

2. Responsibilities of the State Historic Preservation Officer.

a. The responsibilities of the State Historic Preservation Officer are specified in Section 101(b)(3) of the Act and include:

1) Directing and conducting a comprehensive survey of historic properties and maintaining inventories of such properties.

2) Nominating eligible properties to the National Register.

3) Preparing and implementing a Comprehensive Statewide Historic Preservation Plan.

4) Administering the program of Federal grant assistance for historic preservation within the State.

5) Advising and assisting Federal and State agencies and local governments in carrying out their historic preservation responsibilities.

6) Cooperating with the Secretary of the Interior, the Advisory Council on Historic Preservation, and other Federal, State, and local governments, organizations, and individuals to ensure that historic properties are taken into consideration at all levels of planning and development.

7) Providing public information, education, training, and technical assistance relating to historic preservation.

8) Cooperating with local governments in the development of local historic preservation programs, and certifying these programs, pursuant to the Act and related regulations. (See Chapter 9)

9) Consulting with the appropriate Federal agencies in accordance with the Act on: Federal undertakings that may affect historic properties, and the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties.

10) Provide advice and assistance in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance (e.g., preservation tax incentives).

b. Accountability. NPS considers the State Historic Preservation Officer to be the State official acting for the State's Governor and responsible for the professional, organizational, and fiscal conduct of the HPF grant program in the State. The transfer of funds to other agencies within the State, to Certified Local Governments, to public or private organizations, or to individuals for the purpose of carrying out grant-supported subgrants, cooperative agreements, or contracts shall not in any respect relieve the State Historic Preservation Officer of his/her responsibility to ensure that HPF funds are disbursed only for activities, programs, and projects which are accomplished in accordance with program standards, regulations, policies, terms, and conditions of grant awards; for ensuring that funds are accounted for in accordance with generally accepted accounting principles; and in keeping with the requirements of the Historic Preservation Fund Grants Manual.

The State Historic Preservation Officer shall ensure that the State Historic Preservation Office has

adequate internal program and accounting controls, personnel standards, property management standards, evaluation procedures, availability of in-service training and technical assistance programs, and other policies as may be required by the terms of the grant, the Historic Preservation Fund Grants Manual, or other NPS regulations, that are necessary for program efficiency and effective, proper use of HPF funds.

c. Grant monitoring by grantees and NPS. Grantees must employ sound management practices to ensure that HPF program regulations and grant objectives are met, whether conducted by staff or by subgrantees or subcontractors, and that grant funds are expended for eligible activities under proper fiscal, professional, and management controls. To the extent possible, NPS places reliance on the policies and management controls established by grantees. NPS monitors grantees' performance to ensure accountability for HPF grant funds and conformance with the Secretary's "Standards" and other legislative and administrative requirements and standards. NPS also monitors grantee performance to identify and respond to major grantee technical assistance needs. The following provisions place maximum reliance on grantee responsibility and accountability for program and project level decisions, while grantees work with NPS to attain national program results.

Responsibility in certain areas extends beyond the term of a particular grant award, whether or not NPS continues to provide active grant support. This includes the continuing grantee obligation to account for property or equipment acquired as part of an NPS-assisted program or project (Chapter 19) and to monitor preservation covenant requirements (Chapter 6, Section M).

The principal means of ongoing NPS monitoring are the State Program Review process, the Comprehensive Statewide Historic Preservation Plan (see Chapter 6, Section G), grant applications (see Chapter 7), Project Notifications (see Chapter 8, Section F), the End-of-Year Report (see Chapter 25), and Final Project Reports (see Chapter Exhibit 8-E). Ineligible or improper payments issued by a grantee will not be paid by NPS. Disallowances based upon audits of grantees' (or subgrantees') financial records must be repaid to NPS. See Chapter 23, Section O and P.

3. State Professional Staff and State Review Board.

State Staff. The SHPO is responsible for maintaining a staff that meets the professional qualifications requirements of 36 CFR 61. At a minimum, a State must have full-time access to a historian, architectural historian, and archeologist who meet these professional qualifications.

State Review Board. Each State shall maintain a State Review Board whose qualifications, responsibilities in the administration of the program, and composition are in accordance with those defined in 36 CFR 61. In accordance with 36 CFR 61, the SHPO shall designate members of the State Review Board unless otherwise provided for by State law. Where State law establishes entities, such as a State Historical Commission, that do not or cannot assume all of the Review Board responsibilities specified in 36 CFR 61, a separate complementary State Review Board must be established. The roles and responsibilities of each entity should be clearly delineated to prevent duplication. See Chapter 6, Subsections C.4 through C.6, for responsibilities of professional staff.

The maximum number of Review Board members is not prescribed, but each Review Board must

contain at least 5 members. The majority of members must meet the professional qualification requirements described in the Secretary of the Interior's Historic Preservation Professional Qualification Standards. At a minimum, the Review Board must contain an historian, archeologist, and architectural historian.

a. Meetings and Rules of Procedure. The State Review Board shall meet as often as is necessary to complete its work in a timely fashion but no less often than once a year and must adopt written procedures governing its operation consistent with the provisions of 36 CFR 61, and the Historic Preservation Fund Grants Manual, particularly conflict of interest (see Section C.4., below). The Review Board may make some decisions without face-to-face meetings when there is unanimous agreement on a particular nomination.

b. Waivers, Alternative Review Board or Staffing Solutions, and Equivalency. In exceptional cases, NPS may extend a waiver or alternative solution to a State not having a fully qualified Staff or Review Board in conformance with 36 CFR 61. If the State does not have a qualified Staff or Review Board, it must request a waiver or an alternative solution pursuant to 36 CFR 61. Waivers (rather than alternative solutions) should be requested whenever the standard Staff or Review Board requirement of 36 CFR 61 is appropriate to the range of cultural resources of the State, but there is some temporary circumstance which prevents the requirement from being met. This is the usual situation when there is a Review Board vacancy. NPS approval of Alternative Solutions should be sought only if the standard Staff or Review Board composition does not meet the State's cultural resource needs on a long-term basis. Equivalency should be sought only in exceptional circumstances.

   1) Waivers. Waiver requests are made in writing to NPS and signed by the SHPO or his/her designee. The written request for a waiver shall specify the special circumstances that exist and explain why the waiver is in the best interest of the State program. Waivers, when granted by NPS, shall be in writing and shall extend for as short a time as is reasonable in the circumstances, but in no case longer than the end of the following fiscal year. If a State needs to renew a waiver, it must send a written request that documents efforts to remedy the circumstances and justifies the need for continuing the waiver.

   2) Alternative Solutions. NPS will consider proposals for alternative staffing or Review Board solutions pursuant to 36 CFR 61 only for States with resources and needs which cannot be served or met by the standard Staff or Review Board requirements. Such solutions must ensure access to adequate professional expertise comparable to that required by 36 CFR 61. These proposals should be sent, in writing, to NPS. Proposals will be responded to in writing and, if approved, will remain in effect until they are reviewed at NPS' discretion or at the request of the State.

   3) Equivalency. Professional qualification standards were established by NPS so that individuals meeting them would have the expertise necessary to carry out historic preservation activities in accordance with professional standards. In rare instances, NPS will certify that an individual has expertise equivalent to the Secretary's Professional Qualification Standards (and thus fulfills the purpose of the Professional Qualification

Standards) though the individual does not meet the technical requirements. States should send requests for certification of equivalency to NPS. Requests will be responded to in writing and, if approved, will remain in effect as long as the individual holds his/her position or until the certification is reviewed at NPS' discretion or at the request of the State.

c. Continuation or Extension Provision (State staff, State Review Board members and CLG commission members). Whenever the mandatory historic preservation professional qualification standards change, an individual officially qualified under the former Standards and still serving on a State's staff, a State Review Board, or a CLG commission may be considered to be professionally qualified as long as he/she continues to hold that position.

C. Conflict of Interest.

1. Policy.
No person (see definition in subsection 2.a., below) shall participate in the selection, award, or administration of any HPF-assisted program activity, subgrant, contract, or subcontract if a conflict of interest, real or apparent, exists. Nor shall any person participate through approval, disapproval, recommendation, or other decision concerning any Federal Preservation Tax Incentive Certification, National Register Nomination, or Review and Compliance case if such a conflict, real or apparent, exists.

No person shall engage in outside employment or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities for administration of the HPF program. Employees or agents (i.e., persons authorized to represent the SHPO organization or to perform any official capacity for it) shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to potential or actual HPF grant awards.

2. Definitions.

a. " Person" means:

1) The State Historic Preservation Officer,

2) State Historic Preservation Office staff,

3) President of the National Trust for Historic Preservation,

4) Staff of the National Trust for Historic Preservation,

5) Trustees and Advisory Board Members of the National Trust for Historic Preservation,

6) Subgrantees or contractors paid in whole or part, by HPF funds or whose time or salaries are used as allowable matching share,

7) Members of a State Review Board(s) and/or separate Commission(s) which share 36 CFR 61

or HPF grant oversight responsibilities,

8) CLG commission members, agents, or staff, and

9) Employees, agents, partners, associates, or family members of those cited in this definition.

b. A "conflict of interest" exists when a person may benefit (either through financial or personal gain) from the position he/she holds with respect to the HPF-assisted program or may be unable to make impartial decisions or render impartial advice due to outside relationships or other activities with other persons as defined above. This applies to those persons who participate in or influence the grant award decision-making process, gain information not available to the general public, or provide oversight or administration of any aspect of the HPF grant program.

c. An "apparent conflict of interest" exists whenever circumstances are such that a person may appear to be in a position to benefit (either through financial or personal gain) from the position he/she holds with respect to the HPF-assisted program or may be unable to make impartial decisions or render impartial advice due to outside relationships or other activities with other persons as defined above. This applies to those persons who participate in or influence the grant award decision-making process, gain information not available to the general public, or provide oversight or administration of any aspect of the HPF grant program whether or not such a conflict actually exists. An apparent conflict of interest also exists when a person may appear to have an unfair competitive advantage because of his/her relationship with the SHPO organization. Accordingly, Review Board members should not be included on any lists of qualified consultants distributed to the public by the SHPO.

3. Declaring and Resolving Conflict of Interest.

a. Nonvoting. When any person, as defined in subsection 2.a., above, is involved in nonvoting situations such as Tax Act Certification or Review and Compliance decisions, and a real or apparent conflict of interest situation exists, the person involved must disclose the possible conflict and physically absent and recuse himself/herself from the decision-making process. The conflict shall be declared and documented in writing (by providing the name, date, and nature of the conflict) as soon as the situation becomes apparent but, at a minimum, before the issue or action for which the conflict exists is acted upon or brought to resolution. Those in a position to make a decision must be fully informed as to the possible interest of the persons involved. See Subsection 4.i., below, regarding persons with a pattern of conflicts.

b. Voting (Review Board/Commission Meetings). When a real or apparent conflict of interest situation arises in the context of a voting situation, the person must disclose the possible conflict and physically absent and recuse himself/herself from the decision-making process (including presentations and discussion) and neither vote directly, in absentia, nor by proxy in that matter. The recusal and the reasons therefore must be recorded in the meeting minutes. Those in a position to make a decision must be fully informed as to the possible interest of the person abstaining and recusing him/her self. See Subsection 9., below, regarding persons with a pattern of conflicts.

4. Written Procedures (Code of Conduct).

Each SHPO organization and the National Trust must maintain a written code with standards of conduct governing the performance of their employees engaged in the award and administration of

contracts. This code must, at a minimum, comply with the requirements of this section, and is binding on all persons listed in subsection 2.a., above.

The grantee may adopt more stringent requirements than those specified by NPS. The standards established in this section shall be considered the minimum. In those situations where existing State procedures are more stringent, those shall apply. However, in situations where Statewide conflict of interest requirements are less stringent (e.g., may not apply to the Review Board or a separate Commission), the standards in this section shall apply for administration of the HPF program in its entirety.

5. Procurement.
Contract awards shall not be made to any person or firm who has developed or has drafted bid specifications, requirements, a statement of work, an invitation for bids, and/or a request for proposals for a particular grant-related procurement.

6. Nepotism.
State grantees will follow State laws and administering regulations governing nepotism in relation to employment, contracting, and the award of HPF grant assistance.

7. Officials Not to Benefit.
No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of a grant, or to any financial benefit that may arise therefrom; but this provision shall not be construed to extend to a grant if made with a corporation for its general benefit.

8. Corrupt Practices.
The award and administration of NPS grants and of sub-agreements awarded by State grantees under those grants must be accomplished free from bribery, graft, kickbacks, and other corrupt practices. The grantee bears the primary responsibility for the prevention, detection, and cooperation in prosecution of any such conduct. Federal administrative or other legally available remedies will be pursued to the extent appropriate.

No person, agency, or other organization may be employed or retained to solicit or secure a grant or contract upon agreement or understanding for commission, percentage, brokerage, or contingent fee. For breach or violation of this prohibition the Federal Government shall have the right to annul the grant without liability or, at its discretion, to deduct from the grant or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as may be legally available.

9. Enforcement.
The grantee organization must enforce and document that it enforces its conflict of interest procedures or code of conduct whenever applicable. At a minimum, there must be written records of abstentions from the decision-making process in conflict of interest situations. The records of abstentions and recusals shall, at a minimum, document who was absent from the decision and for what reason.

Individuals who have a pattern of conflicts of interest and consequent abstentions, ought to be removed from the Board, commission, etc., or assigned other responsibilities because their function of offering advice cannot be fulfilled. In addition, the grantee organization must ensure that those on whom these procedures are binding (subsection 2.a., above) are fully knowledgeable of these conflict of interest requirements and agree to abide by them in the execution of their HPF program responsibilities. Documentation of these requirements is fulfilled by a signed and dated statement from each person attesting to that fact.

State Ethics Officers are authorized to determine the applicability of these requirements to individual situations in regard to State employees and to resolve employee conflict of interest situations (see also subsection 11., below).

10. Conflict of Interest Involving Current or Former Federal Employees.
The grantee will not use any Federal funds or funds from other sources applied as matching share to pay a fee to, or travel expense of, current employees of the Federal Government for consultant services, lectures, attending program functions, including HABS/HAER participation, or any other activities in connection with the grant or any subagreement awarded under this grant. Grantees are to consult with NPS when the appearance of such conflicts of interest arises. This prohibition is in accordance with 18 U.S.C. 209 which stipulates that Federal employees whose employment has not terminated shall not receive supplemental compensation for their services in their capacity as Federal Government employees. (However, see exception for temporary limited employees in Chapter 6, Section E.7).

It is NPS policy that personal or organizational conflict of interest, or the appearance of conflict of interest, be prevented in the award and implementation of grants, including subgrants and subcontracts or other subagreements which involve former and current Federal employees in the award and implementation of grants. A conflict of interest will appear to exist when grant assistance is awarded to or by a grantee and a current or former NPS employee participated in the pre-award and award process and benefits financially from the grant. Specific details are contained in 43 CFR 20.

11. Violations.
When there is a suspected violation of the conflict of interest policy or requirements, the SHPO organization must advise NPS of the matter, pursue available State or local legal and administrative remedies, take appropriate remedial action with respect to any allegations or evidence coming to its attention, and advise NPS of the ultimate disposition of any matter. Such violations may result in cost disallowances or other sanctions.

D. Special Requirements.
This section highlights requirements with which grantees must comply for Historic Preservation Fund grant assistance. Also see Chapter 5, Section B., for the General Conditions Governing Grants.

1. Federal Administrative Requirements.
The provisions of Office of Management and Budget Circulars A-87 and A-102, incorporated through 43 CFR 12 and throughout the Historic Preservation Fund Grants Manual, shall apply to all HPF grants to States. All grants to the National Trust for Historic Preservation shall be governed by the provisions of OMB Circulars A-110 and A-133. The appropriate Circular or implementing

regulations shall be made applicable by States and the National Trust to all subgrants, contracts, or other agreements executed by them which involve HPF or matching grant funds (see Chapter 12 concerning cost principles applicable to subgrants). Failure by a grantee to comply with these Circulars may be the basis for withholding payments for proper charges made by the grantee, recovery of such funds, and/or termination of financial support.

2. Environmental Requirements.
Activities funded under the Act shall be conducted in full accord with the policies and provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et. seq.*) and the categorical exclusions stipulated in Chapter 11.

3. Use and Disclosure of Information.
Grant applicants, grantees, and their contractors and subgrantees should be aware that information provided to NPS, or required by NPS to be on file with the grantee, is considered to be a public record and subject to disclosure under the Freedom of Information Act (5 U.S.C. 552), unless determined to be exempt and not to be disclosed under that statute, or locational information that may be withheld by NPS under Section 304 of the National Historic Preservation Act. In addition, NPS acquires the right, unless otherwise specified in the grant agreement, to use and disclose program and project data. However, there may be some information that a grantee or subgrantee wishes to remain confidential. Those items must be clearly and prominently identified to NPS at the time the information is presented. NPS will consider such requests on their merits and within the limits imposed by Federal law and regulation on public disclosures (see also Chapter 24 and Chapter 5, General Condition B.11.). Information received by NPS that is not accompanied by a claim for confidentiality in accordance with this paragraph may be made available to other public agencies and the general public without prior notice to the grantee.

4. Authorized Signatures.
Application SF 424 Face Sheets, Project Notifications, certifications, and reports must be signed by the State Historic Preservation Officer (or President, National Trust for grants to that organization), or by persons authorized by those officials' written designation to NPS to obligate the grantee to the terms and conditions of the grant. Each grant application and each individual Project Notification, if required (which becomes part of the application following NPS action) will be deemed to constitute an offer by the grantee to accept the requirements of the Historic Preservation Fund Grants Manual. Acceptance of the grant award by the grantee shall be deemed to constitute acceptance of the terms and conditions affixed to each Grant Agreement by NPS.

While authority can be delegated, the SHPO or the President of the National Trust remains responsible under the terms of the Act and State law for the grant program on behalf of the State. However, he/she can assign program and/or signature authority to a subordinate. To be a proper transfer of authority, the delegation must be in writing from the superior. Without such express written delegation, signatures on grant applications, Project Notifications, National Register nominations, etc., are not binding on the State or the National Trust and cannot be accepted by NPS as representing official State actions.

5. Certifications.
A grantee may be prosecuted under Federal or State statutes for any false statement, misrepresentation, or concealment made as part of a grant application or grant-related certification to

NPS. The penalty for false statements in certifications is prescribed in 18 U.S.C. 1001.

6. Waivers.
When exceptional circumstances are involved, a grantee may submit a written request and justification for a waiver from NPS requirements, procedures, or NPS policy, as defined below, prior to submission of a grant application or Project Notification. In clearly exceptional cases, the NPS Grant Awarding Official may determine in writing that a waiver of normal requirements is essential to achieve NPS objectives. The written determination shall specify the reason(s) that special circumstances support that a waiver is in the best interest of the Federal Government.

Waivers, when granted by NPS, shall be in writing and shall extend for as short a time as necessary in the circumstances, but in no case longer than the end of the following fiscal year. If a State needs to request to renew a waiver, it must send a written request that documents efforts to remedy the circumstances and justifies the need for continuing the waiver.

Requirements imposed by legislation or Government-wide regulations promulgated in the Code of Federal Regulations, such as Office of Management and Budget or Treasury Circulars, cannot be waived. However, note that some regulations provide for situations where requirements can be waived, e.g., 36 CFR 61.10.

NPS has authority to approve certain waivers, such as:

a. The imposition of greater or lesser limitations than those imposed by the Historic Preservation Fund Grants Manual upon the use of a standard, procedure, form, requirement, or condition of grant assistance that is not legislatively mandated or required without possibility of waiver by Government wide regulations;

b. The waiver of any policy, procedure, method, or practice of administering or conducting grant awards prescribed by the Historic Preservation Fund Grants Manual;

c. Omission of any mandatory NPS (but not Governmentwide) grant provision; or

d. Use of different forms or alteration of prescribed forms.

A copy of the NPS written approval must be enclosed with the grant application or Project Notification and the original retained by the grantee in the official project file.

7. Publications and Public Information.

a. Acknowledgment of support. An acknowledgment of NPS support must be made in connection with the publication or dissemination of any printed, audio-visual, or electronic material based on, or developed under, any activity supported by HPF grant funds. This acknowledgment shall be in the form of the following statement:

> The activity that is the subject of this [type of publication] has been financed [in part/entirely] with Federal funds from the National Park Service, U.S. Department of the Interior. However, the contents and opinions do not necessarily reflect the views or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior.

(Note that only relevant portions of the required statement need to be applied, and should be used as appropriate depending on the content of the publication; e.g., if there are no commercial products, then that part of the statement can be omitted.)

b. Nondiscrimination Statement. Publications and audio-visual materials must also include the following nondiscrimination statement:

This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, as amended, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, disability, or age in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to:

Office of Equal Opportunity
National Park Service
1849 C Street, N.W.
Washington, D.C. 20240

c. Public information. Press releases, publications, and any other public dissemination of information (including electronic materials such as World Wide Web pages) by a grantee made possible by grant assistance shall acknowledge Department of the Interior, National Park Service grant support by use of the above statements. See Section D.7.e., below, for publications specifically excluded from these requirements.

d. Copies of publications. Upon publication, a minimum of three copies of the publication will be furnished by the grantee to NPS, which will furnish one copy to the Department of the Interior's Natural Resource Library for deposit. Publications covered by this section include any publication produced as a result of research or any other work funded in whole or in part by HPF grants. For copyright requirements for grant-assisted publications, see Chapter 19, Section D.6.

e. Exclusions. Specifically excluded from the requirements of Section D.7.a-d., above, are the following types of publications:

1) Internal documents required for administrative or operational purposes which have no public interest, or educational, scientific, or research value.

2) Classified publications and materials otherwise marked against unauthorized disclosure.

3) Tentative drafts such as preliminary planning reports that will appear later in revised or final form.

4) All disclosure materials containing any description, specification, data, plan, or drawing of any unpatented invention upon which a patent application is likely to be filed unless an opinion by the Solicitor of the Department, or his duly authorized designee, has been rendered which finds that the interests of the Government will not be prejudiced by the action called for in this section with regard to such disclosure materials. Accordingly, copies of these materials must be provided to the National Park Service for forwarding to the Department's Office of the Solicitor. The National Park Service will notify grantees in writing of the Solicitor's opinion regarding disclosure of the material.

5) Grant applications, Final Project Reports, or End-of-Year Reports pertaining to grant administrative or operational activities.

E. NPS Approval via Grant Agreement.

When a grant application has been judged adequate, a Grant Agreement is executed by the NPS Grant Awarding Official. This is the NPS official whose name/title appears on the Grant Agreement. The Grant Agreement is composed of three documents completed by NPS that together indicate the approval of a grant application: the Grant Agreement Signature Page, which includes changes made by NPS in the grant application or financial information as submitted; any special conditions accompanying approval; and the completed Standard Form 424.

Obligation of funds occurs when the Grant Agreement is signed by the NPS authorized Grant Awarding Official and notice forwarded to Congress and to the NPS Accounting Operations Center. The signature of the NPS Grant Awarding Official on the Grant Agreement shall constitute the signer's certification that the Grant Agreement is materially complete and that the grant application is in keeping with all applicable laws, Federal and Department regulations, and NPS program requirements.

The signed Grant Agreement is the legal document constituting the assistance agreement between NPS and the grantee. At a minimum, the Grant Agreement will include the information listed below. Co-signature by the grantee on the Grant Agreement is not required. The Grant Agreement incorporates the general conditions applicable to all grants and special conditions applicable to the specific approved grant. Subsequent amendments to the Grant Agreement, including subsequent Project Notifications, do not affect general or special conditions unless expressly waived in writing by NPS.

1. Coverage of the Grant Agreement.

The Grant Agreement establishes the terms and conditions of the Grant Award, including:

a. Legal name and address of the grantee agency to which the grant is awarded.

b. Identifying grant number assigned by NPS.

c. Grant period, which specifies the length of time NPS intends to support the proposed effort, and during which costs may be charged to the grant. See Section E.5., below.

d. Federal share awarded.

e. Minimum nonfederal share required.

f. Setting forth the obligations assumed by the grantee through acceptance of the Federal assistance award, including the applicability of the Federal cost principles and administrative requirements incorporated in the Historic Preservation Fund Grants Manual. The Grant Agreement for the National Trust shall specify OMB Circulars applicable to nonprofit organizations.

g. Other information or provisions deemed necessary by NPS to carry out its granting activities or to accomplish the purpose of the grant. The Catalog of Federal Domestic Assistance Program Title and Number appear in block 10 of the SF 424.

The Grant Agreement is the mechanism through which NPS accepts the work proposed to be accomplished during the term of the grant. The Grant Agreement obligates NPS to provide financial assistance up to the stipulated amount for eligible costs incurred for projects and programs, on the basis of information and cost estimates contained in the application. Unless specifically approved in the Grant Agreement or an NPS-approved grant amendment, no cost (either federal or nonfederal share) incurred prior to the approved grant beginning date or subsequent to the stipulated end date will be allowed.

If the submitted application is revised in any way by NPS, the revision will be noted on the Application and Budget Changes/Special Conditions page(s). This additional page is considered part of the Grant Agreement.

2. Federal Share.
The Federal share amount obligated by the grant award shall be set forth in the Grant Agreement. The Federal share amount, not to exceed the maximum percentage specified by law will represent the award ceiling. The grantee must exert its best efforts to perform, or cause to be performed, the work as specified in the grant application within the approved cost ceiling. If at any time the grantee becomes aware that the costs it expects to incur in the performance of the grant will be substantially more or less than the then-approved estimated total cost, the grantee must notify the NPS Grant Awarding Official promptly in writing, and request approval of an amendment. See Chapter 15.

If a State is unable to utilize or apply for the full amount of apportioned funds, the State Historic Preservation Officer should notify NPS at the earliest possible date so that the funds can be reallocated to other States. Funds not reallocated and used within the 24-month period of availability are returned to the U.S. Treasury.

NPS will not share costs incurred in excess of any approved amounts. Grant payments will be made in accordance with Chapter 21 up to the approved amount stipulated in the Grant Agreement.

3. Nonfederal share.
The nonfederal share amount must be contributed and documented in accordance with the criteria and timing stated in Chapter 14 and elsewhere in the Historic Preservation Fund Grants Manual. Such cash and in-kind contributions shall be limited to assisting eligible activities specified in the application and subsequently submitted Project Notifications (and in the case of third party agreements covered by Reduced Review Status, in subgrant agreements and files) and must be directly related to and necessary for the conduct of activities specified in these documents.

4. Total grant costs.
   Both the Federal share and nonfederal share detailed in the application are subject to the provisions of the Historic Preservation Fund Grants Manual upon execution of the Grant Agreement with NPS. In particular:

   a. Costs eligible for assistance shall be determined upon the basis of the criteria set forth in Chapters 6, 12, 13, and 14.

   b. The Grant Agreement may include the use of the indirect cost rate approved for the grantee or subgrantee by the cognizant Federal agency according to the provisions of Chapter 12.

5. Duration of grant.
   Funds obligated by NPS shall be available to a State or the National Trust for expenditure during the 24-month grant period specified in the Grant Agreement and contingent upon compliance with NPS Use or Lose procedures. Authorization to incur expenditures during the succeeding fiscal year (for awarded subgrants plus an amount not to exceed 25 percent of the Federal share of the Annual Grant) is specified in the Grant Agreement and requires that funds will be committed by the grantee in accordance with NPS procedures (see Section K, below). No costs for programs or projects beyond the term of the grant period specified in the Grant Agreement may be charged to the HPF grant.

F. Application and Budget Changes/Special Conditions.
The Application and Budget Changes/Special Conditions page(s) is used as an attachment to the Grant Agreement to indicate special conditions and any changes made by NPS in the application submitted by the grantee.

If a specific cost, work item, or other element in the application is reduced or eliminated by NPS, the application will be approved with the revisions specifically identified on this page, and the grantee must not use funds for that purpose without prior written NPS approval.

SPECIAL CONDITIONS are used to require the grantee to submit additional necessary documentation, to execute certain specified actions, or to emphasize important requirements. The special conditions are part of the Grant Agreement and must be complied with by the grantee. NPS determines whether a grantee has achieved acceptable compliance with special conditions. Grantee noncompliance may cause disallowance of incurred costs, withholding, suspension of funds, or other administrative remedies. Special conditions are in addition to General Conditions Governing Grants (Chapter 5), which apply to all grant awards, amendments, and subsequent subgrants or other agreements awarded by the grantee.

G. Effect of Grant Award.
The grant becomes effective upon execution of the Grant Agreement by the NPS Grant Awarding Official. Grant approval authorizes the grantee to proceed with the activities specified, but does not by reference make specific approval of those types of cost items which are allowable only by NPS prior specific approval (see Chapter 13, Section C). These types of costs must be specifically identified by the grantee in the Budget Form 424B (Section E, Other Budget Information) of the grant application, or by subsequent correspondence.

All funds shall be expended solely for the purpose for which the funds are granted in accordance with the

approved application and budget (including subsequent Project Notifications), and in accordance with the regulations governing these grants, the Secretary of the Interior's "Standards," the terms and conditions of the award, the applicable Federal cost principles, and the Historic Preservation Fund Grants Manual.

The award of any grant does not commit or oblige NPS to award any additional funds to cover cost overruns, nor does the award of any grant constitute an obligation to fund any subsequent budget period.

In accepting the award, the grantee agrees that it will meet the terms and conditions of the Apportionment Certificate and NPS Grant Agreement and that it will further impose these requirements upon any subgrantee or subrecipient to which funds are transferred pursuant to the Grant Agreement. The grantee also agrees that it shall be responsible for compliance with the terms of the Grant Agreement by any subgrantee, and that failure by such subgrantee to so comply shall be deemed a failure by the grantee to comply with the terms and conditions of the Grant Agreement.

The terms and conditions of the Annual Grant Agreement also apply to all subgrant and other third party agreements including those covered by Reduced Review Status (see Chapter 8, Section G).

H. Amendments and Other Programmatic Changes.
The grantee shall submit an amendment describing any material change in the plan (grant application) or in the proposed conduct of the approved program or grant before the change is executed. All requests for changes shall be made in writing and described using the same forms as the original application; only the changed forms need be submitted with the requested change clearly explained in the "Remarks" section of the Standard Form 424 (see Chapter 15).

1. Project Notification.
The award of subgrants to a third party to perform substantive programmatic work proposed in the SHPO's grant application is considered a substantive programmatic change unless the required information is submitted concurrently with the Annual Grant Application. However, see Chapter 8, Sections F. and G., for details on Project Notifications and Reduced Review Status (i.e., when Project Notifications are not required).

   Except for activities covered by Reduced Review Status (see Chapter 8, Section G), subsequent substantial changes in subgrant objectives or scope of work described in Project Notifications shall be requested in writing by the grantee prior to effecting such changes.

2. NPS-Initiated Amendments.
Grant amendments may be initiated by NPS if: a) on the basis of reports or adverse findings, it appears that HPF funds are being used for purposes beyond the scope of the grant agreement (i.e., the approved grant application or for unauthorized or ineligible purposes); or, b) if additional funds, previously appropriated or apportioned but unreleased, become available.

I. Grantee Accounting Responsibilities.
1. Grantee records of accounts are to be established on the 12-month budget period basis. HPF funds disbursed and nonfederal share claimed must be charged to the correct grant budget period. This applies to Federal share claimed and nonfederal share applied by the grantee organization itself and by any of its subgrantees, including universities and Certified Local Governments. The Federal share

of costs shall be charged to the fiscal year in which the costs were incurred (i.e., the fiscal year the reimbursable work was performed). Similarly, the nonfederal costs claimed shall be charged to the fiscal year the cash was disbursed or the goods or services were contributed. Therefore, each subgrant or similar agreement with third parties that authorizes costs to be incurred during more than one HPF grant period (i.e., "crosses" Federal fiscal years) should require that the subgrantee provide the grantee with appropriate documentation of the nonfederal share claimed during the fiscal year promptly after the close of the fiscal year. This not only will allow the grantee to maintain its accounts as intended by the Act, but can also serve as an early warning to the grantee of insufficient nonfederal share.

Costs incurred prior to the effective date of the grant award, whether or not these costs would have been allowable after that date, are allowable only with the prior approval of NPS, or when specifically provided for in the NPS grant agreement (see Chapter 13, Section C).

2. Costs incurred through September 30 of each fiscal year must be billed no later than December 31 of that year.

3. States must retain executed subgrant agreements and purchase orders verifying the information in the Project/Activity Database Report and the Carryover Statement (see Chapter 25), and make these available for on-site inspection by NPS or its designated representative.

4. During the 24-month period of availability, funds may be transferred among subgrants, contracts, and cooperative agreements. Budget increases must be justified by an appropriate increase in the project scope and/or an adequate explanation of the reason(s) for the increase. States not on Reduced Review Status must send NPS a Project Notification Amendment for any Federal share increase to a subgrant, contract, or cooperative agreement. States with Reduced Review Status must retain this information in their files for State Program Review purposes.

5. Grantees are required to certify the accuracy of the January Financial Status Report (mailed to States by NPS in February). Corrections will be made by NPS when justified.

J. Expiration of Grant Obligational Authority.
Costs incurred after the end date of the second budget period cannot be charged to the Annual Grant. Any unexpended funds remaining after the end date of the grant will be returned to the U.S. Treasury. NPS will evaluate the reasons for such returns and reserves the right to adjust future apportionments accordingly. Because the period of obligational authority is usually 24 months, States should award funds to subgrants or contracts with logical units of work that can be accomplished or completed within the term of the grant.

K. Use or Lose Policy.

1. General.
The "Use or Lose" policy means that a grantee that does not "use" its grant award funds in a timely fashion will “lose” a portion of those funds as described below. The purpose of this adjustment action is to direct monies to those grantees most capable of making immediate productive use of available monies, and to demonstrate that funds appropriated by Congress for the HPF in fact are needed and being used promptly. The Use or Lose policy is intended to have these results:

a. Continue the exemplary expenditure rate performance of the HPF grant program.

b. Authorize each grantee to carry over up to 25 percent of the Annual grant into the second year of fund availability to maintain staff and "in house" program operations. The 25 percent reserve is intended to provide up to 3 months of operating costs without disruption because of "late" Congressional appropriations.

c. Allow each grantee to carry over unexpended funds in subgrants crossing Federal fiscal years.

d. Provide a framework for financial management and reporting that minimizes grantee accounting problems related to the annual cost/matching share provisions of Section 102(a)(3) of the Act.

The Carryover Statement in the End-of-Year Report (see Chapter 25) closes out each fiscal year and provides a bridge to the next, allowing up to 25% of the Annual Grant to be carried over, uncommitted, to support continuing program operations for up to 12 additional months (i.e., the second year of the 24-month grant period). The full 2 years of obligational authority provided by Federal appropriations legislation is afforded to grantees demonstrating prompt use of the funds apportioned to them.

As detailed below, NPS reserves the option to adjust grant awards to a grantee when the amount of uncommitted funds exceeds 25 percent of the amount apportioned during the fiscal year. The 25 percent limitation does not apply to the amounts carried over in committed subgrants, contracts, or cooperative agreements; these commitments must appear in the Project/Activity Database Report and the Carryover Statement submitted with the End-of-Year Report (see Chapter 25).

2. Limitation on Award of Obligational Authority.

a. The annual apportionment of obligational authority awarded to a grantee will not be reduced when the grantee, in accordance with procedures detailed below, has either:

1) Submitted by December 31 acceptable Electronic Funds Transfer payment requests, or SF 270 reimbursement requests and/or liquidations of advances for all funds expended during the fiscal year of the apportionment; and

2) Submitted acceptable grant applications (including amendments, if necessary) by August 31 to obligate all available obligational authority during the current fiscal year; and

3) Except for activities covered by Reduced Review Status (see Chapter 8, Section G), submitted acceptable Project Notifications for all subgrants and contracts with entities outside the administrative direction of the SHPO for projects which extend beyond the fiscal year budget period; and

4) Confirmed by its Project/Activity Database Report and Carryover Statement (see Chapter 25) that no more than 25 percent of the annual award will remain unexpended and uncommitted at the beginning of the second year of grant availability.

b. Calculating the Carryover amount for the second fiscal year. The amount of funds which may be carried over into the second fiscal year of the grant is based on two factors:

! Committed Subgrants and Contracts, and
! Uncommitted Expenses

The following two examples illustrate the carryover calculation:

EXAMPLE 1

Total FY 1997 Unexpended Funds Carried Over into FY 1998 (Uncommitted expenses and committed subgrants and contracts)	$250,000
Minus Committed yet Unexpended Subgrant Funds	$150,000
Uncommitted SHPO Carryover	***$100,000***
FY 1997 Annual Award $500,000	
$100,000 represents 20 percent of the FY 1997 Annual Award of $500,000, and is, therefore, under the 25 percent maximum uncommitted funds allowable.	

EXAMPLE 2

Sample Description	Sample Amount	Sample Calculation
Step 1. The FY 1997 Award	$500,000	---
Step 2. Minus total FY 1997 dollars expended during FY 1997.	$300,000	$500,000 - $300,000 = $200,000
Step 3. Minus total unexpended FY 1997 funds that are committed to third-party agreements that will be carried over into FY 1998.	$150,000	$200,000 - $150,000 = $50,000
Step 4. Equals the uncommitted FY 1997 funds that will be carried over into FY 1998.	$50,000	---
Step 5. Amount carried over divided by the total award (must be less than 25%).	$50,000 or 10%	$50,000/$500,000 = 10%

1) Committed Subgrants and Contracts.

i) States may carry over all unexpended balances for subgrants or contracts if acceptable Project Notifications have been forwarded to, and concurred with by, NPS (except for projects covered by Reduced Review Status; see Chapter 8, Section G).

ii) Subgrants and contracts with entities outside the administrative control of the SHPO are considered valid commitments for carryover purposes. A subgrant agreement between

the grantee and subgrantee must be executed by September 30 to be a valid commitment.

iii) All continuing subgrants and contracts used in computing the amount of carryover must be included in the Project/Activity Database Report and Carryover Statement submitted with the End-of-Year Report. (See Chapter 25, Section D.)

iv) All such committed subgrants and contracts do not count against the 25 percent carryover limitation.

The State is required to notify NPS if it has not been able to execute subgrants to CLGs for at least 10 percent of its award. This notice can be by letter to NPS, or with the End-of-Year Report.

2) Operational "In-house" Expenses.

Up to 25 percent of the prior year's total apportionment may be carried over into the following fiscal year for in-house expenses, including: SHPO salaries, equipment, other administrative expenses, and "in-house" contracts and agreements.

"In-house" contracts or agreements with State Historic Preservation Office staff or with State governmental units that are part of the same State government budgetary unit as the State Historic Preservation Office are not considered contractual commitments.

Unexpended HPF grant funds for in-house expenses are not considered committed. NPS reserves the right to adjust the State's current or subsequent Annual Grant Award if the State has uncommitted carryover funds in excess of 25 percent.

States must notify NPS in writing if they expect to exceed the 25 percent carryover limitation and request a waiver to exceed the limitation (see Section D.6). NPS should be informed that the carryover limitation will be exceeded prior to the submission of the End-of-Year Report. If this is not possible, then the State must explain that there is more than the allowable amount of uncommitted funds in the End-of-Year Report (in the Carryover Statement section).

Grantees must provide sufficient justification and sufficient time to allow objective review and consideration. Waivers shall be approved only in compelling circumstances in which, despite due diligence on the part of the grantee, the circumstances involved were beyond the control of the grantee, and the grantee has indicated satisfactorily what steps will be taken to avoid a recurrence of the situation.

c. Previous Year Consistency. The amount carried over into the second fiscal year must be consistent with the expenditures for the previous year shown in the End-of-Year Report. The amount carried over into the second fiscal year may not be larger than the original apportionment minus the amount expended in the first year (as shown in the End-of-Year Report) and minus any amounts recaptured or returned for other reasons.

d. Reduction of Obligational Authority. Funds in excess of 25 percent of the total amount apportioned via the Apportionment Certificate executed by the Secretary of the Interior which are not committed by a grantee will revert to NPS through a reduction in the fiscal year's apportionment to the grantee. In addition, if any committed funds are not used among the listed

subgrants, obligational authority may be revoked by NPS and funds reapportioned to other eligible States whenever time constraints and administrative expenses permit.

e. Schedule. The following schedule shall be maintained:

1) Amendments affecting the Federal share must be postmarked by August 31.

2) The End-of-Year Report must be postmarked by December 31. Data supplied in the Project/Activity Database Report and Carryover Statement submitted with the End-of-Year Report must confirm that the State carries over, in uncommitted funds, no more than 25 percent of the prior year's apportionment.

3) Payment requests must be transmitted by December 31.

Chapter 4 - Intergovernmental Review of Federal Programs

A. Purpose.
This Chapter sets forth the requirements governing grants under Executive Order 12372, Intergovernmental Review of Federal Grant Programs, as implemented by the Department of the Interior in 43 CFR 9. States may opt to include the HPF grant program under its Executive Order 12372 process. It is the policy of the National Park Service to award grants in accordance with the process established by each State. Grantees are responsible for coordinating grant applications with the procedures established by its State and the official designated as the State Single Point of Contact.

B. General.
Under provisions of Executive Order 12372 and its implementing regulations, States, in consultation with local and regional officials, are permitted to establish their own processes for review and comment on proposed Federal actions within their boundaries. For the State process to be recognized, the Governor of the State must inform the Office of Management and Budget (OMB) of the establishment of the State process, identify the Single Point of Contact for the process within the State, and transmit a list of Federal programs and activities that have been selected by the State's Governor for review within the State.

Federal agencies are required to provide early notice of proposed actions so that State and local officials have adequate time for review and comment under their designated State process. The framework for the review may differ somewhat in each State as long as the role of the Single Point of Contact in channeling comments about the proposed Federal action adheres to the provisions of Executive Order 12372 and its implementing regulations. The Single Point of Contact may submit an official recommendation produced through the State process to which the Federal agency or agencies involved must respond by accommodating the recommendation, negotiating a mutually acceptable course of action, or explaining to the Single Point of Contact why the official recommendation cannot be accommodated. If there are differing views from the official recommendation, the Single Point of Contact must submit these along with the official recommendation. However, there is no requirement that these other views be responded to with an accommodation or explanation such as an official recommendation would receive.

C. State Process Review System.
The State process is the framework in which State and local officials conduct their reviews of HPF grant programs. The Federal Government has no requirements for the State process other than those outlined below. The State process can use organizational arrangements, assignments of responsibility, and day-to-day procedures that are compatible with or part of existing State and local practices.

1. Selection of Programs and Activities the State Wants Covered by its Process. A State may choose from the list of programs determined by the Department of the Interior to be eligible for coverage (see 43 CFR 9). Each State must send a list of the programs and activities which it wishes to cover under its process to OMB. OMB transmits that information to the appropriate Federal agency.

    a. Following initial notification of a State's process and of the Department of the Interior programs the State has selected for review, a State may notify the Department of the Interior or NPS of changes in its selection of programs or activities at any time.

b. NPS Intergovernmental Review Coordinators are responsible for ensuring that when a change is made in program or activity selections by a State, the State submits an assurance that local elected officials were consulted regarding the change.

2. The Single Point of Contact (SPOC).

a. The Single Point of Contact receives all items for review under selected programs. Only one Single Point of Contact is designated in each State.

b. The Single Point of Contact is responsible for transmitting a State process recommendation to the Department of the Interior. If a State fails to designate a Single Point of Contact, the Department is not obligated to respond to other organizations or officials concerning a State process recommendation.

c. NPS has designated bureau Intergovernmental Review Coordinators with responsibility for liaison and communication on all matters between NPS and the State Single Point of Contact. The contact for the HPF grant program is the Chief, Historic Preservation Grants Division, National Park Service.

3. Use of the State process. The following requirements apply to the use of the State process.

a. Consistency with existing statutory requirements, including the following:

1) Consultation with the State Historic Preservation Officer in the case of investigations to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects; or to comply with requirements pursuant to Section 106 of the National Historic Preservation Act to avoid or mitigate adverse effects upon such properties.

2) In the case of projects located in the coastal zone, as defined in the Coastal Zone Management Act of 1972, as amended, consultation with the State agency responsible for administration of the approved program for the management of the coastal zone to review the project for its relationship to and consistency with the Coastal Zone Management Program (see Chapter 5, General Condition B.6.).

3) Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, consultation with the appropriate State, multi-state, area-wide, or local agencies that are authorized to develop and enforce environmental standards to give the agencies an opportunity to review and comment on the environmental significance and impact of the proposed projects for which Federal assistance is sought (see Chapter 11).

4) Consultation with public agencies charged with enforcing or furthering the objectives of State and local civil rights laws to provide such agencies an opportunity to review and comment on the civil rights aspects of the project for which Federal assistance is sought (see Chapter 10, Section C.3.b).

5) The appropriate amount of time for review is included.

b. Assurance from a State to OMB that local elected officials were consulted during the adoption of the State process.

c. Notification to NPS of the programs the State wants to cover under its process.

d. A requirement that area-wide entities are notified of a proposed action concerning a program or activity which has been selected for the State process.

4. Notice for Selected Program and Activities. State Historic Preservation Officers shall develop and maintain a cooperative relationship with the Single Point of Contact so that the review and comment process is timely and appropriately conducted.

   a. Rather than publicizing in the Federal Register, NPS requires that State Historic Preservation Officers submit applications for review and comment to the Single Point of Contact. The Single Point of Contact transmits to NPS comments from other State agencies, Regional planning commissions/councils of government, local officials, or others. There is no Federal requirement for direct submission to any entity other than the Single Point of Contact.

   b. The State, through the State process, is responsible for notifying area-wide and regional agencies, and local governments. NPS may also notify the affected sub-State organizations, but it need not do so.

   c. Comment period. HPF grant applications and State plans (if their submission to the Single Point of Contact is required by State procedures) may be submitted concurrently to the State Single Point of Contact and to NPS. NPS will allow State and local officials at least 30 days to review and comment on the multi-purpose grant applications for the annual award of funds because these applications are considered noncompetitive grants. The shorter period, 30 days rather than 60 days, is permissible because controversy is unlikely for these actions. If additional review time is needed to review noncompetitive grants or State-selected subgrants not identified in the annual grant application, the State Single Point of Contact should notify NPS.

5. Notice for Programs and Activities not Selected. If a State has not adopted a review process under Executive Order 12372, or the HPF assistance activity has not been selected by the State for its process, the Secretary's Apportionment Certificate, transmitted to the Governor, serves to notify directly affected States, regional agencies, and local governments of proposed HPF grant actions. For those States, it is expected that the State Historic Preservation Officer shall provide supplemental notice to directly affected States, area-wide agencies, regional agencies, and local governments of proposed HPF actions. Such notices shall include a description of the proposed grant, where comments may be forwarded, and the deadline for comment. The review and comment period under these circumstances need not be the same as the review period afforded selected programs and activities in participating States (30 to 60 days), but should be as close to the same time period as is feasible. When NPS fails to accommodate comments on non-selected programs or from non-participating States, there is no requirement to provide the States with an advance notice prior to taking action on a proposal.

6. Review and Comment.

   a. State and local officials may send their comments on proposed HPF grant actions to the Single Point of Contact for use in forming a State process recommendation, or directly to NPS, or to both. NPS is only obligated to accommodate and explain actions taken on recommendations forwarded by the Single Point of Contact, including comments from local officials. However, NPS will take into consideration comments received from others.

   b. In accordance with 43 CFR 9.9(c), State, area-wide, regional, and local officials and entities may submit comments either to the applicant or to NPS if a State has not established a process, or is unable to submit a consensus or State process recommendation. Before acceptance of such comments, NPS procedures require verification that a State has no process or that notification was given that a State process recommendation or consensus recommendation would not be submitted.

   c. Under 43 CFR 9.9(d), State, area-wide, regional and local officials and entities may also submit comments either to the applicant or to NPS for a program or activity that was not selected for a State process. Before acceptance of such comments, NPS shall require verification that the program or activity has not been selected for the State's process.

   d. The Single Point of Contact has the option to transmit a State process recommendation to NPS. If a recommendation is transmitted, the Single Point of Contact must forward all comments from State, area-wide, regional, and local officials and entities that differ. Comments that agree with the Single Point of Contact recommendation need not be forwarded.

   e. The State Single Point of Contact is not obligated to transmit comments from State, area-wide, regional, or local officials and entities when there is no State process recommendation.

   f. If a State process recommendation is not transmitted, the Single Point of Contact may take one of several actions: (1) forward the comments to NPS, (2) return them to the commenting parties, (3) send them to the applicant, or (4) dispose of them.

7. The State Process Recommendation.

   a. A State process recommendation is developed by the commenting State and local officials participating in the State process. The recommendation can represent a consensus of all the commenting parties, or it can represent one of various differing views among the parties. Further, the recommendation can be formed even though all directly affected levels of government did not comment on the proposed action. A State need not be a party to a State process recommendation.

   b. A State process recommendation can also be developed on a proposed action when the program or activity was not selected for coverage under the State process. State, area-wide, regional, and local officials and entities may submit comments either to the applicant or to NPS.

   c. Similarly, if a Single Point of Contact is unable to submit a State recommendation, State, area-wide, regional, and local officials and entities may submit comments to the applicant or to NPS.

d. In all instances, the State process recommendation must be transmitted by the Single Point of Contact to ensure NPS responsiveness.

e. While a State process recommendation could potentially be prepared on each proposed HPF action, it is expected that State and local officials will focus on those actions which have the greatest interest or concern. This emphasis on priority matters will help raise the importance of recommendations received by NPS and will commensurately reduce the paperwork at all levels of government.

D. Federal Receipt of and Response to State Process Recommendations.

1. Comments. All views and comments received on a proposed action prior to reaching a final decision will be considered by NPS. As detailed in Section C, above, these comments may be provided by the Single Point of Contact, by an applicant (the SHPO), or directly to NPS by any of the commenting parties.

2. NPS Response to State Process Recommendation.

a. When a State process recommendation is transmitted to NPS through the Single Point of Contact, the NPS grant awarding official (the Intergovernmental Review Coordinator) can: (1) accept the recommendation; (2) reach a mutually agreeable solution in the form of a compromise or alternative with the State Process; or (3) provide the Single Point of Contact with a written explanation of the decision not to accept the recommendation or not to reach an agreed upon compromise or alternative.

b. The Intergovernmental Review Coordinator may supplement the written explanation to the Single Point of Contact by telephone or other means.

c. If the State Process recommendation is not accommodated (under Section D.2.a., above), the Intergovernmental Review Coordinator informs the Single Point of Contact that: (1) NPS will not implement its decision for at least 10 working days after the Single Point of Contact receives the explanation; or (2) the Intergovernmental Review Coordinator has reviewed the decision and determined that, because of unusual circumstances, the waiting period of at least 10 days is not feasible.

d. For purposes of computing the waiting period under Section D.2.c., above, a Single Point of Contact is presumed to have received written notification 5 calendar days after the date of mailing of the notification.

e. A copy of each written explanation of a nonaccommodation made shall be forwarded to the NPS Intergovernmental Review Coordinator, and to the Department's Office of Acquisition and Property Management at the time it is sent to the Single Point of Contact. The Office of Acquisition and Property Management shall maintain a central file of all nonaccommodations.

Chapter 5 - General Conditions Governing Grants

A. Purpose.
This Chapter summarizes the provisions of the Federal administrative and legal requirements which apply to all Historic Preservation Fund grant awards.

1. Applicability. Federal assistance awarded under the Historic Preservation Fund grant program is subject to the provisions of the National Historic Preservation Act, other Federal laws affecting grant programs, Government-wide administrative requirements and cost principles, National Park Service regulations and directives, the general conditions listed below, and amplified throughout this Manual, and special conditions affixed to grant awards.

   The principal Government-wide administrative requirements applicable to grants to States are OMB Circular A-87, "Cost Principles applicable to Grants and Contracts with State and Local Governments" (incorporated in Chapters 12 and 13), and A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." The administrative requirements of Circular A-102 are incorporated in 43 CFR 12 and throughout this Manual.

   For grants to the National Trust for Historic Preservation, comparable Governmentwide requirements are OMB Circulars A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations," and A-122, "Cost Principles for Nonprofit Organizations" (as codified in 43 CFR 12.900).

2. Policy Intent. OMB Circulars stipulate that if the enabling legislation for a specific grant program prescribes policies or requirements that differ from the standards provided in the Circular, the provisions of the enabling legislation shall govern. Except where they are specifically excluded by Federal legislation, the provisions of Circular A-102 as implemented through 43 CFR 12 shall be applied to subgrantees or other third parties performing substantive work under grants that are passed through or awarded by the grantee if the subgrantees are States, local governments or federally recognized Indian tribal governments. The provisions of Circular A-110 shall be applied to subgrantees that are institutions of higher education and public or private nonprofit corporations. However, the HPF program-specific costs included in Chapter 13 shall be considered binding in addition to the general costs specified in the applicable cost principles as allowable, unallowable, or allowable with NPS approval. The submission of any grant application for HPF assistance will be deemed by NPS to be the grantee's acceptance of the provisions of these Circulars and of the general conditions listed in Section B, below.

   In addition, the grantee agrees, as a recipient of this assistance, that it will meet the following specific requirements and that it will further impose these requirements, and the terms of the grant agreement, upon any subgrantee to which funds are transferred pursuant to the grant agreement. The grantee also agrees that it shall be responsible for compliance with the terms of the grant agreement by its subgrantees, including local governments, private organizations, or individuals; and that failure by such government, private agency or individual to so comply shall be deemed a failure by the grantee to comply with the terms of the grant agreement.

3. Exceptions. The grantee is expected to inform NPS promptly if it has reason to believe it has failed to receive any NPS directives or any attachments to the grant awards. Several of these provisions do not represent invariable policies of NPS, and grantees may request exceptions when compliance would cause unnecessary difficulties in carrying out the approved program. However, requirements found in NPS-imposed grant conditions or directives may be waived only by a written notification signed by the NPS grant awarding official. Any such waiver must be explicit. No waiver may be inferred from the fact that the grant agreement is responsive to a grant application which may have contained material inconsistent with one or more of these conditions.

4. Compliance. The States and National Trust for Historic Preservation, as grantees, are responsible for administering and monitoring their own HPF-assisted activities as well as activities performed under their subgrants and contractual agreements, including those of Certified Local Governments, to ensure performance under the provisions of this Manual. HPF grant funds shall not be paid for any work or activity that does not conform to the terms and conditions of the NPS Grant Agreement, including the appropriate Secretary's Standards and the approved plans and specifications or other specified scope of work. This prohibition also applies to costs of goods and services claimed as matching share. Failure by any third party to comply with grant requirements shall be deemed a failure by the grantee to comply with the conditions of grant assistance, and such grant funds are subject to recovery. While the contractual agreement between the grantee and any third party should include enforceable provisions allowing the grantee to recover such misapplied funds as may have been disbursed, the grantee is responsible to NPS for repayment of such misapplied funds. Grantees may, with NPS approval of an appropriate amendment request, reprogram and expend such funds for other eligible program purposes if the 24-month term of appropriation availability has not expired.

5. Consequences of Noncompliance with Grant Conditions. In addition to such other remedies as may be provided by law, in the event of noncompliance with any grant conditions, a) a grant may be terminated or annulled pursuant to 43 CFR 12.83 for States, or to 43 CFR 12.962, for the National Trust; b) grant-assisted work may be suspended; c) payment otherwise due to the grantee may be withheld; d) an injunction may be entered or other equitable relief afforded on behalf of the United States by a court of appropriate jurisdiction; or e) such other administrative or judicial action may be instituted as may be legally available and appropriate. See Chapter 22.

6. Certification. A grantee may be prosecuted under Federal or State statutes for any false statement, misrepresentation, or concealment made as part of a grant application or any grant-related certification required by NPS. The penalty for false certification is prescribed in 18 U.S.C. 1001.

B. General Conditions.

1. Allowable Costs. Expenditures of the grantee may be charged to this grant only if they: a) are in payment of an obligation incurred during the grant period, b) are necessary to the accomplishment of approved grant objectives, and c) conform to appropriate Federal cost principles (see Chapter 12; also see Chapter 13 which details allowable costs).

2. Audit. Each State will execute audits of grant expenditure records in accordance with the single audit requirements of OMB Circular A-133 and 43 CFR 12.56, and Chapter 23 of this Manual. Noncompliance may result in withholding of payments or other appropriate sanctions. Similar audit provisions expressed in OMB Circular A-133 apply to the National Trust.

3. Buy American Requirements. Congress believes that grant recipients should, in expending Federal grant assistance, purchase only American-made equipment and products. The purchase of supplies, equipment, and construction materials with HPF grant assistance must comply, to the greatest extent practicable, with the requirements of 43 CFR 12, Subpart E (43 CFR 12.700-12.830). The grantee's designated awarding official is responsible for determining whether items are available from domestic sources and that costs would be reasonable. When the State uses the exceptions specified in 43 CFR 12.710(d) and (e), and 43 CFR 12.715, it must document the situation in its files, but does not have to obtain approval for an exception from NPS.

4. Civil Rights and Equal Opportunity. NPS grant-assisted programs and projects must be administered in conformance with the Civil Rights Act of 1964, as amended, (42 U.S.C. 2000d-1); 43 CFR 17, issued by the Department of the Interior; and Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), which prohibits discrimination against the disabled. Title VI of the Civil Rights Act of 1964 states that no person will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

   Department guidelines for Title VI compliance responsibility for grants and contracts are detailed in Chapter 10. Every grantee is required to submit the SF 424B and/or SF 424D Assurances (see Chapter 7, Exhibit 7-C) with its annual grant application. No grant awards may be made without an Assurance of Compliance on file. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance, this assurance will obligate the grantee, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended (i.e., the period of the preservation agreement or covenant). See also Discrimination in Employment Prohibited, Section B.13, below.

   Equal Opportunity Requirements. All activities assisted under the HPF grant program, whether operated by the grantee or any of its subgrantees, or contractors are subject to the provisions below (also see Chapter 10).

   a. Title VI of the Civil Rights Act of 1964, 78 Stat. 241, as amended, which provides that no person on the grounds of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

   b. Real property acquired or developed with HPF assistance shall be accessible to all persons, regardless of race, color, religion, sex, or national origin, who are otherwise eligible. Discrimination on the basis of residence, including preferential reservation or membership systems, is prohibited, except to the extent that reasonable differences in admission or other fees may be maintained on the basis of residence.

   c. All grant-assisted program literature must include the nondiscrimination statement prescribed in Chapter 10, Section C.5.b.

5. Coastal Barrier Islands. The Coastal Barrier Resources Act (16 U.S.C. 3501) prohibits any form of direct or indirect Federal assistance for projects located on a coastal barrier island. HPF grant assistance for construction (including predevelopment work) or acquisition purposes is prohibited on any coastal barrier island under the Coastal Barrier Resources Act. Flood insurance for new construction or for substantial improvements in coastal barrier islands is prohibited. See 47 Federal Register 52388 for further information, including availability of maps identifying the Coastal Barrier Resource System, which applies to Atlantic and Gulf Coast States. Note that the Secretary of the Interior approved a general exclusion for HPF-assisted nonconstruction activities from being subject to the funding restriction of the Coastal Barriers Act. This exclusion, dated March 24, 1983, was made on the basis of Section 6, Part (6)(D) of that Act (see 16 U.S.C. 3605). The authority to review and approve requests for exceptions under Section 6 for each proposed grant-assisted activity has been delegated to the Assistant Regional Directors for Fish and Wildlife Enhancement of the U.S. Fish and Wildlife Service.

6. Coastal Zone Management. The Coastal Zone Management Act of 1972, as amended, (16 U.S.C. 1451) prohibits Federal financial assistance to State or local governments which is inconsistent with the requirements of an approved coastal zone management plan. Grantees of coastal States (including Great Lake States) submitting HPF grant applications must certify consistency with the appropriate State Coastal Zone Management Plan when proposed work is in a designated coastal zone (also see Chapter 4, Section C.3.a.2). Further information may be obtained from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 1305 East-West Highway, Silver Spring, Maryland 20910. Telephone: 301-713-3102. (Also see 15 CFR 930.)

7. Conflict of Interest. See Chapter 3, Section C.

8. Contingent Fees. No person, agency, or other organization may be employed or retained to solicit or secure a grant or contract upon agreement or understanding for commission, percentage, brokerage, or contingent fee. For breach or violation of this prohibition the Federal Government shall have the right to annul the grant without liability or, at its discretion, to deduct from the grant or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee, or to seek such other remedies as may be legally available.

9. Convict Labor. In accordance with Executive Order 11755, as amended by Executive Order 121608, no person undergoing a sentence of imprisonment at hard labor shall be employed on any HPF-assisted grant work. However, voluntary paid labor performed by prisoners who are on work-release, parole, or probation does not fall under this prohibition. If the Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Order 12608, then grantees and their contractors are not restricted from employing prison labor as long as any exploitation of convict labor or any unfair competition between convict labor and free labor in the production of goods or services is avoided.

10. Covenant or Letter of Agreement Requirements. Grantees are responsible for ensuring that covenants and preservation agreements are executed prior to disbursement of funds to subgrantees for Acquisition or Development projects. Covenants and preservation agreements must be written in such a manner that they will be legally enforceable by the grantee (see Chapter 6, Section M).

11. Disclosure of Information. Financial records, supporting documents, statistical records, and all other records pertinent to a grant provided by NPS are subject to disclosure under the Freedom of Information Act, 5 U.S.C. 552 (see Chapter 3, Section D.3.), as limited by Section 304 of the National Historic Preservation Act.

12. Disability Nondiscrimination Requirements.

    a. Nondiscrimination on the Basis of Disability. Section 504 of the Rehabilitation Act of 1973 as amended, (29 U.S.C. 794 et seq.) requires that no qualified disabled individual is solely, by reason of disability, excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance. HPF grantees must operate their HPF-assisted program so that the program, when viewed in its entirety, is readily accessible to and usable by qualified disabled persons. However, this requirement for program accessibility does not necessarily require a grantee or subgrantee to make each of its existing historic properties or every part of a particular historic property accessible to and usable by qualified disabled persons. Methods of achieving program accessibility for the HPF grant program are listed in 43 CFR 17.260, as well as a waiver procedure. In addition, no qualified disabled person shall, on the basis of disability, be subjected to discrimination in employment under the HPF program. For definitions and further guidance, see 43 CFR 17.200 et seq. (Also see Chapter 10.)

    b. Physical Accessibility for the Disabled. The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 et seq.), and Section 502 of the Rehabilitation Act of 1973 as amended, (29 U.S.C. 792), require that buildings designed, constructed, or altered with Federal assistance be made accessible to the physically disabled. These Acts also require that public conveyances, including rolling stock, procured with the assistance of Federal funds be readily accessible to, and usable by, physically disabled persons. While these provisions are usually not applicable to private residences, all buildings or facilities owned or occupied by SHPO offices, which are intended to be accessible to the general public, and which receive HPF grant assistance must comply with the Architectural Barriers Act and the standards issued pursuant to that Act. (Refer to 36 CFR 1150 and 36 CFR 1190, and see Chapter 10, Section C.8-10.)

       Minimum standards for public facilities are contained in "Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Disabled" published by the American National Standards Institute (see Appendix A to 41 CFR 101-19.6). Alternatively, State and local governments may choose to follow the standards contained in Appendix A to 28 CFR 36 (the Americans with Disabilities Act Accessibility Guidelines). These minimum standards must be included in the specifications for any HPF-funded construction grant to the maximum extent possible (consistent with the Secretary's Standards for the Treatment of Historic Properties). The grantee is responsible for conducting on-site inspections to ensure compliance with these specifications by any contractor performing construction work under the grant, and must address compliance with these standards (when applicable) in the completion report submitted to NPS.

13. Discrimination in Employment Prohibited. In all hiring or employment made possible by or resulting from grant awards, each employer a) will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin, and b) will take affirmative

action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. This requirement applies to, but is not limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. (See Chapter 10.)

The grantee and its subgrantees will comply with all applicable statutes and Executive Orders on equal employment opportunity, and grant awards will be governed by the provisions of all such statutes and Executive Orders, including enforcement provisions, as implemented by, but not limited to, Department of the Interior Policies, published in 43 CFR 17. (Also see Chapter 18.)

14. Dual Compensation. If an HPF grantee or subgrantee staff member or consultant is involved simultaneously in two or more projects supported by any Federal funds, and compensation on either project is based upon percentage of time spent, he or she may not be compensated for more than 100 percent of his/her time from any Federal funds during any part of the period of dual involvement.

15. Energy Conservation. Grantees must promote and achieve energy conservation in their HPF grant operations. Grantees must utilize to the maximum extent practicable the most energy-efficient equipment, materials, and construction and operating procedures available.

16. Environmental Impact. The National Environmental Policy Act of 1969, Public Law 91-190, as amended, 42 U.S.C. 4321 et seq., established national policy goals and objectives for protecting and enhancing the environment. The provisions of this law are applicable to activities supported in whole or in part through HPF grants (refer to 40 CFR 6 and Chapter 11).

17. Examination of Records. The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of financial or programmatic audit and examination to any books, documents, papers, and records of the grantee that are pertinent to the grant at all reasonable times during the period of retention provided for in 43 CFR 12.82, or until all claims or audit findings have been resolved. OMB Circular A-110, as codified in 43 CFR 12.953, applies to the National Trust. (See Chapter 24)

18. Flood Insurance. The purchase of Flood Insurance required by Section 102(a) of the Flood Disaster Protection Act of 1973 (28 U.S.C. 1400), as amended by the National Flood Insurance Reform Act of 1994, is applicable to acquisition or development projects. The amount of insurance required is the total cost of the insurable improvement (excluding uninsurable facilities, such as bridges, dams, underground structures, and excluding the cost of the land), or the maximum limit of coverage made available under the National Flood Insurance Act, whichever is less. The required insurance premium during the grant period is an allowable cost. The term of the insurance coverage will be for the length of the economic or useful life of the property as defined, for the purposes of the HPF program, by the term of the maintenance and administration covenant requirements. Whenever flood insurance is available to cover a facility during construction the participant will obtain such coverage as soon as the facility becomes insurable. Coverage is usually available as soon as construction progresses beyond the excavation phase. Where a project includes an insurable improvement only as a small and incidental portion of the total project, flood insurance is not required if the value of the insurable improvement is less than $10,000. An example would be a combination project of which the total project cost of $100,000 includes only $5,000 for insurable improvements. Flood insurance is not

required on any State-owned property that is covered under an adequate State policy of self-insurance satisfactory to the Federal Emergency Management Agency. The States currently approved for self-insurance on State-owned properties are listed in 44 CFR 75.14.

Information concerning the applicability of this law to specific projects is obtainable from the Federal Emergency Management Agency, Federal Insurance Administration, Office of Flood Insurance, 500 C Street, S.W., Washington, D.C. 20472 (telephone 1-800-638-6620). Refer to program guidelines in 44 CFR 59 et seq.

19. Floodplain Management. The grantee will comply with the provisions of Executive Order 11988, relating to evaluation of flood hazards; Executive Order 11288, relating to the prevention, control, and abatement of water pollution; and Executive Order 11990 relating to protection of wetlands (see Chapter 11).

20. Lead-Based Paint. Section 401 of the Lead-Based Paint Poisoning Prevention Act as amended, (48 U.S.C. 4801 *et seq*.) prohibits the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance. Grantees shall include provisions in all contracts and subgrant agreements for construction work prohibiting the use of lead-based paint. Such paint is defined in 24 CFR 35.63 as "any paint containing more than six one-hundredths of one percent lead by weight in the total nonvolatile content of the paint or the equivalent measure of lead in the dried film of paint already applied."

21. Lobbying with Appropriated Funds. Historic Preservation Fund grants must conform to provisions of 18 U.S.C. 1913: "No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or its Departments or agencies from communicating to Members of Congress at the request of any Member, or to Congress through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business." Thus, costs associated with activities to influence legislation pending before the Congress, commonly referred to as "lobbying," are unallowable as charges to HPF-assisted grants, either on a direct or indirect cost basis. For nonprofit organizations, see Chapter 13, item D.25.

    The cost of membership in the National Conference of State Historic Preservation Officers (NCSHPO) is an allowable cost (see Chapter 13, Section B.30).

22. Political Activities. No expenditure of grant funds may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidate's meeting(s), engaging in voter registration activity or voter transportation activity, or other partisan political activities. No officer or employee of the State whose principal employment is in connection with any activity which is financed in whole or in part with grant assistance shall take part in any of the political activity proscribed in the Hatch Political Activity Act, 5 U.S.C. 1501, et seq., as amended, with its stated exceptions.

23. Religious Institutions. Direct financial assistance for construction work on a church-owned property is not allowable, nor are acquisition costs. For eligible grant-assisted activities such as National Register nominations or architectural advice to religious institutions, see Chapter 6, Section E.3.

24. Relocation Assistance. Grantees must comply with the requirements of Title II and Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (42 U.S.C. 4601 et. seq.) which provide for fair and equitable treatment of persons displaced as a result of Federal and federally assisted programs (see Chapter 20 of this Manual).

25. Safety Precautions. NPS assumes no responsibility with respect to accidents, illnesses, or claims arising out of any work performed under a grant-supported project. The grantee is expected to take necessary steps to insure itself and its personnel and to comply with the applicable local, State, or Federal safety standards, including those issued pursuant to the National Occupational Safety and Health Act of 1970 (see 20 CFR 1910).

26. Section 106 of the National Historic Preservation Act Requirements. Grantees will cooperate with NPS and the Advisory Council on Historic Preservation to carry out provisions of Section 106 of the Act and 36 CFR 800.

27. Special Conditions. The terms of the grant award may include standard and special provisions, appearing on each Grant Agreement, that are considered necessary to obtain the objectives of the grant, facilitate post-award administration of the grant, conserve grant funds, or otherwise protect the interest of the Federal Government. Grantee noncompliance may cause disallowance of incurred costs.

28. Timeliness of Project Work. Costs may not be incurred beyond the end date specified in the HPF grant agreement approved by NPS. Once HPF funds are disbursed for a project, grantees will complete the project according to the proposed scope of work, unless a scope of work amendment is approved, in writing, by the NPS grant awarding official. (See 43 CFR 12.70(d) for States and 43 CFR 12.928 for the National Trust.)

Chapter 6 - Grant-Assisted Program Activities

A. Purpose.
This Chapter describes program activities eligible for Historic Preservation Fund (HPF) grant assistance to States, organized by " Program Areas," in accordance with the State Historic Preservation Officer's (SHPO) responsibilities specified in Section 101(b)(3) of the National Historic Preservation Act, as amended. The Program Areas are: 1) Administration; 2) Historic Preservation Planning; 3) Survey and Inventory; 4) National Register; 5) Development, Acquisition, and Covenants; 6) Preservation Tax Incentives; 7) Review and Compliance; 8) Local Government Certification; and 9) Other Program Activities. Functional categories of assistance to the National Trust are described in Section R of this Chapter. Chapter 6 should be used in conjunction with Chapter 7 which relates the Program Areas to the annual grant application.

Sections F. through Q., below, describe for each Program Area: overall objectives, minimum requirements, activities eligible for HPF grant assistance, and activities not eligible for HPF grant assistance. These sections are to be read in conjunction with Sections C, D, and E, below. Section C describes general minimum requirements for grant-assisted activity. Section D describes eligible grant-assisted activities. Section E describes activities that are not eligible for HPF grant assistance. In addition, refer to the Secretary of the Interior's "Standards for Archeology and Historic Preservation"; allowable costs (see Chapter 13); matching share requirements (see Chapter 14); amendment requirements and procedures (see Chapter 15), and reporting requirements (see Chapter 25). Refer to the Glossary for definition of terms.

B. Applicability.
An activity is either eligible or not eligible for HPF grant assistance regardless of whether it is conducted by personnel under the supervision of the State Historic Preservation Officer, or delegated by contract, subgrant, or cooperative agreement to other State agencies, local governments, public or private organizations, or individuals.

C. General Requirements for Grant-Assisted Activity.
This section details requirements that must be met by HPF grant-assisted State programs. This section in conjunction with Sections F through Q contains the requirements for each Program Area.

1. Activities Directly Related to the Identification, Evaluation, Registration, Treatment and Protection of Resources.
As a general rule, eligible HPF-assisted State activities must directly relate to the identification, evaluation, or protection of historic and archeological resources. More specifically, eligible activities must help achieve the responsibilities of the State Historic Preservation Officer described in the Act (see Chapter 3) and defined in this Chapter.

2. Cost Principles and Allowable Costs.
Eligible activities must be allowable in accordance with applicable Cost Principles (Chapter 12) and Standards for Allowability of Costs (Chapter 13). Activities that are otherwise eligible must be conducted in accordance with Federal fiscal, program, and project standards stipulated in the Historic Preservation Fund Grants Manual and the grant agreement in order to remain allowable.

3. Qualified Staff.
   The State Historic Preservation Office must maintain a staff that meets the pertinent professional qualification requirements described in 36 CFR 61. See Chapter 3, Section B.3.

4. Activities Performed or Reviewed by Qualified Staff.
   Identification, evaluation, and treatment activities supported by HPF or matching funds must be conducted, or supervised, or reviewed by an appropriately qualified professional.

   "Appropriately qualified professional" refers to the historic preservation professional who meets the Secretary's " Professional Qualification Standards" for the relevant discipline. States may meet this requirement in one of two ways:

   a. those staff members (or subgrantees) conducting or reviewing the work and making final recommendations meet the professional qualification standards, or,

   b. a staff member meeting the professional qualification standards for the appropriate discipline reviews the recommendations of the staff reviewer of record and certifies the recommendation.

      When the work affects more than one type of resource, separate reviews by appropriately qualified staff members are required and must be separately documented (e.g., an archeologist must review work involving archeological resources).

      Note: Other professionals with preservation expertise not possessed by staff may also be needed to successfully review, evaluate, conduct, or supervise planned work (for example, seismic retrofitting would logically require consulting a structural engineer).

5. Secretary of the Interior's "Standards" Applied.
   As a general rule, work supported by HPF or matching share, or reported in the End-of-Year Report must meet the Secretary's "Standards." These include: 1) Standards and Guidelines for Preservation Planning, 2) Standards and Guidelines for Identification, 3) Standards and Guidelines for Evaluation, 4) Standards and Guidelines for Registration, 5) Standards and Guidelines for Historical Documentation, 6) Standards and Guidelines for Architectural and Engineering Documentation, 7) Standards and Guidelines for Archeological Documentation, 8) Standards for the Treatment of Historic Properties, 9) Standards and Guidelines for the Rehabilitation of Historic Buildings, and 10) Historic Preservation Professional Qualification Standards. See the Appendices.

   States must document that grant-assisted work meets the Secretary's "Standards" and other Historic Preservation Fund Grants Manual requirements. Adequate documentation for this requirement is an official written record verifying who on the staff conducted the review, and/or wrote the opinion or recommendation; what the final opinion or recommendation was; and the date of the review, opinion, and/or recommendation. When an opinion pertains to more than one type of resource, and if staff members meeting the professional qualifications in different disciplines review the eligibility of the resource, each review must be documented. When individual reviewer opinions differ, the final decision must be clearly apparent. State offices may include this information in the appropriate project files or maintain a central file or logging system which references the project file. This documentation may take the form of written notes, use of a pre-printed stamp or review sheet, memoranda to files, or copies of letters.

6. National Register Criteria Applied.
National Register Criteria for Evaluation must be applied consistently. See Section I (National Register Program Area), Section O (Review and Compliance Program Area), and Section N (Preservation Tax Incentives Program Area) for specific details of applicability. See *National Register Bulletin 15*, "Guidelines for Applying the National Register Criteria for Evaluation." For further guidance in assessing the eligibility of less than 50-year-old properties, see *National Register Bulletin 22*, "Guidelines for Evaluating and Nominating Properties That Have Achieved Significance Within the Last Fifty Years." See *National Register Bulletin 16* for a general discussion of historic contexts, and other Bulletins such as 13, 18, and 32 for information about contexts related to particular property types or National Register Criteria.

   a. The Eligibility Review Must Be Adequately Documented. See Section C.5 above.

      It must be clear from the file what the State's opinion/recommendation was. States must make one of the following determinations for each resource, in response to Federal agency requests for opinions on National Register Eligibility:

      1) The property (or properties) meets one or more National Register Criteria for Evaluation; or

      2) The property (or properties) meets none of the National Register Criteria for Evaluation; or,

      3) There is not enough information on which to base an opinion on whether or not the property (or properties) meets any of the National Register Criteria for Evaluation.

   b. Opinions Must Be Based On Minimum Documentation. States shall ensure that at least the minimum level of documentation listed below is the basis for all responses to Federal agency requests (i.e., opinions that the property is eligible, that it is not eligible, or that there is not sufficient information to determine National Register eligibility). The necessary amount of documentation for an evaluation will vary depending upon the situation. At a minimum, however, each decision must be based on:

      1) A pictorial or written description sufficient to convey accurately the current appearance and condition of the property, in order to permit an assessment of integrity to be made; and

      2) A statement of significance or non-significance with sufficient historic context to make an evaluation of National Register eligibility.

         If there is not enough information to determine a property's National Register eligibility, the file documentation should explain what is missing that prevents the evaluation of National Register eligibility. State files must include (or cross reference) the information that was the basis for the evaluation.

7. Technical Assistance.
It is a requirement under the Act that each State provide technical assistance. The amount of technical assistance provided and in what Program Area(s) is left up to the State. Each State office should make its best efforts at providing technical assistance to the public given its available resources. See Section D.1., below, for a brief discussion of eligible technical assistance activities.

8. Public Participation.
   It is a requirement under the Act that each State involve the public in its preservation program. The amount of public participation involved is left up to the State, as long as NPS program requirements are met (see Sections G and I, below). Each State office should make its best efforts to involve the public in all aspects of its preservation program given its available resources. See Section D.2., below, for a brief discussion of eligible public participation activities.

9. Public Education.
   It is a requirement under the Act that each State provide public education. The amount of public education provided and in what Program Area(s) is left up to the State. Each State office should make its best efforts to provide public education given its available resources. See Section D.3., below, for a brief discussion of eligible public education activities.

10. Section 106.
    All grant-assisted historic preservation projects must be carried out in accordance with the Programmatic Agreement between the Advisory Council on Historic Preservation and the National Park Service to ensure each State's compliance with Section 106 of the National Historic Preservation Act, and with the applicable Secretary of the Interior's Standards.

D. Eligible Grant-Assisted Activities.
   This section describes activities which may be accomplished with HPF grant assistance.

1. Technical Assistance.
   Technical assistance is an eligible activity for any Program Area. See Section C.7., above. Technical assistance means the development of skills or the provision of knowledge of the background, meaning, operation, or implications of some aspect of historic preservation. This includes the SHPO staff providing assistance to anyone who is not a part of the SHPO staff; such as, subgrantees, CLGs and other 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. For example, mailings of brochures, forms, or publications would not count as technical assistance, because they do not ensure that recipients have an understanding of what was sent out. On the other hand, answering an inquiry on how to fill out a survey form or a 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.

2. Public Participation.
   Public participation is an eligible activity in any Program Area. See Section C.8., above. Public participation includes, but is not limited to: (1) encouragement of broad participation in the State's implementation of the Act, (2) public participation in the grantee's open project selection process, and (3) organizing and participating in public meetings or workshops on developing the State Plan. (See Chapter 8, Section C, and Chapter 13, Section B.36.)

3. Public Education.
   Public education is an eligible activity in any Program Area. See Section C.9., above. Public education includes, but is not limited to: (1) activities to increase overall public awareness of technical preservation methods and techniques having application to historic and archeological properties, (2) dissemination of information to promote working relationships with the public and

private sectors to achieve HPF grant objectives, (3) explanation of historic preservation planning and/or the goals of the State Plan to State and local governments and to public or private audiences throughout the State; and (4) dissemination of the results of grant-funded work, including explanation of accomplishments, problems, and issues directly related to grant-assisted activities to the State preservation constituency. In addition, refer to Chapter 13, items B.36, B.37, and B.49 for applicable allowable costs.

4. HABS/HAER Documentation Programs.
See Glossary for definition. See also the documentation standards in the Secretary of Interior's "Standards for Archeology and Historic Preservation," in the Appendices. Grantees may provide HPF assistance for conducting historical research and developing documentation for the HABS/HAER programs in the same manner as any other subgrant awarded in accordance with the grantees' annual grant for Federal Assistance. Grantees may also enter into agreements for HABS/HAER projects, but, as with any subgrant, grantees must ensure that costs charged to the project are eligible for payment. (Some ineligible costs are listed in Section E below.) The model Memorandum of Agreement in Exhibit 6-D may be used as a framework. Article V provides for documentation that will allow the grantee to assess whether claimed costs are eligible for payment. The Memorandum of Agreement does not substitute for the Project Notification or any other requirements involving grant funds to third parties. The asterisked items in Exhibit 6-D must be used in all MOAs. See Exhibit 6-C for Historic Structure and Historic Landscape Report Format. Most often HABS/HAER documentation will occur in the Survey, Development, or National Register Program Areas.

   The standards for HABS/HAER documentation appear in the Secretary of the Interior's “Standards and Guidelines for Archeology and Historic Preservation.” Additional guidelines for documentation can be found in "Guidelines for Inventories of Historic Buildings and Engineering and Industrial Structures," "Photograph Specifications for Contract Photographers," "Field Instructions," Field Instructions for Measured Drawings," and the "Historian's Procedural Manual," all available from the HABS/HAER Division in Washington, D.C.

5. Joint Projects with Other State.
Joint projects with other States are eligible for grant assistance if they meet all of the requirements for grants in the Historic Preservation Fund Grants Manual.

6. Nonconstruction Grant Assistance to Churches and Church-owned Property.
Non-monetary, technical, or nonconstruction assistance to a church that is carried out in the same manner as it would be for a secular property is allowable. See Ineligible Construction Costs on Churches and Church-owned property in Section E.3., below.

7. Certified Local Governments.
See Glossary for definition. Technical and financial assistance to Certified Local Governments (CLGs) to carry out historic preservation activities is an eligible activity in most program areas. The Certified Local Government Program Area is limited to the certification of local governments and CLG quality control; activities performed with CLG subgrants will usually appear in the applicable Program Area (e.g., Survey and Inventory)..

8. Development, Selection, Monitoring, and Administration of Subgrants.
   The development, selection, monitoring, and administration of subgrants are eligible activities in most program areas.

9. Collection and Tracking of Data.
   The collection and tracking of data is an eligible activity in any program area.

10. Feasibility and Other Property-Specific Studies or Reports.
    Feasibility studies and other property-specific reports may be funded only if the property is listed in the National Register, or considered eligible for listing in the National Register. The study or report project must include a significant element that fosters the identification, evaluation, or treatment of National Register properties.

E. Ineligible Grant-Assisted Activities.
This section describes activities which are ineligible for HPF grant assistance.

1. Federal Agency Responsibilities.
   Neither HPF nor matching share shall be used, either through contract, subcontract, or State staff effort, to undertake planning related activities of Federal agencies or their designees, or activities associated with mitigation responsibilities of Federal, State, or local agencies which are the responsibility by law under Section 110(a) of the Act of the Federal agency. See Chapter 13, Section D.14. and D.28.

2. Mitigation Activities.
   Mitigation activities performed as a condition or precondition for obtaining a Federal permit, license, or funding by other Federal programs are not eligible activities. See Chapter 13, Section D.28.

3. Unallowable Grant Assistance to Churches and Church-owned Property.
   Because of the Justice Department's policy concerning the Constitutional issue of separation of Church and State, construction repair costs, or real property acquisition costs are not allowable costs or matching share for HPF grants. Predevelopment costs such as architectural plans and specifications or condition assessments are allowable.

4. Fulfillment of Covenant Requirements.
   Grant funds may not be used for fulfillment of the covenant requirements (maintenance and public access). Responsibility for enforcement of a covenant lies with the grantee as a requirement and condition of having received HPF grant assistance. After completion of the project work and closeout of the grant, the only continuing relationship connected to the grant is the responsibility of covenant enforcement. See Section M, below, for more information on covenants and preservation agreements.

5. Unallowable Costs.
   Activities whose costs are cited as unallowable in Chapters 12 and 13 are ineligible, as are those requiring prior NPS approval if that approval is not secured. See Chapter 13.

6. Reimbursement of Services by Federal Agencies.
   Section 110(g) of the Act authorizes Federal agencies to reimburse SHPOs for their services. If a Federal agency and a SHPO agree that the SHPO will undertake preservation activity on the agency's behalf, such services must be paid for using funds provided by the agency and not HPF funds or

allowable matching share. Federal mitigation money cannot be used to match other Federal money (e.g., HPF funds), but the results may be reported in the Cumulative Products Table. (See Chapter 7, Exhibit 7-E.)

Note: If a contractual arrangement is made between the State and a Federal agency, care must be taken to ensure that no conflict of interest arises (either as an individual or as part of the office) between the persons actually performing the work and the person, persons, or office reviewing and approving it.

7. HABS/HAER Projects.
Costs incurred by Federal officials supervising or otherwise administering an eligible HABS/HAER project (see Section D.4, above) are not allowable for HPF grant assistance. However, salaries and expenses incurred by Federal employees who are considered to be "temporary limited employees" are allowable. See also Chapter 13, Section D.18.

8. Interpretation.
The cost associated with developing or carrying out an interpretive program for a grant-assisted historic property is not an allowable Development cost (but see Public Education, Section D.3, above). This restriction does not include Project Signs, which are required. (See subsection K.2.b.(3), below, and Chapter 13, Section D.24.)

The HPF grant program will not pay for on-going Public Education efforts such as the operation of a house museum. Thus, HPF funds could be used for a development project to rehabilitate a house museum, or for a grant to prepare a videotape to educate the public on the historical or architectural significance of the house museum, but may not be used to pay the utility costs of, or staff costs for, operating the house museum.

9. Curation Beyond Project End Date.
Costs of curation after the end date of the HPF grant which funded the survey work that discovered the artifacts is not an allowable HPF grant cost. See Chapter 13, Section D.11.

10. Property-Specific Studies and Reports.
Feasibility studies or other property-specific studies or reports are not eligible for HPF or matching share funding unless the property is National Register listed, National Register eligible (and the requirements of Section K.2.a. are met), or the study or report project includes a significant element fostering the identification, evaluation, or treatment of National Register eligible properties elsewhere.

F. Administration Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Administration Program Area.

The Administration Program Area contains activities pertinent to budget formulation and execution, personnel management, finance, property management, equal opportunity, and other "overhead" functions not directly attributable to the Program Areas described below. Administration costs charged to the HPF grant or nonfederal matching share must be directly related to managing the HPF activities of the SHPO. See Chapter 13 for allowable costs.

2. Requirements. See the General Requirements for Grant-Assisted Activities in Section C, above.

3. Eligible Activities. In addition to the activities discussed in Section D, above, eligible activities for the Administration Program Area include:

   a. Preparation of personnel payroll,

   b. Audits,

   c. Collection, storage, and retrieval of management information when such activities are not part of a specific project, but are a means of central administrative control,

   d. Administrative and support services (parallel to those listed above) not directly related to the functioning of the State Review Board, and

   e. Other eligible services or activities that are required by Federal or State law or regulation which are pertinent to central direction, monitoring, reporting, and management support of the Program Area activities described in this Chapter.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following limitations apply to the Administration Program Area:

   In accordance with Section 102(e) of the Act, HPF funding in this Program Area may not exceed 25% of the annual award. See Chapter 13, Section B.3, for further explanation of this limitation.

G. Historic Preservation Planning Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Historic Preservation Planning Program Area and specifically the Comprehensive Statewide Historic Preservation Plan required by Section 101(b)(3)(c) of the Act.

   Comprehensive Statewide Historic Preservation Planning (hereafter Preservation Planning) is the rational, systematic process by which the State Historic Preservation Office develops a vision and goals for historic preservation throughout the State. The SHPO seeks to achieve that vision through its own actions and through influencing the actions of others. The vision and goals are based on analyses of resource data and user needs.

   The SHPO's statutory planning responsibility entails the organization of preservation activities (identification, evaluation, registration, and treatment of historic properties) into a logical interrelated sequence so that effective and efficient decisions and/or recommendations can be made concerning preservation in the State. The Secretary of the Interior's "Standards for Archeology and Historic Preservation," which include the "Standards for Preservation Planning," (see the Appendices) provide additional explanation on how SHPO responsibilities for Historic Preservation Planning can, in part, be carried out.

   In contrast to the Statewide Historic Preservation Planning activities discussed in this section, SHPO office administrative or management planning is carried out under the Administration Program Area.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activity discussed in Section C, above, the following requirements apply to the Historic Preservation Planning Program Area:

   a. Each SHPO shall develop a Comprehensive Statewide Historic Preservation Planning Process that: (1) meets the circumstances of each State; (2) achieves broad-based public and professional involvement throughout the State; (3) takes into consideration issues affecting the broad spectrum of historic and cultural resources within the State; (4) is based on the analyses of resource data and user needs; (5) encourages the consideration of historic preservation concerns within broader planning environments at the Federal, State, and local levels; and (6) is implemented by SHPO operations.

   b. Each SHPO shall develop and update (as necessary) a written Comprehensive Statewide Historic Preservation Plan (hereafter State Plan) which describes a vision for historic preservation in the State as a whole and outlines future direction for the State Historic Preservation Office.

      The State Plan is used by 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. As such, the State Plan is not an office management plan for the SHPO office. The State Plan provides direction and guidance for general-level decision-making, rather than serving as a detailed blueprint for making place-specific or resource-specific decisions. This level of detail is typically found in other documents, such as historic context documents, research designs, survey reports, etc.

      1) The State Plan shall be a single, concise, printed document. The State Plan may be a component of a larger plan. The length or format of the State Plan is not prescribed. (Note: A "concise" State Plan contains the appropriate level of detail to communicate the major findings and conclusions, but not the raw data or technical analyses that led to those conclusions.) If the State is experiencing financial limitations such that hard copy printing is not feasible, “printing” the State Plan only on the SHPO’s web site is acceptible provided that the following conditions are also met:

         a) The Plan’s availability on the web must be announced and/or advertised widely and provisions made for those without web access to request and receive hard copies of the Plan. This announcement or advertisement should include the web URL for the Plan and contact information for requesting a hard copy. Examples of an announcement might include an advertising card, conspicuous notice in the SHPO’s newsletter, brochure with Plan highlights, or poster with Plan highlights.

         b) It must be easy for the web visitor to find the Plan on the web site, to navigate through it (e.g., no large image files), and to download and print it.

         c) It must be easy for those without web access (as well as the web visitor) to request and receive a hard copy of the State Plan.

2) The State Plan shall be developed in such a way as to encourage Statewide public and professional involvement, and be distributed to a wide range of public, private, and professional organizations and groups throughout the State, as well as to other potential users.

   To be effective and achievable, the State Plan must be developed, implemented, and revised with the active involvement of a wide range of public, private, and professional organizations. It is not sufficient to consult only with preservation professionals and Statewide or local preservation organizations. The State must consult as widely and broadly as necessary to meet this requirement and to encourage broad-based acceptance or familiarity of the State Plan throughout the State, particularly by those groups, constituents, and organizations that have the greatest potential to affect historic and cultural resources.

   A specific list of public and professional groups or organizations is not prescribed; whatever meets this standard and the circumstances of each State's planning environment, as determined by the State, meets the requirements. However, not requiring the involvement of specific public groups does not relieve the SHPO from complying with other Federal and State regulations or requirements for public participation.

   States are encouraged to consider the following groups, but this is not a requirement: preservation professionals and others who have interest or expertise in historic preservation; Federal, State, and local government planners who may be the primary users of the State Plan; elected officials and others whose decisions affect or have the potential to affect historic resources; individuals and groups who may be affected by the planning process and Plan; American Indians, Alaska Natives, and/or Native Hawaiians; Certified Local Governments; minority groups and the disabled; and, others, such as those who play key roles in shaping public opinion.

3) The State Plan shall address, at a general level, the full range of historic resources within the State, including buildings, structures, objects, districts, and sites, including prehistoric archeology and historical archeology.

   Data on historic resources that are used to develop and revise the State Plan are derived from a variety of sources. Specific data sources are not prescribed. At a minimum, however, the SHPO must use historic resource data and information that have been identified and assessed in accordance with the Secretary of the Interior's "Standards for Preservation Planning" in developing and revising the State Plan. The SHPO will determine the balance between different data sources most useful to the unique planning environment in which it must operate.

   The SHPO must continue developing and/or updating historic resource data and information to provide up-to-date information for use during plan development, implementation, and revision.

   A State may have any number of supporting resource-specific plans, such as separate plans for archeology, for historic buildings, for anthropology and ethnographic resources, and for maritime resources. Nonetheless, the State Plan must be a single document that addresses all historic resources in the State. It is not required, however, that the State Plan address every individual historic property type within the State. SHPOs have the discretion to determine

what specific property types (if any, and whether that level of detail is desired) will be addressed in the State Plan based on the needs and circumstances in each State.

4) The State Plan shall contain, at a minimum, the following elements or sections:

a) a summary of how the State Plan was developed, including a brief description of how the public participated;

b) a summary assessment of the full range of historic and cultural resources throughout the State; including current important issues facing historic preservation, threats and opportunities, and the current state of knowledge about historic and cultural resources or classes of historic resources throughout the State;

c) guidance for the management of historic and cultural resources throughout the State, such as is typically expressed in policies, strategies, goals, and objectives, that provide a vision for the State as a whole, and a direction for the SHPO office;

d) the time frame of the State Plan (or "planning cycle"), including when the State Plan is next scheduled for revision or review; and,

e) a bibliography of special studies and other support documents used in preparing the State Plan.

5) A SHPO that is required by State law or gubernatorial directive to produce a statewide historic preservation plan covering the responsibilities of the office will not be required to produce another, separate plan specifically for NPS approval, provided that the minimum requirements for this program area are met. The SHPO is encouraged to incorporate, to the extent possible, the minimum requirements for this program area into the plan prepared under State requirements. The SHPO must submit this State-required plan for approval in accordance with Section G.2.c., below. If State planning requirements omit one or more requirements of this section, the SHPO is still expected to meet the minimum requirements of this section. In this case, the SHPO must contact NPS to discuss alternative approaches for ensuring these requirements are met.

c. NPS Approval of the State Plan.

1) A completed final draft State Plan must be submitted to NPS for approval.

2) The SHPO will mail the final draft State Plan, to NPS, accompanied by a transmittal letter signed by the State Historic Preservation Officer, or his/her written designee, requesting approval in conformance with the requirements of this section.

3) The final draft State Plan will be reviewed for conformance with this section, with the Act, and with the Secretary of the Interior's "Standards for Archeology and Historic Preservation."

4) No later than 45 calendar days after the receipt of the final draft State Plan, NPS must provide a written response to the SHPO. The response may be an approval, an identification of the requirement(s) not met, or a denial of approval. A denial of approval may only be issued

after NPS has made good-faith efforts to identify the requirement(s) not met and to discuss differences with the SHPO without a satisfactory conclusion. If the response identifies requirements that have not been met, the SHPO must address it (them) and resubmit a revised final draft State Plan for approval (unless an appeal process is under way), initiating a separate 45-day review period.

5) If the SHPO does not receive a written response from NPS within 60 days, the SHPO and NPS will consider the State Plan approved.

6) In addition to the requirements above, after the approved State Plan has been produced in final, SHPOs must send two (2) copies of the Plan to NPS. When the State Plan is "printed" only on the SHPO's web site, this requirement can be satisfied by providing two copies of the Plan announcement(s) or advertisment(s) and the web URL. The NPS Planning Program web site will link to the SHPO web page concerning the State Plan.

d. NPS approval of the revision of an approved State Plan.

1) When the State Plan approved under these requirements is revised at the conclusion of its planning cycle, NPS views this revised State Plan as a new document that must meet the requirements of this section and be approved by NPS according to the procedure outlined in this section.

2) An approved revised State Plan must be in place at the expiration of the original Plan's planning cycle, or at a minimum, prior to the SHPO's submission of the HPF Annual Grant application for the next fiscal year following the expiration of the planning cycle. The Annual Grant application must cross-reference an approved State Plan. See Chapter 7, Section C.1.k., on the annual application narrative, and Chapter 25, Section D.1.b., on the Project/Activity Database.

3) If a State Plan's planning cycle ends without an approved revised State Plan, the consequences will be the same as if the revised State Plan was denied approval.

e. Appeals. SHPOs may appeal any decision of NPS regarding approval or denial of approval of State Plans directly to the Director, National Park Service. Appeals must be in writing and signed by the State Historic Preservation Officer or his/her written designee. NPS will act on all complete appeal requests within 30 calendar days of receipt, and will respond in writing.

f. Implementing the Approved State Plan. Each SHPO shall ensure that, in general, HPF expenditures and matching share are used to implement the State Plan. One of the major purposes of the State Plan is to guide decision-making about HPF expenditures. In general, there must be a significant and demonstrable correlation between State Plan goals, objectives, and tasks and SHPO expenditures of HPF funds, as reflected in the documents of the SHPO's Annual Grant cycle (see Chapter 7). There is no fixed ratio between HPF-funded activities undertaken to achieve goals in the State Plan and other related SHPO activities. SHPO operations (specifically those funded by the HPF or used as allowable matching share) should, when viewed in the aggregate, move towards achieving the goals and objectives of the State Plan.

There need not be a complete one-to-one correlation between every activity or project undertaken with HPF assistance and the State Plan. Many activities may be exclusively State-funded, and emergency and unanticipated situations will always arise. The SHPO has the latitude to handle these situations, even if they are not a key element of the State Plan. If unforeseen circumstances result in a low correlation between State Plan goals and objectives and SHPO expenditures of HPF funds (as reflected in the documents of the SHPO's Annual Grant cycle) over a prolonged period of time (generally more than one year), the SHPO will be expected to take action to resolve this discrepancy. NPS is willing to work with the State to identify strategies to resolve the problem.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the Historic Preservation Planning Program Area include:

   a. Planning Process Design and State and Local Plans. Developing, conducting research on, designing or carrying out a planning process, or providing support for the development of a planning process design, the State Plan, or other historic preservation or cultural resource management plans at a regional or local level.

   b. Planning Studies, Historic Contexts, etc. Developing, gathering, and analyzing data used to develop planning studies, including historic contexts, theme studies, issues analyses, questionnaires, forecasts of social, economic, political, legal, environmental, and other factors that may affect historic preservation in the State.

   c. Ordinances, Regulations, Standards, etc. Developing, or providing support for the development of, ordinances, regulations, standards, and guidelines that support State, regional, or local plan goals.

   d. Advanced Planning Technologies. Developing, purchasing, adapting, or implementing advanced planning/computer technologies and applications to further comprehensive statewide historic preservation planning program goals [e.g., computer mapping and analysis technology such as Geographic Information Systems (GIS)].

   e. Printing of Plans. Printing and distributing plans, planning studies, ordinances, regulations, guidelines, or similar documents.

   f. Reviews. Reviewing or commenting on State, local, Federal, or private-sector historic preservation plans or historic preservation components of plans for compatibility with the State Plan or with State law. See Chapter 7, Exhibit 7-E for how to report reviews of plans made pursuant to Review and Compliance activities. See Section O.3, below, on eligible Review and Compliance activities.

   g. Compliance with State or Local Planning Laws. Activities undertaken pursuant to State or local planning laws, regulations, or ordinances, provided that the laws, regulations, and ordinances are not inconsistent with the Secretary's "Standards for Archeology and Historic Preservation." For instance, activities are eligible when undertaken in conformance with a State planning law that requires State Office review of local comprehensive plans for protection of historic resources.

4. Ineligible Activities. See the Ineligible Grant-Assisted Activities listed in Section E, above.

H. Survey and Inventory Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Survey and Inventory Program Area. Survey is activity directly pertinent to the location, identification, and evaluation of historic and archeological resources. Inventory activity relates to the maintenance and use of previously gathered information on the absence, presence, and (c) of historic and archaeological resources within the State.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activities discussed in Section C, above, the following requirements apply to the Survey and Inventory Program Area.

   a. All surveys funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Identification," that is:

      1) Be undertaken to the degree necessary to make decisions (Standard I).

      2) Be conducted according to research designs, which specify the objectives, methods, and expected results of the survey (Standard II).

      3) Produce final survey reports, which summarize the design and methods of the survey, provide a basis for others to review the results, and state where information on identified properties is located (Standard III).

   b. HPF assisted surveys, or any survey whose costs are contributed as nonfederal matching share, must be designed to lead to nominations of significant properties to the National Register (or to a determination of eligibility if the owner objects).

   c. Assisted activity must produce data to the State Historic Preservation Office that can be readily integrated into the State's Comprehensive Statewide Historic Planning Process.

   d. States must maintain an inventory of properties surveyed including survey reports, inventory forms, and research designs.

   e. State inventory activities funded by HPF grant monies or used as allowable matching share must meet the Secretary of the Interior's "Standards for Evaluation." Each State must be able to document that these inventoried properties are:

      1) Evaluated against established criteria, which, for the purpose of the National Register Programs, means the National Register criteria (Standard I).

      2) Evaluated within an appropriate historic context (Standard II).

      3) Accompanied by sufficient information on which to base decisions about subsequent preservation actions (Standard III).

      4) Recorded in a manner that is accessible to the public (Standard IV).

f. Additional Reports and other Documentation for Archaeological Resources.

1) Appropriate site inventory forms, maps, sketches, profiles, and field notes must be completed to record information about the archeological site(s) being investigated and the methods and techniques being employed.

2) Copies of the site inventory forms must be provided to (and maintained by) the SHPO.

3) A written report (of all results of the investigation) that meets contemporary professional standards, the Secretary's Standards for Identification, and the requirements of Chapter 25 must be prepared, and copies provided to (and maintained by) the SHPO and made available to other potential users, subject to Section 304 of the Act.

4) For any subsequent phase involving development work on the site, the grantee will briefly summarize in the subsequent subgrant file (and Project Notification, if applicable) pertinent archeological information developed as a result of the investigation or testing of the site.

g. Curation.

1) Archeological collections and accompanying data and records must be curated in a repository meeting contemporary professional standards, the Secretary's "Standards for Archeology and Historic Preservation," and 36 CFR 79 except when other disposition is required by 43 CFR 10, the regulations for the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001). However, the costs of ongoing curation are not allowable for HPF grant assistance (see Chapter 13, item D.11.)

2) When archeological collections are to be removed from State, county, municipal, or private property, negotiated arrangements must be made for permanent curation of the collection, or for disposition in accordance with the requirements of the Native American Graves Protection and Repatriation Act (36 CFR 79 and 43 CFR 10). Such arrangements are to be negotiated among the property owner, the SHPO, and the principal investigator prior to reimbursement by the grantee.

h. Access. Archeological collections and accompanying data and records resulting from grant-assisted work must be made available for scholarly research by qualified professionals for use in research, interpretation, preservation, and resource management needs. If appropriate, collections should be made available to the public through museum display or other means (see Chapter 13, items B.18 and D.29). This access requirement is subject to the provisions of the Native American Graves Protection and Repatriation Act (see 43 CFR 10), Section 304 of the National Historic Preservation Act, and 36 CFR 79.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the Survey and Inventory Program Area include:

a. Intensive Level Survey. Intensive level survey is the systematic, detailed field (and archival) inspection of an area designed to identify fully architectural, archeological, and historic properties; and calculated to produce a level of documentation sufficient, without any further data, to evaluate National Register eligibility.

b. Reconnaissance Level Survey. Reconnaissance survey entails archival research and a field visit to determine the identity and location of resources present in an area. Such surveys should be designed so that a determination can be made from the results as to when it is worthwhile to obtain the additional level of documentation (through an Intensive Level Survey) necessary for a National Register nomination.

c. Limited Archeological Testing. During Reconnaissance or Intensive level survey, limited subsurface archeological testing is allowable only to the extent that is needed to collect sufficient information to identify a resource and to assess its eligibility for listing in the National Register of Historic Places.

d. Resurvey. Resurvey is eligible if its purpose is:

1) to modify previously documented boundaries;

2) to identify resources not a part of the property's earlier eligibility determination (e.g., archeological survey in a historic district); or

3) to establish a property's relationship with other resources as part of the development or refinement of historic contexts. See Section G (Planning), above, and the Secretary of the Interior's "Standards for Archeology and Historic Preservation;" or

4) resurveying in the field to upgrade existing inventory data for use in revising the comprehensive statewide historic preservation plan.

e. Automating the State Inventory. Automating the State historic resources inventory to conduct analyses of inventory data for planning purposes or to make it more accessible to the broader planning arena in the State is an eligible activity.

f. Advanced Survey and Inventory Technologies. Developing, purchasing, adapting, or implementing advanced planning/computer technologies and applications to further comprehensive statewide historic preservation planning and other program goals [e.g., computer mapping and analysis technology such as Geographic Information Systems (GIS)] are all eligible activities.

g. Archeological Survey Activity on Development Projects. Eligible archeological survey activity may be associated with or be a prerequisite for a development project in the following circumstances (see Section K.2., below):

1) If it is necessary in a development project to determine the presence and nature of subsurface features of an above-ground structure or site listed in the National Register, archeological survey using non-destructive remote-sensing techniques or limited archeological testing may be conducted.

2) If the proposed treatment of a non-archeological property will disturb the earth, and if nothing is known about the presence or nature of any archeological resources, a survey is required to identify and locate any archeological resources and to collect information sufficient to

evaluate National Register eligibility prior to finalizing the plans for treatment of the property.

3) If the preservation treatment is site stabilization or another preservation technique requiring accurate and up-to-date resource data, a resurvey of the site may be needed to confirm site boundaries, location, and condition prior to finalizing plans and specifications for the treatment project.

h. Processing Survey Data. Activity directly associated with processing survey data from all (including non-HPF assisted) sources for inclusion in the State inventory is an eligible activity. This includes properties surveyed at a minimum level of documentation and properties surveyed at a National Register level of documentation.

i. Survey on Federal Land. Survey on Federal land may be paid for with HPF or matching funds only under the following conditions:

1) The survey is not a mitigation activity performed as a condition or precondition for obtaining a Federal permit or license or funding by other Federal programs.

2) Prior written permission must first be obtained from the Federal agency land manager(s)/or his/her designee. Obtaining a permit under the Archaeological Resources Protection Act constitutes proper written permission as long as the requirements of the Historic Preservation Fund Grants Manual are met.

3) For HPF subgrants, Project Notifications must contain a certification signed by the State Historic Preservation Officer that the requisite permission has been obtained, or include a copy of the certification of permission. For State in-house survey projects or for projects covered by Reduced Review Status (see Chapter 8, Section G), a copy of the signed written permission must be made available in the State office for inspection upon request.

4) The Federal land manager(s) must be sent a copy of the survey report/Final Project Report.

5) The SHPO must consult with the Federal land manager(s) on release of locational information related to resources vulnerable to damage or destruction should its location be released pursuant to Section 304 of the National Historic Preservation Act, as amended, prior to the release of the survey report/Final Project Report.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following are ineligible activities in the Survey and Inventory Program Area:

a. More extensive survey, testing, and data recovery than what is necessary to determine National Register eligibility. However, it may be eligible under other program areas; see Section K.3., Development/Acquisition/Covenants, below.

b. Resurvey that does not meet criteria in Section H.3.d., above.

c. Archeological survey that does not meet criteria in Section H.3., above.

d. Survey on Federal Lands that does not meet criteria in Section H.3.i., above.

I. National Register Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the National Register Program Area. This Program Area is involved with activity directly pertinent to the documentation and evaluation of a historic or archeological resource for its potential eligibility for listing in the National Register of Historic Places.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activity discussed in Section C, above, the following requirements apply to the National Register Program Area:

   a. All activities in the Program Area must meet the Secretary's Standards for Evaluation and Registration.

   b. Annually, the State must nominate eligible resources to the National Register of Historic Places.

   c. A reasonable percentage of nominations must be derived from State-conducted surveys.

   d. Nominated properties must meet the National Register Criteria for Evaluation, and must be documented according to National Register standards: (1) for substantive documentation and analysis in the description of properties and in the justification of the properties' (c) and (2) technical documentation. A State must demonstrate a comprehensiveness of resources in its nomination of properties.

   e. The State's nomination procedures must comply with the requirements of the National Historic Preservation Act and with National Register regulations (36 CFR 60). See the Appendices and the National Register Bulletins series for the 36 CFR 60 requirements that apply to this Program Area.

   f. Each State must assist the public and private sector in nominating historic properties to the National Register of Historic Places. States must document that HPF-funded projects and products used as nonfederal matching share (survey, nominations, Tax Act Applications, etc.) must be conducted, prepared, reviewed, or verified by persons from the appropriate disciplines who meet the requirements for the "Secretary of the Interior's Historic Preservation Qualifications."

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the National Register Program Area include, but are not limited to:

   a. Preparation and Editing of National Register Nominations.

   b. Processing Data for National Register Eligibility. Any activity described in 36 CFR 60 related to processing of resource data for National Register eligibility. This includes Review Board activities related to evaluation of properties. This does not include Federal National Register eligibility opinions which are eligible Review and Compliance activities. See Section O.3, below.

c. Public Notice. Any activity related to public understanding of and participation in the nomination process.

d. NHL designation. Participation in the process for the nomination and designation of a property as a National Historic Landmark is an eligible activity.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following is an ineligible activity in the National Register Program Area:

Federal National Register eligibility opinions rendered pursuant to Section 106 of the Act are eligible in the Review and Compliance Program Area, not the National Register Program Area. See Section O, below.

J. Development/Acquisition/Covenants Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Development, Acquisition, and Covenants Program Area. Additional information related specifically to Development, Acquisition and Covenants is discussed in Sections K, L, and M, respectively.

The Development/Acquisition/Covenants Program Area describes State activities that assist the material conservation, protection, and preservation (both physical and legal) of properties listed in the National Register of Historic Places. They include activities to acquire, preserve, stabilize, rehabilitate, restore, and reconstruct historic resources. This program area also includes "nonconstruction" activities such as technical assistance and monitoring of existing covenants relating to Development or Acquisition.

2. General Requirements. In addition to the General Requirements for Grant-Assisted Activities in Section C, the following requirements apply generally to the Development/Acquisition/Covenants Program Area. See Sections K.2, L.2., and M.2. for specific requirements for Development, Acquisition, and Covenant activities.

a. National Register Listing. The property for which the Development project is proposed must be listed in the National Register of Historic Places either individually or identified in the nomination as contributing to a listing in the National Register. If the property is not so identified in the National Register nomination, it must be certified by the State Historic Preservation Officer to be contributing to a National Register listing. When the State Historic Preservation Officer certifies on the Project Notification (or in its files for States with Reduced Review Status) that a property is contributing, the Project Notification (and the State's files) must contain sufficient information to allow NPS to understand the property's significance and how it was evaluated. Note that adding properties as contributing to existing National Register listings requires consultation with the State Review Board and must result in a supplemental listing form being transmitted to the Keeper of the National Register (see 36 CFR 60). Also see Section C.6., above.

b. Integrity of the Resource. Only National Register-listed properties that have retained sufficient integrity to maintain their National Register eligibility are eligible for grant-assisted development or Acquisition projects.

c. Restrictions on Moving Historic Structures. If a structure is not listed in the National Register at the time of relocation, HPF assistance may not be used to finance the cost of moving the property. In addition, if the property is removed from the National Register as the result of an unapproved relocation of the structure, the cost of the move would not be an eligible cost for HPF grant assistance.

Historic structures selected for HPF assistance should not be relocated. If a structure listed in the National Register must be moved, the State must provide NPS with advance written notification of the property owner's intention to move the building or structure and must request prior written approval from the National Register to confirm that the property will not be removed from the National Register as a result of the relocation. The State must send the Keeper of the National Register all information relating to how the move will affect the property's integrity and significance. Criteria for moving historic structures and procedures required by NPS are specified in 36 CFR 60.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, the following are Eligible Activities for Development/Acquisition/Covenants (see also Sections K.3., L.3., and M.3. respectively for activities eligible specifically for Development, Acquisition, or Covenants):

a. Furnishings. The cost of historically documented original furnishings is allowable if in accordance with Chapter 13, item B.19.

b. Landscaping. The restoration, rehabilitation, stabilization, preservation, or protection of a documented historic landscape listed in the National Register, either individually or as a contributing element to a National Register property is an eligible grant activity. Additionally, the use of revegetation as a stabilization technique is an eligible activity.

c. State (as opposed to Federal) Grant Programs. A State may use HPF or matching funds to administer acquisition or development grant programs funded with non-HPF monies (such as State-appropriated funds) as long as the programs require compliance with the Secretary's Standards.

d. Archeological Site Protection and Stabilization. The protection and stabilization of an archeological site listed in the National Register, either individually or as a contributing element to a National Register property, is an eligible grant activity.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following are ineligible activities for Development and Acquisition. See also Sections K.4., L.4., and M.4. for specific ineligible Development, Acquisition, and Covenant activities.

a. A property that has not been individually listed on the National Register of Historic Places, or is not identified by the SHPO as contributing to the significance of a National Register District or property, is not eligible for a development or acquisition grant. The National Register status of the property must be documented in the State's subgrant selection files prior to awarding HPF assistance.

b. A National Register property that has lost its integrity (sufficient to lose its National Register eligibility) is not eligible to receive development or acquisition grants--regardless of whether or not it has been delisted from the National Register.

c. A property that has received a Determination of Eligibility (D.O.E.) by the Keeper of the National Register, but is not formally listed in the National Register, is not eligible for HPF grant assistance to acquire or to repair the property.

d. A property listed only in a locally certified historic district is not eligible for HPF development or acquisition grant assistance.

K. Development.

1. General. Buildings, structures, sites, and objects listed in the National Register of Historic Places deteriorate over time; therefore, these properties require periodic work to preserve and protect their historic significance and integrity. The Secretary of the Interior's "Standards for the Treatment of Historic Properties" (see Appendices) define appropriate treatments for historic properties.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activity discussed in Section C and general Development/Acquisition/Covenants Requirements in Section J.2., above, the following requirements apply to Development:

a. Predevelopment. In order to properly determine the appropriate treatment(s) to preserve a particular property, predevelopment preparation is required. Predevelopment is the historical, architectural, and/or archeological research necessary to properly and adequately document the historic significance and the existing physical condition of the materials and features of a property or site; it must be performed prior to the commencement of development work.

1) Assess all Resources Present. Decisions to proceed with any proposed work are based on an analysis of the significance and integrity of all the resources present in an area, including architecture, historic landscape, and archeology. These decisions should not be based on information about only one type of resource.

2) Consideration of Archeological Resources. All archeological work must conform to the Secretary's " Standards for Archeological Documentation," including the preparation of a research design and a documentation report on the results of the work.

a) If the preservation treatment is archeological stabilization, a resurvey of the site may be needed to confirm site boundaries, location, and condition prior to finalizing plans and specifications for the treatment project.

b) If the proposed treatment will disturb the earth, and if very little or nothing is known about the presence, absence, or significance of any archeological resources, a survey is required to identify and locate any archeological resources and to collect information sufficient to evaluate National Register eligibility prior to finalizing the development proposal.

c) If the proposed treatment depends upon information that can only be gained through

archeological investigation on the property, the area may be tested, but only to the extent required to collect the information needed for this project. The research design must clearly justify the need for this information and why it must be obtained from this site.

3) Reports of Predevelopment Studies Must be Prepared. Historic Structure Reports, Engineering Reports, Landscape Studies , Archeological Documentation Reports, and other required documentation must present an assessment of potential impacts on the proposed work on the resources and must clearly illustrate how the work will be carried out in conformance with the Secretary's "Treatment Standards," with the "Archeological Documentation Standards" if applicable, and with other accepted professional standards or technical guidance for resource preservation, when relevant.

These reports must define the project so that all aspects of the proposed grant-assisted work can be understood by objective reviewers familiar with the applicable Secretary of the Interior's "Standards for the Treatment of Historic Properties." The scale and complexity of the proposed work will determine the amount of research required to carry out work in a manner consistent with the Secretary's "Standards." Such predevelopment reports are not a substitute for detailed working plans and specifications. (See also Chapter 13, Section C.8. if preagreement costs are involved).

4) Working Drawings/Architectural or Archeological Plans and Specifications Must be Prepared. These required documents must detail the exact scope of development work to be carried out, and must be accurately drawn to scale so that measurements can be verified at the project site. Plans and specifications must define the project so that all aspects of work can be understood by objective reviewers familiar with the applicable Secretary of the Interior's "Standards for the Treatment of Historic Properties." The plans and specifications must demonstrate conformity with those "Standards" and specify the treatment proposed. If the treatment is the stabilization of an archeological site, the particular technique selected must be one that protects the site and its contents from further damage. Archeological stabilization plans and specifications must be prepared and/or reviewed by professionals who have technical expertise in such work.

b. Development.

1) Consideration of Archeological Resources. If treatment plans require the disturbance of the earth, and it is not feasible to avoid and protect significant archeological resources, the archeological resources will be excavated and the data recovered. These excavations will be limited to the area which will be disturbed.

2) Curation of Archeological Materials. Archeological collections and accompanying data and records generated during the archeological development project must be curated in a repository meeting contemporary professional standards, the Secretary's "Standards for Archeology and Historic Preservation," and 36 CFR 79, except when other disposition is required by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001) and its regulations (43 CFR 10).

a) When archeological collections are to be removed from State, county, municipal, or private property, negotiated arrangements must be made for permanent curation of the

collection or for disposition in accordance with the requirements of the Native American Graves Protection and Repatriation Act. Such arrangements are to be negotiated among the property owner, the SHPO, and the principal investigator prior to reimbursement by the grantee.

b) Archeological collections and accompanying data and records resulting from grant-assisted work must be accessible for scholarly research by qualified professionals for research, interpretation, preservation, and resource management purposes. If appropriate, collections should be accessible to the public through museum display or other means (see Chapter 13, items B.18 and D.29). This access requirement is subject to the provisions of the Native American Graves Protection and Repatriation Act, Section 304 of the National Historic Preservation Act, as amended, and 36 CFR 79.

3) Project Sign. The State must ensure that a project sign is displayed in a prominent location at each project site while project work is in progress. The sign must identify the project and Department of the Interior, National Park Service grant support. This provision may be waived by prior written NPS approval if NPS determines that, in accordance with Section 304 of the Act, this requirement would create a risk of harm to the site.

4) Force Account. Construction by force account is generally subject to the same requirements that apply to work performed under contract. Note that if the subgrantee is acting as his/her own contractor, the reasonableness of proposed charges must be supported by at least one independent estimate from an experienced source.

5) Uniform Federal Accessibility Standards. The Uniform Federal Accessibility Standards are contained in 41 CFR 101-19.600 through 19.607. When new construction is involved to create physical accessibility to individual historic buildings and facilities, the standards must be used.

c. Preservation Tax Incentives. Where appropriate, States shall inform grant recipients that HPF development or acquisition grant assistance applied to any portion of a building by an owner and/or lessee precludes that owner and/or lessee from the preservation tax incentives for that portion of the building under 26 U.S.C. 47. In other words, a grant recipient cannot claim Federal tax incentives for the same work that was performed with HPF grant assistance.

d. Other Requirements. See Chapter 5 regarding Civil Rights, Coastal Barrier Islands, Coastal Zone Management, Flood Plains, Flood Insurance, Lead Based Paint, and Relocation Assistance.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D and in Section J.3., above, eligible Development activities include:

a. In-house Development. Many SHPO offices are located in historic buildings. A State may use HPF funds to rehabilitate (for example) its own historic building (or other State-owned properties).

b. Predevelopment. The preparation of predevelopment reports, plans, specifications, and other predevelopment costs are considered "nonconstruction" work. See the predevelopment activities listed in Section K.2., Requirements for Development, above.

c. Archeology. An eligible archeological development project must have as its objective the protection, stabilization, or preservation of specific archeological resources. The archeological resources may be the primary focus for the development project or they may be one component of a development project that focuses on a building, structure, or landscape. Survey and testing to the extent necessary to determine National Register eligibility and resurvey to confirm site location, boundaries, and condition are likely to be important elements of a development project. Testing that is more intensive than is allowable under the Survey and Inventory Program Area may only be carried out as part of a development project. Eligible archeological activities include:

1) Stabilization projects, such as site burial, revegetation, or repair of the site's physical/structural integrity to reduce or eliminate such damaging forces as erosion are eligible costs. If the treatment technique is revegetation to protect the site by stabilizing the soil, this "landscaping" is considered an essential component of the treatment technique, and is an allowable cost.

2) Archeological testing or excavation to collect information needed to carry out a treatment project or to mitigate the effects of treatment work, provided that the scope of the investigation is limited to the area affected, and the National Register eligibility of the HPF-assisted site is not destroyed.

3) Curation or exhibition of archeological artifacts or materials recovered during the project, within certain limits (see Chapter 13, Section D.11.).

d. Force Account. The cost of obtaining the independent estimate required by Section K.2.b.4) for force account work is an eligible grant cost.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E and in Section J.4., ineligible Development activities include:

a. Routine Maintenance. Proposed grant projects that involve solely routine or cyclical minor maintenance, such as painting window sash, brush clearance at a site, etc., are not eligible for grant assistance. These may be performed as part of a larger preservation treatment.

b. Major Reconstruction. Note that for HPF Development grant purposes, reconstruction is limited to portions of a historic property which still retain (prior to reconstruction) sufficient significance and integrity to remain listed in the National Register. While reconstruction is defined as an appropriate treatment in the Secretary's "Standards," total reconstructions are not eligible for HPF grant assistance. If specific features or elements of a building or landscape are missing and thus need to be recreated, this work is potentially eligible for funding (provided adequate historical documentation is available).

Major reconstruction projects, such as recreating a building or landscape that has been completely destroyed at some earlier time, are not eligible activities because such prior destruction would have resulted in the property losing its National Register eligibility. Vanished structures, by definition, have lost their integrity and therefore are no longer eligible for the National Register, or for HPF grant assistance, as structures.

c. Landscaping. Landscaping as a part of general site improvements, including parking lots, sidewalks, repaving streets, and street fixtures (such as street lamps and benches) is not eligible project work. (See Sections J.3.b. and K.3.c.(1) above, for eligible landscaping costs.)

d. Archeology. Archeological investigation that is not directly related to the preservation of a National Register property, or that results in loss of National Register significance and integrity, is not an allowable development cost. An investigation that destroys or impairs the site to the extent that its National Register Eligibility is compromised is not eligible for HPF grant assistance.

e. Curation. The costs of curation or exhibition of artifacts or materials after the end date of the HPF-assisted project are not eligible for grant assistance. (See Chapter 13, Section D.11.)

L. Acquisition.

1. General. While it is a fundamental goal of the HPF Grant program to protect historic resources through encouraging owners, managers, and lessees to care for and maintain these historic resources, there are occasions when acquisition is the only practical method of ensuring the protection and preservation of an historic property for future generations.

While acquisition may be the most appropriate preservation tool, fee-simple acquisitions may not always be necessary. It is often possible (and desirable) to adequately protect a historic property through the purchase of a facade or an open space easement. The purchase or transfer of development rights can also be an effective tool in preserving historic properties without taking on the requirements of ownership such as debt service, maintenance, and administration. The purchase of less-than-fee simple interests, such as open space or facade easements, shall be undertaken only when a limited interest achieves the preservation objective.

Every reasonable effort must be made to acquire sufficient property to protect the historical, archeological, architectural or cultural significance of the National Register-listed property. Also see Chapter 13, Section D.2.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activities discussed in Section C, and general Development/Acquisition/Covenants Requirements in Section J.2., above, the requirements for HPF-assisted Acquisition are discussed below.

a. Property Title. Acquisition projects must acquire title to the property; either full fee-simple title or a less-than-fee title interest. Such lesser interests include, but are not limited to, easements and rights-of-way. In providing HPF assistance for such acquisitions, the State must assume responsibility for meeting the same covenant and public access requirements as with fee-simple acquisition.

b. Uniform Relocation Assistance and Real Property Acquisition Policies. Acquisition projects must be accomplished in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (42 U.S.C. 4601 et seq.). The State and its HPF subgrantees must adopt and implement procedures for the acquisition of real property that are fair

and consistent, and that provide that the property owner promptly obtains the full measure of compensation authorized by law with a minimum of inconvenience. (See Chapter 20.)

c. Waiver of Right to Just Compensation. If real property is acquired at less than the estimate of fair market value determined by a certified independent professional appraiser(s), there must be documentation that the owner was first provided with a written offer to purchase for the full amount established as just compensation (equal to the approved appraisal of the fair market value).

The grantee must submit in the project application a signed statement by the owner waiving the Right to Just Compensation and indicating that he or she:

1) Has been informed of all of his or her rights and benefits under the Uniform Relocation Assistance and Real Properties Acquisition Policies Act;

2) Has been provided with a statement of just compensation and a written offer to purchase for the amount appraised as full market value (the amount should be shown in the owner's statement);

3) Is satisfied with the price to be paid even though it is less than the appraisal of fair market value; and

4) The reasons why he or she has elected to accept the lesser amount. (When a partial donation of property (less than appraised fair market value) is to be applied as matching share for an acquisition project, the seller-owner's signed waiver of just compensation and statement of intention to donate the remainder value for historic preservation purposes must be specified.)

d. Independent Relationship. There must be an independent relationship between the seller and the buyer so that unjust enrichment and/or the appearance of unjust enrichment is avoided. For example, a sale of property between relatives or business partners is not eligible for HPF grant assistance.

e. Appraisals must be performed prior to (but not more than 6 months before) the acquisition of real property. The State is responsible for reviewing, evaluating, and certifying that appraisals comply with professional appraisal requirements and State law or regulation. Appraisal and appraisal report requirements are discussed in Exhibit 6-B.

Two current appraisals are required if the first appraisal obtained results in an appraised value exceeding $100,000. The cost of obtaining an appraisal is an allowable cost. Appraisals must be performed by licensed members of the appraiser’s profession. The second appraisal may be performed by a professional State Government appraiser.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, and in Section J.3. above, the following are eligible Acquisition activities:

a. HPF assistance may be used to acquire a property only when it is threatened with demolition, impairment, or other controllable damage from natural or human sources such as erosion, vandalism, or relic collecting; or when grant assistance is essential to ensure the preservation of

the property for at least the term of the covenant or preservation agreement (see Section L.4.d., below).

b. Activities directly pertinent to eligible property title acquisition are allowable.

c. Costs associated with conducting an appraisal and preparing appraisal documents are allowable. (See Exhibit 6-B for Appraisal Standards.)

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, and in Section J.4., above, the following are ineligible Acquisition activities:

a. Acquisition projects that do not acquire title to the property. Using HPF grant assistance to pay a mortgage installment(s), or an option to purchase, does not acquire title and does not adequately protect the property, and is therefore not eligible for HPF grant assistance. Phased acquisition projects are not allowable for HPF grant assistance--each acquisition project must give title to the buyer. Options to purchase are not allowable for HPF grant assistance.

b. Sales of property between relatives or business partners. There must be an independent relationship between the seller and the buyer.

c. The boundary of the HPF Acquisition project cannot exceed the boundaries as listed on the National Register nomination. If additional property is essential to protect the integrity and setting of a historic resource, the National Register boundaries must be expanded before an Acquisition project is initiated. (See the National Register publication, How to Establish Boundaries for National Register Properties.)

d. The acquisition of a National Register property which has previously received HPF development (or acquisition) grant assistance is not eligible for additional HPF assistance for acquisition costs while the associated covenant or preservation agreement protecting the property is in effect. (See Chapter 13, Section D.2.)

e. The cost of borrowing funds for acquisition. (See Chapter 13, Section D.23.)

f. The acquisition of a property that is not threatened with demolition, impairment, or other controllable damage from natural or human sources.

M. Covenants and Preservation Agreements.

1. General. Section 102(a)(5) of the National Historic Preservation Act, as amended, stipulates: "No grant may be made under this Act unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary." Covenants and preservation agreements have been instituted administratively as a means to ensure compliance with this requirement of the Act.

When properly monitored and enforced, a preservation agreement ensures the property's protection from unsympathetic changes and, in the event the property is sold, a covenant recorded with the deed passes these requirements along to the new owner. Note: While the Historic Preservation Fund Grants Manual specifies language that minimally must be in every covenant or preservation

agreement, each covenant and preservation agreement can and should be individually tailored to fit the particular situation.

2. Requirements.

a. Covenants and preservation agreements on grant-assisted historic properties must be executed to ensure that after the grant-assisted work is completed the owner(s) will maintain the premises for a minimum term of years so as to preserve the historical significance and integrity of the features, materials, appearance, workmanship, and environment which made the property eligible for listing in the National Register of Historic Places;

1) Preservation Agreement. A preservation agreement is a legal document executed between the State and the public or private property owner. This agreement is not recorded with the deed and therefore is not enforceable on future owners. If a publicly-owned property does not have a deed, then a Preservation Agreement, instead of a covenant, must be executed for the duration required by Subsection M.2.b., below.

2) Covenant. A covenant is a legal document executed between the State and the property owner in which the property owner of record encumbers the title of the property with a covenant running with the land, in favor of and legally enforceable by the State. The property owner of record (and, if applicable, the holder of the mortgage) must be the executors of the covenant whether or not the owner is the subgrantee.

b. Type and Duration of Agreement. The minimum responsibility to maintain and to provide public access to properties acquired or developed with HPF assistance is linked to a specific period of time and type of document that is determined by the amount of Federal assistance. Where there are several phases of development assistance, the term of the covenant or preservation agreement must be commensurate with the total (aggregate) Federal assistance received. In such instances, the covenant period is computed from the date the Federal funds transferred from the State to the subgrantee (or property owner) exceed $10,000. When HPF assistance involves more than one National Register listed property or structure, the covenant (or preservation agreement) period for each property will be determined by the amount of HPF assistance awarded to each individual property. The following chart indicates the appropriate type and duration of agreement.

Federal Assistance ($ Amount)	Time Requirement/Type of Document
1 -- 10,000	5-year minimum preservation agreement. A covenant amending the deed is not required.
10,001 -- 25,000	5-year minimum covenant (recorded on the property deed).
25,001 -- 50,000	10-year minimum covenant.
50,001 -- 100,000	15-year minimum covenant.
100,001 and above	20-year minimum covenant.

c. Characteristics and Mandatory Provisions.

1) Legally Enforceable. Covenants and preservation agreements must be written in such a manner that they are legally enforceable by the State through specific performance by the owner, and for covenants, subsequent owner(s). The standard provisions listed in this Chapter are all legally enforceable. States must obtain a legal opinion from the State Attorney General for any additional provisions. A model preservation agreement is presented as Exhibit 6-A of this Chapter.

2) Subgrantee is not the owner of record. For a lessee to receive grant assistance, there must be a binding written agreement between the lessee and the owner for, at a minimum, the period of the covenant or preservation agreement, and the following provisions must be satisfied:

a) Mortgaged property. The covenant or preservation agreement must be executed between the State and the property owner of record. If the property has been financed through a mortgage lender, the holder of the mortgage must also sign the covenant or preservation agreement.

b) Building and the land are in different ownership. When the building and the land are in different ownership, the owner of the land must also be a party to the covenant or the preservation agreement.

The covenant runs with the land and must be executed by the owner of record for the term of years specified above. (A lease of the land does not convey title or transfer ownership.) The owner, the State, and the subgrantee must execute a maintenance and administration covenant for the period required.

3) Provisions in Covenants and Preservation Agreements. See Exhibit 6-A for required language.

a) Site Protection. The owner must agree to take appropriate measures to protect the site against willful damage or vandalism, i.e., whatever is necessary to maintain the National Register eligibility of the property. Nothing in this agreement prohibits the owner from developing the site in a manner that will not threaten or damage the National Register eligibility of the resource.

b) Recovered Data Protection. The owner must agree to ensure that any data and material recovered will be placed in a repository that will care for the data in the manner prescribed in the Secretary of the Interior's "Standards for Archeology and Historic Preservation," or will comply with the requirements of the Native American Graves Protection and Repatriation Act, and with 36 CFR 79 and 43 CFR 10.

c) Maintenance. The owner must agree to assume the cost of continued maintenance and repair of the property so as to preserve the architectural, historical, and/or archeological integrity of the property and its materials for the number of years specified above in order to protect those qualities that made the property eligible for listing in the National Register of Historic Places (or a property contributing to the significance of a National Register listed Historic District). Nothing in this agreement shall prohibit the owner from seeking financial assistance from any source (including HPF Development grants) for additional preservation treatment work available to him/her.

d) Public Access. "Public Access" means that the general public can see the results of the HPF investment of public funds.

(1) As long as all the HPF-assisted work is clearly visible from a public right-of-way, public access to the property is not required. Public access is also not required when interior development work (such as electrical or plumbing repairs) would not be visible if general access to property were to be provided. (However, the interior of a property acquired with grant assistance must be open to the public at least 12 days a year if the interior has any architecturally or historically significant features.)

(2) When the grant-assisted work (interior or exterior), or property acquired with grant assistance, is not clearly visible from the public right-of-way, clauses 4 and 5 of the Model Preservation Agreement must be inserted (see Exhibit 6-A).

(3) For compliance with the Americans with Disabilities Act, see clause 5 of Exhibit 6-A.

(4) Exceptions to Public Access Requirement. In accordance with Section 304 of the National Historic Preservation Act, NPS may allow the State to withhold from disclosure to the public information relating the location or character of a historic resource whenever the disclosure of such information may incur substantial risk of harm, theft, or destruction to the resource. The State shall request written approval from NPS to withhold information from the public prior to recordation of the covenant or execution of the preservation agreement.

If an archeological site is not left in an excavated state and interpreted for the public, there are usually no visible features above the ground. Accordingly, public access to archeological sites may be restricted. However, public access may not be restricted if the site is being interpreted, the site is not fragile, or access needs to be provided to serious researchers.

(5) Notification to the General Public of Access. For properties that are not open to the public except for the required 12 days per year, and where the improvements assisted by HPF grant funds are not visible from the public way, or the property was acquired with HPF grant funds, owners must agree as part of the covenant or preservation agreement to provide public notification by advertising in newspapers of general circulation in the community or area in which the property is located, giving the dates and times when the property will be open to the public.

The covenant or preservation agreement must include a statement that the owner will annually publish dates and times when the property will be open to the public (specific dates and times are not to be included in the preservation agreement). However, the owner must agree that documentation of such notice being published will be furnished annually to the State during the term of the covenant or preservation agreement.

d. Effective Date. The covenant or preservation agreement is effective upon execution of the document, which for both Acquisition and for Development projects, must be done prior to the disbursement of HPF funds. In addition, for properties acquired with HPF assistance, the covenant period will commence no later than on the date the title of record transfers from the seller to the buyer.

NOTE: No funds shall be disbursed for Acquisition or Development projects prior to the execution of a covenant or preservation agreement.

e. Monitoring Covenants and Preservation Agreements. The State must maintain an up-to-date list of covenants and/or preservation agreements, including the addresses, names of property owners, expiration dates of the agreements, and dates of any on-site visit. Occasional site visits and correspondence to owners reminding them of their responsibilities under the covenant or preservation agreement must be documented in the State's files, as well as newspaper notices by owners for any properties requiring public access.

f. Covenant and Preservation Agreement Violations. In the event of the non-performance or violation of the maintenance provision of the covenant or preservation agreement by the owner (or any successor-in-interest) during the term of the covenant, the State must initiate legal action to require the owner to restore the property to the condition existing at the time HPF-assisted work was completed. If the State fails to initiate legal action, the State is in breach of contract and NPS may exercise any legal remedies available. Documentation of such State legal action, if any has occurred, must be included or referenced in the project file.

Consequences when a property has been DAMAGED or DESTROYED.

1) DAMAGED. If an HPF-assisted property is damaged by accidental or natural causes, or is damaged deliberately or through gross negligence during the covenant or preservation agreement period, the State will inform NPS in writing of the damage to the property, including: (1) an assessment of the nature and extent of the damage; and (2) an estimate of the cost of restoration work necessary to return the property to the condition existing at the time of the grant-assisted project's completion. The State or subgrantee shall, without direct HPF grant assistance, take all necessary steps, including legal action, if necessary, to restore, reconstruct, or stabilize the damaged property.

2) DESTROYED: ACCIDENTAL OR NATURAL CAUSES. If an HPF-assisted property has been destroyed or irreparably damaged by accidental or natural causes, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment which made the property eligible for listing in the National Register of Historic Places has been lost or so damaged that its continued National Register listing is in question, the State will notify the Keeper of the National Register in writing of the loss. The Keeper of the National Register will evaluate the findings and notify the State in writing of any decision to remove the property from the National Register. If the property were to be so removed, the State will then notify the owner that the covenant or preservation agreement is null and void.

3) DESTROYED: DELIBERATE ACTION OR THROUGH GROSS NEGLIGENCE. If an HPF-assisted property has been severely damaged or destroyed deliberately or through gross negligence by a owner, that is, if the historical integrity of the features, materials, appearance, workmanship, and environment which made the property eligible for listing in the National Register of Historic Places has been lost or so damaged that its continued listing in the National Register is in question, the State will notify the Keeper of the National Register in writing of the loss. The Keeper will evaluate the findings and notify the State in writing of any decision to remove the property from listing in the National Register. If the property were to be so removed, the State will initiate requisite legal action to recover, at a minimum, grant funds. Such legal expenses related to National Register properties would be an eligible grant program cost.

g. Procedures for Seeking Covenant Revision. If the revision is eligible (see Section M.3., below):

1) The State Historic Preservation Officer must request in writing that NPS concur with the proposed revision to the covenant or preservation agreement. The State request must specify that a thorough analysis has been performed and the eligibility conditions have been met (see Section M.3.c. below). Acceptable documentation, including the original covenant or preservation agreement and the proposed revision(s), to support the above determination must be included with the State's request.

2) Upon receipt of the items stipulated above, (prior to making a decision) NPS will obtain the written concurrence of the Keeper of the National Register with the State's opinion concerning continued listing in the National Register; and, consult with the Advisory Council on Historic Preservation if any of the provisions of Section 106 of the Act are applicable, in accordance with the Programmatic Agreement between the Advisory Council and the National Park Service.

3) In exceptional cases where revised covenants are permitted, it will continue to be the responsibility of the State Historic Preservation Officer to monitor, hold, and enforce the amended covenants.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, and in Section J.3. above, the following are eligible Covenant activities:

a. Activities associated with preparing, executing, monitoring, and enforcing covenants and preservation agreements are eligible for HPF grant assistance.

b. Activities associated with revising covenants or preservation agreements to extend the duration or the protection provided by the agreement are eligible.

c. Activities associated with revising covenants or preservation agreements to lessen the protection provided by the agreement are eligible only if prior written NPS concurrence is obtained (see Section M.2.g. above). Amendments will be approved only in exceptional circumstances, where both administrative and technical or economic circumstances justify consideration of a revision to a covenant or preservation agreement. NPS may authorize revisions (amendments) to preservation covenants or preservation agreements only if all of the following circumstances and conditions exist: (1) continuation of the covenant or preservation agreement as written is technically or economically infeasible; and, (2) the proposed revision would still leave the property with sufficient integrity and significance to merit continued listing in the National Register.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, and in Section J.4., above, the following is an ineligible Covenant activity:

Under no circumstances shall the procedures for revision (described above) be used to nullify the covenant or preservation agreement. Covenants cannot be “bought out” by repaying the HPF grant funds.

N. Preservation Tax Incentives Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Preservation Tax Incentives Program Area. The U.S. Internal Revenue Code provides incentives for historic preservation. These incentives include a tax credit for any rehabilitation project which the Secretary of the Interior designates as a "certified rehabilitation" of a "certified historic structure."

2. Requirements. In addition to the General Requirements for Grant-Assisted Activities discussed in Section C, above, the following requirements apply to the Preservation Tax Incentives Program Area.

a. All activities under this Program Area must meet the Secretary's "Standards for Rehabilitation." See the Appendices.

b. Reviews shall be undertaken or approved by appropriately qualified State staff as prescribed in 36 CFR 61, who are familiar with 36 CFR 67 (see Appendices). Reviews must be undertaken by

qualified professionals who have a knowledge of preservation technology, methodologies, building materials and their deterioration, and rehabilitation practices (such as raining/education in preservation and rehabilitation techniques, including NPS-sponsored workshops); experience in rehabilitation/restoration projects; knowledge of building trades and practices as shown in education or experience; and/or membership in professional and/or trade organizations.

c. Certification recommendations shall meet and be consistent with criteria identified in 36 CFR 67.

d. Recommendations shall be based on an adequately documented request as defined in 36 CFR 67.

e. Reviews generally shall be concluded, excluding exceptional situations, within 30 calendar days of receipt of adequately documented requests.

f. States are expected to forward comments on all applications to NPS, in accordance with instructions of Historic Preservation Certification Application forms 10-168d and e. In the few instances where applications are forwarded without comment, the reason(s) for the State's failure to comment should be conveyed to the National Park Service.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities for the Preservation Tax Incentive Program Area include the following:

a. Activities related to State or local preservation tax incentives are eligible activities. States may provide assistance to local governments, nonprofit organizations, and individuals regarding the use of State and local incentives to bring about the preservation of cultural resources.

b. The certification of State and local statutes, pursuant to 36 CFR 67.8.

c. The certification of State and local districts, pursuant to 36 CFR 67.9.

d. Evaluations of Significance (Part 1 of the Historic Preservation Certification Application).

e. Evaluations of Proposed Rehabilitation Work (Part 2 of the Historic Preservation Certification Application).

f. Certifications of Completed Rehabilitation (Requests for Certification of Completed Work--Part 3).

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following is an ineligible activity in the Preservation Tax Incentives Program Area:

Work performed with HPF grant assistance via acquisition or development subgrants may not be used to qualify a property for Federal preservation tax incentives.

O. Review and Compliance Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Review and Compliance Program Area.

Review and Compliance refers to State activities that advise and assist public (Federal, State, and local government) agencies in carrying out their historic preservation responsibilities broadly described and established under Sections 106 and 110 of the National Historic Preservation Act, as amended, and implemented through 36 CFR 60, 61, 63, and 800; as well as in other Federal historic preservation-related law. State and local government responsibilities are those established in specific State or local legal and regulatory mandates which parallel in intent and objective the Federal laws cited above.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activities discussed in Section C, above, the following requirements apply to the Review and Compliance Program Area. The requirements all relate to the State's participation in the process of Section 106 of the National Historic Preservation Act, as amended. See Appendices for the full text of the Act.

   a. Federal Agency Requests must be Reviewed, Monitored, and Responded to Within a Prescribed Review Period (generally within 30 days).

      1) "Federal agency requests" refers to Section 106-related activities and pursuant to 36 CFR 800.

      2) The State shall ensure that, in general, Federal agency requests are reviewed and responded to within the time period stipulated by regulation or agreement. In order to prevent situations in which delays in processing are a continuing, ongoing, or recurring problem leading to the fact or the perception that the process is an unreasonable obstacle, the State shall track Federal agency requests from the date of receipt to final action and shall ensure that requests are reviewed and responded to within the prescribed time frame. The tracking system shall contain at a minimum the following: (1) the name of the undertaking or contain an identifier code which references the project/undertaking or resource name; (2) the date the request was received by the State; (3) the result or outcome of the review; and (4) the date the State's written opinion was sent to the requesting Federal Agency, or the date the case was closed without a letter.

         The prescribed time frame for review is calculated from the date of the receipt of a substantially complete package (i.e., enough information has been provided to allow the State to make whatever evaluation has been requested). In the absence of a substantially complete package, it is an appropriate response for the State to inform the Federal agency (within the prescribed time period) that an evaluation cannot be made until more information is provided.

   b. Federal Agency Requests must be Reviewed and Final Recommendations Made and Approved by Qualified Staff. See Section C, above, for more information on professional qualifications and documentation requirements.

   c. The National Register Criteria for Evaluation are Consistently Applied in Responding to Federal Agency Requests. See Section C above.

      It is the responsibility of the Federal agencies to submit the data necessary for an opinion on National Register eligibility. However, the State may supply or supplement it if the State chooses to do so. Either is acceptable, but see Section E, "Ineligible Activities," for the prohibition on

using HPF funds to undertake the mitigation responsibilities of Federal agencies. The State shall not issue an opinion until minimum documentation requirements are met.

d. The Secretary of the Interior's "Standards for Archeology and Historic Preservation" must be Consistently Applied by States in Evaluating Products Sent To States Pursuant to Agreements with Federal Agencies. When States review and certify their concurrence of specific products of Federal agencies as meeting the stipulated Secretary's "Standards," the State must ensure, and file documentation must support, that the certification is consistent with applicable NPS policy and guidelines. Similarly, file documentation should explain a State's decision that the products do not meet the stipulated Secretary's "Standards." See Section C, above, and the Appendices.

This requirement applies only to reviews undertaken pursuant to those agreements:

1) which specify in writing that some or all of the Secretary of the Interior's "Standards for Archeology and Historic Preservation" must be met; and,

2) to which the State has been signatory as part of a formal two or three party agreement pursuant to 36 CFR 800; and,

3) under which Federal agencies have produced specific products that the State has certified in writing meet (or, conversely, do not meet) the stipulations of the agreement by meeting the applicable Secretary's "Standards."

e. Inventory Data Resulting From Section 106 Activities must be Incorporated into the State's Inventory Information System or cross-referenced with the files. This will reduce or eliminate the need for resurvey, and provide data which can be useful for planning and future activities in all program areas.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the Review and Compliance Program Area include:

a. Section 106 Activities. The review of, and comment on, proposed Federal or federally funded, licensed, permitted, or approved undertakings, pursuant to Section 106 of the National Historic Preservation Act, as amended, that may have an effect on properties listed on, or eligible for listing on, the National Register of Historic Places. These activities also include actions taken by a State under a 36 CFR 800.7 agreement. 36 CFR 800.7 allows for the substitution of a State review process for the standard Section 106 approval process.

b. Section 110 Activities. Technical assistance provided to Federal agencies which assists them in fulfilling their responsibilities under Section 110 and other provisions of the National Historic Preservation Act.

c. Activities Pursuant to other Federal Historic Preservation Laws and Regulations. Activities of a State office, involving Federal government agencies, provided that the laws and activities are in conformity with Federal historic preservation law, regulation, or requirements (especially the Secretary’s “Standards”).

d. E.O. 12372 Intergovernmental Review of Federal Programs. Participation in the process of Federal--State Intergovernmental Review pursuant to E.O. 12372 for programs and projects other than HPF grants. See Chapter 4 for a detailed explanation of how the process works for the HPF grant program.

e. State and Local Laws. Activities of a State office, or of a local government or Certified Local Government, undertaken to implement or administer State and local historic preservation laws, regulations, or ordinances, provided that the laws and activities are in conformity with Federal historic preservation law, regulation, or requirements (especially the Secretary's "Standards"). These activities typically include State and local equivalents of the Section 106 process: local review of proposals for demolition, alterations, and new construction projects; design review; and the review of applications for Certificates of Appropriateness.

4. Ineligible Activities. See the Ineligible Grant-Assisted Activities listed in Section E, above.

P. Local Government Certification Program Area.

1. General. This section describes objectives, minimum requirements, eligible activities, and ineligible activities for the Local Government Certification/Pass-Through Program Area. Activity in this program area is that which is directly pertinent to certifying local governments as eligible under Section 101(c) of the Act, monitoring/evaluating implementation of Certified Local Government (CLG) program delivery, and monitoring/evaluating CLG performance under subgrants. See Chapter 9 for minimum program requirements of Certified Local Governments.

   The State Historic Preservation Officer must cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to Section 101(c) of the Act. States must provide mechanisms for the certification of local governments to carry out the purposes of the Act, and to provide for the transfer of a portion of their annual HPF grant to local governments that have been certified. Regulations governing procedures for local government historic preservation programs are published in 36 CFR 61. See the Glossary for the definitions of local government and Certified Local Government.

2. Requirements. In addition to the General Requirements for Grant-Assisted Activities discussed in Section C, above, the following requirements apply to the Local Government Certification Program Area:

   a. All requirements specified in Chapter 9.

   b. If there is no approved State program, the NPS will act in place of the State with regard to a CLG.

   NOTE: The SHPO activities listed above do not satisfy the requirement that at least 10 percent of each State's annual apportionment must be subgranted to Certified Local Governments. Such Pass-through subgrants may be used for any HPF eligible activity, but see Chapter 7, Exhibit 7-E for guidelines on properly reporting the results in the End-of-Year Report.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, eligible activities in the Local Government Certification Program Area include:

a. Eligible activities discussed in Chapter 9.

b. Planning, organizing, and assisting the creation of Certified Local Governments.

c. Processing applications for certification or amendments to certification agreements.

d. Monitoring and amending, if necessary, the State CLG process.

e. Developing, submitting, amending, or otherwise revising the official State processes for the certification of local governments and for funds transferred to CLGs.

4. Ineligible Activities. In addition to the Ineligible Grant-Assisted Activities listed in Section E, above, the following is an ineligible activity in the Local Government Certification Program Area:

Pass-Through funds may not be awarded to a local government that is not yet certified or has lost its certification. CLG subgrant projects must be reported in the applicable Program Area (e.g., a local survey of a section of a CLG community should be shown in the Survey and Inventory Program Area; see Exhibit 7-E).

Q. Other Activities Program Area.

1. General. Activities in this program area include any activity that is eligible for HPF assistance but that does not readily fall within one of the Program Areas described above, or involves Multiple Program Areas and the activity cannot reasonably be divided among the specific Program Areas (see Section D, above).

2. Requirements. See the General Requirements for Grant-Assisted Activities discussed in Section C, above.

3. Eligible Activities. In addition to the Eligible Grant-Assisted Activities discussed in Section D, above, the eligible activities in the Other Activities Program Area include (subject to the provisions of Chapters 12 and 13):

a. General outreach programs that directly pertain to HPF grant-assisted preservation programs and projects.

b. General purpose public education activities, including brochures, newsletters, conferences, etc.

c. HABS/HAER documentation projects.

d. Assistance for salaries and operating expenses for Statewide or local preservation organizations conducting activities in more than one Program Area.

4. Ineligible Activities. See the Ineligible Grant-Assisted Activities listed in Section E, above.

R. Program Areas Applicable to the National Trust for Historic Preservation.
Section 101(d)(2) of the Act provides for grants to the National Trust "for the purpose of carrying out the responsibilities of the National Trust." The following are the general categories of functions which

describe the activities for which HPF assistance may be provided to the National Trust:

1. General and Administration. Includes the functions necessary to maintain an adequate working environment; provide general management, coordination and articulation of the National Trust's program and operations; including functioning of the Board of Trustees and Board of Advisors; legal counsel, information technology and the financial and budgetary responsibilities of the National Trust.

2. Historic Properties. Preserve and manage for public benefit the National Trust's historic sites and administer a program to foster the preservation of other historic sites nationwide.

EXHIBIT 6-A **SAMPLE CONSERVATION EASEMENT AGREEMENT**
For a Save America's Treasures Grant (Historic Building)

INTRODUCTION. This conservation easement agreement is made the ____ day of _____ , 20 __, between *Organization*, as GRANTOR of a conservation easement (hereafter referred to as the "Grantor"), and the *SHPO/Covenant Holder*, as GRANTEE of the conservation easement (hereafter referred to ask the "Grantee"). This conservation easement agreement is entered under *State Law/Regulation* for the purpose of preserving the *Name of Property*, a building that is important culturally, historically, and architecturally.

1. **The Subject Property.** This agreement creates a conservation easement in real estate legally described as *Property Description*. The Subject Property is the site of the *Name of Property*, located at *Street Address, City, County, & State* (hereafter referred to as the "Property").

2. **Grant of conservation easement.** In consideration of the sum of $_____ received in grant-in-aid financial assistance from the National Park Service of the United States Department of the Interior, the Grantor hereby grants to the Grantee a conservation easement in the Subject Property for the purpose of assuring preservation of the *Property*.

3. **Easement required for Federal grant**. This conservation easement is granted as a condition of the eligibility of the Grantor for the financial assistance from the National Park Service of the United States Department of the Interior appropriated from the Historic Preservation Fund for the Save America's Treasures Grant Program.

4. **Conditions of easement**:

a. Duration. This conservation easement is granted for a period of fifty (50) years commencing on the date when it is filed with the *County* County Recorder.

b. Documentation of condition of the Property Name at time of grant of this easement. In order to make more certain the full extent of Grantor's obligations and the restrictions on the Subject Property, and in order to document the nature and condition of the Property, including significant interior elements in spatial context, a list of character-defining materials, features and spaces is incorporated as Exhibit "A" at the end of this agreement. The Grantor has provided to the Grantee architectural drawings of the floor plans. To complement Exhibit "A", Grantee personnel have compiled a photographic record, including photographer's affidavit, black and white photographs and negatives, color digital prints, photograph logs, and a keyed location map. The Grantor agrees that the nature and condition of the Property on the date of execution of this easement is accurately documented by the architectural drawings and photographic record, which shall be maintained for the life of this easement in the Grantee's conservation easement file for the Property.

c. Restrictions on activities that would affect historically significant components of the Property. The Grantor agrees that no construction, alteration, or remodeling or any other activity shall be undertaken or permitted to be undertaken on the Subject Property which would affect historically significant interior spaces and features identified in Exhibit "A", exterior construction materials, architectural details, form, fenestration, height of the Property, or adversely affect its structural soundness without prior written permission of the Grantee affirming that such reconstruction, repair, repainting, refinishing, rehabilitation, preservation, or restoration will meet The Secretary of the Interior's *Standards for the Treatment of Historic Properties* (hereinafter referred to as the "Standards").

d. Restrictions on activities that would affect archeological resources. The Grantor agrees that no ground disturbing activity shall be undertaken or permitted to be undertaken on the Subject Property which would affect historically significant archeological resources identified in Exhibit "A" without prior written permission of the Grantee affirming that such work will meet The Secretary of the Interior's "*Standards for Archeology and Historic Preservation*".

e. Maintenance of recovered materials. The Grantor agrees to ensure that any data and material recovered will be placed in a repository that will care for the data in the manner prescribed in the *Standards for Archeology and Historic Preservation* or will comply with the requirements of the Native American Graves Protection and Repatriation Act, and with 36 CFR 79 and 43 CFR 10.

f. Duty to maintain the Property. The Grantor agrees at all times to maintain the Property in a good and sound state of repair and to maintain the subject Property, including the *Other structures or features of the site*, according to the Standards so as to prevent deterioration and preserve the architectural and historical integrity of the Property in ways that protect and enhance those qualities that make the Property eligible for listing in the National Register of Historic Places.

g. Public access. The Grantor agrees to provide public access to view the grant-assisted work or features no less than 12 days a year on an equitably spaced basis. The dates and times when the property will be open to the public must be annually published and provided to the Grantee. At the option of the Grantor, the relevant portions of the Property may also be open at other times by appointment, in addition to the scheduled 12 days a year. Nothing in this agreement will prohibit a reasonably nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area.

h. Right to inspect. The Grantor agrees that the Grantee, its employees, agents and designees shall have the right to inspect the Property at all reasonable times, with twenty-four hours written notice, in order to ascertain whether the conditions of this easement agreement are being observed.

i. Anti-discrimination. The Grantor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, the Americans with Disabilities Act (42 U.S.C. 12204), and with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). These laws prohibit discrimination on the basis of race, religion, national origin, or disability. In implementing public access, reasonable accommodation to qualified disabled persons shall be made in consultation with the Grantee *(or State Historic Preservation Office if another organization is holding the easement).*

j. Easement shall run with the land; conditions on conveyance. This conservation easement shall run with the land and be binding on the Grantor, its successors and assigns. The Grantor agrees to insert an appropriate reference to this easement agreement in any deed or other legal instrument by which it divests itself of either the fee simple title or other lesser estate in the Property, the Subject Property, or any part thereof.

k. Casualty Damage or Destruction. In the event that the Property or any part of it shall be damaged or destroyed by fire, flood, windstorm, earth movement, or other casualty, the Grantor shall notify the Grantee in writing within 14 days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Property and to protect public safety, shall be undertaken by the Grantor without the Grantee's prior written approval indicating that the proposed work will meet the Standards. The Grantee shall give its written approval, if any, of any proposed work within 60 days of receiving the request from the Grantor. If after reviewing the condition of the property, the Grantee determines that the features, materials, appearance, workmanship, and environment which made the property eligible for listing in the National Register of Historic Places has been lost or so damaged that its continued National Register listing is in question, the Grantee will notify the Keeper of the National Register *(or the SHPO if the Grantee is not the State)* in writing of the loss. The Keeper of the National Register will evaluate the findings and notify the Grantee in writing of any decision to remove the property from the National Register. If the property is removed, the Grantee will then notify the Grantor that the agreement is null and void. If the damage or destruction that warrants the properties removal from the National Register is deliberately caused by the gross negligence of the Grantor or future owner, then the Grantee will initiate requisite legal action to recover, at a minimum, the Federal grant funds applied to the property which will then be returned to the U.S. Treasury.

l. Enforcement. The Grantee shall have the right to prevent and correct violations of the terms of this easement. If the Grantee, upon inspection of the property, finds what appears to be a violation, it may exercise its discretion to seek injunctive relief in a court having jurisdiction. Except when an ongoing or imminent violation will irreversibly diminish or impair the cultural, historical and architectural importance of the Property, the Grantee shall give the Grantor written notice of the violation and allow thirty (30) days to correct the violation before taking any formal action, including, but not limited to, legal action. If a court, having jurisdiction, determines that a violation exists or has occurred, the Grantee may obtain an injunction to stop the violation, temporarily or permanently. A court may also issue a mandatory injunction requiring the Grantor to restore the Property to a condition that would be consistent with preservation purposes of the grant from the National Park Service. In any case where a court finds that a violation has occurred, the court may require the Property to reimburse the Grantee and the *State* Attorney General for all the State's expenses incurred in stopping, preventing and correcting the violation, including but not limited to reasonable attorney's fees. The failure of the Grantee to discover a violation or to take immediate action to correct a violation shall not bar it from doing so at a later time.

m. Amendments. The parties may by mutual written agreement jointly amend this easement, provided the amendment shall be consistent with preservation purpose of this easement and shall not reduce its term of duration. Any such amendment shall not be effective unless it is executed in the same manner as this easement, refers expressly to this easement, and is filed with the __*county*__ County Recorder.

n. Effective date; severability. This conservation easement shall become effective when the Grantor files it in the Office of the Recorder of ___*County*____ County, __*State*__, with a copy of the recorded instrument provided to the Grantee for its conservation easement file. If any part of this conservation easement agreement is held to be illegal by a court, the validity of the remaining parts shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the conservation agreement does not contain the particular part held to be invalid.

GRANTOR: _____

By: _____
Name and Title

STATE OF _____, _____ COUNTY, ss: On this _____ day of _____, 2006, before me the undersigned, a Notary Public for said State, personally appeared ***Name of Person,*** to me personally known, who stated that he is ***Title and Organization***, that no seal has been procured by said corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors, and that as such officer, he acknowledged that he executed the foregoing instrument as his voluntary act and the voluntary act of the corporation.

_____
NOTARY PUBLIC

GRANTEE: _____

By: _____

Name and Title

STATE OF _____, _____ COUNTY, ss: On the _____ day of _____, 2006, before me, a Notary Public for said State, personally appeared **Name of Person**, who stated that he is the duly appointed and actively serving

Title and Organization, and that he executed the foregoing conservation easement agreement as his voluntary act and as the voluntary act of the State Department of Cultural Affairs.

_____
NOTARY PUBLIC

EXHIBIT "A" TO CONSERVATION EASEMENT AGREEMENT

Property Name, City, State

To remain eligible for listing on the National Register of Historic Places, a property must be able to convey its significance. The following character-defining materials, spaces, and features have been identified as those that help convey the significance of the Property Name, photo documentation is attached.

Significant Interior Spaces and Features

-
-
-
-

Significant Exterior Spaces and Features

-
-
-
-

EXHIBIT 6-B REAL PROPERTY APPRAISAL REQUIREMENTS

The allowable cost of acquired or donated property must be based on appraisals by independent licensed professional appraisers. For property valued at $100,000 and above, two appraisals (with one State Government appraiser permissible) must be obtained; for property valued at less than $100,000, one independent appraisal must be obtained.

Real property must be appraised prior to the purchase and the property owner must indicate that he/she has been informed of the appraised value of the property (see Chapter 20). Appraisal reports must conform to "Data Documentation and Appraisal Reporting Standards," Uniform Appraisal Standards for Federal Land Acquisition, 1973. The appraisal must be an analytical narrative report following the format established by the "Uniform Appraisal Standards for Federal Land Acquisitions" (see the required format, below). Each appraisal must be independently prepared by appraisers, and not based on any previous appraisal of the same property.

Appraisal certification. The State Historic Preservation Officer certifies, by his/her action in forwarding appraisal information with the Project Notification, that the appraisal used as a basis for establishing the purchase price is an accurate and reasonable reflection of the current market value.

In accordance with the Uniform Appraisal Standards for Federal Land Acquisition, the value of a historic property will be calculated after consideration of the results derived from the methods contained in the format stipulated below in "Part III--Analyses and Conclusions".

Establishment of fair market value by court proceedings. If a historic property is acquired through judicial proceedings, the price determined by the court will be accepted.

Statement of differences in value. Appraisals prepared by a licensed professional appraiser should result in an acceptable estimate of property value; however, the estimate cannot be assumed to be an absolute statement of value. The approved appraisal value will ordinarily be the maximum allowable amount representing just compensation to be offered to the owner (seller). In exceptional circumstances the negotiation between a willing seller and a willing buyer will set a price that is higher than the appraisal, and this market value may be considered with the appraisal in establishing the reasonable limits of Historic Preservation Fund assistance.

When the grantee believes that the negotiated price is an adequate indication of market value, yet is higher than the appraised value, a justification of this difference, with appraisal documents, must be submitted as part of the Project Notification. This statement must explain why the selling price does not reflect the appraised fair market value, the steps the grantee took to establish the fair market value, and its reasons for accepting the higher value. If the NPS agrees that the circumstances and the negotiated price represent a reasonable estimate of the worth of the property, that amount may be eligible for assistance; if not, the HPF Federal share of the purchase price will be limited to one-half of the appraised market value.

NPS Approval of Acquisition Cost in Excess of Appraised Value. Even States on Reduced Review Status must obtain written NPS approval of a proposed acquisition cost that exceeds the appraised value.

Required Appraisal Report format. Grantees must obtain appraisal reports that include the documentation required by the "Uniform Appraisal Standards for Federal Land Acquisitions," published in 1973 by the Interagency Land Acquisition Conference. Grantees must secure, and maintain on file, property appraisals

completed as follows:

PART I -- INTRODUCTION

1. TITLE PAGE. This shall include (a) the name and street address of the specified location of the property, (b) the name of the individual making the report and the effective date of the appraisal.

2. TABLE OF CONTENTS.

3. LETTER OF TRANSMITTAL.

4. PHOTOGRAPHS. Pictures shall show at least the front elevation of the major improvements, plus any unusual architectural features. There should also be views of the abutting properties on either side and the property directly opposite. When a large number of buildings are involved, one picture may be used for each type. Views of the best comparable properties should be included whenever possible. Except for the overall view, photographs may be bound as pages facing the discussion or description which the photographs concern. All graphic material shall include captions. Photographs for archeological sites should attempt to document the areas to be affected by archeological investigation, as well as any above-ground features.

5. STATEMENT OF LIMITING CONDITIONS AND ASSUMPTIONS.

6. REFERENCES. If preferred, may be shown with applicable approach.

PART II -- FACTUAL DATA

7. PURPOSE OF THE APPRAISAL. This shall include the reason for the appraisal, definition of all values required, and property rights appraised.

8. LEGAL DESCRIPTION. This description shall be so complete as to properly identify the property appraised. If lengthy, it should be referenced and included in Part IV of these Standards. If furnished by the Federal Government, and it would require lengthy reproduction, incorporate references only.

9. AREA, CITY, AND NEIGHBORHOOD DATA. This data (mostly social and economic) should be kept to a minimum and should include only such information as directly affects the appraised property together with the appraiser's conclusions as to significant trends.

10. PROPERTY DATA.

    a. Site. Describe the soil, topography, mineral deposits, easements, etc. A statement must be made concerning the existence or nonexistence of mineral deposits having a commercial value. In the case of a partial taking, discuss access both before and after to the remaining tract. Also discuss the detrimental and hazardous factors inherent in the location of the property.

    b. Improvements. This description may be by narrative or schedule form, and shall include dimensions, cubic and/or square foot measurements, and where appropriate, a statement of the method of measurement used in determining rentable areas as full floor, multi-tenancy, etc.

c. Equipment. This shall be described by narrative or schedule form, and shall include all items of equipment, including a statement of the type and purpose of the equipment and its present state. The current physical condition and relative use and obsolescence shall be stated for each item or group appraised, and, whenever applicable, the repair or replacement requirements to bring the property to useable conditions.

Any related personal property or equipment, such as tenant trade fixtures, which are not attached or considered part of the realty, shall be separately inventoried. Where applicable, these detachable, individually owned items shall be separately valued.

d. History. State briefly the purpose for which the improvements were designed, dates of original construction, and major renovation and/or additions. Include, for privately owned property, a 10-year record as to each parcel, of all sales and, if possible, offers to buy or sell, and recent lease(s); if there has been no sale in the past 10 years, include a report of the last sale.

e. Assessed value and annual tax load. Include the current assessment and dollar amount of real estate taxes. If the property is not taxed, the appraiser shall estimate the assessment in case it is placed upon the tax roll, state the rate, and give the dollar amount of the tax estimate.

f. Zoning. Describe the zoning for subject and comparable properties. Where Government-owned, state what the zoning probably will be under private ownership. If rezoning is imminent, discuss further under item 11.

PART III __ ANALYSES AND CONCLUSIONS

11. ANALYSIS OF HIGHEST AND BEST USE. The report shall state the highest and best use that can be made of the property (land and improvement and where applicable, machinery and equipment) for which there is a current market. The valuation shall be based on this use.

12. LAND USE. The appraiser's opinion of the value of the land shall be supported by confirmed sales of comparable, or nearly comparable lands having like optimum uses. Differences shall be weighed and explained to show how they indicate the value of the land being appraised.

13. VALUE ESTIMATE BY COMPARATIVE (MARKET) APPROACH. All comparable sales used shall be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale. Each comparable sale shall be weighed and explained in relation to the subject property to indicate the reasoning behind the appraiser's final value estimate from this approach.

14. VALUE ESTIMATE BY COST APPROACH, if applicable. This section shall be in the form of computative data arranged in sequence, beginning with reproduction or replacement cost, and shall state the source (book and page if a national service) of all figures used. The dollar amount of physical deterioration and functional and economic obsolescence, or the omission of same, shall be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.

15. VALUE ESTIMATE BY INCOME APPROACH, if applicable. This shall include adequate factual data to support each figure and factor used and shall be arranged in detailed form to show at least (a)

estimated gross economic rent or income; (b) allowance for vacancy and credit losses; and (c) an itemized estimate of total expenses including reserves for replacements.

Capitalization of net income shall be at the rate prevailing for this type of property and location. The capitalization technique, method, and rate used shall be explained in narrative form supported by a statement of sources of rates and factors.

16. INTERPRETATION AND CORRELATION OF ESTIMATES. The appraiser shall interpret the foregoing estimates and shall state his reasons why one or more of the conclusions reached in items 13, 14, and 15 are indicative of the market value of the property.

17. CERTIFICATION. This shall include the statement that the appraiser has no undisclosed interest in the property, and that he has personally inspected the premises, date, and amount of value estimate, etc.

PART IV __ EXHIBITS AND ADDENDA

18. LOCATION MAP. (Within the city or area.)

19. COMPARATIVE MAP DATA. Show geographic location of the appraised property and the comparative parcels analyzed.

20. DETAIL OF THE COMPARATIVE DATA.

21. PLOT PLAN.

22. FLOOR PLANS. (When needed to explain the value estimate.)

23. OTHER PERTINENT EXHIBITS.

24. QUALIFICATIONS. (For all appraisers and/or technicians contributing to the report.)

EXHIBIT 6-C HISTORIC STRUCTURE AND HISTORIC LANDSCAPE REPORT FORMAT

The Historic Structure Report or Historic Landscape Report format is required when a grant-assisted rehabilitation, restoration, or reconstruction project involves fabricating significant missing architectural or landscape features, recapturing the appearance of a property at one particular period of its history, or removing later additions. The Historic Structure Report or Historic Landscape Report must be completed prior to the preparation of an application by a subgrantee requesting HPF assistance for such development work. The treatment implementation phase of planned development work will not be approved until the required documentation has been satisfactorily completed.

The following is the recommended format for a Historic Structures Report or Historic Landscape Report:

Table of Contents.

Foreword or Introduction.

- Purpose of the Report
- Preservation Objectives (proposed preservation treatment)

History of the Property.

- Significance of the property's structure or landscape and setting (historic events, persons associated, ownership history, etc.)
- The appearance, occupation, and use of the property and its setting from original construction to the present time (including a chronology)
- Historical documentation (letters, builder records, photographs, etc.)

Architectural Description and Assessment.

- A description and record of the existing condition (narrative and illustrations)
- Identification of the important structural or landscape features and distinctive qualities of the property
- An evaluation of the impact of the proposed use of the property
- Identification and analysis of the significant factors affecting the preservation of the property
- Recommended steps for preservation treatment, the basis for such recommendations, and, where applicable, preliminary design drawings
- Steps to minimize the potential impact of the proposed work on the property's historic character

Supplemental Material (when appropriate).

- Estimates of the cost to carry out the recommendations
- Recommendations for further study
- Materials analysis (e.g., paint)
- Bibliography

Agreement No. _____

EXHIBIT 6-D MEMORANDUM OF AGREEMENT
Between the
[insert the name of organization]
and the
HABS/HAER
NATIONAL PARK SERVICE
U.S. DEPARTMENT OF THE INTERIOR

Article I. Background and Objectives

This Memorandum of Agreement is between the [insert name of SHPO] (hereinafter referred to as the Grantee), the National Park Service (hereinafter referred to as the "Service"), and the [insert name of organization] (hereinafter referred to as the Subgrantee), WITNESSETH THAT:

WHEREAS, the Grantee desires to undertake this work and recognizes that a Federal grant of the Department of the Interior has been awarded for the undertaking, and therefore agrees to mutually administer this grant with the Service and comply with all requirements established by the National Historic Preservation Act of 1966, as amended, OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," or A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations," applicable Department of the Interior regulations, and the Historic Preservation Fund Grants Manual.

The Grantee shall comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.; Executive Order 11764; and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 *et. seq.*).

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall on the grounds of race, color, national origin, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of the Interior. Section 504 of the Rehabilitation Act of 1973 is designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance. If any persons believing that they have been discriminated against in any program, activity or facility, or if you desire further information regarding Title VI or Section 504, write to: Director, Equal Opportunity Program, National Park Service, 1849 C Street, N.W., Washington, D.C. 20240.

Article II. Statement of Work

[Identify respective responsibilities of participants. "Agree to" clauses can be used.]

Article III. Term of Agreement

[Identify minimum time required to meet objectives of the agreement but not to exceed [enter specified months], at which time they will be reviewed to determine whether they should be renewed, modified or terminated. Agreement will expire at the end of the specified time unless formally reaffirmed or rewritten if necessary. In certain instances where it can be shown that the time could not be negotiated or that it would jeopardize an agreement relationship, a longer term might be appropriate. Written justification must be attached to the agreement.]

Article IV. Key Officials (NPS and other Party)

[Identify all key officials involved.]

[Costs incurred by Federal officials supervising or otherwise administering this project are not allowable for HPF grant assistance. However, salaries and expenses incurred by Federal employees who are considered to be "temporary limited employees" are allowable.]

Article V. Payment

[State when or at what payment will be made (e.g., payments will be made according to the following schedule). Requests for payment from the Grantee must include copies of contracts, bidding documentation, bills and copies of canceled checks (front and back), or bank statements documenting payment(s). Documentation for donated services must clearly show the tasks performed, when performed, and the actual amount of time spent on each task, in relation to the grant project. The Grantee reserves the right to modify or withhold payment until project conditions are met or until it is satisfied with the documentation that has been received. Billings will be made by [insert date]. Include address and accounting information for billing purposes, if applicable.]

Article VI. Property Management and Disposition [if applicable]

[List all pertinent information regarding property management and disposition.]

Article VII. Prior Approval [if applicable]

[List the date prior approval was received from the National Park Service.]

Article VIII. Reports

[List dates, quantity, and address of receipt point for any required reports.]

Article IX. Termination

[Provide that any party may terminate the agreement by providing 60 days (or whatever time frame is appropriate) written notice to the other(s).]

Signatures (at least 2)

[List titles of signing officials and dates of signatures.]

Enclosures

[Attach special provisions (if required)]

[Attach budget breakdown that shows Federal and nonfederal shares.]

Chapter 7 - Application for Federal Assistance

A. Purpose.
This Chapter describes the procedures, requirements, and standard forms that comprise the annual application process for Historic Preservation Fund (HPF) grants. These are discussed below. NPS will develop procedures, as needed, for special purpose appropriations, within 45 days of enactment.

B. General Annual Grant Application Information.

1. Two-Year Availability.
The Annual Grant is derived from a regular, continuing resolution, or special purpose appropriation of new funds to the Department of the Interior authorized by Section 108 of the Act.

Limitations on availability have been stipulated in appropriations legislation. This resulted in U.S. Comptroller General Opinion B-15187, issued September 15, 1981, which ruled that obligational authority for Historic Preservation Fund grants is limited to the term stipulated in annual appropriations. The maximum term of availability is the year of appropriation plus one additional year. Accordingly, any funds not obligated during, or funds that have been deobligated after, that (2-year) period must be returned to the U.S. Treasury.

2. Continuing Resolution Grant Awards.
Occasionally, funds are apportioned by the Secretary based on a Continuing Resolution of Congress. A continuing resolution is legislation that provides funds to maintain ongoing activities when the regular fiscal year appropriation for such activities has not yet been made available. The conditions are set by the legislation. An HPF grant application under a Continuing Resolution requests obligation only of the funds authorized under the Continuing Resolution.

3. Nonfederal Matching Share Ratio.
Section 102(a)(3) authorizes the Secretary to provide up to "60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in Section 101(b)(3) in any one fiscal year." Therefore the HPF grant is composed of 60 percent Federal and 40 percent nonfederal share. The matching share is calculated by multiplying the Federal share by 100/60 and then multiplying the resulting cost by 40/100. (For example: $10,000 of Federal share must be matched by $6,667 of nonfederal share. A shortcut is to calculate the required nonfederal share by multiplying the Federal share by 2/3, or by a factor of 0.6667.)

4. Program Areas.
Activities eligible for HPF assistance under the Act and related legislation, such as the Economic Recovery Tax Act of 1986, are organized around Program Areas. Program Areas for grantees are detailed in Chapter 6.

5. Use and Disclosure of Information.
Grant applicants, grantees, and their contractors and subgrantees should be aware that information provided to NPS, or required by NPS to be on file with the grantee, is considered to be a public record and subject to disclosure under the Freedom of Information Act, (5 U.S.C. 552), unless determined to be exempt and not to be disclosed under that statute, or under Section 304 of the National Historic Preservation Act. In addition, NPS acquires the right, unless otherwise specified in the grant agreement, to use and disclose program and project data. However, there may be some information

that a grantee or subgrantee wishes to remain confidential. Those items must be clearly and prominently identified to NPS at the time the information is presented. NPS will consider such requests on their merits and within the limits imposed by Federal law and regulation on public disclosures (see also Chapter 24 and Chapter 5, General Condition 15). Information received by NPS that is not accompanied by a claim for confidentiality in accordance with this paragraph may be made available to other public agencies and the general public without prior notice to the grantee. Unless a special condition in the grant provides otherwise, information submitted with an application, or other submission without a restrictive marking, will be subject to disclosure according to the Freedom of Information Act, and to the Government's rights to utilize data obtained under Federal grants.

6. Authorized Signatures.
Application SF 424 Face Sheets, Project Notifications, certifications, and reports must be signed by the State Historic Preservation Officer (or President, National Trust for grants to that organization), or by persons authorized by those officials' written designation to NPS to obligate the grantee to the terms and conditions of the grant. Each grant application and each individual Project Notification, if required (which becomes part of the application following NPS action) will be deemed to constitute an offer by the grantee to accept the requirements of the Historic Preservation Fund Grants Manual. Acceptance of the grant award by the grantee shall be deemed to constitute acceptance of the terms and conditions affixed to each Grant Agreement by NPS.

   While SHPO authority can be delegated, the SHPO remains responsible under the terms of the Act and State law for the grant program on behalf of the State. However, he/she can assign program and/or signature authority to a subordinate. To be a proper transfer of authority, the delegation must be in writing from the superior. Without such express written delegation, signatures on grant applications, Project Notifications, National Register nominations, etc., are not binding on the State and cannot be accepted by NPS as representing official State actions.

7. Certifications.
A grantee may be prosecuted under Federal or State statutes for any false statement, misrepresentation, or concealment made as part of a grant application or grant-related certification to NPS. The penalty for false statements in certifications is prescribed in 18 U.S.C. 1001.

8. Waivers.
When exceptional circumstances are involved, a grantee may submit a written request and justification for a waiver from NPS requirements, procedures, or NPS policy, as defined below, prior to submission of a grant application or Project Notification. In clearly exceptional cases, the NPS Grant Awarding Official may, upon concurrence of the Associate Director, Cultural Resources, determine in writing that a waiver of normal requirements is essential to achieve NPS objectives. The written determination shall specify the reason(s) that special circumstances support that a waiver is in the best interest of the Federal Government.

   Waivers, when granted by NPS, shall be in writing and shall extend for as short a time as necessary in the circumstances, but in no case longer than the end of the following fiscal year. If a State needs to request to renew a waiver, it must send a written request that documents efforts to remedy the circumstances and justifies the need for continuing the waiver.

   Requirements imposed by legislation or governmentwide regulations promulgated in the Code of Federal Regulations, such as Office of Management and Budget or Treasury Circulars, cannot be waived. However, note that some regulations provide for situations where requirements can be waived, e.g., 36 CFR 61.9.

NPS has authority to approve certain waivers, such as:

a. The imposition of greater or lesser limitations than those imposed by the Historic Preservation Fund Grants Manual upon the use of a standard, procedure, form, requirement, or condition of grant assistance that is not legislatively mandated or required without possibility of waiver by governmentwide regulations;

b. The waiver of any policy, procedure, method, or practice of administering or conducting grant awards prescribed by the Historic Preservation Fund Grants Manual;

c. Omission of any mandatory NPS (but not governmentwide) grant provision; or

d. Use of different forms or alteration of prescribed forms.

A copy of the NPS written approval must be enclosed with the grant application or Project Notification and the original retained by the grantee in the official project file.

C. Completing the Historic Preservation Fund Annual Grant Application--State Historic Preservation Offices.

1. Completing the Application.
Annual grant application requirements are fewer for States with NPS-approved Comprehensive Statewide Historic Preservation Plans (see Chapter 6, Section G for State Plan requirements). The additional requirements for States without an NPS-approved State Plan are listed below the standard requirements for all States (i.e., a Program Overview and an Action Plan Narrative must be submitted if a State does not have an approved State Plan). A complete set of the forms and certifications listed below must be submitted for the annual grant application. Each of the forms described below can be found in this chapter; however, original copies of all of these forms can be obtained by contacting the Historic Preservation Grants Division.

All Annual Grant Applications must contain the following Standard Forms and Certifications (each item is discussed separately below, see Sections C.1.a.-j.):

- **Application for Federal Assistance Form** (SF 424) (Exhibit 7-A)
- **Nonconstruction Budget Form** (SF 424A) and, if applicable, Construction Budget Form (SF 424C) (Exhibit 7-B)
- **Nonconstruction Assurances** (SF 424B) and, if applicable, Construction Assurances (SF 424D) (Exhibit 7-C)
- **Certifications Regarding Suspension, Debarment, Drug-Free Workplace, and Lobbying** (DI-2010) (Exhibit 7-D)
- **Cumulative Products Table** (Exhibit 7-E)
- **Organization Chart and Staffing Summary** (Exhibit 7-F)
- **Environmental Certification** (See Chapter 11, Exhibit 11-A)
- **State Staff and Review Board Certification**
- **Anticipated Activities List** (see Section C.1.h., below)
- **Comments obtained through the E.O. 12372 review process established by the State**
- **Special Requirements**

States without an NPS-approved State Plan must also submit the following (these items are discussed in Sections C.1.j. and C.1.k., below):

- **Program Overview** (see Section C.1.j., below).
- **Action Plan Narrative** (see Section C.1.k., below).

a. Application for Federal Assistance (SF 424).
Completed in accordance with Exhibit 7-A. If a Continuing Resolution Grant Application has been previously sent, a SF 424 is used to obligate additional funds made available through a subsequent appropriation, or a subsequent continuing resolution.

b. Budget Information Form (SF 424A).
See Exhibit 7-B. This includes only current fiscal year HPF grant funds (not funds carried over from prior years). If the State will fund construction work, a Construction Budget Information Form (SF 424C) must also be submitted.

c. Nonconstruction Assurances (SF 424B).
See Exhibit 7-C. If the State will fund construction work, the Construction Assurances (SF 424D) must also be submitted.

d. Certifications Regarding Debarment, Suspension, Drug-Free Workplace, and Lobbying (DI-2010). See Exhibit 7-D.

e. Cumulative Products Table.
The Cumulative Products Table is a cumulative numerical projection of selected activities that will be performed by the State during the fiscal year.

1) The Cumulative Products Table is sent first with the Annual Grant Application (though it also includes estimates of products to be accomplished with the previous year's funds carried over into the current fiscal year), then additional projections are updated as part of any subsequent grant for that Federal fiscal year.

2) Use the Guidelines for Completing the Cumulative Products Table and the forms contained in this Chapter (Exhibit 7-E).

f. Organization Chart and Staffing Summary Statement.
An accurate organization chart reflecting the State's current organization and a Staffing Summary which describes the employees paid for by HPF or matching share must be submitted with the annual grant application. With each Annual Grant Application, States must send a new, fully revised and complete Organization Chart and Staffing Summary. It is not sufficient to provide only a notice of the staffing changes.

1) The Organization Chart shall detail all positions associated with work that is charged in full or in part to the HPF Federal or matching share as State staff effort (i.e., not subgrants). See Exhibit 7-F. The Organization Chart must include the following components:

a) All positions by title, noting which positions fulfill 36 CFR 61 staff requirements;

b) Names of incumbents of all positions paid in full or part by HPF funds, or claimed as nonfederal share costs;
c) Reporting relationships;

d) Assigned Program Areas for each staff person;

e) Which staff person has primary responsibility for HPF Grants Management (both grant-assisted internal operations and subgrants); and

f) Which staff person has responsibility for Title VI and Section 504 compliance (see Chapter 10, Section C.5.f.).

2) The Staffing Summary shall express State staffing in terms of full-time equivalents (FTEs: one FTE equals 1 person working a full-time work week as defined by Statewide personnel regulations for 1 year). Part-time or temporary employees should be included as fractions of full-time. The Staffing Summary must show:

a) Number of FTEs charged to HPF Federal share; and

b) Number of FTEs charged to HPF matching share.

Include only "in-house" personnel. "In-house" personnel means full or part-time employees or consultants/contractors who are under the administration of the SHPO and are paid directly by the State. Do not include subgrantee personnel. For b), convert the estimated number of volunteer hours to FTE terms if volunteers will be a major item of nonfederal share.

The Staffing Summary may be combined with the Organization Chart if the requirements of the Staffing Summary are clearly indicated on the Organization Chart.

3) Certification of Staff and Review Board Qualifications must be able to document that persons from the appropriate disciplines who meet the professional qualification specified in the Secretary's Professional Qualification Standards, in accordance with 36 CFR 61.4(e) and (c); 36 CFR 60.6(k) and (o); as well as Chapter 6.

g. Environmental Certification.
States must submit either an Environmental Certification listing the Categorical Exclusions that allow the State's activities to be excluded from the NEPA process or an Environmental Assessment. See Chapter 11 for details.

h. Anticipated Activities List.
The Anticipated Activities List is the means by which the Annual Grant Application identifies the activities which the State will carry out that will, in part, help achieve the goals and objectives in the State's NPS-approved Comprehensive Statewide Historic Preservation Plan. The list (along with the Cumulative Products Table) provides a brief indication of how the State intends to use its HPF grant for this purpose.

1) For each Program Area, the State must list by brief descriptive title each major (in the State's view) project or activity and reference the State Plan goal(s) and objective(s) to which the project/activity helps achieve, if any. See Chapter 6, Section G. There need not be a

complete one-to-one correlation between every activity or project undertaken with HPF assistance and the State Plan. The project title must be descriptive rather than numeric. For example, use "Inventory Computerization" or "Doe County Archeological Survey," but not "14-BAL-42B10." Projects with multiple phases must include the phase number in the title. There must be enough information in the descriptive title to indicate the tangible nature of the project or activity. Multiple goals and objectives may be referenced for an activity, if that activity helps achieve more than one goal or objective.

For example:

Survey and Inventory Program Area

1. Western Counties Mining Resources Survey (Phase III)--Goal VI, Objective 4

2. Test software for possible automation of State inventory--Goal II, Objective 1

2) Each Program Area must be listed, even if only to indicate that no major projects/activities are planned. For example, if a State plans only routine Review and Compliance activity, it should state this in the List.

3) Both subgrant and in-house projects and activities must be included.

4) If the Goals or Objectives of the State Plan are not numbered or lettered, some other means, such as a short title or description must be used.

5) The Project/Activity Database Form may be used (see Chapter 25).

6) Each anticipated activity listed in the annual application must be reported on in the End-of-Year Report through the Project/Activity Database Report. (See Chapter 25, Section D.2.)

i. Compliance with State Intergovernmental Review Process (E.O. 12372 Review).
State applications must be forwarded to the State Single Point of Contact in compliance with the States' Intergovernmental Review process unless one has not been established under Executive Order 12372, Intergovernmental Review of Federal Programs. Under Executive Order 12372, each State establishes its own procedures and programs to be covered by its review. Refer to Chapter 4 and 43 CFR 9 (see the Appendices). The SHPO must transmit to NPS all clearinghouse comments as part of its application(s) or provide a statement that no comments have been received. States must attach comments received through the State's E.0. 12372 review process or, if applicable, include a certification and the date that the application was transmitted to the E.0. 12372 Single Point of Contact. See Chapter 4, Section B.3.

Only States without an NPS-approved Comprehensive Statewide Historic Preservation Plan are required to submit additional items C.1.j. and C.1.k (the Program Overview and Action Plan Narrative).

j. Program Overview.
The Program Overview should be a 1-2 page summary of the broad issues facing the State office during the upcoming grant cycle. It provides NPS and, more importantly, the State's constituency, with a framework for understanding specific objectives and tasks outlined in the Action Plan Narrative (see Section C.1.k., below). The Overview may be a written narrative, a

listing in "bullet" form, or a mixture of the two.

The Program Overview briefly addresses the following issues:

- What are the most pressing preservation problems and highest priorities?
- Where are the most demanding and pressing threats and dangers to cultural resources in the State?
- What are the most urgent constituent demands?
- Where are developmental pressures greatest?
- What are the State's greatest internal needs and what actions will meet them?

k. Action Plan Narrative.
The Narrative should outline, in not more than 10-15 pages, the major tasks (including both subgrant and in-house activities) to be undertaken in the upcoming grant cycle, and indicate how these relate to the broad issues described in the Program Overview. Projects must be organized by the Chapter 6 Program Areas. Each task statement should briefly describe the major services to be provided, results to be obtained, and/or problems to be solved. The Narrative may take the form of short statements or be presented in "bullet" form.

Tasks should not be described in such general terms that results cannot be measured. Detailed descriptions, however, are not expected. For example, explain that the Office will complete and forward to the Keeper of the National Register, five multiple property documentation forms, or that it will conduct five workshops on completing National Register nomination forms.

Each task must be derived either from the State's historic context-based goals and priorities or from the State's "other preservation goals and priorities." Some goals and priorities are developed from the historic contexts in the State. (See Standard II of the Secretary's Standards for Preservation Planning.)

"Other goals and priorities" are derived from objectives not directly related to historic context based planning. These might include promoting certification of local governments, responding to constituent requests or emergencies, or entering into Programmatic Agreements with Federal agencies. Historic context based tasks must be indicated in some way, such as with an asterisk (*). There may be some tasks that address both context based and non context based issues.

Each task must be described in terms of the broad issues discussed in the Program Overview. For example, a task to identify, evaluate, and nominate lithic scatter sites in the San Juan Valley oil fields might address the issue of mitigating the damage to such sites when drilling takes place on privately owned land. Similarly, a proposed survey of Monroe, Jefferson, and Adams Counties might fulfill a priority of identifying, evaluating, and nominating properties associated with 18th century French immigrants into the State, as expressed in the historic context "French Immigration into the Mississippi River Valley 1722-1846."

Each required Chapter 6 Program Area must be addressed even if only to indicate that no major tasks are planned. Each subgrant and major in-house activity must be reported on in the End-of-

Year Report, Project/Activity Database Report. See Chapter 25, Section D.

2. Special Requirements.
States will be notified when there are supplemental requirements applicable to individual appropriations/apportionments.

3. Application Transmittal.
Transmit one complete application package to NPS. The package must include original signatures. Photocopied signatures are not acceptable.

States are encouraged to submit their applications early in the Federal Fiscal Year to expedite the obligation of their funds. Failure to send an application promptly may result in the loss of funds due to Congressional rescissions. If the State's E.0.12372 review process prevents submission of the application within this time frame, (see Chapter 4, Section C.3.). If an acceptable grant application has not been received by NPS, the amount stated in the Apportionment Certificate may be reduced following written notice to the grantee.

4. Amendments and Other Programmatic Changes.
For discussion of conditions requiring amendments and instructions for amendments, see Chapter 15.

D. Sequence of Grant Award Actions.
Note that in any fiscal year, there are two Annual grant agreements: one if unexpended funds are carried over from the previous fiscal year, and a second Annual grant for the current fiscal year. The following describes the sequence of grant award actions and grant spend-out:

! December 31. Final billing for expired Annual Grant funds and for Annual Grant funds not carried over (i.e., expended for work done during the first year of the grant).

! December 31. End-of-Year Report and "Use or Lose" information sent to NPS. NPS may ask for selected portions of the End-of-Year Report prior to December 31 in order to calculate performance-based apportionments. See Chapter 2, Section B.4.

! February 28. Certification of NPS prepared Financial Status Report.

! Before September 30. All second year Annual Grant costs must be incurred (prior to the end date of the 24-month grant period).

E. Grant Application Information and Review.
Each grant application will be reviewed by NPS to determine the completeness of the application, compliance with application instructions, and a cost evaluation to determine whether proposed costs appear reasonable.

1. Application information. The information provided or referenced in the application serves as the contractual basis for the NPS grant agreement(s) during the term of the award. All significant data and information must be disclosed in the grant application and applicable Project Notifications (see Chapter 8, Section F). Failure by a grantee to consider or reveal information that might have a significant bearing on the eligibility of a program or project may be cause for refusal, cancellation, or recoupment of Federal Assistance.

2. Supplemental information. The grantee may, at any stage during the review process, be requested by telephone or in writing to furnish additional documentation clarifying information required by the Historic Preservation Fund Grants Manual or otherwise necessary, in the judgment of NPS, in order for NPS to fulfill its grant review and monitoring responsibilities. The review may be suspended until the additional information or documentation is received or the application returned if such documentation is not readily available or promptly obtainable.

3. Review period. Generally, within 30 calendar days after receipt of a complete grant application (excluding any periods needed for submission of supplemental information), the NPS Grant Awarding Official will approve or disapprove the application in writing.

4. Disapproval. The grantee will be notified in writing of the reasons for disapproval or for inability to act on a submitted application. Disapproval of an application will not preclude its reconsideration as a revised reapplication. Disapproval or return of the application may result in an adjustment of uncommitted funds according to established procedures.

5. Required Reports. Successful submission of the previous year's required reports is a condition of the Annual Grant Agreement, and NPS may withhold approval of the current year's grant until an acceptable End-of-Year Report is received.

F. Completing the Historic Preservation Fund Annual Grant Application--National Trust for Historic Preservation.

1. Completing the Application. The annual grant application consists of four parts, assembled in the following order: a) Standard Forms and Certifications; b) Program Overview; c) Cumulative Products Table for the National Trust; and d) Special Requirements for current fiscal year appropriated funds.

   a. The following Standard Forms and Certifications must be submitted as part of the Annual Grant application:

      1) Federal Assistance Forms (SF 424).
      Completed in accordance with Exhibit 7-A of Chapter 7. (If a Continuing Resolution grant application has been previously submitted, an SF 424 Amendment for the additional funds should be submitted.)

      2) SF 424A and SF 424C Budget Forms. See Instructions for completing SF 424A and SF 424C, if applicable, Budget Forms (Exhibit 7-B). The Budget Form for the annual application includes all apportioned fiscal year grant funds (but not funds carried over from prior fiscal years).

      3) Assurances. See Chapter 7, Exhibit 7-C, except that Assurance number 4 is to be revised by substituting compliance with OMB Circular A-110 rather than with Circular A-102. The Trust must also submit the Form DI-2010 Certifications.

      4) Environmental Compliance. An Environmental Certification listing the Categorical Exclusions that allow the Trust's activities to be excluded from the NEPA process or an Environmental Assessment. (See Chapter 11.)

   b. Program Overview. The Program Overview must include Attachment A for the National Trust.

The Attachment A form provides cumulative objectives and major supporting activities by Program Areas and cost centers that are necessary to carry out each objective supported by HPF funds (see Chapter 6, Section R, "Program Areas Applicable to the National Trust for Historic Preservation"). Only the objectives and activities eligible for HPF grant assistance are to be listed on Attachment A. The completion of objectives is reported in the End-of-Year Report column (see Chapter 25 for instructions).

c. Attachment A for the National Trust. This form provides cumulative objectives and major supporting activities by Program Areas and cost centers that are necessary to carry out each objective supported by HPF funds (see Chapter 6, Section R, "Program Areas Applicable to the National Trust for Historic Preservation"). Only the objectives and activities eligible for HPF grant assistance are to be listed on the Attachment A. The completion of objectives is reported in the End-of-Year Report column. (See Chapter 25 for instructions).

d. Special Requirements for Annual Appropriated Funds. Information will be provided in writing to the National Trust to comply with legislatively or NPS administratively imposed requirements for a particular appropriation.

2. Submitting the Application. Send two complete application packages to NPS, Attention: Historic Preservation Grants Division. One copy must include original signatures. The Application must be signed by the President, National Trust, or a person authorized by that official's written designation to NPS to obligate the grantee to the terms and conditions of the grant.

3. Amendments and Other Programmatic Changes. (See Chapter 15)

a. The National Trust may not, without written concurrence from NPS, make changes that would substantively alter the program objectives in approved grants. NPS concurrence must be sought in the following circumstances:

1) Providing financial assistance to a third party by subgrant.

2) Transferring to a third party by contract or any other means, the actual performance of substantive programmatic work. The term "substantive programmatic work" means activities that are central to carrying out the purpose of the grant or a specific project, and not merely incidental. This term does not include purchase of supplies, materials, or equipment, acquisition of general or incidental support services, obtaining advice, or activities whose cost is treated as an indirect cost.

3) Costs requiring prior NPS approval (see Chapter 13, Section C.). Additional program application and project amendments may be initiated by NPS if: 1) on the basis of reports or adverse findings, it appears that HPF funds are being used for unauthorized purposes; or 2) if additional funds, previously appropriated or apportioned but unreleased, become available.

b. Request(s) for changes to the annual grant shall be submitted using the same form(s) as in the original application. Only the pages affected by the amendment shall be submitted with the SF 424 facesheet (refer to Chapter 15 for NPS amendment procedures).

EXHIBIT 7-A -- APPLICATION FOR FEDERAL ASSISTANCE

For up to date copies of the necessary SF 424 -- Application for Federal Assistance, go to:

http://www.whitehouse.gov/omb/grants/grants_forms.html

For current version (as of November 2020), see forms section in the back of the Manual

Additional Instructions for Completing the Multiple-Purpose SF 424

The Standard Form (SF) 424 is the required facesheet for applications, amendments, or budget revisions submitted in accordance with OMB Circulars A-102 and A-110. The following instructions, to be used in conjunction with the instructions on the back of the printed SF 424, are applicable when applying for HPF grant assistance through an Annual Appropriation, a Continuing Resolution appropriation, or a special purpose appropriation. In addition, these instructions apply when requesting approval for any amendments or budget revisions to approved HPF grant awards.

In addition to the special information required when applying for HPF assistance, instructions are also provided for completing the SF 424 for compliance with the Federal Assistance Award Data System (FAADS). A precoded 424 is enclosed (see Exhibit 7-A). Information collected from the FAADS is used in the Consolidated Federal Funds Report, to provide data on Federal expenditures or obligations to the congress, the Executive Branch, and other political and private interest groups.

Grantees are responsible for completing the entire form; any exceptions will be further detailed in this exhibit. If an item is not applicable write "N/A." If additional space is needed, a separate sheet should be attached.

The revised SF 424 does not afford additional space for funding changes. At the bottom of the form there is only one section for the funding information, if the estimated funding is to be corrected, cross through the original figures and write in the change.

The instructions for completing a SF 424 are outlined in the columns headed HPF REQUIREMENTS and FAADS REQUIREMENTS; each line item has been keyed to the Standard Form 424.

	HPF REQUIREMENTS	FAADS REQUIREMENTS
1. **Type of Submission**	Mark the appropriate box. For amendments--leave blank.	Not Applicable.
2. **Date Submitted**	State should enter date application is transmitted to Federal Agency.	Not Applicable.
Applicant Identifier	State should enter its control number, if any.	Not Applicable.
3. **Date Received by State**	Enter date application is received in State.	Not Applicable.
State Application Identifier	See FAADS/ requirements.	Enter the number assigned by a state clearinghouse. The 13 character format established by OMB should be used. The standard format is: State, Year, Month, day, Sequential Number (Sample: ID960101-00001). For awards under covered programs for which no SAI number was supplied enter "SAI NOT AVAILABLE." Programs not covered by E.O. 12372 compliance should enter the number if reported, otherwise, the entry should be "SAI EXEMPT."
4. **Date Received by Federal Agency**	Enter date application is received by the Federal Agency (if for a new grant, leave blank).	Not Applicable.

	HPF REQUIREMENTS	FAADS REQUIREMENTS
Federal Identifier	For annual grants--leave blank.	Not Applicable.
5. **Applicant Information**	**Legal name**: Enter the name of the primary organizational unit which will undertake the financial assistance activity. State of _____. **Organizational DUNS**: Enter the primary organizational unit's DUNS number as assigned by Dun and Broadstreet. **Organizational Unit**: Enter appropriate name. **Address**: Enter complete address of applicant. **Name/Telephone Number/Email address**: Enter information for person to be contacted (give area code).	Enter the name of organization. Identify the specific organizational element (subdivision) as well as parent organization. Do not abbreviate the first word of a recipient. Abbreviations should be used only when the recipient name exceeds the field length, which is 45 characters. When abbreviations are necessary, the following guidelines should be used: a) Abbreviate from the right side of the name. b) Abbreviate only one word, if possible. c) Abbreviate the most commonly used word. **Address**. Enter the specific name and the appropriate code for the city or township in which the recipient is located. The code used should be the 4 character number GSA code. **County name**. Enter the specific name and appropriate code for the county in which the recipient is located. The 3 character numeric FIPS code should be used. **State Code**. Enter the Appropriate 2 character numeric FIPS code for the State in which the recipient is located. **Zip Code**. Enter the 5 (or 9) character numeric code from the U.S. Postal Service manual.
6. **Employer Identification Number**	Enter number assigned by the Internal Revenue Service.	
7. **Type of Applicant**	Enter "A" for all applications or amendments.	Enter the 2 character numeric code which represents the recipient in the space to the right of "Enter appropriate letter in box." In this case the specific numeric code is "00."
8. **Type of Application**	Check appropriate box. If revision, enter appropriate letter(s) in box(es).	Enter "04" code, representing the type of grant or financial, in the lower right corner of the box.
9. **Name of Federal Agency**	Enter "National Park Service."	Enter 1443.
10. **Catalog of Federal Domestic Assistance Number**	Enter 6 character number from Catalog of Federal Domestic Assistance.	Enter: 15-904
Title	Enter program, title "Historic Preservation."	

	HPF REQUIREMENTS	FAADS REQUIREMENTS
11. **Descriptive Title of Applicant's Project**	Identify type of Grant. a) Annual b) Special Identify the fiscal year for which these funds will be applied to program objectives and for which NPS approval of obligational authority is requested.	Enter brief description of the project or purpose for which funds are being requested. Only the first 145 characters will be recorded. Therefore, begin the description with the most relevant information.
Correction or Late Indicator	Not Applicable.	This section will be used by NPS only. Enter the appropriate code at the lower left hand side indicating the award is being reported either as a correction, a late record which was omitted from a previous quarter's submission, or a current financial award. Fiscal year and quarter of corrected or late record: enter at the lower right hand side the appropriate numeric designation of the fiscal year and quarter to which the corrections apply, or in which the record should have been submitted.

	HPF REQUIREMENTS	FAADS REQUIREMENTS
12. **Areas Affected By Project**	Enter Statewide.	Enter the location of the project being funded. Provide a 7 character code as follows: a. The State, District of Columbia, or territory should be entered in the first 2 positions. The 2 character numeric FIPS code should be used. For multistate projects, a "00" should be entered, in which case the remaining positions should contain asterisks (*). b. If the principal place of performance is in a particular city, township, or place, the 5 character numeric FIPS code should be entered in positions three through seven. (The GSA place code should not be used here). c. If the principal place of performance is a particular county (or more than one county), enter the 3 character numeric FIPS code for the county (or county of principal performance) in positions five, six, and seven, preceded by 2 asterisks (*) in positions three and four. d. For pass-through grants or other statewide projects, the State should be designated in the first two positions, with the remainder of the field containing asterisks (*). e. For awards to domestic recipients where the final place of performance is in a foreign country, the place of performance will be two zeros followed by FORGN (00FORGN).
13. **Proposed Project**	Enter the start and ending dates in the appropriate boxes.	
14. **Congressional Districts Of**	**Applicant**: Enter the applicant's congressional district.	Enter the 2-position numeric code for the congressional district at large, enter a "00." For jurisdictions with a nonvoting delegate, enter "98." For jurisdictions with no representative, enter "99." If a look-up table is being used to generate the congressional districts, and more than one district falls within the boundaries of the city, a code "90" should be used.
	Project: Enter any district(s) affected by the program or project.	

	HPF REQUIREMENTS	FAADS REQUIREMENTS
15. **Estimated Funding**	Enter the amount requested or to be contributed during the funding period by each contributor. If the action is a change in dollar amount, indicate only the amount of the change.	If funding amount is positive, no positive sign (+) is necessary. If funding amount is negative (such as for a decrease in the obligation), sign in the space below "FEDERAL." Enter in space below "State," as follows: If funding amount is positive, no positive sign (+) entry is necessary. If funding amount is negative (such as for a decrease in the obligation) enter a minus (-) sign.
16. **Is Application Subject to Review by State Executive Order 12372 Process?**	Enter date application was made available to the State Executive Order 12372 process. Check appropriate box under 16b.	Enter the bureau's or office's internal award number which uniquely identifies the grant or award transaction. Omit hyphens and other special characters. The number cannot exceed 16 characters. Put entry in space below "or Program has not been selected by State for Review" on left side. **a) Core Number**: Enter core number for each award in accordance with each agency's internal code format. **b) Modification Number**: Enter NPS' internal number which represents each modification to a grant or award of financial assistance as applicable. The entry cannot exceed 4 characters in length. Put entry in space below "or PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW" or right side.
17. **Is the Applicant Delinquent on any Federal Debt?**	Check appropriate box.	**Action/Obligation date**. Enter the year, month, and day funds were obligated or committed for this action in left corner. The numeric entry should be in the form of yy/mm/dd. **Starting date**. Enter the year, month, and day that funds will become/became available for actual beginning of the project in the middle. The numeric entry should be in the form of yy/mm/dd. **Ending date**. Provide the year, month, and day of scheduled completion date of the project or activity related to the action in right corner. The numeric entry should be in the form of yy/mm/dd.

	HPF REQUIREMENTS	FAADS REQUIREMENTS
18. **To the Best of my Knowledge and Belief...**	To be signed by the authorized representative of the State.	**Record Type**. Next to the word "AWARDED," enter a numeric "2" for individual action reporting. **NOTE: If occasions arise where after the ending date an audit is conducted and a change in the dollar amount results, the ending and action date should both be changed to reflect the day the change was made.** In addition, Item #11 on the SF 424 "Descriptive Title of Applicant's Project" should indicate that the dollar change is because of the findings of the audit conducted.

EXHIBIT 7-B BUDGET FORMS (SF424A AND SF424C)

For up to date copies of the necessary SF 424A and SF 424C – Budget Forms, go to:

http://www.whitehouse.gov/omb/grants/grants_forms.html

For current version (as of November 2020), see forms section in the back of the Manual

ADDITIONAL INSTRUCTIONS FOR THE SF 424-A (Budget Form)

Section A, B, and C provide budget estimates for the entire HPF grant award (the combined Federal and nonfederal shares). All applications must contain a breakdown by the object class categories shown in lines a.--k. of Section B. Unless supplemental instructions from NPS state otherwise, these budget forms are to be used when applying for all HPF grant funds (nonconstruction, development, or acquisition). The amounts appearing on the Budget Form must agree with the amounts appearing on the SF 424.

SECTION A - Budget Summary **DO NOT USE SHADED AREAS**

1.e. Enter the total current year Federal share request to be approved in the Grant Award. The amount entered in 1.e. will equal the amount in Item 15a. on the SF 424.

1.f. Enter the total current year nonfederal share request to be approved in the Grant Award. The amount entered in 1.f. will equal the amount in Item 15b. on the SF 424. (Insular areas are not required to provide matching share).

SECTION B - Budget Categories **DO NOT USE SHADED AREAS**

For each column, total the amounts entered on lines 6.i. and 6.j. and enter the total on line 6.k.

The total of Column 1 (Administrative), Column 2 (Internal Operating/Staff), and Column 3 (External Subgrants and Contracts) will equal the amount shown in Item 15.f. of the SF 424.

Total columns 1 through 3 across and enter the figures in column 5. The figure in column 5, line 6.k. will equal the amount entered in Section A.1.g.

ADMINISTRATIVE AND OPERATING COST INSTRUCTIONS
SECTION B

In order to establish the amount of administrative costs applied in support of operational HPF activities, administrative costs must be listed separately in Section B, column (1) of the SF 424A Budget Form. Section B, column (2) must list operational costs for activities.

A. Definition.

1. Administrative costs. Costs incurred when accomplishing activity directly pertinent to budget formulation and execution, personnel management, finance, property management, equal opportunity and other "overhead" functions not directly attributable to specific program areas. Refer to Chapter 6, Section F for additional activities which support all program areas and should be charged to this program area.

2. Operating Costs. The costs applied to specific Program Area activities described in Chapter 6. Operating programs and projects are those that directly contribute to the accomplishments of the SHPO responsibilities. The following are examples of operating costs:
   a. Personnel and nonpersonnel costs allocable to specific program areas.

   b. Payment to any trainees (such as work-study participants) including salaries, wages, and employer's share of fringe benefits.

   c. Administration or management directly linked to program areas; these costs are included under the appropriate program area.

B. Procedures.

1. Identify the expenses for the 24-month period for the general executive offices and other overhead expenses. Refer to the Administrative Program Area, Chapter 6, Section F for examples of these costs.

   Administrative costs chargeable to all budget categories must be included: personnel, fringe benefits, travel, equipment, supplies, contractual, construction, and other. (Refer to SF 424A, Budget Information Instructions.)

2. Where personnel, such as the State Historic Preservation Officer and the fiscal officer, accomplish both administrative work and operational work, the approximate percentage of time spent on administration should be translated into projected costs.

SECTION C **DO NOT USE SHADED AREAS**

8.b. Enter the nonfederal share supplied by the grantee.

8.d. Enter the nonfederal share supplied by other sources (including other State agencies) for the HPF grant (excluding pass-through funds for CLGs).

9.c.,d. Enter the nonfederal share for the pass-through funds.

9.e. Enter the total nonfederal share for the pass-through funds.

Note: The amount in 8.e. plus the amount in 9.e. will equal the amount in Item 15b of the SF 424.

Note: Should a State choose to " overmatch" program costs, the amounts must be included in Section A, B, and C. Nonfederal share above the percentage required by law (overmatch) is subject is subject to audit and adequate documentation must be maintained on file for audit purposes.

Program Income (see Chapter 16) to be approved by NPS as nonfederal share must be shown in line 7. If such Program Income is not listed, written NPS prior approval must be sought by the grantee through submission of a subsequent letter.

SECTION F - Other Budget Information

21. Direct Charges: Attach, if applicable, a list of proposed equipment to be purchased and the cost of each item. Equipment exceeding a cost of $5,000 per item must be listed. Equipment costing more than $5,000 not listed as part of the grant application will require a separate letter from the grantee and written NPS approval prior to purchase.

22. Indirect Charges: Provide the date of approval for the most recent Federally-approved Indirect Cost Rate. Attach a copy of the document from the cognizant Federal Agency that approved the Rate.

23. Administrative Costs: Provide the percent of Administrative Costs. If Administrative Costs (Section B, Column 1, line 6.k.) plus the State's indirect costs (Section B, column 5, line 6.j.) exceed 25 percent of total program costs (Section B, Column 5, line 6.k.), attach a written explanation.

Note: Costs requiring prior NPS approval (see Chapter 13, Section C) should be listed in an attachment to Section F of the SF 424A Budget Form. If such costs are not listed, written NPS prior approval must be sought by the grantee through submission of a subsequent letter or amendment request.

EXHIBIT 7-C ASSURANCES (SF424B and SF424D)

For up to date copies of the necessary SF 424B and SF 424D – Construction and Nonconstruction Assurances, go to:

http://www.whitehouse.gov/omb/grants/grants_forms.html

For current version (as of November 2020), see forms section in the back of the Manual

EXHIBIT 7-D CERTIFICATIONS REGARDING DEBARMENT

For up to date copies of the necessary – Certifications Regarding Debarment, Suspension, Drug-Free Workplace, and Lobbying (DI-2010), go to:

http://www.whitehouse.gov/omb/grants/grants_forms.html

For current version (as of November 2020), see forms section in the back of the Manual

Exhibit 7-E

OMB Control Number 1024-0038
Expiration Date: November 30, 2007

CUMULATIVE PRODUCTS TABLE

Annual Grant	End-of-Year Report	Amendment
State:	Fiscal Year:	Date:

Instructions

1. Refer to both the Glossary and the Guidelines for Completing the Cumulative Products Table, below.

2. Application: Fill in all blanks in the "**Cumulative Projection**" columns.

3. Enter "N.A." if the category is not applicable. Use "0" if the category is applicable, but no action is anticipated or has occurred during the reporting period.

Program Area and Products	**Cumulative Projection**	**Actual**
Review and Compliance Federal		
Properties Meeting National Register Criteria For Which a Written Eligibility Opinion is Provided		
Properties Not Meeting National Register Criteria For Which a Written Eligibility Opinion is Provided		
Findings of "No Properties" And/Or "No Effect" On Which Written Opinions Are Provided		
Other Findings of "Effect" On Which Written Opinions Are Provided		
Memoranda of Agreement Signed		
Programmatic Agreements Signed		

OMB Control Number 1024-0038
Expiration Date: November 30, 2007

CUMULATIVE PRODUCTS TABLE

Annual Grant	End-of-Year Report	Amendment
State:	Fiscal Year:	Date:
Program Area and Products	**Cumulative Projection**	**Actual**
National Register		
A. State Nominations: Number of New Nominations Sent to the National Register:		
Districts		**NPS DATA**
Buildings		**NPS DATA**
Sites		**NPS DATA**
Structures		**NPS DATA**
Objects		**NPS DATA**
B. Federal Nominations:		
Number of Federal Nominations Commented On		
Preservation Tax Incentives		
NUMBER OF CERTIFICATION REQUESTS COMMENTED ON AND FORWARDED TO NPS: Certification Requests For:		
Evaluations of Significance (Part 1s)		**NPS DATA**
Descriptions of Rehabilitation (Part 2s)		**NPS DATA**
Requests for Certification of Completed Work (Part 3s)		**NPS DATA**

OMB Control Number 1024-0038
Expiration Date: November 30, 2007

CUMULATIVE PRODUCTS TABLE

Annual Grant	End-of-Year Report		Amendment	
State:	Fiscal Year:		Date:	
Program Area and Products	**Cumulative Projection**		**Actual**	
Survey and Inventory				
A. NUMBER OF PROPERTIES NEWLY ADDED TO THE STATE INVENTORY:	FROM HPF SURVEYS	OTHER	FROM HPF SURVEYS	OTHER
Architecture/History				
Archeology				
B. AREA SURVEYED (in Hectares: 1 hectare = 2.5 acres = .004 square miles):				
Reconnaissance Level Survey:				
Architecture/History				
Archeology				
Intensive Level Survey:				
Architecture/History				
Archeology				
Planning				
Reporting Products in the Planning Program Area is optional. The effect of undertaking a Comprehensive Statewide Historic Preservation Plan results in activities and products usually reported in other Program Areas.				
Specify Products (Optional):				

OMB Control Number 1024-0038
Expiration Date: November 2007

CUMULATIVE PRODUCTS TABLE

Annual Grant	End-of-Year Report	Amendment
State:	Fiscal Year:	Date:
Program Area and Products	**Cumulative Projection**	**Actual**
Local Government Certification/ Pass-Through		
Number of Local Governments Newly Certified During Fiscal Year		**NPS DATA**
Number of CLGs Evaluated		
Number of CLGs Decertified		**NPS DATA**
Development, Acquisition, and Covenants		
Number of Predevelopment Projects For Which Plans and Specifications Are Reviewed		
Number of Predevelopment Projects For Which Historic Structure Reports Are Reviewed		
Number of Development Projects Completed		
Number of HPF-Funded Covenants and Preservation Agreements Monitored		
Other Activities		
Reporting Products in this Program Area is optional. (Be specific when reporting activities completed).		

Guidelines for Completing the Cumulative Products Table

The following guidelines are to be used in completing Cumulative Products Table. Except where specifically stated, the guidelines apply to all Cumulative Products Tables sent by States.

A. General Guidelines.

1. Fill in all blanks. Do not combine data unless requested to do so.

2. Only activities funded or administered with HPF grant monies or used as allowable matching share should be reported on the Cumulative Products Table.

3. In the Heading, list the date of the current submission. That is, the date on an amended page should not be the same as on the original submission. This will help NPS ensure that only current data will be used for review and reports.

4. General purpose definitions may be found in the Glossary and Chapters 3 and 6 of the Historic Preservation Fund Grants Manual. Chapter 6 also provides further details on which activities belong in which program areas and what the minimum requirements are for those program areas.

5. When additional funds are added to the grant, the appropriate pages of the Cumulative Products Table must be revised and sent to NPS. For example, when a State receives additional funds, revised Cumulative Products Table pages are normally required to show the additional cumulative products that will be accomplished with the new funding.

6. In the End-of-Year Report, report activity in each program area unless exempted by law or in writing by the National Park Service. If there has been no activity for particular blanks, enter 0.

7. There may be some situations in which double counting of Products is appropriate. For example, the area of a survey for both architectural/historical and archeological resources should be counted twice.

8. The blanks in the "Cumulative Projection" column are completed for the Annual Grant Application (and any subsequent amendments), and the blanks in the "Actual" column are completed for the End-of-Year Report (see Chapter 25). If there is no activity, enter 0.

9. The Cumulative Products Table is sent first with the Annual Grant Application but includes estimates on the products to be carried out with the funds carried over from the previous year and any approved preagreement costs. After the Annual Grant Application, the Cumulative Products Table projections are updated cumulatively as part of any subsequent award. For example, if a State plans to fund a reconnaissance level survey of 800 hectares for archeological resources with the funds carried over from the prior year and an additional 700 hectares with the current Annual Grant, the Cumulative Products Table for the Annual Grant Application will have the total of 1,500 hectares entered under "Reconnaissance Level Survey, Archeology." If the State then decides to use recaptured funds, for example, to survey an additional 500 hectares, the total would become 2,000 hectares.

10. A common method of making "cumulative projections" is to use the actual numbers from the previous year as the projection base for the upcoming year, modified to reflect any special circumstances, emphasis, and/or funding changes anticipated by the State.

11. Planned Products are results to be achieved, reviews to be performed, etc. For the End-of-Year Report, "Actual" Products are those actions and results that were produced during the reporting period. It does not refer to the number of items received during the reporting period, or to activities undertaken but not completed. For example, an item that is received during FY "1996" but upon which action is not completed until FY "1997" should be counted in the FY 1997 Annual Grant Application Cumulative Products Table and the FY 1997 End-of-Year Report, not in the FY 1996 End-of-Year Report.

12. In the Products Section, some "Actual" blanks are marked "NPS DATA." These are elements for which States need not report data in the End-of-Year Report; the National Park Service maintains its own records for these elements.

13. There are two types of multipurpose subgrants, i.e., those generating products for two or more program areas:

    a. A subgrant for which both the activities (and resulting products) and the costs are easily separable (such as printing a brochure on survey techniques and a brochure on preparing a nomination) into separate program areas.

    b. A subgrant for which neither the activities nor the costs are easily separable should be reported in the Other Activities Program Area.

B. General Guidelines (For Individual Appropriations Only). Supplemental requirements applicable to individual appropriations/apportionments will be supplied by NPS as needed.

C. Guidelines for Specific Program Areas.

1. Administration Program Area. Include the preparation of Grant Applications and End-of-Year Reports in this program area. Monitoring of activities in a specific program area, however, should be included in that program area. Refer to the Glossary and to Exhibit 7-B, "Additional Instructions for the SF 424A Budget Form," for further explanation of administrative costs.

2. Review and Compliance Program Area.

    a. Report Products on the review of Federal compliance with Section 106 of the National Historic Preservation Act, as amended, and 36 CFR 800 only.

    b. Do not include reviews of Federal activity performed for compliance with other laws (e.g., the Archeological Resources Protection Act, the National Environmental Protection Act, etc.) or reviews of State or local undertakings carried out pursuant to State or local regulations in the Cumulative Products Table (this includes project or design review conducted by local preservation commissions). These remain eligible activities (see Chapter 6, Section O). A summary of these reviews may be included in a Cumulative Products Table continuation sheet or as a narrative elsewhere in the Application or End-of-Year Report, if desired. See Chapters 7 and 25.

    c. Products completed pursuant to a Programmatic Agreement, a Memorandum of Agreement, a "Conditional" No Adverse Effect Agreement, or other agreement is reported in the same way as any other product. For example, a National Register eligibility opinion provided pursuant to a Programmatic Agreement is reported with other eligibility opinions, and a survey performed pursuant to a "Conditional" No Effect agreement is reported in the Survey and Inventory Program Area.

d. For both the "Properties Meeting National Register Criteria for which a Written Eligibility Opinion Is provided" figure and the "Properties Not Meeting National Register Criteria for which a Written Eligibility Opinion is provided" figure, States must count individual properties and each property of a group whose eligibility is specifically and individually addressed. The written opinion must enable the Federal agency to identify, locate, and understand the significance of each property to which the State refers. See Chapter 6, Section O.

   For the purposes of Cumulative Products Table, include opinions that there is not enough information to determine National Register eligibility in the "Properties Not Meeting National Register Criteria for which a Written Eligibility Opinion is Provided." See Exhibit 7-E-1, above.

   The rule of thumb for counting previously evaluated properties is whether or not the State Office reevaluates the property's eligibility. Many properties change from eligible to ineligible (and vice versa) over time. If the State evaluates or reevaluates a property's eligibility because there is some reason to believe its standing might have changed, it is reported; otherwise, previously evaluated properties are not reported.

e. "Findings of 'No Properties' and/or 'No Effect' On Which Written Opinions Are Provided," refers to written opinions provided to a Federal agency as to whether or not the State agrees with (or believes that there should be) a Federal agency's finding that there are no National Register eligible or listed properties within the Federal undertaking's area of impact (i.e., "No properties;" see 36 CFR 800.4(d)) or that the Federal undertaking will have no effect on National Register eligible or listed properties (i.e., "No Effect;" see 36 CFR 800.5.(b)).

   Include in this category those instances in which there will be "No Properties" or "No Effect" because the Federal agency has agreed to alter its original plans.

f. "Other Findings of Effect On Which Written Opinions Are Provided" refers to written opinions provided to a Federal agency as to whether or not the State agrees with (or believes that there should be) a Federal agency finding that its Federal undertaking would have "No Adverse Effect" (see 36 CFR 800.5(d)) or an "Adverse Effect" (see 36 CFR 800.5(e)) on National Register eligible properties.

   Include in this category instances in which the State has negotiated the steps which the Federal agency agrees to take in order for an "Effect" to be determined a "No Adverse Effect."

g. The unit of measure for all of the "Effect" determinations is the number of undertakings for which the State provides a written opinion. Only one finding per undertaking per Federal fiscal year is to be reported. In other words, the reviews of multiple drafts of a proposed undertaking must not be reported within a single Federal fiscal year. However, if the State has provided its written opinion on an undertaking's effect and the Federal agency submits a completely new proposal that would change the effect of the undertaking and the State provides its written opinion of the new effect, then the second written opinion is reported. The most common example of this would be where the planned path of a new highway has been changed.

   Findings must be reported at their greatest level of effect. For example, if a States provides its written opinion that a single undertaking has "No Effect" on seven National Register eligible properties and an "Adverse Effect" on three properties,

   count the undertaking as one "Adverse Effect" and report it in the "Other Effects" blanks in the Cumulative Products Table.

If a single undertaking ends with multiple Federal agency findings for the properties included within its scope, the State must not count its comments more than once on the Cumulative Products Table. If, in addition, a State wishes to report all of the findings within an undertaking it may do so, but only on a continuation sheet or in a narrative accompanying the Cumulative Products Table.

h. "Memoranda of Agreement" (MOAs) pertain to specific Federal undertakings rather than a type of activity (e.g., a project to renovate a specific Post Office building, rather than a program to remove asbestos from schools).

"Memoranda of Agreement Signed" includes both new and revised MOAs and is reported when MOAs are signed by the SHPO. Only one MOA per undertaking per Federal fiscal year should be reported unless there has been a substantive revision made to an executed MOA within that time. The SHPO's signature will be taken by NPS as assurance that the State has made a substantive contribution to the MOA.

i. Reviews reported in this area must be substantive (i.e., involving examination of project documents) to be counted. For example, merely extending an MOA without review should not be counted.

j. "Programmatic Agreements Signed" (PAs) include PAs, new and revised (but not just renewed; there must be substantive changes), for which substantive work has been performed. These products deal with types of activities, rather than specific undertakings, and may be initiated by either the SHPO or a Federal agency. They are signed by the Federal agency representative and the SHPO and are executed by the Advisory Council on Historic Preservation. See 36 CFR 800.13 for further information on PAs. Because the State's work is complete when the SHPO signs the PA, the product is reported at that point. The SHPO's signature on the PA will be taken by NPS as assurance the substantive work has been performed.

"Categorical No Effects" (a.k.a., "Categorical Exclusions") has been subsumed under the Programmatic Agreements category. Under 36 CFR 800.13, a Federal agency may elect to fulfill any part of its Section 106 responsibilities "for a particular program...or a class of undertakings that would otherwise require numerous individual requests for comment, through a Programmatic Agreement." PAs are not limited to treatment activities, and thus "Categorical No Effects" is within the purview of this section of the regulations. "Categorical No Effects" (and any other Section 106 compliance related programmatic agreement with a Federal agency) must meet all of the procedural requirements of a standard PA.

3. National Register Program Area.

a. Enter the number of nominations forwarded to the National Register by the State during the fiscal year, not the number of nominations in preparation or received by the State.

b. Do not report resubmissions of nominations returned by the National Register for additional action.

c. Any change to the boundaries of a resource already listed on the National Register should be reported as a new nomination.

d. Report nominations that the State forwards to the National Register, but that become determinations of eligibility because of owner objection.

4. Preservation Tax Incentives Program Area.

a. Products in this Program Area refer to the number of complete Historic Preservation Certification Applications to be forwarded to NPS, not to the number of applications received by the State.

b. Do not report a resubmitted application that was returned by NPS for additional information or reviewed a second time.

c. "Evaluations of Significance" includes "Determinations of Significance," "Certifications of Non-Significance," and "Decertifications of Significance."

d. Do not report applications forwarded to NPS without review or comment.

5. Survey and Inventory Program Area.

a. All Products reported, whether or not they are HPF-funded, must be designed and conducted or supervised and reviewed, by those who meet the professional qualifications for the appropriate discipline, specified in 36 CFR 61. Survey and Inventory Products reported must meet the Secretary's "Standards for Identification and Evaluation."

b. "Properties Newly Added to the State Inventory" refers to the number of properties evaluated using the National Register criteria. A property may be reported whether or not it is eligible for listing in the National Register, or if there is insufficient information to determine eligibility.

c. Do not report inventory data on properties that already are part of the inventory but that are being computerized or are otherwise part of an inventory reorganization; report newly added properties only.

d. For "Area Surveyed," the unit of measure is hectares. One square mile equals 256 hectares. One hectare equals 2.5 acres.

e. Do not report areas surveyed at the "Intensive Level" of Survey in the "Reconnaissance Level" of Survey section unless two separate surveys of the same area were undertaken during the reporting period.

f. Characterize all surveys as either archeology or architecture/history. As a general rule, any survey referred to as prehistoric, underground, submerged, or similarly described should be characterized as archeology; characterize all others as architecture/history.

If an area is examined for both archeological and architectural/historic resources in a single survey, project, or task, include the area in both categories.

g. All surveys reported must be conducted in the field (i.e., not solely archival). For example, in a thematic survey for county courthouses, if the presurvey archival research indicates the location of the courthouses (as it should in most cases) report only the area of each courthouse; do not report the area of the entire county. Only if the entire area of the county was searched in the field for the courthouse, can the entire area of the county be counted.

h. Do not report distance traveled to get to the location being surveyed as part of "Area Surveyed."

i. For resurvey of areas to upgrade data in the State inventory, count only the area that actually will be, or was, surveyed again.

6. Planning Program Area. There are no prescribed Products that must be reported in the Planning Program Area. States may, however, report major preservation planning products in this

portion of Cumulative Products Table if they are not reported in other program areas. All activities reported must meet the Secretary's Standards for Preservation Planning.

Typical activities might include:

a. Staff or subgrant efforts to develop plans, historic context documentation, special planning studies, ordinances or guidelines.

b. Planning subgrants awarded to local governments including Pass-Through allocation to Certified Local Governments. Report activities associated with the certification of local governments in the Local Government Certification/Pass-Through Program Area.

c. Development and/or review of model or specific area planning documents such as area management plans. Do not include preliminary certifications of rehabilitation in this category. See the Preservation Tax Incentives Program Area.

Activities which should not be reported in this Program Area include:

d. Activities such as outreach, public education, and training unless they relate specifically to preservation planning (instead, see the Other Activities Program Area).

e. Preparation of office administrative, management, or staff work plans; grant applications, End-of-Year Reports, etc., should be included in the Administration Program Area.

f. MOAs and PAs. These should be reported in the Review and Compliance Program Area.

g. Predevelopment activity (including plans and specifications, historic structure reports, feasibility studies, "Main Street" activities, etc.) and other site specific plans. See the Development, Acquisition, and Covenant Program Area.

h. Activities carried out to implement plans and ordinances are reported in the relevant Program Area.

7. Local Government Certification/Pass-Through Program Area.

a. Report only activities related to the Local Government Certification program in this program area. Report the Products of CLG Pass-Through subgrants in the appropriate program area. For example, the products from a CLG survey subgrant should be reported in the Survey and Inventory Program Area. Developing a preservation plan or preservation element of the local master plan should be reported in the Preservation Planning Program Area. The review of local zoning amendments, subdivision proposals, and development projects should be reported in the Review and Compliance Program Area.

b. At least 10 percent of the State's total allocation for the year must be passed through as subgrants to CLGs. Do not include the funds carried over from the prior year's Annual grant, or any other awards using prior year funds to make the calculation for the current fiscal year. See Chapter 9, Section K.6.

8. Development, Acquisition, and Covenants Program Area. Certain activities in this program area may, from time to time, be prohibited by Congress. When there are prohibitions, States must be sure to report only permitted activities.

a. Development. See Chapter 6, Section K for more detailed information on what constitutes "Development" and "Predevelopment."

1) For "Number of Predevelopment Projects For Which Plans and Specifications Are

Reviewed" and for "Number of Predevelopment Projects For Which Historic Structure Reports Are Reviewed," the unit of measure is projects. Count projects only once, no matter how many plans and specifications or historic structure reports are involved.

2) The review of a development or predevelopment project is eligible even if HPF or matching funds are not used to pay for the project itself. For example, reviewing a site-specific historic structure report, or giving advice on renovating a building in accordance with the Secretary's Standards for Rehabilitation, would be an eligible activity, even if paying for the renovation is not permitted with HPF Grant funds or matching share.

b. Acquisition. The review of an acquisition project (i.e., a nonconstruction activity; see Chapter 6, Section L) is eligible even if HPF or matching funds are not used to pay for the project itself.

c. Covenants and Preservation Agreements. See Chapter 6, Section M for a detailed description of requirements relating to Covenants and Preservation Agreements. For purposes of the Cumulative Products Table, monitoring of covenants and preservation agreements begins upon completion of an acquisition or development project.

9. Other Activities Program Area.

a. States are not required to have activity in this program area. Multi-purpose activities such as general outreach (which covers more than one program area and cannot be easily separated), public education (brochures, etc.), newsletters, preservation conferences, HABS/HAER documentation projects, etc., should be reported here. However, try to place activities in the appropriate specific Program Area whenever possible. A workshop on National Register forms, a publication of a survey, or other such single purpose products should be reported in the applicable program area.

If you have questions about placing certain activities in this program area, consult NPS to determine whether the activities are better suited to a more specific program area.

b. Report activity in this program area at the same scale or level of detail as the products listed by NPS on Cumulative Products Table. For example, report the number of issues and copies of a newsletter (e.g., 4 issues mailed to 2,500 constituents), not the number of pages.

D. Guidelines For Specific Program Areas (For Current Fiscal Year Appropriated Funds Only). Supplemental requirements applicable to individual appropriations/apportionments will be supplied by NPS if necessary.

EXHIBIT 7-F SAMPLE ORGANIZATIONAL CHART

This is a sample organization chart only. States may use any format they wish as long as the information stipulated in Section C.1.f. of this chapter is included. Please note that whatever format is used, it should readily indicate what the reporting relationships are.

State Historic Preservation Officer:

Deputy State Historic Preservation Officer(s):

HPF Grants Manager:

36 CFR 61 Qualified Staff (please note discipline in parentheses):

Staff Responsible for Title VI and Section 504 Compliance:

The Organization chart must detail all positions associated with State staff work that is charged in full or in part to the HPF or Matching share. The Organization Chart must include the following components: a) All positions by title, noting which positions fulfill 36 CFR 61 staff requirements; b) Names of incumbents of all positions paid in full or part by HPF funds, or claimed as nonfederal share costs; c) Which positions are supervisory; d) Reporting relationships; e) Assigned Chapter 6 Program Areas for each staff person; f) Which staff person has primary responsibility for HPF Grants Management (both grant-assisted internal operations and subgrants); and g) Which staff person has responsibility for Title VI and Section 504 compliance (see Chapter 10, Section C.5.f.).

The staff person's primary program area should be indicated in parentheses. Reporting relationships may be indicated with arrows or lines between the relevant boxes. Please use the following abbreviations:

SUPERVISOR	Supervisory Positions
36 CFR 61	Staff Meeting the professional qualification requirements in 36 CFR 61
HPF	Staff paid for with HPF funds
MATCH	Staff paid for with Matching funds

Chapter 8 - Subgrants, Contracts, and Third-Party Agreements

A. Purpose.
This chapter sets forth the requirements for HPF-funded subgrants, contracts, and third-party agreements (such as cooperative agreements) administered by State Historic Preservation Offices. These requirements also apply to contracts, and third-party agreements used solely as matching share.

B. Annual Announcement of Availability of HPF Funds.
States must notify public and private organizations and individuals throughout the State of the availability of HPF funds. However, if States only fund Certified Local Governments, written notification of each CLG of the availability of funds is sufficient.

1. Availability Announcement. The announcement of HPF funds must contain the following elements.

   a. A brief summary statement of the State's priorities for funding for that year.

   b. Brief examples of eligible activities for which funding is to be provided; or, a statement that brief examples exist and a clear reference to where they can be found.

   c. The total amount available, or expected to be available for subgrants.

   d. A brief explanation of the project selection process, including selection criteria (or a statement that the State has competitive selection criteria and a clear reference to where the criteria can be found).

   e. Whom to contact to receive application instructions.

   f. The deadline for submitting the completed application.

2. Application Instructions. State subgrant application instructions must include the following.

   a. A full statement of the State's funding priorities.

   b. Examples of eligible activities.

   c. Full explanation of the project selection process, including selection criteria.

   d. Directions to the applicant to include a detailed and specific list of the final products to be accomplished with the subgrant.

   e. Directions to the applicant to provide a detailed line-item budget that includes all major work elements and the cost of each element.

   f. Directions to the applicant to identify the donor, source, kind, and amount of nonfederal matching share to be contributed; how the matching share contributes to achieving the scope of work; and the proposed valuation of the matching contribution.

g. Directions to the applicant to provide documentation that, as applicable, professional qualification standards, will be met prior to the start of project work. If the applicant's existing staff members qualify, vitae should be made a required part of the initial application to allow time for State review and approval of qualifications prior to the subgrant award. If the applicant plans to obtain qualified professional services subsequently (either as staff, consultants, or *pro bono* workers), the applicant should be required to acknowledge that the award is subject to acquiring qualified professionals and that the State must review and approve qualifications before project work begins. The State may waive this requirement in specific cases if it chooses to use qualified State staff to provide the necessary expertise.

h. Includes and directs an applicant to sign an Equal Opportunity Statement or equivalent.

i. Includes and directs an applicant to sign a debarment certification for "Lower Tier Covered Transactions," Form DI-2010.

C. Open Project Selection Process.

1. Purpose. It is the policy of the NPS that the State grant-assisted program implementation processes be open to maximum public scrutiny, review, and participation. Such an "opening" of the project selection process is a logical extension of the public benefit requirement of the National Historic Preservation Act. This policy is intended to ensure accessibility to Historic Preservation Fund programs by all citizens, to ensure that national priorities are met, and particularly to ensure that all subgrants, as well as all contracts, are selected for funding in an open manner.

2. Goals.

a. To have awareness on the part of all eligible program beneficiaries of the process for obtaining HPF assistance.

b. To have public knowledge of and participation in the program area emphasis and in the subgrant or contract project selection process utilized by the State in allocating HPF assistance.

c. To have an opportunity for all eligible public and private organizations and individuals to submit project applications and have them considered on an equal basis by the grantee.

d. To have an equitable distribution of HPF assistance to all population segments in the State, including minority populations (as defined in 43 CFR 17), the elderly, and the disabled.

3. Implementation.
Each grantee is responsible for implementing its own open project selection process in keeping with its own unique circumstances. This is in addition to owner participation in the National Register process and, in addition to public participation in the development of the Comprehensive Statewide Historic Preservation Plan required by Sections 101(a)(6) and (b)(3)(g) of the Act. At a minimum, each grantee must maintain and utilize a written rating system for objectively rating and ranking project proposals for subgrants. Other elements could include general notice to the public when its annual grant application is being developed; making copies of the annual grant application available to the public sufficiently in advance of submission to NPS to allow for timely comment; and, where

significant public interest is demonstrated, holding a public meeting for the benefit of interested or affected citizens or groups.

4. Selection Criteria. The State must follow the selection criteria published in its subgrant application instructions. No other criteria should be used.

5. Recordkeeping. Each grantee must maintain files and records documenting implementation of its open project selection process for inspection by NPS.

D. Standards Applicable to Subgrantees.

The award of grants to subgrantees (and contractors) who are not responsible is a disservice to the public, which is entitled to receive full benefit from the award of grants for the protection of cultural resources. It frequently is inequitable to the subgrantees themselves, who may suffer financial or other hardships as a result of inability to meet grant requirements. Such awards are unfair to other competing applicants capable of performance, and may discourage them from applying for future grants. It is essential that precautions be taken by grantees to award grants only to reliable and capable applicants who can reasonably be expected to comply with grant requirements.

To qualify a subgrantee as responsible, the State Historic Preservation Officer must ensure that a subgrantee will be provided with, or will have access to, appropriate technical and financial management assistance in order to meet and maintain, for the period of the grant award, the following standards as they relate to the scope of a particular project:

1. Have adequate financial resources for performance, the necessary experience, organization, technical qualifications, and facilities; or a firm commitment, arrangement, or ability to obtain such (including proposed subagreements);

2. Be able to comply with the proposed or required completion schedule for the project;

3. Have a satisfactory record of integrity, judgment, and performance, especially with prior performance upon grants and contracts;

4. Have an adequate accounting system and auditing procedures to provide effective accountability and control of property, funds, and assets sufficient to meet grantee needs and grantee audit requirements (see Chapters 21 and 23);

5. Maintain Federal procurement standards which will comply with Chapter 17;

6. Maintain a property management system for the acquisition, maintenance, safeguarding, and disposition of property (applicable standards are detailed in Chapter 19);

7. Conform with debarment requirements.

8. Conform with the civil rights, equal employment opportunity, and labor law requirements of Federal grants; and

9. Be otherwise qualified and eligible to receive a grant award under applicable laws and regulations. NPS considers the submission of a Project Notification for a proposed subgrant a certification that the SHPO has assured that these standards will be met. Similarly, NPS considers that State agreement to be on Reduced Review Status (see Section G, below) constitutes a commitment by the SHPO to ensure that the requirements of this Section are met for subgrants and other third party agreements for which Project Notifications and Final Project Reports are not required.

E. Written Subgrant Agreement.

Each subgrant must be formalized by a written agreement between the grantee and the subgrantee. A written agreement shall also be executed to include arrangements whereby third parties perform activities without charge to the grantee when the value of these contributed services is to be counted towards matching share requirements for any HPF grant assistance. The term "third party" means any organization legally distinct from the grantee (whether or not affiliated with the grantee) or any individual not employed by the grantee other than a consultant or volunteer acting directly under the grantee's direction or control.

The written agreement shall at a minimum:

1. State or incorporate by reference all applicable requirements imposed by the terms of the grant on the subgrantees, contractors, and other secondary recipients under the grant, including the applicable Secretary's "Standards" (if any), retention of records, standards for grantee financial management systems, property, procurement standards, and applicable cost principles to be applied.

2. State the grant-supported activities to be performed by the subgrantee, the time schedule for conducting these activities, the policies and procedures to be followed in carrying out the agreement, and the maximum amount of money for which the grantee may become liable to the subgrantee under the agreement.

3. Contain suitable provisions for termination by the grantee, including the manner by which termination will be effected and the basis for settlement. In addition, such agreements shall describe conditions under which the agreement may be terminated for default as well as conditions where the agreement may be terminated because of circumstances beyond the control of the subgrantee.

   The written agreement shall not relieve the grantee of any part of its responsibility to the Federal Government under a grant. The agreement shall therefore retain sufficient rights and control to the grantee to enable it to fulfill this responsibility and accountability. (Refer to Chapter 24 for required documentation.)

   The term (project period) for subgrants, contracts, or projects should not exceed the term of the grant under which the subgrant is made and for which the State has obligational authority. The State should award funds to subgrants or contracts with logical units of work that can be accomplished or completed within the term of the grant.

F. Project Prerequisites.

1. General. States must follow the requirements specified in Chapters 3, 5, 15, 21, 24 and 25 relating to selecting and preparing for third party arrangements (subgrants, cooperative agreements, and

contracts) to carry out eligible activities. These activities generally require concurrence from NPS prior to implementing the subgrant or contract. The mechanism used to achieve this concurrence is the Project Notification which summarizes information in the State's project file. See subsection 2.b., below, for requirements relating to Project Notifications.

NPS will waive these requirements for qualified States and for certain categories of subgrants and contracts. States receiving this waiver will be in Reduced Review Status. See Section G., below, for qualifications for, and consequences of, Reduced Review Status.

2. Project Notifications.

a. Purpose. The Project Notification provides specific information relevant to a State's approved Annual Grant application, to assist NPS and States in monitoring the commitment of HPF monies to subgrantees and full compliance with the Historic Preservation Fund Grants Manual and applicable regulations.

The Project Notification is not used by NPS in the obligation of funds process and need not be submitted concurrently with the Annual application. In addition, unless required by State procedures, the Project Notification is not required by NPS to be submitted to the E.O. 12372 Intergovernmental Review process.

Unless covered by Reduced Review Status (see Section G., below), States may not proceed with any subgrant activity until the period for NPS review of the Project Notification has elapsed (see Subsection 2.d.(1), below).

b. Applicability and scope. Except as specified under Reduced Review Status, States are required to submit Project Notifications to NPS in the following circumstances:

1) For each project or subgrant (including subgrants to Certified Local Governments) involving HPF assistance to a third party;

2) For each project or third-party agreement whose costs are being used to meet matching share requirements, even though no HPF assistance has been awarded to the third party;

3) When transferring the actual performance of substantial programmatic work to a third party by contract or other means;

The term "substantial programmatic work" means any activity which is central to carrying out the purpose of the grant as a whole or as a specific project.

4) For SHPO operated construction work.

5) Even if a State has Reduced Review Status, Project Notifications are required when:

i) the subgrant, contract, or third-party agreement requires prior written approval from NPS, including projects involving revolving funds or an equipment purchase greater than

$5,000 which is not described in the approved Annual Grant, as specified in Chapter 13, Section C; or

ii) the total Federal share of the subgrant, contract, or third-party agreement exceeds $25,000; or,

iii) the subgrant, contract, or third-party agreement is part of an NPS competitive selection process for a reapportionment or direct grant process; or,

iv) any project involving HPF grant assistance to a National Historic Landmark.

6) Project Notifications are not applicable to the purchase of supplies, materials, or equipment for the SHPO office; the acquisition of general or incidental support services; or the transfer of activities whose costs are treated solely as indirect costs.

c. Instructions. See Exhibit 8-A for instructions on how to complete Project Notifications.

d. Procedure. This subsection provides schedules and procedures for Project Notification review. See subsection F.2.b., above, regarding when Project Notifications are required.

1) A Project Notification shall be submitted by the State to NPS at least 20 calendar days prior to the State awarding the subgrant or contract. Incomplete or otherwise unacceptable Project Notifications returned to a State by NPS within the 20-day review period must be completed and resubmitted by the State, thereby initiating a new 20 calendar day review period, before projects may proceed.

2) The NPS review shall include, to the extent allowed by the data required for the Project Notification: i) a review to determine whether proposed work elements and associated costs appear to be reasonable, applicable, and allowable, and to ensure completeness of the submitted document; and, ii) a review of the proposed objectives and work elements for eligible activities and for compliance with the applicable Secretary of the Interior's "Standards."

3) States may proceed with subgrant activity 20 calendar days after submitting the acceptable Project Notification, except as noted in subsection 4), below. However, absence of a response from NPS during this period does not relieve the State of its responsibility to comply with the terms and conditions of the grant under which the subgrant is awarded.

4) Exceptions.

(i) Written NPS concurrence on the Project Notification is required for all subgrants, contracts, or projects affecting National Historic Landmarks; and

(ii) Written NPS approval must be obtained before incurring costs for proposed work requiring prior NPS approval, including preagreement costs. See Chapter 13, Section C.

5) Disagreement. NPS shall notify the State in writing within 20 calendar days after the submission (postmarked date) of the Project Notification of any eligibility or compliance issues identified during the review described in subsection d.2), above. States may then either change the project to respond to the NPS comments, or proceed at their own risk.

6) An Environmental Certification or Environmental Assessment must be submitted with the Project Notification, when applicable (see Chapter 11).

e. Archeological Sites. An appropriate plan of action to retrieve the archeological information or to carry out the treatment activity, including the methods to be employed in the archeological project must be part of the scope of work detailed in the Project Notification (if one is required) and in the State's files. The comments of the State staff archeologist (or an archeologist consultant for the State) must accompany the Project Notification and be documented in the State's files. (See the Secretary's "Standards for Archeology and Historic Preservation.")

For any project involving archeological development or requiring ground disturbance, the State must submit with the Project Notification (if one is required), and document in the State's files, a statement by the staff archeologist (or contract archeologist) that if any scientific or cultural data is recovered, it will be recovered and maintained in accordance with the requirements of the Secretary of the Interior's "Standards for Archeology and Historic Preservation" and with 36 CFR 79. See Chapter 13, Section D.4 and D.11, and related unallowable costs.

f. Scope of Work. The State's files must document the project scope of work, including explicitly identifying and briefly describing the treatment(s) being planned; e.g., the project will involve the restoration of a cornice, the stabilization of an archeological site by installation of twenty yards of steel mesh rip-rap, etc. The existing condition of the property or site must also be briefly described in the Project Notification sent to NPS by States not on Reduced Review Status, and in the State's files, including States with Reduced Review Status. (See Exhibit 8-A for guidance and sample Project Notifications.)

The Project Notification must specifically address areas of potential concern, e.g., that a masonry analysis will be performed prior to tuckpointing masonry; that preliminary testing of chemical cleaners will be performed on a small and inconspicuous area prior to initiating any masonry cleaning; that only low pressure rinses will be used for masonry cleaning; whether historic fabric will be replaced with the same type of materials as originally used (explain why if it will not be); and whether other preliminary testing will be performed as appropriate--such as a paint analysis. States with Reduced Review Status must retain documentation of applicable preliminary testing in their files for State Program Review purposes.

g. Matching Share Ratio. Each project does not have to be fully matched. Subgrant matching ratio is a State decision. The NPS requirement is that eligible activities are matched in aggregate for the programmatic grant (the State’s total grant expenditures during the grant period).

If only nonfederal matching share is involved in development, predevelopment, or acquisition work, that work must still meet all of the requirements of the Historic Preservation Fund Grants Manual (except that only a Preservation Agreement rather than a Covenant recorded with the deed is required if no grant funds are disbursed), and be adequately described by a Project

Notification transmitted to NPS prior to the beginning of project work, in order to qualify as eligible matching share for HPF grants. To provide an acceptable "audit trail," NPS recommends that even Reduced Review States transmit a Project Notification (or a letter containing the same information) to NPS so that NPS may reply with an acknowledgment that the proposed nonfederal share is directly related and eligible as matching share for a particular year's Annual grant.

h. Revolving Fund. The State must indicate on the Project Notification transmitted to NPS if the property is to be sold after completion of the acquisition or development work as part of a revolving fund mechanism. All program requirements governing acquisition or development work projects apply to a revolving fund arrangement. Note: Prior NPS approval is required for revolving funds, even if the State has Reduced Review Status. See Chapter 6, Section J.2.c. for restrictions on moving historic properties.

i. Compliance with Environmental Laws. An Environmental Certification must be transmitted with every Project Notification for grant assistance. (See Chapter 11, Exhibit 11-A.) States with Reduced Review Status must document which exclusion applies to the proposed project in their files for State Program Review purposes.

G. Reduced Review Status.
"Reduced Review Status" refers to NPS oversight and State reporting requirements relating to subgrants and other third-party agreements. States that meet specified criteria (see subsection G.2., below) are not required to submit Project Notifications, Final Project Reports, and related amendments for most subgrants. States that do not meet all of the criteria, must follow the standard reporting requirements.

1. Policy and Overview. NPS policy for administrative oversight of HPF State subgrant programs seeks to achieve a management process that is based on: 1) an approved annual grant application; 2) an approved annual reporting of State activities; 3) periodic on-site review of each State's program procedures and record-keeping; and, 4) an NPS capability to provide technical support and training where needed. Given this policy, NPS will waive (for qualified States) the requirement for advance approval or concurrence on individual subgrants, contracts, or other third-party agreements funded by $25,000 or less in Historic Preservation Fund grant monies (i.e., Federal share).

Once a State qualifies, it retains Reduced Review Status until such time as the NPS' normal review of documents indicates that a criterion (see below) is no longer met. Once a State is notified of its Reduced Review Status, it will not hear further from NPS on the subject unless there is a problem. There will not be an annual renewal of Reduced Review Status. However, NPS will continue to review grant documents on an on-going basis as they are normally scheduled for submittal each year. If, as part of the normal review, there is an indication that a criterion is no longer met, NPS will inform the State. Only for the initial assessment will all the criteria be examined at the same time and then based on the most recent documents available. Once NPS determines that a State meets a criterion, that evaluation remains effective until information to the contrary is received.

The Reduced Review Status policy is based on the following principles:

a. Employ a management-by-exception approach (i.e., presume that States manage their HPF grants accountably unless NPS oversight indicates otherwise);

b. Rely, to the maximum extent, on State systems of financial and program administration that meet Federal standards;

c. Use direct NPS management procedures only when a State does not meet the criteria for reduced review;

d. Employ management controls that are not redundant and that provide a reasonable assurance that State grant administration is accountable;

e. Strengthen the Federal/State partnership; and,

f. Rely on the State Program Review process as the primary means of management oversight.

2. Criteria for Certification. To be eligible for Reduced Review Status, a State must meet all of the following five (5) criteria:

a. The State has an Approved Subgrant Administration System;

b. The State has an Approved Annual Grant Application with No Significant Special Grant Conditions Relating to HPF Subgrants Management;

c. The State has Corrected all Significant Subgrant-Related Problems from its most recent Financial Audit;

d. The State Obligates and Expends its Annual Grant Award in a Timely Manner; and,

e. The State Maintains a Qualified Professional Staff.

These criteria are described in detail below.

a. The State Has An Approved Subgrant Administration System.

Criterion: The State has met or successfully resolved all subgrant management-related verification inquiries in the most recent State Program Review.

Objective: This criterion uses the State Program Review evaluation to ensure that, when viewed on the whole, an adequate system for subgrant selection and management (that meets all applicable criteria in the Historic Preservation Fund Grants Manual) is in place and is being used. This is a system-related criterion and is not affected by single or occasional project-specific problems or the occasional disallowed cost.

Application: If the State:

1) Received a "yes" or "NA" on all applicable State Program Review verification inquiries in the most recent State Program Review, it meets the criterion; or,

2) Received a "no" on one or more applicable verification inquiries in the most recent State Program Review but has corrected the deficiency(ies), it meets the criterion.

   Note: If the problem is with the State's subgrant system and the State corrects the system, the State does not have to demonstrate (except through standard submittals or other means such as State Program Review) that it will use the corrected system.

b. The State Has An Approved Annual Grant Application With No Significant Special Grant Conditions Relating To HPF Subgrants Management.

   Criterion: The State has an approved current Annual HPF Grant Application with no significant special grant conditions related to subgrant administration, or it has met those special conditions.

   Objective: This criterion examines the State's annual grant documents (and the information normally provided therein) for indications of significant subgrant-related problems (e.g., ineligible subgrant activities or costs). Missing or unclear information in a grant document, though it may warrant a special condition, would not cause a State to fail to meet this criterion.

   Application: If the State's current programmatic grant:

   1) Has no significant subgrant-related special grant conditions, the State meets the criterion regardless of any other special conditions the grant might have; or,

   2) Has special grant conditions related to significant problems with subgrant administration, but has met those special conditions, the State meets the criterion regardless of any other special condition the grant might have.

      Note: If the problem is with the State's subgrant system and the State corrects the system, the State does not have to demonstrate (except through standard submittals or other means such as State Program Review) that it will use the corrected system.

c. The State Has Corrected All Significant Subgrant-Related Problems From Its Most Recent Financial Audit.

   Criterion: The State has no significant problems related to subgrant management in the most recent financial audit (Single Agency Audit); or, if it did, the State has successfully corrected them.

   Objective: This criterion examines the State's most recent financial audit for indications of significant problems either in the State's current subgrant management system itself or in the use of that system.

   Application: If the State:

1) Has no significant disallowed costs related to subgrants in its most recent financial audit (Single Agency Audit), the State meets this criterion; or,

2) Has significant subgrant-related problems in its most recent financial audit, but has corrected the problem, the State meets the criterion.

d. The State Obligates and Expends Its Annual Grant Award in a Timely Manner.

Criterion: The State obligates and expends its annual grant award within the prescribed time period, and in a manner that avoids returning funds to NPS in amounts exceeding 5 percent of the State's annual grant award.

Objective: This criterion examines the recapture of funds as a reflection of three aspects of proper subgrant management; i.e., 1) whether the subgrantee has the capability to carry out the proposed project; 2) the extent to which the State monitors the progress of its subgrants; and, 3) the adjustments the State makes (by amending subgrant agreements, canceling non-performing subgrants, selecting new ones, etc.) to avoid NPS recapture of funds.

NPS accounts for last minute problems that do occasionally occur (which unavoidably lead to recaptured funds) by setting the standard of 5 percent of the State's total annual HPF award, returned to NPS over the two years of funding availability.

Funds that are received by the State as a part of a NPS reapportionment do not count in the evaluation of this criterion because the State did not have 2 years to use the funding. The State will be evaluated only on its annual HPF award. For example, if a State received an annual HPF award of $500,000 in FY 1994, at the end of FY 1995, NPS would check for recapture of funds exceeding $25,000 from that award.

Application: If the State has had funds in a cumulative amount of 5 percent or less of its annual HPF award (by the end of its availability) recaptured by NPS, the State meets this criterion.

e. The State Maintains a Qualified Professional Staff.

Criterion: The State maintains a fully qualified staff as required by 36 CFR 61.4.

Objective: This criterion examines the State's staffing as an indicator of adequate professional expertise for subgrant administration. Absence of professional expertise can lead to payment for ineligible activities that do not meet the Secretary's "Standards." 36 CFR 61.4 defines the minimum program expertise to which States must have full-time access.

If the State has an NPS-approved alternative staffing solution, the State meets the criterion because it meets the 36 CFR 61 requirement. However, if the State has an NPS-approved temporary waiver, it does not meet this criterion if the waiver conditions do not ensure the State's access to the proper professional expertise.

Application: If the State:

1) Meets 36 CFR 61 requirements for State staff, the State meets this criterion; or,

2) Does not meet 36 CFR 61 staff requirements, but has an NPS-approved alternative staffing solution, the State meets this criterion.

3. Implementation.

a. General.

1) Reduced Review Status is granted on a case-by-case basis by NPS. Once a State qualifies, it retains Reduced Review Status until such time as the NPS' normal review of grant documents indicates that a criterion is no longer met and thus there is something significantly wrong with State subgrant administration. There will not be an annual renewal of Reduced Review Status. However, NPS will continue to review HPF grant documents on an on-going basis as they are normally scheduled for submittal each year. If, as part of the normal review, there is an indication that a criterion is no longer met, NPS will inform the State. Only for the initial assessment will all the criteria be examined at the same time and then based on the most recent documents available. Once NPS determines that a State meets a criterion, that evaluation remains effective until information to the contrary is received.

2) NPS will make decisions based upon the information on file without requesting additional information from the States. That is, the information needed to evaluate annual grants cycle documents is enough to evaluate States for Reduced Review Status; no special data are needed.

3) States will not apply for Reduced Review Status. NPS will automatically initiate efforts to evaluate State qualifications and review them on an on-going basis as pertinent information is received.

4) If NPS believes that a State does not qualify for Reduced Review Status, it will verify the analysis by notifying the State in writing, detailing what specific criteria have not been satisfied, and providing the State a reasonable amount of time to verify whether NPS' conclusion is correct.

5) NPS reserves the right to terminate a State's Reduced Review Status at any time when the State no longer meets one of the five criteria. The State will be notified in writing if it does not qualify for Reduced Review Status.

6) Reduced Review Status is an optional reporting procedure for States. States may set aside their Reduced Review Status at any time by submitting Project Notifications and Final Project Reports for NPS to review, if they so desire.

b. Notification of Status.

1) Each qualified State shall be notified of its Reduced Review Status in writing from NPS to the State Historic Preservation Officer (or his/her designee).

2) The letter shall inform the State that it retains this status unless it is informed to the contrary in writing by NPS.

3) The effective date of the Reduced Review Status shall be the date of the letter.

c. Effect.

1) Once notified of its Reduced Review Status, for subgrants of $25,000 or less Federal share, the State will no longer be required to submit Project Notifications, Project Notification amendments, and Final Project Reports to NPS as specified in Chapters 6, 7, 15 and 25, except as noted below in subsection d.

2) Each State will, however, remain responsible for compliance with all other requirements of the Historic Preservation Fund Grants Manual relative to subgrant, contract, or third-party agreements and the standard records (documenting compliance with those requirements) must be available for review at any time for cause. That is, the State must continue to maintain the standard project files and records which Project Notifications and Final Project Reports would normally summarize.

The State's written dated review certification is sufficient documentation for the Project Notification. If a State has Reduced Review Status, and does not transmit a Project Notification to NPS, then its files must contain this review certification for internal control and State Program Review purposes.

3) Publications. States with Reduced Review Status must continue to send NPS copies of publications as required in Chapter 3, Section C.7, but may wait to do so until the End-of-Year Report.

4) Recordkeeping. Project Notifications and Final Project Reports are summaries of information already in State files. States must continue to collect and maintain the requisite information in grant files in compliance with Chapter 24. However, States which have received Reduced Review Status need no longer prepare Project Notifications, Project Notification Amendments, or Final Project Reports for most projects.

5) NPS Technical Assistance. A State can lose its Reduced Review Status only if fails to meet one of the criteria (see subsection G.2., above). If a State requests NPS assistance or opinion on allowable costs, products, matching share, etc., this will not be used against the State.

The Reduced Review Status program is designed to use State Program Review and review of documents which routinely come to NPS to determine whether the State's subgrant administration warrants a waiver of the standard requirements; i.e., Reduced Review Status. Only States with significant problems with their subgrant administration system or systemic problems in using it would not qualify for the Reduced Review Status.

d. Exceptions

Even if awarded Reduced Review Status, the State must continue to seek prior written approval by submitting programmatic grant amendments and/or Project Notifications, Project Notification amendments, and Final Project Reports in the following circumstances:

1) if the subgrant, contract, or third-party agreement involves an equipment purchase greater than $5,000 which is not described in the approved Annual Grant; or

2) if the subgrant, contract, or third-party agreement requires prior written approval from NPS as specified in the Historic Preservation Fund Grants Manual, Chapter 13, Section C (including revolving funds); or,

3) if the total Federal share of the subgrant, contract, or third-party agreement exceeds $25,000; or,

4) if the subgrant, contract, or third-party agreement is part of an NPS competitive selection process for a reapportionment or direct grant process.

e. Reporting by States Without Reduced Review Status.

A State which does not qualify for Reduced Review Status must follow the subgrant reporting requirements in section F., above, and Chapter 25 pertaining to submission of Project Notifications, Project Notification amendments, and Final Project Reports for all subgrants, contracts, or third-party agreements. The State must follow these subgrant reporting requirements until such time that the State is notified in writing that its Reduced Review Status is reinstated or renewed.

f. Final Project Report. Except for projects covered by Reduced Review Status (see Section G., above), a Final Project Report, prepared in accordance with the requirements specified in Chapter 8, Exhibit 8-E must be submitted to NPS by the grantee within 90 days after project completion. Grant funds must be refunded promptly to NPS after the 24-month term of the Annual Grant has expired when the work: 1) does not meet the Secretary of the Interior's "Standards and Guidelines," 2) does not meet the terms and conditions of the applicable HPF grant, and/or 3) does not fall within the scope of the NPS-approved grant agreement or, if applicable, the Project Notification. In some cases, subject to NPS approval, funds may be reallocated to other eligible activities for use during the Annual 24-month Grant period.

g. Reinstatement of Status.

Once a State again meets all of the criteria for Reduced Review Status, NPS will notify the State Historic Preservation Officer in writing of reinstatement.

EXHIBIT 8-A PROJECT NOTIFICATIONS

A. INSTRUCTIONS FOR COMPLETING PROJECT NOTIFICATIONS. "Heading," "Title," and "item # of the narrative" refer to the model Project Notification form located below on page 8-23. The section below the banner section is called the "narrative."

1. Title. States must include a title of PROJECT NOTIFICATION in capital letters at the top of the page.

2. Heading.

   a. The title of the subgrant (e.g., "Architectural survey of Woodmoor subdivision"), the county or counties where the grant-assisted work will be performed, and the Congressional District(s) where the work will be performed must be noted in the upper left corner of the Project Notification.

   b. The amount of the Federal share being subgranted and the grant number from which the subgrant is being funded must be identified in the upper right corner. (If more than one grant number is involved, then separate Project Notifications are required for each grant source; e.g., for one subgrant from the prior year's funding carried over into the second year of the NPS grant agreement and for a second phase subgrant from the current Annual Grant).

   c. Note that the Federal share provided in the upper right corner, when added to the nonfederal share identified in item #2 of the Project Notification narrative, must equal the total costs of the budget (work/cost breakdown) detailed in item #3 of the Project Notification. In addition, States should briefly explain how they are addressing an apparent shortfall of nonfederal share (i.e., when there is less than the required amount of nonfederal share listed, then identify the overmatch from another source that is being used to compensate).

3. Narrative.

   a. A description is required of all proposed work. The description must be consistent with the line item project budget. Additional information required for specific project types is delineated in Section C., below.

   b. Some States specify the Federal/nonfederal share for each cost item in the budget in item #3 of the narrative. This is not necessary as the same tests of allowability and reasonableness, etc., apply to the costs borne by both the Federal and the nonfederal shares. However, if this is useful to the State, it is acceptable to so indicate. Note that Chapter 8, Section F.2.b.2), requires Project Notifications for projects involving third parties whose costs are being used to meet matching share requirements for the HPF Annual aggregate Grant, even though no HPF funds are involved. It is important to document NPS approval for the matching share to withstand examination by fiscal auditors.

   c. The certification statement (item #8) must be signed by the State Historic Preservation Officer, or by a person delegated signature authority in writing by the SHPO; and the signature must be dated to facilitate monitoring of timeliness.

In order to expedite the review of Project Notifications, the following sentence is part of the required Certification: "All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B.34.e., and have been assessed by knowledgeable SHPO staff and found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance."

Currently (effective Jan. 7, 2007) the maximum rate is $172,165 annually or $82.49 per hour, which is $660 per eight-hour day. As long as the State is fully implementing this certification by analyzing the reasonableness of proposed costs, it will not be required to detail the hourly or daily rates for personal compensation in item #3, the subgrant's cost breakdown.

4. Amendments. If an amended Project Notification is being transmitted, the heading should be so identified: AMENDED PROJECT NOTIFICATION, and the purpose statement in item #4 of the narrative must indicate the type of change (e.g., increase in Federal share, increase in nonfederal share, decrease in Federal or nonfederal share, increase or decrease in duration, scope change, or cancellation). 43 CFR 12.70 details when amendments are necessary. Note that only the affected portions of the Project Notification need be transmitted (e.g., if only the budget and product will change, then only transmit those items of the Project Notification after completing the heading and banner information, and the type of change in item #4).

5. NPS may use a rubber stamp with an "approval/concurrence" statement. If there is room on the grantee's Project Notification to legibly imprint it, comments or conditions may be added. NPS may also employ a standard boilerplate letter. However, if additional comments or conditions are appropriate, a letter will be sent by NPS to the State.

B. The following information is applicable to all subgrants or contracts and must be provided as part of the Project Notification. The numbers below correspond to the item number of the Project Notification narrative section (see page 8-A-7, below).

1. Subgrantee. Provide the name and address of the subgrantee or contractor. Include full legal name of organization, unit of local government or individual with whom the State will enter into a grant agreement or contract. (Note: For acquisition subgrants the subgrantee is the purchaser of the property.) A contact person may be listed in addition to, but not in lieu of, the subgrantee.

2. Nonfederal Matching Share. List donor, source, kind and amount of nonfederal matching funds (if any) to be applied to this activity.

   a. donor: indicate "subgrantee" if donor, and/or list name(s) of other donor(s);

   b. source: indicate where the funds are coming from (e.g., "private donation," or "State appropriated funds"). The source of the match should be carefully evaluated by the SHPO to ensure it is eligible nonfederal match.

   c. kind: indicate the type of match (i.e., "cash," "in-kind services," "in-kind equipment," "indirect costs," "volunteer services"). See Chapter 14. If non-cash, indicate the rate at which it is valued and/or verify that the rate has been reviewed by the SHPO.

NOTE: Inasmuch as States must complete Attachment B, "Sources of Nonfederal Matching Share" as part of their End-of-Year Report (see Chapter 25), NPS recommends that States use terms for "source" that match those in Attachment B.

3. Budget. Provide a simple budget which includes major work elements and the cost of each element. For nonconstruction, major work elements may include items such as: personnel, supplies, equipment, travel, printing, administration, support services, indirect cost (if applicable), etc. If the budget includes "contractual services," indicate what the contract is for in parenthesis; e.g., Contractual (professional archeological consultant).

   For development, use the construction terminology provided in Exhibit 8-F for major work elements to the extent possible. The budget must provide enough detail to allow for an administrative review by NPS.

   NOTE: Prior NPS approval is required for any item of project equipment costing in excess of $5,000. (See Chapter 13, Section C.2.)

4. Purpose. Provide a brief summary of how the work is to be accomplished and list products that are expected to result from this subgrant. It is understood that a final performance report concerning the grant project will be provided to the SHPO from the subgrantee; it is not necessary to list it as a product.

   a. The work summary statement must evidence compliance with the applicable Secretary of the Interior's "Standards and Guidelines," if any.

   b. For development work, the summary list must clearly relate to the major work elements provided in the budget as line items.

   c. Each budget line item should have a corresponding narrative statement about the work that will be accomplished for the stated cost.

5. Beginning/Ending Dates. List project beginning and end dates: If the beginning date precedes the date of the Annual Grant, please justify so that NPS may make a determination as to the acceptability of preagreement costs if necessary.

6. Environmental Certification. Attach either an Environmental Certification or an Environmental Assessment (see Chapter 11).

7. Program Income. If a subgrant/contract includes workshops, conferences, or publications, also indicate if these are to be made available free of charge or, if there is a fee, indicate the estimated amount of program income that will be produced before the grant end date and request NPS approval for the method of handling this income (see Chapter 16 and 43 CFR 12.65).

8. Certification. Provide the following certification:

> **CERTIFICATION:** As the duly authorized representative, I certify that this subgrant will be administered and work will be performed under the supervision of a professional meeting appropriate 36 CFR 61 requirements, in accordance with the Historic Preservation Fund Grants Manual, and the Secretary of the Interior's "Standards and Guidelines for _____ _____." All documentation required by the Historic Preservation Fund Grants Manual will be maintained on file for audit and State Program Review purposes. All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B.34.e. of the Historic Preservation Fund Grants Manual. These costs have been assessed by knowledgeable SHPO staff **and** found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance.

C. In addition to the information required in B. above, provide the following information for the specific subgrants or contracts as indicated:

1. NONCONSTRUCTION

a. For Survey subgrants/contracts the summary of work must state in Item 4:

1) Type of survey to be done (intensive or reconnaissance);

2) Type of resource being surveyed for (architectural, historical, or archeological);

3) Level of documentation to be produced (National Register level or other);

4) Estimated number of hectares to be surveyed;

5) The estimated number of inventory forms that will be produced;

6) The number and type of reports and/or other products that will be produced.

See Chapter 6, Section H for minimum requirements relating to Survey and Inventory Program Area activities.

b. For National Register subgrants/contracts state in Item 4:

1) Type of nomination(s) to be prepared (e.g., individual, district, multiple property);

2) Estimated number of nominations to be prepared;

3) Estimated number of contributing properties to be contained in nomination(s).

See Chapter 6, Section I for requirements relating to National Register Program Area activities.

c. For Planning subgrants/contracts state in Item 4:

1) Type of plan, report or guideline (historic structure report, historic district guidelines, etc., to be produced);

2) Who will use the report produced;

3) How this planning effort relates to the State's Comprehensive Statewide Historic Preservation Planning Process.

4) The number and nature of products that will be produced.

See Chapter 6, Section G for requirements relating to Planning Program Area activities.

d. For Other subgrants/contracts state in Item 4:

1) Purpose of subgrant and how it will be carried out;

2) Quantify products wherever possible.

NOTE: This applies to all other nonconstruction subgrants, not just those in the " Other Activities" Program Area (see Chapter 6, Section Q). The "Other Activities" Program Area applies to subgrants/contracts that cross-cut several program areas, and because the subcategory costs and work activities are more or less equal, cannot be properly classified in one program area. An example would be a workshop or brochure that covered all SHPO activities.

e. For multipurpose subgrants/contracts identify the Program Areas involved and provide the information required (above) for each type of activity.

2. DEVELOPMENT. In addition to the information required in Part B above:

a. Provide the name and address of the property owner (if different than the subgrantee or contractor) under Item 1.

b. To the extent possible, use the construction terminology provided in Exhibit 8-F for the budget in Item 3.

c. If preagreement costs are included in the work/cost breakdown, clearly identify these costs by item, amount, and date costs were first incurred as Item 9.

d. The Project Notification must specifically address areas of potential concern, depending on the type of proposed work; e.g., that a masonry analysis will be performed prior to tuckpointing masonry; that preliminary testing of chemical cleaners will be performed on a small and inconspicuous area prior to initiating any masonry cleaning; that only low pressure rinses will be used for masonry cleaning; whether historic fabric will be replaced with the same type of

materials as originally used (explain why if it will not be); and whether other preliminary testing will be performed as appropriate--such as a paint analysis. States must retain such documentation in their files for State Program Review or on-site review purposes.

e. Include a statement that all predevelopment work has been completed prior to the submission of the Project Notification to NPS, and that plans, specifications, and other necessary predevelopment work have been professionally reviewed by a qualified historical architect or architectural historian, or that this required documentation will be obtained prior to the disbursement of any HPF grant assistance for the subgrant.

f. If work is to be performed outside the scope of this subgrant or contract during the subgrant period, summarize the work elements and estimated costs that are not a part of the subgrant agreement as Item 10.

g. Add the following to the certification in Item #8:

I further certify that the required covenant (or preservation agreement) will be executed by the owner of record prior to or simultaneously with the release of Federal funds.

(If the costs of the project are being used solely for matching share purposes, the preservation agreement should be executed at the time the subgrant agreement is executed, since there will be no release of Federal funds.)

OR,

The State accepts the responsibility for the continued maintenance, repair, and administration of the property required by Section 102(a)(5) of the Act rather than through the execution of a covenant with the property owner. NPS written concurrence with this procedure was obtained on (insert date of NPS concurrence).

h. Provide at least two 8x10-inch black and white glossy photographs showing overall views of existing conditions, plus additional photos or slides, if needed, to enable NPS to evaluate proposed development work.

i. See Chapter 6, Section K. for requirements relating to Development activities.

3. ACQUISITION. In addition to the information required in Part B above:

a. Provide the name and address of the property owner (the seller) in Item 1.

b. Provide the following appraisal information as Item 9:

1) Name and address of appraiser; (two appraisals are required if the value of the property exceeds $100,000);

2) Date of the appraisals(s);

3) Appraised value of the property;

4) A statement from the seller indicating that he/she is aware of the appraised value and has been offered just compensation;

5) A statement that a copy of the appraisal(s) is on file with the SHPO and that the appraisal documents meet the requirements in Exhibit 6-B.

c. If relocation assistance is involved, explain as Item 10 (see Chapter 20).

d. Indicate if the property is to be sold as part of a revolving fund, and provide the date of written NPS approval for participation in the revolving fund as Item 11. (See Chapter 8, Section F.2.h.)

e. Add the following to the certification in item 8:

I further certify that the Fair Market Value of this property is the amount established by the appraisal and that the required covenant will be executed by the owner of record prior to or simultaneously with the release of Federal funds.

OR,

The State accepts the responsibility for the continued maintenance, repair, and administration of the property required by Section 102(a)(5) of the Act rather than through the execution of a covenant with the property owner. NPS written concurrence with this procedure was obtained on (insert date of NPS concurrence).

f. Provide at least two 8x10-inch black and white glossy photographs showing overall views of existing conditions to enable NPS to review and evaluate the proposed project.

g. See Chapter 6, Section L, for requirements relating to Acquisition activities.

OMB Control Number 1024-0038
Expiration Date: November 30, 2007

PROJECT NOTIFICATION

TITLE:

GRANT NUMBER:

AREA AFFECTED BY PROJECT (counties):

TOTAL PROJECT COST:

FEDERAL SHARE:
NONFEDERAL SHARE:
CONGRESSIONAL DISTRICT:

TYPE: NEW [ ] REVISION [ ]

1. **SUBGRANTEE:**

2. **NONFEDERAL MATCHING SHARE:**

Donor:	Donor:
Source:	Source:
Kind:	Kind:
Amount:	Amount:

3. **BUDGET:**

4. **PURPOSE:**

Products:

5. **BEGINNING/ENDING DATES:**

6. An Environmental Certification indicating the applicable categorical exclusions is attached.

7. No program income will be generated.

2.

GRANT NUMBER:

8. **CERTIFICATION:** As the duly authorized representative, I certify that this subgrant will be administered and work will be performed under the supervision of a professional meeting appropriate 36 CFR 61 requirements, in accordance with the Historic Preservation Fund Grants Manual, and the Secretary of the Interior's "Standards and Guidelines for _____." All documentation required by the Historic Preservation Fund Grants Manual will be maintained on file for audit and State Program Review purposes. All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B.34.e. of the HPF Grants Manual. These costs have been assessed by knowledgeable SHPO staff **and** found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance.

_____ _____
Signature Date

EXHIBIT 8-B SAMPLE PROJECT NOTIFICATION - Nonconstruction

TITLE: Wetwater River Basin Archeology

GRANT NUMBER: 12-95-00001

AREA AFFECTED BY PROJECT (counties): Duval, Pasco

TOTAL PROJECT COST: $7,000
FEDERAL SHARE: $4,200
NONFEDERAL SHARE: $2,800

CONGRESSIONAL DISTRICT: 03, 06

TYPE: NEW [X] REVISION [ ]

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1. **SUBGRANTEE:** Slippery Slope University, Main Street, Rural, FL. 02222
(Contact: Dr. John Tyler)

2. **NONFEDERAL MATCHING SHARE:**

Donor: Subgrantee	Donor: Subgrantee
Source: Anthropology Dept. budget	Source: Indirect Cost rate**
Kind: In-kind services	Kind: Indirect Costs
Amount: $2,000	Amount: $800

3. **BUDGET:**

Personnel	$3,500
Principal investigator--10 days	
Crew (4) -- 7 days	
Fringe benefits @ $200	
Travel/per diem*	$ 800
Indirect Costs**	$1,600
Supplies	$ 250
Rental equipment (truck/8 days)	$ 650
Report duplication	$ 200
Total Project Cost	$7,000
	$4,200 Federal Share
	$2,800 Nonfederal Share

* Site is more than 50 miles from University
** Federally approved rate (Dept. of Education), signed agreement is on file at SHPO.

Page 2 **GRANT NUMBER:** 12-95-00001

4. **PURPOSE:** The purpose of the project is to fill data gaps and answer specific research questions identified by our comprehensive planning process.

The project will be accomplished under the direct supervision of Dr. John Tyler, of the subgrantee's staff, who meets professional qualifications in both historic and prehistoric archeology. The reconnaissance level survey will sample a 2,560 hectare area of the Wetwater River Basin for prehistoric archeological sites. The work will include file and document searches, transect survey with subsurface testing of the 2,560 hectares, and preparation of a final survey report. Located sites (80 estimated) will be investigated to a level sufficient to complete State inventory forms.

5. **BEGINNING/ENDING DATES:** March 1, 1995 -- August 31, 1995

6. An Environmental Certification indicating the applicable categorical exclusions is attached.

7. No program income will be generated.

8. **CERTIFICATION:** As the duly authorized representative, I certify that this subgrant will be administered and work will be performed under the supervision of a professional meeting appropriate 36 CFR 61 requirements, in accordance with the Historic Preservation Fund Grants Manual, and the Secretary of the Interior's "Standards and Guidelines for Planning, Identification, Evaluation, and Registration." All documentation required by the Historic Preservation Fund Grants Manual will be maintained on file for audit and State Program Review purposes. All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B.34.e. of the Historic Preservation Fund Grants Manual. These costs have been assessed by knowledgeable SHPO staff **and** found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance.

_____ _____

Signature Date

EXHIBIT 8-C SAMPLE PROJECT NOTIFICATION -- Development

TITLE: 12345 East West St Roof Repair

GRANT NUMBER: 54-96-00002

AREA AFFECTED BY PROJECT (counties): Jones

TOTAL PROJECT COST: $25,000
FEDERAL SHARE: $15,000
NONFEDERAL SHARE: $10,000

CONGRESSIONAL DISTRICT: 12th

TYPE: NEW [X] REVISION [ ]

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1. **SUBGRANTEE:**

   a) Subgrantee: Upland City Heritage Society, 222 Monument Street, Upland City, WV 99999. Contact: Ms. Harriet Maloney

   b) Property Owner: Ms. Jane Deer, 12345 East West Street, Upland City, WV 99999

2. **NONFEDERAL MATCHING SHARE:**

Donor: Ms. Jane Deer (owner)	Donor: Subgrantee
Source: Loan	Source: Contributions from members
Kind : Cash	Kind: Cash
Amount: $4,525	amount: $5,000

Donor: Ms. Jane Deer (owner)
Source: Same as donor
Kind: Donated Labor
Amount: $475 (10 hours @ $4.75 an hour)

3. **BUDGET:**

Architectural plans and specifications, structural investigations	$ 3,500
Tuckpointing and rebuilding chimney, including metal liner, chimney top damper and flashings	$ 1,900
Roofing, including removal of existing shingles, installation of 10"-#1 red cedar shingles over spaced sheathing and roofing felts with galvanized, painted flashings, gutters and downspouts	$ 19,600
Total	$ 25,000

Page 2 **GRANT NUMBER:** 54-96-00002

4. **PURPOSE:**

a. The purpose of the project is to repair/reconstruct the chimney and replace the roof of this 1880 Victorian Gothic residence, the most visible and important building in the West End Historic District; a National Register-listed district. The subgrantee will contract for the work using appropriate procurement procedures, except that the property owner will provide the labor for painting portions of the woodwork.

b. Architectural Plans, Specifications, Structural Investigation: The architect has provided plans and detailed specifications for the roof work and chimney repairs. Percentage of necessary in-kind replacement of siding and exterior trim has been determined and specified by the architect. Where accessible, structural members have been examined for soundness and possible pest infestation; where inaccessible, neighboring fabric has been examined for indications of shifting, or damage to, structural supports. A report on structural conditions has been prepared by the architect.

The architect will supervise all work to ensure compliance with the Secretary of the Interior's "Standards for Historic Preservation Treatments." The architect is a qualified professional with experience in completing repairs on similar historic buildings.

c. Masonry: Tuckpointing, where necessary on the chimney, will be done in a manner to match the existing joint profiles; new mortar will match the existing in composition, color and texture. The same mortar and existing brick will be used to rebuild portions of the chimney, as required. A new metal liner and chimney top will be installed to meet code requirements.

d. Thermal and Moisture Protection: The existing asphalt roof shingles will be removed to expose the bare sheathing. Damaged sheathing will be replaced in-kind; roofing felt will be applied with galvanized nails and three-inch overlaps in the direction of water run-off. New galvanized flashing will be installed at the chimney, roof edges, and valleys. Ten-inch #1 red cedar shingles will be applied (documentation shows that the roof was originally wood shingled).

e. Woods and Plastics: New galvanized half-round gutters and round downspouts will be installed. Deteriorated and damaged clapboards and trim will be replaced in-kind (possible 15 percent replacement necessary).

f. Finishes: All new metal flashing, gutters, downspouts and woodwork will be primed and painted with two coats of finish paint in appropriate historic colors (to be determined by paint analysis).

5. BEGINNING/ENDING DATES: March 1, 1996 -- August 31, 1996.

6. An Environmental Certification indicating the applicable categorical exclusions is attached.

7. No program income will be generated.

Page 3 **GRANT NUMBER:** 54-95-00002

8. **CERTIFICATION:** As the duly authorized representative, I certify that this subgrant will be administered and work will be performed under the supervision of a professional meeting appropriate 36 CFR 61 requirements, in accordance with the Historic Preservation Fund Grants Manual, and the Secretary of the Interior's Standards for the Treatment of Historic Property. All documentation required by the Historic Preservation Fund Grants Manual will be maintained on file for audit and State Program Review purposes, and the required covenant will be executed by the owner of record prior to the release of Federal funds. All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B.34.e. of the Historic Preservation Fund Grants Manual. These costs have been assessed by knowledgeable SHPO staff and found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance.

9. Preagreement Costs (architectural services) were first incurred on October 10, 1995. Costs of $3,500 are included in the budget and will be claimed as eligible project costs. Plans and specifications have been completed and have been professionally reviewed by a qualified architectural historian.

10. No work is being performed outside the scope of the subgrant.

    Two 8X10-inch black and white glossy photographs are enclosed as required, plus six slides showing selected views (labeled) of existing conditions.

_____ _____

Signature Date

EXHIBIT 8-D SAMPLE PROJECT NOTIFICATION -- Acquisition

TITLE: 1345 33rd St. Purchase

GRANT NUMBER: 46-95-00003

AREA AFFECTED BY PROJECT (counties): Davis

TOTAL PROJECT COST: $97,500
FEDERAL SHARE: $60,000
NONFEDERAL SHARE: $37,500

CONGRESSIONAL DISTRICT: 2nd

TYPE: NEW [X] REVISION [ ]

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1. **SUBGRANTEE:**

   a) Subgrantee: (Purchaser) Old City Preservation Commission, 1544 Elm Street, Old City, South Dakota 32455.

   b) Property owner: (Seller) Mrs. Elvira Fox, 1345 33rd Street, Old City, South Dakota 32455.

2. **NONFEDERAL MATCHING SHARE:**

Donor:	Subgrantee
Source:	Contributions & Property Tax Revenue
Kind:	Cash
Amount:	$37,500

3. **BUDGET:**

Purchase of Property	$ 95,000
Appraisal Fee	$ 2,500
Total	$ 97,500

4. **PURPOSE:** The purpose of the project is to acquire the National Register-listed property, which is threatened by demolition because no other options are viable. The subgrantee will subsequently sell the property to a qualified owner after recording appropriate covenants. The buyer will be required to provide acceptable rehabilitation work as a condition of sale.

5. **BEGINNING/ENDING DATES:** February 15, 1995 -- April 15, 1995.

6. An Environmental Certification indicating the applicable categorical exclusions is attached.

7. No program income will be generated.

   (NOTE: Additional nonfederal share to compensate for the small deficit in nonfederal share in this project will be derived from overmatch from State appropriated funds paying SHPO staff salaries.)

8. **CERTIFICATION:** As the duly authorized representative, I certify that this subgrant will be administered and work will be performed under the supervision of a professional meeting appropriate 36 CFR 61 requirements, in accordance with the Historic Preservation Fund Grants Manual, and the Secretary of the Interior's Standards for the Treatment of Historic Property. All documentation required by the Historic Preservation Fund Grants Manual will be maintained on file for audit and State Program Review purposes. All proposed costs for personal compensation charged to the Federal or nonfederal share of this subgrant are within the maximum limit imposed by Chapter 13, Section B.34.e. of the Historic Preservation Fund Grants Manual. These costs have been assessed by knowledgeable SHPO staff **and** found to be within the normal and customary range of charges for similar work in the local labor market, and appear to be appropriate charges for the product to be achieved with grant assistance.

   The appraisal was performed by John Doe, a licensed professional appraiser, less than six months ago and a copy is on file in the State office. I further certify that the Fair Market Value of this property is the amount established by the appraisal and that the required covenant will be executed by the owner of record prior to the release of Federal funds.

9. Appraisal Information:

   a. Appraiser: Mr. John Doe, 1 Main Street, Old City, South Dakota 32455.

   b. Date of appraisal: November 29, 1994

   c. Appraised value: $95,000.

   d. The seller accompanied the appraiser, has been informed of the appraised value, and has been provided an offer of just compensation ($95,000) for the property.

   e. A copy of the appraisal report is on file with the SHPO. The appraisal has been reviewed and the SHPO has determined that the appraisal documents meet the requirements of the Manual.

10. Relocation assistance is not applicable.

11. The property will be sold as part of a revolving fund. Written NPS concurrence for participation in the revolving fund was obtained on October 1, 1993.

12. Two 8x10 inch black and white glossy photographs are enclosed.

_____ _____

Signature Date

EXHIBIT 8-E FINAL PROJECT REPORTS

Final Project Report. This report is applicable to all contracts/subgrants which require Project Notifications. See Chapter 8, Sections F and G for more information on Project Notifications and Reduced Review Status. The Final Project Report should not be confused with project file documentation requirements or reporting requirements documenting archeological investigations. See Chapter 6, Section J for archeological report requirements.

Policy. HPF funds shall not be disbursed for any project or activity that does not evidence that: 1) planned work has been accomplished within the scope of the subgrant or contractual agreement (summarized in the Project Notification except for projects covered by Reduced Review Status; see Chapter 8, Section G); 2) work was done according to the applicable Secretary's Standards; and 3) work was done in accordance with the terms and conditions of the applicable HPF grant.

In circumstances where funds are disbursed for ineligible activities, such costs shall be recovered in one of two ways: 1) funds shall be returned to the grantee by the subgrantee if the applicable 2-year Federal grant period has not expired (and a reprogramming amendment submitted to NPS for approval), or 2) funds shall be returned to NPS by the grantee if the grant period has expired.

A. Instructions for Completion of the Final Project Report.

For each project subgrant or contract (except those covered by Reduced Review Status; see Chapter 8, Section G, provide the requested information in the format specified on page 8-E-3. NPS expects grantees not to exceed this one page format unless there are exceptional circumstances.

1-3. Provide title/name of subgrant/contract, and the NPS assigned grant number(s) from which the subgrant/contract was funded. Provide the National Register property name and address if development or acquisition work was performed with grant assistance. This is the title or property name identified on the Project Notification.

4. When a scope change amendment requiring NPS approval has been obtained, identify amendment and date of approval.

5. Describe differences between planned major work items as described in the Project Notification and the actual major work items performed.

6. For major cost categories, describe any differences between the planned project budget estimate and the final expenditures billed, both Federal and nonfederal shares.

7. When the scope of work involves a publication, three copies of the publication produced under the subgrant/contract are to be submitted to NPS. Copies of the publication can either be enclosed with the Final Project Report or can be forwarded under separate cover. The Final Project Report should specify the date when the publication will be submitted to NPS.

8. If applicable, one original and one archival copy of HABS/HAER drawings must be submitted within 1 year of project completion.

9. Provide any information that may have been required by NPS special condition or instructions applicable to individual subgrants/contracts.

   Example: The number of full and/or part-time persons employed as a direct result of subgrants made under the Emergency Jobs Act of 1983, P.L. 98-8.

10. For all Final Project Reports provide the following certification:

    I certify professionally qualified program and grants management staff of my organization have confirmed, through site visits and/or review of financial and performance reports that work under this subgrant (or contract) has been accomplished according to applicable laws, regulations, program standards, grant management requirements specified in the Historic Preservation Fund Grants Manual and the terms and conditions of the applicable HPF grant(s).

    For acquisition or development work provide the appropriate additional certification statement:

    The covenant or preservation agreement has been satisfactorily executed prior to release of HPF assistance and a copy has been obtained by the SHPO for monitoring purposes.

    OR

    The State accepts the responsibility for the continued maintenance, repair, and administration of the property required by Section 102(a)(5) of the Act rather than through the execution of a covenant with the property owner. NPS written concurrence with this procedure was obtained on (insert date of NPS concurrence).

11. For acquisition or development work endorse labeled photographs (5" x 7" or larger) identifying work performed with grant assistance. Photographs must illustrate the "before development conditions" and the "after development appearance" (l each) of the property.

    Provide the signature of SHPO (or President, National Trust) and date of signature.

    Provide enclosure(s), as applicable.

B. Submission Information. An acceptable Final Project Report for each subgrant project (not covered by Reduced Review Status; see Chapter 8, Section G, must be submitted to NPS within 90 days of the project end date.

OMB Control Number 1024-0038
Expiration Date: November 30,, 2007

FINAL PROJECT REPORT FORMAT

(if attached to copy of Project Notification, skip items 1-3.)

1. Project title/name:

2. NPS grant number(s):

3. National Register property name/address (If applicable):

4. Identify any amendments and their approval dates:

5. Describe differences between planned and actual major work items:

6. Describe differences between planned and actual major cost categories:

7. Date three copies of any publications will be forwarded to NPS:

8. Date HABS/HAER documentation (if any) will be submitted to NPS:

9. Provide any other data required by special conditions or instructions applicable to individual subgrants/contracts (on reverse side).

10. Certification: I certify professionally qualified program and grants management staff of my organization have confirmed, through site visits and/or review of financial and performance reports that work under this subgrant (or contract) has been accomplished according to applicable laws, regulations, Secretary of the Interior's Standards, other program standards, grant management requirements specified in the Historic Preservation Fund Grants Manual, and the terms and conditions of the applicable HPF grant(s).

11. If the subgrant/contract is for acquisition or development, initial one of the following:

___ The covenant or preservation agreement has been satisfactorily executed prior to release of HPF assistance and a copy has been obtained by this office for monitoring purposes.

OR

___ The State accepts the responsibility for the continued maintenance, repair, and administration of the property required by Section 102(a)(5) of the Act rather than through the execution of a covenant with the property owner. NPS written concurrence with this procedure was obtained on ___(date)___.

Signed:

_____

SHPO or President, National Trust/Date

Enclosure: Labeled photographs for acquisition or development.

EXHIBIT 8-F CONSTRUCTION SPECIFICATION TERMS

The following provides a listing of commonly used categories or major work elements derived from the uniform construction index. It is recommended that the terminology (those terms in bold print) be used when preparing budget estimates for major work categories for development projects/subgrants/contracts. While States will require more specific information from subgrant applicants under each category to select projects, requiring applicants to use these categories will facilitate State and NPS review, and provide for improved monitoring and documentation of work performed. The specific, more detailed work items in parentheses are provided only as a guide to explain the type of detailed work which falls into the major work categories.

1. **General Conditions**. (start-up costs, scaffolding, project sign);

2. **Sitework**. (subsurface investigation, demolition, drainage, underpinning);

3. **Concrete**. (poured in place concrete, precast concrete, concrete restoration and cleaning);

4. **Masonry**. (mortar, unit masonry, stone, masonry restoration and cleaning);

5. **Metals**. (structural metal framing, metal finishes and restoration);

6. **Wood and Plastics**. (rough carpentry, finish carpentry, architectural woodwork, millwork);

7. **Thermal and Moisture Protection**. (waterproofing, dampproofing, insulation, roofing, flashings);

8. **Doors and Windows**. (doors and frames, entrances and storefronts, window repair and restoration, window replacement, hardware);

9. **Finishes**. (lath and plaster, gypsum wallboard, ceramic tile, wood, brick, and stone flooring, painting);

10. **Specialties**. (fire extinguishers and cabinets);

11. **Equipment**. (not generally applicable) when eligible, refer to Chapter 13;

12. **Furnishings**. (not generally applicable) when eligible, refer to Chapter 13.

13. **Special Construction**. (solar and wind energy systems);

14. **Conveying Systems**. (elevators);

15. **Mechanical**. (plumbing, fire protection, heating, cooling, air distribution); and

16. **Electrical**. (service and distribution, lighting).

Chapter 9 - Certified Local Governments

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:

2. 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. See Chapter 3, Section B.3, and the NPS Manual for State Historic Preservation Review Boards.

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 (See Chapter 8) 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. (See Chapter 14, Section D.6.)

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. (See Chapters 12 and 13.) Records must evidence compliance with the competitive procurement requirements of 43 CFR 12.76 (see Chapter 17), 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 CLGs.

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 (See Chapter 3, Section K.) 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. (See Chapters 15).

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. (See Chapters 8 and 25).

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. (See Chapter 8, Exhibit 8-D.) 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. See Chapter 22.

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.).

EXHIBIT 9-A MODEL LOCAL GOVERNMENT CERTIFICATION AGREEMENT

Pursuant to the provisions of the National Historic Preservation Act, as amended, to applicable federal regulations (36 CFR 61), and to _____ [*insert title of State Certification Procedures*],_____ [*insert proper name of the local government*] agrees to:

(1) Enforce appropriate legislation for the designation and protection of historic properties [*specify legislation or cross reference requirements from State procedures*].

(2) Maintain an adequate and qualified historic preservation review commission composed of professional and lay members [list or *cross reference specific requirements from State procedures*].

(3) Maintain a system for the survey and inventory of historic properties [list or *cross reference specific requirements from State procedures*].

(4) Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register [list or *cross reference specific requirements from State procedures*].

(5) Adhere to all Federal requirements for the Certified Local Government Program.

(6) Adhere to requirements outlined in the *State of* _____ *[enter State name]* _____ *[enter title of State CLG procedures]* 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 _____ [*enter State name*]. These rights include eligibility to apply for available CLG grant funds in competition only with other certified local governments.

STATE:	**LOCAL GOVERNMENT:**
SHPO or Designee	Chief Elected Local Official
Typed Name and Title	Typed Name and Title
Date	Date

EXHIBIT 9-B MODEL CLG CERTIFICATION APPLICATION CHECKLIST

State: Jurisdiction:

Date submitted to State: Date approved by State:

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(1) Applicant meets the Federal definition of local government and has authority to enforce acceptable legislation for the designation and protection of historic properties.

(2) Applicant has established a historic preservation review commission consisting of ____ members. This meets State procedure requirements for number of members.

There are ____ lay members.

There are ____ professional members qualified in the fields of :

This meets State procedure requirements for professional membership.

(3) All commission members have a demonstrated, positive interest, competence, or knowledge in historic preservation.

(4) Professional members of the commission have been appointed to the extent available in the community, and we have reviewed resumes that document professional qualifications acceptable under the Secretary of the Interior's Historic Preservation Professional Qualification Standards. If not, the applicant satisfactorily documented an adequate search for the requisite professional members and how it will obtain access to expertise when needed.

(5) The role and responsibilities of the local government have been specified in detail in the enclosed agreement, including:

A. The four basic responsibilities:

1. Enforcing State or local legislation for the designation and protection of historic resources.

2. Maintaining a system for survey and inventory of historic properties.

3. Providing for adequate public participation in the historic preservation program.

4. Reviewing National Register nominations through a qualified local commission.

B. Additional responsibilities.

1. Required of all CLGs in

a. Maintain adequate financial management systems.

b. Adhere to all requirements of the Historic Preservation Fund Grants Manual.

c. Adhere to any requirements mandated by Congress regarding use of federal historic preservation funds.

d. Adhere to requirements outlined in the State of _____ Local Government Participation Procedures issued by the State Historic Preservation Office.

2. Requirements specific to this CLG (if any stipulated).

(6) The CLG contact person, including title/position, mailing address, and telephone number:

(7) The Certification Agreement has been signed by SHPO and Chief Elected Local Official.

(8) Any other information relevant to this application:

STATE REVIEWER:

Signature

Name and Title

Date

Chapter 10 - Title VI and Section 504 Compliance Requirements

A. Purpose.
This Chapter details guidelines for the implementation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended; and the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101, et seq.) The contents of this Chapter incorporate Department of the Interior regulations published in 43 CFR 17 subparts A, B, and C; the Americans with Disabilities Act of 1990 (ADA), and related regulations; part of the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act of 1988. The ADA prohibits discrimination based on disability by the private and public sectors. The ADA has separate and concurrent requirements for State and local governments, which may or may not be recipients of Federal assistance. Each of these laws provide for review and investigation of recipient actions to determine compliance.

The objectives of the respective Acts are as follows:

1. Civil Rights Act of 1964. Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise subjected to considerations under any program or activity receiving Federal financial assistance.

2. Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act of 1973 is designed to eliminate discrimination on the basis of disability in any program or activity receiving Federal financial assistance.

3. Age Discrimination Act of 1975. The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving Federal Financial assistance. The Act also permits recipients of Federal funds to continue to use certain age discriminations, as outlined in 43 CFR 17, subpart C.

B. Covered Employment.

1. A grantee or a subgrantee's employment practices shall be subject to the nondiscrimination provisions of Title VI, Section 504, and the Age Discrimination Act as provided in Section C.5.b., below. With regard to Title VI, the Department is concerned not only with discriminatory employment practices, but also practices that directly affect services to the public under a federally assisted program to which these guidelines apply. A recipient receiving Federal financial assistance directly, or through contractual, licensing, or other arrangements, shall not use age distinctions or take any other actions which may exclude, deny, or limit individual employment or benefits. The employment practices of construction contractors hired by grantees and their subgrantees will not be subjected to the provisions, unless specifically provided. (However, see Chapter 18, Equal Employment Opportunity Contract Compliance.) The employment requirement stipulated by Section 504 for the disabled is extended to provide that recipients must not discriminate in employment against disabled persons. Reasonable accommodations must be provided for disabled persons who are qualified job applicants or incumbent employees. This requirement may be waived by the NPS Equal Opportunity Office in cases where accommodation is proven to cause an undue hardship on the

operation of recipient programs as a result of, but not limited to, the following (see Section C.9, below):

a. Size of recipient program with respect to number of employees, number and type of facilities, and size of budget;

b. The type of the recipient's operations, including the composition and structure of the recipient's workforce; and

c. The nature and cost of the accommodation needed.

Enforcement of Title VI, Section 504, and the Age Discrimination Act provisions with respect to covered employment practices shall not be superseded by State or local merit systems relating to such employment practices.

C. Compliance Responsibilities.

1. Office for Equal Opportunity Responsibility. The Office of Equal Opportunity (OEO), as authorized by the Secretary of the Interior, shall assure that no person participating in a program funded in whole or in part by the National Park Service is subjected to discrimination on the basis of race, color, national origin, or disability. This shall be accomplished through continued policy direction, oversight, compliance reviews, and complaint investigations, as well as technical assistance and program evaluation.

2. National Park Service Responsibility. The NPS, as grantor of Historic Preservation Fund (HPF) monies, has direct responsibility for assuring that HPF grantees and subgrantees are in compliance with the provisions of Title VI, Section 504, and the Age Discrimination Act. For purposes of HPF grants, the NPS shall execute its responsibility through:

a. providing guidance to grantees in the use of an open project selection process to allocate NPS grant assistance among applicants;

b. notifying the Office for Equal Opportunity of any inconsistencies with Title VI, Section 504, and the Age Discrimination Act detected in any grantee's program by NPS personnel; and

c. cooperating with the Office for Equal Opportunity in seeking a satisfactory resolution of any inconsistencies found.

3. Grantee Responsibility. The States and the National Trust for Historic Preservation, as grantees, are responsible for giving reasonable assurance that the applicant and all subgrantees will comply with the requirements imposed by Title VI, Section 504, and the Age Discrimination Act, including methods of administration which give reasonable assurance that any noncompliance will be corrected. This shall be accomplished through:

a. establishing an open project selection process according to NPS standards (see Chapter 8, Section C);

b. providing the State Clearinghouse the opportunity to comment upon the civil rights aspects of applications submitted according to the Executive Order 12372 review process (see Chapter 4, Section C.3).

c. notifying NPS' Equal Opportunity Office of any inconsistencies with Title VI and Section 504 detected in any subgrantee's program by grantee personnel;

d. cooperating with NPS' Equal Opportunity Office toward seeking a satisfactory resolution of any inconsistencies found, including efforts toward seeking voluntary compliance; and

e. assuring that each subgrantee/applicant is provided a copy of nondiscrimination guidelines.

4. Coordination of Responsibility. NPS will periodically review the grantee's administration of the HPF program, including reviews of the compliance of subgrantee programs with Title VI, Section 504, and the Age Discrimination Act. NPS will provide grantees, subgrantees, and applicants for grant assistance with such technical assistance as necessary to reasonably assure compliance with Title VI, Section 504, and the Age Discrimination Act. Federal, State, and local officials are expected to cooperate fully toward securing voluntary compliance where deficiencies in programs or projects are found. (See Section C.5. for review procedures.)

5. Compliance Reviews of Grantees and Subgrantees. Grantee and subgrantee compliance shall be based on the following criteria:

   a. The HPF program evidences compliance with the provisions of Title VI, Section 504, and the Age Discrimination Act by specifically demonstrating their consideration of the role of minorities and disabled individuals in the history, archaeology, architecture, and cultural development of the State.

   b. The grantee makes available to the public Title VI, Section 504 and the Age Discrimination Act nondiscrimination information, and by what means (i.e., through posters, brochures and program literature). Where necessary, (1) whether bilingual information is made available for non-English speaking populations which comprise 10 percent or more of the total population, and (2) whether program information is available for the vision or hearing impaired and any other disability that impairs the communication process. The required nondiscrimination language to be inserted into all grant-related public notices and publications reads as follows:

      This program receives Federal financial assistance for identification and protection of historic properties. Under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, the U.S. Department of the Interior prohibits discrimination on the basis of race, color, national origin, age, or disability in its federally assisted programs. If you believe you have been discriminated against in any program, activity, or facility as described above, or if you desire further information, please write to:

      Office for Equal Opportunity
      National Park Service
      1849 C Street, N.W.
      Washington, D.C. 20240

c. Title VI, Section 504 and Age Discrimination Act complaints received by the grantee are forwarded to the Office for Equal Opportunity within 10 days.

d. The frequency and type of all compliance assistance provided by the grantee for its subgrantees.

e. The grantee adequately provides Title VI, Section 504 and Age nondiscrimination information to its subgrantees (i.e., through posters, brochures, and program literature).

f. Title VI, Section 504, and Age Discrimination Act compliance responsibilities have been designated to qualified grantee staff, and the responsibilities are being effectively executed (does not apply to subgrantees).

g. Minority and disabled individuals participate on the grantee's State Review Board and the subgrantee's appointed planning and advisory bodies associated with the program.

h. Inclusion of properties nominated to the National Register and on the statewide survey that represent minority group contributions to the history and culture of the State (does not apply to subgrantees);

i. Organizations representing minorities and the disabled are notified of the opportunity to apply for HPF subgrants annually.

j. Evidence of continuing cooperation and liaison with private individuals and organizations, including minority and disabled individuals and organizations, representing these groups in grantee and subgrantee programs (including award of minority related subgrants or contracts).

k. Adherence to Title VI complaint procedures as written in Section D of this chapter, including the public notification provisions in grantee and subgrantee programs.

l. The imposition of nondiscriminatory admission fees for entrance to HPF grant-assisted properties, where such fees are used in grantee and subgrantee programs.

m. Full accessibility for minority and disabled persons, and persons of all ages to grantee and subgrantee activities and services (e.g., workshops, exhibitions, tours, etc.) is promoted. With regard to the disabled, specific responsibilities include but are not limited to:

   1) Making physical alterations which enable qualified disabled persons to have access to otherwise inaccessible areas or features of historic properties (see Chapter 5, General Condition B.12.b.);

   2) Using audio-visual materials and devices to depict otherwise inaccessible areas or features of historic properties;

   3) Assigning persons to guide qualified disabled persons into or through otherwise inaccessible portions of historic properties;

4) Adopting other innovative methods to achieve program accessibility.

n. Qualified disabled persons (as defined in 43 CFR 17.202(k)) are, on the basis of disability, being treated in a nondiscriminatory fashion in employment under any programs or activities of the grantee and subgrantee through:

1) Recruitment, advertising, and the processing of applications for employment;

2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff and rehiring;

3) Rates of pay or any other form of compensation and changes in compensation;

4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

5) Leave of absence, sick leave, or any other leave;

6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

7) Selection and financial support for training including apprenticeship, professional meetings, and selection for leave of absence to pursue training;

8) Employer-sponsored activities, including social or recreation programs;

9) Any other term, condition, or privilege of employment such as granting awards, recognition and/or monetary recompense for money-saving suggestions or superior performance;

10) Providing reasonable accommodations to known physical or mental limitations of an otherwise qualified disabled applicant or employee except in cases outlined in Section B.1, above, Covered Employment;

11) Employment tests, pre-employment inquiries, interviews, or other selection criteria; and

12) Providing nondiscrimination language in employment information materials as discussed in Subsection C.5.b, above.

o. Grantees have obtained assurances from nonprofit organizations that are applicants or subgrantees of federally assisted programs or activities, in accordance with 43 CFR 17, which provides that the overall program will be operated in compliance with Title VI, and Section 504. Covenants associated with HPF grant assistance, including transfer of real property or interest in the property, must also contain language which assures nondiscrimination (see Section C.5.b., above).

6. Section 504 Self-Evaluation. Recipients and subrecipients are required to evaluate, modify, and take necessary remedial steps towards ensuring that its policies, practices, and facilities are in compliance with Section 504. This self-evaluation process should be conducted with the assistance of interested

persons, including disabled persons or organizations representing disabled persons. The self-evaluation must cover all areas outlined in Section C.5., above. A self-evaluation guide and checklist may be obtained from Historic Preservation Grants Division, National Park Service, 1849 C Street, N.W., (Org. Code 2256), Washington, DC 20240.

A recipient that employs 15 or more persons shall, for at least three years following completion of the evaluation, maintain on file all records pertaining to the evaluation as outlined in 43 CFR 17.205. Such records must be made available for public inspection and for the Director, Office for Equal Opportunity, upon request.

7. Designation of Section 504 Coordinator. A recipient must designate a staff person to coordinate efforts to comply with Section 504 requirements.

8. Waiver of Accessibility Requirements. When alterations are the only feasible means of providing access but would cause a substantial impairment of significant historic features, a modification or waiver of the access standard may be sought in accordance with 43 CFR 17.260. The Department believes that the program accessibility standards are flexible enough to make programs accessible without impairing the integrity of historic buildings. However, whenever such problems arise, modifications or waivers may be necessary.

9. Procedures for Requesting a Waiver. Where program accessibility cannot be achieved without causing a substantial impairment of significant historic features, the Equal Opportunity Office may grant a waiver of the program accessibility requirement, upon consultation with NPS Historic Preservation Grants Division and the Advisory Council on Historic Preservation. All requests must be in writing and must be signed by an authorized official. The request should be submitted to the Director of the Office for Equal Opportunity.

   In determining whether program accessibility can be achieved without causing a substantial impairment, the written request should include a complete description of the property identifying the following factors:

   a. Significance of the property, identifying reason(s) the property has been listed on the National Register of Historic Places;

   b. Scale of property (i.e., its physical description), with an explanation of its ability to absorb alterations;

   c. Use of the property, whether primarily for public or private purposes;

   d. An analysis of the historic and/or architectural features of the property that will be affected by accessibility requirements with an explanation of why other program accessibility alternatives are not possible; and

   e. Cost of alterations in comparison to the increased inaccessibility.

10. Procedures for Granting a Waiver. After the Office for Equal Opportunity receives all the necessary information, the Equal Opportunity Office, in consultation with NPS, will review the records and

determine whether the waiver request is to be approved or not. Once a decision regarding the waiver request has been made, the recipient shall be notified in writing by the Equal Opportunity Office of its determination no later than 30 days from the completion date of the waiver review.

11. Transition Plan Responsibilities. Whenever structural changes to facilities are necessary to meet program accessibility requirements, recipients shall develop, within one year of the cited accessibility violation, a transition plan setting forth the steps necessary to complete such changes. In the case of new recipients, a transition plan must be developed within one year of receipt of the financial assistance. A transition plan guide may be obtained from NPS Historic Preservation Grants Division, 1849 C Street N.W., (Org. Code 2256), Washington, D.C. 20240.

    Transition plans should be developed with the assistance of interested persons, including disabled persons or organizations representing disabled persons and made available for public inspection. The plan should contain the following information:

    a. Identification of physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to disabled persons;

    b. Detailed description of the methods that will be used to make the facilities accessible and usable;

    c. Timetable for achieving full program accessibility. If the time period will exceed the specified required timeframe of one year, an identification of steps taken during each year to achieve accessibility is required; and

    d. Identification of the person responsible for implementation of the plan (name, address and telephone number).

D. Title VI, Section 504, and Age Complaint Procedures.
This section prescribes the procedures with respect to the prompt processing and disposition of complaints.

1. Public Notification of Right to File a Complaint. Grantees shall inform the public of their right to file a complaint. Where grantees extend HPF assistance to subgrantees, the grantees shall also be responsible for ensuring that this standard is met.

    a. Grantees shall also include information on Title VI, Section 504, and Age Discrimination Act requirements, complaint procedures, and the rights of beneficiaries in grant-related handbooks, manuals, pamphlets, and other materials which are ordinarily distributed to the public. In instances where disabled persons have visual, hearing or other disabilities that impair their communication process, accommodations must be made to meet their needs, such as audiovisual aids and/or interpreters.

    b. Posters explaining the nondiscrimination provisions of Title VI, Section 504, and Age Discrimination Act as they apply to the HPF program shall be displayed in at least one conspicuous place in grantee administrative offices. Posters should note the availability of additional Title VI and Section 504 information and explain briefly the procedures for filing complaints.

2. Who may file. Any person, or specific class of persons, who believes that he or she has been subjected to discrimination as prohibited by Title VI, Section 504, and/or the Age Discrimination Act may file a complaint.

3. How, When, and Where to File. All complaints filed under Title VI, Section 504, and the Age Discrimination Act must be in writing, and must be signed by the complainant and/or the complainant's representative. In the event that a complaint is made in other than written form, the official receiving the complaint must instruct the complainant to submit the complaint in writing to the Equal Opportunity Office, National Park Service for prompt processing. The complaint should contain: the name, address, and telephone number of the complainant; the name and address of the alleged discriminating official, grantee or subgrantee; the basis of the complaint, and the date of the alleged discrimination.

   Complaints must be filed within 180 calendar days from the date of the alleged discrimination. The time limit for filing may be extended only by the Director, Equal Opportunity Office. Complaints should be filed directly with the Director, Equal Opportunity Office, National Park Service, 1849 C Street, N.W., Washington, D.C. 20240. In the event that complaints are received by NPS and/or grantees, such complaints will be forwarded to the Equal Opportunity Office within 10 days of receipt.

4. Complaint Processing.

   a. Acknowledgment of Complaint. The Equal Opportunity Office shall acknowledge in writing the receipt of every complaint within 10 days. Acknowledgment letters shall be sent to the complainant, NPS Historic Preservation Grants Division, and the grantee.

   b. Complaint Log. Grantees shall maintain a log of any Title VI, Section 504, and Age Discrimination Act complaint received. Moreover, the Equal Opportunity Office shall maintain a log of all such complaints received for processing. The purpose of the complaint log is to provide essential information and data regarding each complaint being processed by the Department. Each log must contain a case number, the complainant's name, address, and telephone number. Each log must also include a description of the complaint, the date the complaint was filed and investigation completed, the disposition of the case, and all other information pertinent to the complaint.

   c. Routing Responsibilities. When NPS, any grantee or subgrantee, receives a complaint, the office in receipt must log in the complaint, note the date of receipt on the complaint and maintain a confidential copy for its records. The original complaint document must be forwarded to the Office for Equal Opportunity within 10 days of receipt. The Office for Equal Opportunity shall acknowledge its receipt and notify the grantee, as well as NPS Historic Preservation Grants Division.

      The grantee is encouraged to inquire into the facts of any complaints of an administrative nature brought to its attention. However, if any part of the complaint is based upon alleged Title VI, Section 504, or Age Discrimination Act, the Equal Opportunity Office must be notified as provided for above.

d. Determination of Jurisdiction. Upon receipt of a complaint by the Department, the Office for Equal Opportunity shall determine whether the complaint comes within the purview of Title VI, Section 504, or Age Discrimination. When the Department lacks jurisdiction over a complaint, the Office for Equal Opportunity Program, shall refer the complaint to the appropriate State or Federal agency that has responsibility for addressing the complaint.

5. Complaint Investigations.

a. Scope. Investigations shall be confined to issues and facts relevant to allegations in the complaint.

b. Confidentiality. Complainants shall be offered a pledge of confidentiality as to their identity. This offer, if accepted, shall be binding on the investigator. Complainants shall be interviewed at all times in places which will not create the risk of compromising confidentiality. Except where essential to the investigation, the investigator shall not reveal the identity of the complainant to the respondent or to any third party. If the investigator determines the necessity to reveal the complainant's identity, the complainant's written permission to do so must be secured.

c. Conduct of Investigation. Upon determination of jurisdiction by the Department, the Equal Opportunity Office shall promptly initiate an investigation of the matter.

d. Investigation Reports. In all instances where an investigation has been conducted, an Investigation report shall be prepared, with findings and recommendations. The complainant and the agency against whom the complaint is made shall be notified in writing of the disposition.

e. Investigation by Primary Recipients. The Director, Equal Opportunity Office, within 10 working days of the receipt of a complaint, may authorize a grantee to investigate the complaint and make findings and recommendations subject to approval by the Equal Opportunity Office. Upon such delegation of authority, a grantee may investigate complaints filed against subgrantees. The investigative report will be provided to the Equal Opportunity Office within 30 days of authorization to investigate. The grantee may not investigate any complaint in which it, or any of its officers or employees are implicated. If at any time prior to its completion, it is determined that investigation of a complaint has been improperly conducted, the Equal Opportunity Office, may withdraw the grantee's authority to investigate. If the complainant is dissatisfied with the findings, the complainant may appeal the findings to the Equal Opportunity Office for its decision within 30 days of the complainant's receipt of the investigative report.

f. If No Conditions of Noncompliance are Found. Where the Director or designee determines that review and investigation of findings do not support an allegation of discrimination, the complaint shall be administratively closed. Within 10 working days of the closing date, the complainant will be notified through certified mail of the decision and given the reason(s) for the decision.

6. If Noncompliance is Found.

a. Voluntary Compliance Defined. Voluntary Compliance means willingness to correct conditions of noncompliance identified by complaint investigations or compliance reviews. Departmental

regulations require the resolution of an apparent condition of noncompliance by informal means whenever possible.

b. Procedures for Effectuating Voluntary Compliance.

1) In every case where a complaint investigation or compliance review results in a finding of noncompliance, the Director, Equal Opportunity Office, shall notify the grantee through certified mail of the apparent noncompliance, offer recommendations to correct the conditions of noncompliance, and offer a reasonable time to willingly comply.

2) The Equal Opportunity Office shall record the date the grantee received notice, and shall note and record the last day afforded the grantee for voluntary compliance before initiating the administrative sanctions described below.

3) The grantee may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will accompany the Director or his designated representative to the meeting for the above stated purpose.

4) The Director, Equal Opportunity Office, or designee shall approve the grantee's voluntary compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with Title VI, Section 504, and the Age Discrimination Act.

c. Sanctions Available to the Department. When an applicant or a grantee is found to be in noncompliance with Title VI, Section 504, and/or the Age Discrimination Act, and compliance has not been achieved by voluntary means, Title VI and Section 504 provide several enforcement alternatives. If discrimination based on race, color, national origin, disability or any other technical violation of Title VI and Section 504 is found in an applicant's program, the Equal Opportunity Office can recommend temporary deferral of Federal funds to the agency awarding the grant until full compliance has been satisfactorily established. If the grant has been made, the Equal Opportunity Office may initiate administrative proceedings for the termination of current and future grant assistance. Alternatively, the Office for Equal Opportunity Office may enforce Title VI and Section 504 by "any other means authorized by law" including referral to the U.S. Department of Justice for appropriate judicial enforcement. However, no order suspending, terminating, or refusing to grant assistance to a recipient will become effective until the Equal Opportunity Office has:

1) Advised the grantee of its failure to comply and determined that compliance cannot be secured by voluntary means.

2) Made an express finding on the record after opportunity for a hearing, of a failure by the applicant or grantee to comply with a Title VI or Section 504 requirement.

3) Submitted a full written report of the circumstances and the grounds for such action to the Secretary of the Interior.

4) Obtained approval of the action to be taken from the Secretary of the Interior.

5) Ensured that the Secretary has filed a full written report with the House and Senate Committees having the legislative jurisdiction over the program involved.

Chapter 11 - Environmental Compliance Requirements

A. National Environmental Policy Act (NEPA).
This Chapter details the Department of the Interior requirements concerning compliance with the National Environmental Policy Act and related legislation, regulations and Executive Orders, as they apply to the Historic Preservation Fund grant program.

1. Policy. The national policy concerning the assessment of the environmental impact of Federal and federally funded actions is contained in the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347). All NPS Historic Preservation Fund grant actions are subject to the provisions of NEPA and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (CEQ Regulations) (40 CFR 1500-1508).

2. Grantee Responsibility. Except for Reduced Review States (see Chapter 8, Section G), the applicant must submit appropriate environmental documentation to NPS with the HPF grant Project Notification (either an Environmental Certification, see section A.5 below, or an Environmental Assessment, see section A.8 below). Certain categories of proposed actions may be excluded from the NEPA process. Categorical Exclusions approved for NPS appear in Section A.4., below. All other proposed actions require the preparation of either an Environment Assessment (EA) or an Environmental Impact Statement (EIS). All grantees are required to submit necessary information as an Environmental Assessment, unless the proposed grant-assisted activity is covered by a Categorical Exclusion. If appropriate, grantees with statewide jurisdiction that qualify under NEPA section 102(2)(D) may be required to submit an EIS. The scope, content, and objectivity of the document shall comply with NEPA, CEQ Regulations, and the Departmental Manual. (See Section A.8. below.)

   A State that has environmental laws equivalent to or more stringent than NEPA may submit environmental documentation meeting both State and Federal requirements.

3. NPS Responsibility. NPS is responsible for determining and advising the State on whether a proposed grant action is either categorically excluded or requires an EA or EIS. NPS is also responsible for ensuring the adequacy of any required EA or EIS.

   Projects involving floodplains and wetlands must comply with the requirements of 44 CFR 3642; Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; Department of the Interior Manual (520 DM) and NPS Floodplain/Wetland Protection Guidelines. This compliance requires information in addition to that required by NEPA. See Section B, below.

4. Categorical Exclusions. Authorized Categorical Exclusions are those referred to in 516 DM 6 Appendix 7. The actions shown qualify for Categorical Exclusion unless NPS determines that there is cause for exception under 516 DM 2.3A(3), (see Section A.6 below for the exceptions). The exclusions found in Section A.6.f. and A.6.g. are particularly relevant to HPF grantees. (However, note that the list of Categorical Exclusions is not necessarily a list of activities eligible for HPF grant assistance.)

The following exclusions for the Department of the Interior are provided in 516 DM 2, Appendix 1 (also see additional Categorical Exclusions authorized for NPS in 516 DM 6, Appendix 7, and listed below in Section A.4.b-g, of this Chapter):

a. Departmental Categorical Exclusions. These are general in nature and include the following:

1) Personnel actions and investigations and personnel services contracts;

2) Internal organizational changes and facility and office reductions and closings;

3) Routine financial transactions, including such things as salaries and expenses, procurement contracts, guarantees, financial assistance, income transfers, audits, fees, bonds and royalties;

4) Law enforcement and legal transactions, including such things as arrests, investigations, patents, claims, legal opinions, and judicial activities including their initiation, processing, and/or settlement, appeal or compliance;

5) Regulatory and enforcement actions, including inspections, assessments, administrative hearings, and decisions; when the regulations themselves or the instruments of regulations (leases, permits, licenses, etc.) have previously been covered by the NEPA process or are exempt from it in 516 DM 2, Appendix 1 (also see additional categorical exclusions listed below in Section A.4.b-g, of this Chapter;

6) Non-destructive data collection, inventory (including field, aerial and satellite surveying and mapping), study, research and monitoring activities;

7) Routine and continuing government business, including such things as supervision, administration, operations, maintenance, and replacement activities having limited context and intensity; (e.g. limited size and magnitude or short-term effects);

8) Management, formulation, and allocation of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.);

9) Legislative proposals of an administrative or technical nature, including such things as changes in authorizations for appropriations, and minor boundary changes and transactions; or having primarily economic, social, individual or institutional effects; and comments and reports on referrals of legislative proposals;

10) Policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will be subject later to the NEPA process, either collectively or case-by-case; and

11) Activities which are educational, informational, advisory or consultative to other agencies, public and private entities, visitors, individuals or the general public.

The following are NPS-specific Categorical Exclusions:

b. Actions Related to General Administration:

1) Changes or amendments to an approved action, when such changes would cause no or only minimal environmental impact;

2) Land and boundary surveys;

3) Minor boundary changes;

4) Reissuance/renewal of permits, rights-of-way or easements not involving new environmental impacts;

5) Conversion of existing permits to rights-of-way, when such conversions do not continue or initiate unsatisfactory environmental conditions;

6) Issuances, extensions, renewals, reissuances or minor modifications of concession contracts or permits not entailing new construction;

7) Commercial use licenses involving no construction;

8) Leasing of historic properties in accordance with 36 CFR 18 and NPS-38;

9) Preparation and issuance of publications;

10) Modifications or revisions to existing regulations, or the promulgation of new regulations for NPS-administered areas, provided the modifications, revisions or new regulations do not:

a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

c) Conflict with adjacent ownerships or land uses; or

d) Cause a nuisance to adjacent owners or occupants.

11) At the direction of the NPS responsible official, actions where NPS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau.

c. Plans, Studies and Reports.

1) Changes or amendments to an approved plan, when such changes would cause no or only minimal environmental impact;

2) Cultural resources maintenance guides, collection management plans and historic furnishings reports;

3) Interpretive plans (interpretive prospectuses, audio-visual plans, museum exhibit plans, wayside exhibit plans);

4) Plans, including priorities, justifications and strategies, for nonmanipulative research, monitoring, inventorying and information gathering;

5) Statements for management, outlines of planning requirements and task directives for plans and studies;

6) Technical assistance to other Federal, State and local agencies or the general public;

7) Routine reports required by law or regulation;

8) Authorization, funding or approval for the preparation of Statewide Comprehensive Outdoor Recreation Plans;

9) Adoption or approval of surveys, studies, reports, plans and similar documents which will result in recommendations or proposed actions which would cause no or only minimal environmental impact;

10) Preparation of internal reports, plans, studies and other documents containing recommendations for action which NPS develops preliminary to the process of preparing a specific Service proposal or set of alternatives for decision;

11) Land protection plans which propose no significant change to existing land or visitor use; and

12) Documents which interpret existing mineral management regulations and policies, and do not recommend action.

d. Actions Related to Development.

1) Land acquisition within established park boundaries;

2) Land exchanges which will not lead to significant changes in the use of land;

3) Routine maintenance and repairs to non-historic structures, facilities, utilities, grounds and trails;

4) Routine maintenance and repairs to cultural resource sites, structures, utilities and grounds under an approved Historic Structures Preservation Guide or Cyclic Maintenance Guide; or if the action would not adversely affect the cultural resource;

5) Installation of signs, displays, kiosks, etc.;

6) Installation of navigation aids;

7) Establishment of mass transit systems not involving construction, experimental testing of mass transit systems, and changes in operation of existing systems (e.g., routes and schedule changes);

8) Replacement in kind of minor structures and facilities with little or no change in location, capacity or appearance;

9) Repair, resurfacing, striping, installation of traffic control devices, repair/replacement of guardrails, etc., on existing roads;

10) Sanitary facilities operation;

11) Installation of wells, comfort stations and pit toilets in areas of existing use and in developed areas;

12) Minor trail relocation, development of compatible trail networks on logging roads or other established routes, and trail maintenance and repair;

13) Upgrading or adding new overhead utility facilities to existing poles, or replacement poles which do not change existing pole line configurations;

14) Issuance of rights-of-way for overhead utility lines to an individual building or well from an existing line where installation will not result in significant visual intrusion and will involve no clearance of vegetation other than for placement of poles;

15) Issuance of rights-of-way for minor overhead utility lines not involving placement of poles or towers and not involving vegetation management or significant visual intrusion in an NPS-administered area;

16) Installation of underground utilities in previously disturbed areas having stable soils, or in existing overhead utility right-of-way;

17) Construction of minor structures, including small improved parking lots, in previously disturbed or developed areas;

18) Construction or rehabilitation in previously disturbed or developed areas, required to meet health or safety regulations, or to meet requirements for making facilities accessible to the disabled;

19) Landscaping and landscape manipulation in previously disturbed or developed areas; and

20) Construction of fencing enclosures or boundary fencing posing no effect on wildlife migrations.

e. Actions Related to Visitor Use.

1) Carrying capacity analyses;

2) Minor changes in amounts or types of visitor use for the purpose of ensuring visitor safety or resource protection in accordance with existing regulations;

3) Changes in interpretive and environmental educational programs;

4) Minor changes in programs and regulations pertaining to visitor activities;

5) Issuance of permits for demonstrations, gatherings, concerts, arts and crafts shows, etc., entailing only short-term or readily mitigable environmental effects; and

6) Designation of trailside camping zones with no or minimal improvements.

f. Actions Related to Resource Management and Protection.

1) Archeological surveys and permits, involving only surface collection or small-scale test excavations;

2) Day-to-day resource management and research activities;

3) Designation of environmental study areas and research natural areas;

4) Stabilization by planting native plant species in disturbed areas;

5) Issuance of individual hunting and/or fishing licenses in accordance with State or Federal regulations;

6) Restoration of noncontroversial native species into suitable habitats within their historic range, and elimination of exotic species;

7) Removal of park resident individuals of nonthreatened/endangered species which pose a danger to visitors, threaten park resources or become a nuisance in areas surrounding a park, when such removal is included in an approved resource management plan;

8) Removal of non-historic materials and structures in order to restore natural conditions; and

9) Development of standards for, and identification, nomination, certification and determination of eligibility of properties for listing in the National Register of Historic Places and the National Historic Landmark and National Natural Landmark Programs.

g. Actions Related to Grant Programs.

1) Proposed actions essentially the same as those listed in Sections A.4.b-f, above;

2) Grants for acquisition of areas which will continue in the same or lower density use with no additional disturbance to the natural setting;

3) Grants for replacement or renovation of facilities at their same location without altering the kind and amount of recreational, historical or cultural resources of the area; or the integrity of the existing setting;

4) Grants for construction of facilities on lands acquired under a previous NPS or other Federal grant provided that the development is in accord with plans submitted with the acquisition grant;

5) Grants for the construction of new facilities within an existing park or recreation area provided that the facilities will not:

   a) Conflict with adjacent ownerships or land use, or cause a nuisance to adjacent owners or occupants, e.g., extend use beyond daylight hours;

   b) Introduce motorized recreation vehicles;

   c) Introduce active recreation pursuits into a passive recreation area;

   d) Increase public use or introduce noncompatible uses to the extent of compromising the nature and character of the property, or causing physical damage to it; or

   e) Add or alter access to the park from the surrounding area.

6) Grants for preservation of properties listed on or eligible for listing on the National Register of Historic Places, at their same location and provided that such actions:

   a) Will not alter the integrity of the setting;

   b) Will not increase public use of the area to the extent of compromising the nature and character of the property; and

   c) Will not cause a nuisance to adjacent property owners or occupants.

5. Certification. When a proposed project appears to qualify as one of the categorical exclusions listed in Section A.4 above, and does not involve one or more of the exceptions in 516 DM 2.3(a)(3) listed in Section A.6 below, the grantee shall indicate on the Environmental Certification Form the categorical exclusion into which the project falls. If NPS concurs, the Certification will be signed by the grant approving official, and maintained as part of the grant documentation. (See form at end of this chapter.) If the project does not qualify for an exclusion, an Environmental Assessment must be prepared (see Section A.8).

6. Exceptions. The following exceptions apply to individual actions within categorical exclusions. Environmental Assessments (EAs) must be prepared for actions which would otherwise fall under categorical exclusions, but which may:

    a. Have significant adverse effects on public health or safety;

    b. Have adverse effects on such unique geographic characteristics as historic or cultural resources, park, recreation, or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks;

    c. Have highly controversial environmental effects;

    d. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks;

    e. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects;

    f. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects;

    g. Adversely affect properties listed or eligible for listing on the National Register of Historic Places;

    h. Adversely affect a species listed or proposed to be listed on the List of Endangered or Threatened Species, or designated Critical Habitat for these species;

    i. Require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act; or

    j. Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

7. Special Cases. NPS may find that some actions which normally qualify for Categorical Exclusion merit special consideration. In such cases NPS will require submission of an EA, or if the grantee qualifies under NEPA section 102(2)(D), an EIS.

8. Environmental Assessments.

    a. An EA must cover the points listed in subparagraph 8b. below in sufficient detail to resolve the test of "major and significant" (see CEQ Regulations, 40 CFR 1508.18 and 1508.27) and provide a basis for deciding whether to prepare an EIS on the project. Such assessments generally need be no more than two or three pages in length, except when complex projects are involved. The grantee or subgrantee may not proceed with the proposed action until NPS has reviewed the EA and issued a Finding of No Significant Impact (FONSI; see Section A.9 below), or notified the SHPO that an EIS must be prepared by NPS. The EA must be submitted with the Project

Notification (see Chapter 8, Exhibit 8-A). Note: even Reduced Review States must submit an Environmental Assessment if required by the provisions of Chapter 11, Sec. A.

An EA should not be prepared if the need for an EIS is self evident; go directly to the EIS.

b. Format and Content. Pertinent information of sufficient scope and depth must be provided in an EA to allow NPS to accurately ascertain the impact of the project and to determine whether an EIS is needed. Whenever possible, an environmental impact should be quantified (see 40 CFR 150). In all cases the level of activities involved should be given--number of trees to be removed, cubic yards of debris to be removed, cubic yards of fill to be required, etc. For projects with property rights outstanding, the environmental information must also explain how the outstanding rights are to be dealt with and how the State plans to assure that the environment will not be affected significantly. An EA will cover the following four points at a minimum:

1) The Proposed Action. Include a description of the proposed action, a statement regarding the need for it, a description of what the action is designed to accomplish, location of the project, its scope, the level of impact causing activities associated with the project, when the action is to take place, and, if applicable, its relation to other Federal, State, or local projects and proposals. Cite other Federal actions (i.e., 404 Permit, etc.). Include a map.

2) Alternatives to the Proposed Action. This section will include a brief discussion of alternatives as required by NEPA. The EA must include a description of appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. The environmental impacts of the proposal and the alternatives should be presented in comparative form and should define the issues, pros, and cons of a reasonable range of alternatives, and provide a clear basis for choice between them by NPS and the public.

3) Environmental Impacts of Proposed Action. Succinctly describe those environmental elements which would be affected. Discuss anticipated impacts on the following elements and any means to mitigate adverse environmental impacts:

--land use (project site and surrounding area)
--fish and wildlife
--vegetation
--geology and soils
--mineral resources
--air and water quality
--water resources/hydrology
--historic/archeological resources
--transportation/access
--consumption of energy resources
--socioeconomic effects

"Impacts" are defined as causing direct or indirect changes in the existing environment, whether beneficial or adverse, which are anticipated as a result of the proposed action or related future actions. To the extent appropriate, the document will discuss impacts of the

action, including environmental damage which could be caused by users, upon physical and biological environment as well as upon cultural, aesthetic, and socioeconomic conditions. Elements of impacts which are unknown or only partially understood should be indicated. Any off-site impacts, such as increased traffic on neighborhood roads or increased noise levels in surrounding areas, should be described.

4) A listing of agencies and persons consulted.

c. Public Notice. Public notice should be provided in accordance with 40 CFR-7506.6 and, where appropriate, the public involved in the environmental assessment process.

d. Adoption. In accordance with 40 CFR 1506.3, an EA prepared for a Federal grant program not administered by NPS may be submitted if adequate to meet environmental documentation requirements of proposed HPF grant actions.

e. Points to Consider in Environmental Assessments.

(1) Environmental documentation should be free of project justification and personal bias. The project should be justified elsewhere in the grant application.

(2) Do not rely on generalities. Specific facts are essential. All statements and conclusions should be supported, and quantified where possible.

(3) Use graphics to help explain the project.

(4) Be concise, clear and to the point.

(5) Adverse impacts should be addressed as fairly as beneficial impacts; and impacts should be presented without conclusionary statements as to their significance.

9. Finding of No Significant Impact (FONSI). If NPS, after reviewing the environmental assessment, determines that the proposed project will not have a significant effect on the quality of the human environment and that an EIS is therefore unnecessary, a Finding of No Significant Impact (FONSI) will be signed and included in the project file. See Exhibit 11-B at end of this Chapter.

10. Guideline to Determine when an Environmental Impact Statement Should be Prepared. NPS will require sufficient environmental data from the grantee to prepare an EIS on a proposed project deemed to be a major Federal action having a significant impact on the physical, biological, and/or socioeconomic environment of the project site and/or surrounding area. Cumulative impacts and/or subsequent actions must be considered in environmental data submitted.

The occurrence of one or more of the following factors indicates that an EIS may be needed:

a. Marshes or wetlands, unique animal or plant ecosystems, lakes, streams, or marine areas are affected significantly.

b. The proposed HPF project would or might result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes, within the project area or its immediate environs.

c. An archeological or historical site on or eligible for nomination to the National Register of Historic Places would be subjected to significant adverse effects by the proposed project.

d. Highly controversial issues involving the environmental effects of the project exist or are expected.

e. The project site contains threatened or endangered species of flora or fauna, significant mineral values, or a unique geologic formation.

f. Actions which foreclose other beneficial uses of mineral, agricultural, timber, water, energy, or transportation resources critical to the Nation's or a State's welfare.

11. Adoption of Previous Statement.

a. In accordance with 40 CFR 1506.3, an EIS prepared for a Federal grant program not administered by NPS may be adopted by NPS if adequate to meet the requirements of a proposed HPF action. When another agency's statement is adopted, only the final statement must be circulated.

b. An EIS previously prepared for the acquisition of land under a Land and Water Conservation Fund (L&WCF) grant, or other Federal actions, will satisfy section 102(2)(C) of NEPA for an HPF project provided that:

1) the development is in accordance with the plans submitted with the acquisition project; and

2) the EIS for the acquisition project adequately describes the environmental impacts of the facility to be developed and public use of the area.

12. Preparing and Processing an EIS.

a. Policy. Each EIS shall be prepared in accordance with: (1) 40 CFR 1500-1508; (2) DOI Manual, 516 DM 4; and (3) NPS Environmental Guidelines, NPS-12. For any EIS prepared by a State agency with statewide jurisdiction under NEPA section 102(2)(D), the responsible NPS official shall actively furnish guidance and participate in the preparation of the EIS and shall independently evaluate the EIS prior to its approval and adoption.

b. Notice of Intent. (40 CFR 1501.7 and 1508.22; 516 DM 2.3D).
After a decision is made to prepare an EIS, a Notice of Intent (NOI) will be published by NPS in the Federal Register and made available to the affected public--see 40 CFR 1506.6.

c. Scoping Process. (40 CFR 1501.7; 516 DM 2.6).
Scoping is an early and open process to determine the scope of significant issues to be addressed in an EIS. An invitation to affected Federal, State, and local agencies and interested persons to participate in the scoping process should be included in the Notice of Intent.

d. Format and Content of an EIS. The necessary in-depth environmental information and analysis must use the following format:

1) Cover Sheet. (May be satisfied by SF 424).

2) Summary.

3) Table of Contents.

4) Purpose of and need for the Action.

5) Alternatives including the Proposed Action.

6) Affected Environment.

7) Environmental Consequences.

8) Consultation and Coordination in the Development of the Proposal and in Preparation of the Environmental Impact Statement. (This section will contain the List of Agencies, Organizations, and Persons to Whom Copies of the Statement are sent.)

9) Index.

10) Appendices (if any).

Each element of the format should contain the information called for in 40 CFR 1502.11 through 1502.18, 516 DM 4.6C, and NPS-12 (NEPA Handbook), plus appropriate maps/graphics of the area affected by the proposed action.

e. Final EIS.

1) The final EIS shall include a "Public and Other Agency Comment and Response Section." This section is an expansion of the Consultation/Coordination Chapter described in item 12(d)(8) above. All written comments on the Draft EIS from Federal and State agencies should be printed in full and not summarized, even if voluminous. All other substantive written comments should either be printed in the final EIS or summarized if exceptionally voluminous.

2) Distribution of the final EIS. At a minimum, a copy of the final EIS will be sent to each commenter and all Federal agencies that were sent the draft EIS. Ordinarily, no more than 500 copies of the final EIS need be printed. Copies of the EIS should be available for public inspection at NPS and other appropriate government offices and local libraries.

3) Comments on final EIS. Comments are not solicited on a final EIS. However, any comments received within 30 days of distributing a final EIS should be considered in deciding whether to approve an HPF grant or subgrant.

f. Record of Decision.
No decision on the proposed action may be made until 30 days after notice of the filing of the EIS is published by the U.S. Environmental Protection Agency in the Federal Register. The record of decision shall be in accord with 40 CFR 1505.2.

B. Floodplain and Wetlands Management.

1. Policy. All projects must comply with Executive Order 11988, Floodplain Management; Executive Order 11990, Protection of Wetlands; the U.S. Water Resources Council's Floodplain Management Guidelines for Implementing Executive Order 11988 (43 CFR 6030); DOI Floodplain and Wetland Guidelines (520 DM), and NPS Floodplain and Wetlands Guidelines.

The objectives of the Executive Orders and of the procedures detailed in this Chapter are to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and wetlands, and to avoid direct or indirect support of development of floodplains and wetlands wherever there is a practicable alternative. Where floodplains or wetlands cannot be avoided, these procedures will focus on mitigation of the adverse effects of any action. In the context of the Orders, mitigation means to:

a. Design or modify actions so as to minimize harm to life, property, and natural values;

b. Minimize destruction, loss or degradation of wetlands;

c. Restore and preserve natural and beneficial floodplain values; and

d. Preserve and enhance natural and beneficial floodplain values.

Direct or indirect funding of floodplain development or construction in wetlands should be avoided when practical alternatives exist. When activities or projects funded with assistance from an HPF grant must be carried out in floodplain or in wetlands because no practical alternatives exist, the work must be done in conformance with the requirements of Section 7.C of the NPS Floodplain/Wetlands Protection Guidelines.

2. Policy on Cultural Resources located in Floodplains or Wetlands. As part of its congressional mandate, the National Park Service preserves and interprets cultural resources possessing historical, archeological, architectural, engineering and cultural significance included on, or eligible for inclusion on, the National Register of Historic Places. In general, it is NPS policy that cultural resources located in floodplains will be managed to assure their in-place preservation. Floodproofing measures taken to protect the cultural property or site from the hydraulic or erosive forces of flooding will be designed so as not to adversely affect the historic integrity of the structure or site. When a cultural site or structure does not have the significance to merit action sufficient to ensure its preservation from flood loss, an appropriate level of study and an appropriate treatment plan will be prepared and implemented whenever possible.

3. Decision-Making Process. These guidelines require that a sequential analysis be implemented that includes the following steps:

a. Determine if the Proposed Action is in, or could affect, a Floodplain or Wetland.

1) Determine if the action is in the Base Floodplain by consulting Flood Insurance Rate Maps or Flood Hazard Boundary Maps. Grantees may contact the National Flood Insurance Program of the Federal Insurance Administration of the Federal Emergency Management Agency to obtain a flood map of their locality (call 800-638-6620). If no maps are available, consult the appropriate NPS Environmental Coordinator, or assume that the action may be in the base floodplain and begin compliance with the Executive Orders, or obtain the services of a licensed consulting hydrologist or engineer who is qualified to determine whether the action is located in the floodplain;

2) Determine if the proposed action is in a Wetland by consulting with the responsible field office of the U.S. Fish and Wildlife Service to obtain a National Wetland Inventory Map. If there is no such map, the grantee should consult the wetland inventories maintained by the U.S. Corps of Engineers, the U.S. Environmental Protection Agency, the National Oceanic and Atmospheric Administration (U.S. Department of Commerce), and NPS.

b. Public Review. See Section B.6., below.

c. Variances. For purposes of floodplain management and compliance with Executive Orders 11988 and 11990, note that 44 CFR 60.6 stipulates procedures whereby a community may issue a variance to its floodplain management regulations for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or on a State Inventory of Historic Places. Issuance of such a variance allows a building permit to be issued and flood insurance to be purchased (although often at increased premium rates). Documentation of such a variance must be submitted to NPS with the HPF grant application and the Environmental Assessment.

4. Environmental Assessment--Floodplain/Wetland Areas. Grant proposals for projects which lie in floodplain or wetland areas normally require preparation of an environmental assessment. The assessment must include the following:

a. Need for the proposal, including an explanation of why the proposed action in the floodplain or wetland is to be taken;

b. The extent of the direct and indirect support of floodplain and wetlands development;

c. Measures to be taken to minimize harm to lives and property and the natural and beneficial floodplain values and to restore and preserve these values served by floodplains and wetlands;

d. Alternative actions (including no action, and renovation of eligible facilities at alternative sites) are to be considered;

e. Assurance that all Federal, State, and local floodplains/wetlands regulations and standards are being met;

f. A location map delineating the floodplain or wetlands;

g. The environmental impacts of the proposed action and alternatives; and

h. A listing of persons and agencies consulted.

5. Statement of Findings. When the proposed action involves adverse impacts to floodplain or wetland areas, the environmental documents will be coupled with a separately identifiable Statement of Findings not to exceed three pages documenting the rationale for the determination that there is no practicable alternative location. The Statement of Findings shall conform with the requirements promulgated in Sections 6.C.3.c. and 6.C.6. of the NPS Floodplain/Wetlands Protection Guidelines, and must provide the following information:

   a. A description of why the proposed action must be located in the floodplain;

   b. A description of all significant facts considered in making the determination, including alternative sites and actions;

   c. A statement indicating whether the actions conform to applicable State or local floodplain protection standards;

   d. A description of how the activity will be designed or modified to minimize harm to or within the floodplain;

   e. A statement indicating how the action affects the natural or beneficial floodplain values;

   f. A statement indicating why the National Flood Insurance Program criteria are demonstrably inappropriate for the proposed action (see 44 CFR 60);

   g. A map showing the location of the floodplain or wetland and the site(s) of the proposed action; and

   h. The signature of the SHPO recommending approval of the Statement of Findings and also recommending the approval of NPS on the combined Environmental Assessment and Statement of Findings.

6. Citizen Participation and Executive Order 12372 Review. The HPF applicant must ensure that the general public has an opportunity for early review of development plans or proposals for actions affecting floodplains or wetlands. In all cases, a press notice will be published in the local media briefly describing the proposed action and urging members of the public to provide their views to the sponsor. The notice must expressly state that the proposed site or portion of the proposed site is in a floodplain or wetland. The applicant jurisdiction must include a copy of the press notice, any public comments received, and the proposed environmental assessment with the HPF proposal information normally submitted to Executive Order 12372 review entities at the full application stage. When adverse comments have been received as a result of the Executive Order 12372 review process or early public review, NPS will forward copies of all notices and NEPA documents to the following agencies noted in Section 1.8C(4) of the Floodplain Guidelines and Wetland Protection Procedures,

and in 520 DM 1: U.S. Environmental Protection Agency; Federal Emergency Management Agency; U.S. Fish and Wildlife Service; U.S. Geological Survey; Bureau of Reclamation; U.S. Army Corps of Engineers; U.S. Soil Conservation Service; appropriate State Review Agencies as determined under Executive Order 12372; and Coastal or River Basin Commissions and State Coastal Zone Management Administrators, as appropriate.

EXHIBIT 11-A ENVIRONMENTAL CERTIFICATION

Based upon a review of the application, proposal narrative, and the supporting documentation contained in the application, it has been determined that the proposed HPF project, _____ meets the criteria for categorical exclusion under 516 DM 6. (You must indicate the appropriate categorical exclusion from those listed in Section A.4 of Chapter 11 of the Historic Preservation Fund Grants Manual.)

_____

Applicable Categorical Exclusion [give number of exclusion from Section A.4. of Chapter 11 [e.g., A.4.c.(6)]

_____ _____

Grantee or Applicant Date

_____

Title

I Concur:

_____ _____

Grant Awarding Official Date
National Park Service

NATIONAL PARK SERVICE

EXHIBIT 11-B FINDING OF NO SIGNIFICANT IMPACT

_____ _____

Project Number and Name City, County, State

Proposed Federal Action:

Approval of HPF Grant for: _____

Federal Environmental Finding

After careful and thorough review and consideration of the facts contained in the attached Environmental Assessment for the proposed project, I find that the proposed Federal action will not significantly affect the quality of the human environment under the National Environmental Policy Act, Section 102(2)(c) and, therefore, an EIS is not required.

_____ _____

Name Date

Title

Chapter 12 - Cost Principles and Indirect Costs

A. Purpose and Scope.
This Chapter identifies the principles to be used in determining allowable costs of programs and projects. The principles apply to HPF grant-supported activities conducted by grantees as well as by subgrantees, including contractors and subcontractors under grants.

B. Application of Cost Principles.
Grant funds must be used only for allowable costs of the activities for which the HPF grant was awarded. All costs claimed under the grant are subject to the applicable cost principles, as well as the additional selected items of costs listed in Chapter 13 of this Manual. While grants to State governments are awarded subject to the cost principles of OMB Circular A-87 and HPF grants to the National Trust are awarded subject to the cost principles of OMB Circular A-122, all subawards (subgrants, contracts) are subject to those Federal cost principles and general standards applicable to the particular sub-recipient. Grantees are to cite the appropriate cost principles in their subgrants or contracts with other parties, as follows:

Subgrantee or Contract	**Applicable OMB Circular or CFR**
Governments (State agencies, local governments, or federally recognized Indian tribes)	A-87
Institutions of Higher Education (publicly financed colleges or universities)	A-21
Nonprofit Organizations	A-122
For-Profit Organizations (other than hospitals)	48 CFR 31.2

1. Subgrants and Cost-type Contracts. The cost principles applicable to a subgrantee or cost-type contractor will not necessarily be the same as those applicable to the grantee. For example, where a State government awards a subgrant to an institution of higher education, OMB Circular A-21 would apply to the costs incurred by the institution of higher education, even though OMB Circular A_87 would apply to costs incurred by the State.

2. Costs Allowable with Prior Approval. Each set of cost principles identifies certain costs that, in order to be allowable, must be approved by NPS. Other costs do not require prior approval. The following procedures govern approval of costs which require NPS approval:

   a. When costs are treated as indirect costs (or are allocated pursuant to a government cost allocation plan), acceptance of the costs as part of the indirect cost rate or cost allocation plan shall constitute approval. (See Section F, below.)

b. (1) When the costs are treated as direct costs, they must be approved in advance by the NPS Grant Awarding Official. (See Section E, below.)

(2) If the costs are specified in the grant application budget, approval of the budget shall constitute approval of the costs.

(3) If the costs are not specified in the grant application budget, the grantee shall obtain specific prior approval in writing from the grant awarding official. For this purpose the prior approval procedures of Chapter 15, Section D, shall be followed.

c. In the case of subgrants and cost-type contracts, no approval shall be given which is inconsistent with the purpose or terms of the Federal grant.

C. Basic Guidelines.

1. Factors Affecting Allowability of Costs. The allowability of individual items of cost, as Federal share or nonfederal share, must meet the following general criteria for cost items:

a. be reasonable and necessary for proper and efficient performance and administration of grant supported activities; within the scope of NPS approved work; be allocable under these principles; and except as otherwise specified in this Manual, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. be allocable to Federal awards under the provisions of the OMB Circulars.

c. be authorized or not prohibited under State or local laws or regulations.

d. conform to any limitations or exclusions set forth in these cost principles, Federal laws, this Manual, or other limitations included in the terms and conditions of the grant award as to types or amounts of cost items.

e. be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the grantee.

f. be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

g. except as otherwise provided for in OMB Circulars, be determined in accordance with generally accepted accounting principles.

h. not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award.

i. except as specifically provided by Federal law or regulation, be net of all applicable credits.

j. be adequately documented.

2. Reasonable Costs. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decisions was made to incur the cost. In determining the reasonableness of a given cost, grantees must give consideration to:

    a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant-assisted work;

    b. The restraints or requirements imposed by such factors as sound business practices, arms length bargaining, Federal and State and other laws and regulations, and grant/subgrant/contract terms, specifications, and conditions;

    c. Market prices for comparable goods and services.

    d. The action that a prudent person would take under the circumstances, considering his/her responsibilities to the public at large, the Government, his/her employees, and the fulfillment of the purposes for which the grantee institution was organized; and

    e. Significant deviations from the established practices of the grantee organization which may unjustifiably increase the grant costs.

3. Allocable Costs.

    a. A cost is allocable to a particular cost objective, such as a grant/contract, project, service, or other activity, if the goods and services involved are chargeable or assignable to such cost objective, in accordance with the relative benefits received. A cost is allocable to an NPS grant if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

        1) Is incurred specifically for the grant; and either
        2) Benefits both the grant and other work but can be distributed to them in proportion to the benefits received; or
        3) Is necessary to the overall operation of the grantee organization, although a direct relationship to any particular cost objective cannot be shown (see Section F, Indirect Costs).

    b. Any cost allocable to a particular grant or cost objective under these principles may not be shifted to other Federal grant awards to overcome funding deficiencies, to avoid restrictions imposed by law or terms of the grant agreements, or for other reasons. (However, this prohibition would not preclude grantees from shifting costs that are allowable under two or more grant awards in accordance with existing agreements.)

    c. Where an accumulation of costs will ultimately result in charges to a Historic Preservation Fund grant, an indirect cost allocation plan is required as described in Section H, below.

4. Applicable Credits.

   a. Applicable credits are those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to grants or contracts as direct or indirect costs. Examples of such transactions are: purchase discounts, rebates, allowances; recoveries or indemnities on losses; insurance refunds or rebates; and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they must be credited to the Federal grant award either as a cost reduction or a cash refund, as appropriate.

   b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

5. Specific NPS Criteria:

   a. All Federal assistance received under an HPF grant must be expended solely for the reasonable and eligible costs of approved activities described in the grant application and, when required, subsequent Project Notifications for projects in accordance with the terms of the grant agreement and this Manual.

   b. The grantee may neither delegate nor transfer its accountability for the use of grant funds.

   c. No profit or other increment above cost in the nature of profit is allowed to the grantee or subgrantee for Federal reimbursement purposes. The value of donated services or donated goods and space is not reimbursable either as a direct or indirect cost. However, such in-kind contributions can fulfill matching share requirements. Only cash expenditures are reimbursable; e.g., if $4,000 of cash expenditures are matched by $7,000 of donated services, then the maximum Federal reimbursement is $4,000. Where donations are treated as indirect costs, indirect cost rates must separate the value of the in-kind donations so that reimbursement will not be made where costs were not incurred.

   d. NPS will not be obligated to reimburse the grantee for costs incurred in excess of the amount approved in the grant agreement.

   e. It is the intent of NPS that funds be awarded to assist work not yet undertaken, rather than to help pay for work already begun or completed. This applies to entire projects and to each phase of a multi-stage project.

      1) Preagreement costs are those costs incurred prior to program or, if applicable, project approval by NPS. They include costs incurred for subsequent phases before the appropriate grant documents are approved by NPS. With the specific exceptions stated in Chapter 13 and Chapter 14, preagreement costs are not eligible for assistance.

2) In some cases, the grantee will have begun some parts of the work, and thereby incurred costs, before the grant documents appropriate to the program or project are acted upon by NPS. If such a program or project is approved, none of the costs incurred prior to approval will be matched, except as indicated in Chapter 14.

f. If, during the conduct of a project, it becomes apparent that completion will not be possible within the approved grant period, the grantee may submit an amendment to apply unexpended funds to other program or project work. This should be submitted at least 30 days prior to the scheduled end date. Requests for extensions of time to incur costs beyond the 24-month grant period authorized by the HPF appropriation will not be approved.

D. Composition of Cost.

1. Total Cost. The total cost of a grant program is the sum of the allowable direct costs incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits. The grant program or project costs include any portion of the approved grant program financed by the grantee as cost-sharing contributions.

2. Classification of Costs. There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is therefore essential that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the following sections.

E. Direct Costs.

1. General.

a. Direct costs are those that can be identified specifically with a particular cost objective, in order to be charged to that particular grant. However, a cost may not be assigned to a grant or contract as a direct cost if any other cost incurred for the same purpose, in like circumstances, has been allocated to a grant or contract as an indirect cost.

b. Costs identified specifically with a particular HPF grant-assisted project or activity are direct costs of the appropriate grant/contract and may be charged to it. Costs identified specifically with other than HPF assisted work of the grantee organization are direct costs of that work and are not to be charged to an HPF grant award, either directly or indirectly.

c. Costs charged as direct costs to NPS-supported grants, including project grants, must be charged in a uniform manner to all other work of the grantee organization in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the grantee's established accounting system provides for the treatment of certain items of cost as direct costs, then the same items must be considered direct costs to Federal grants and may not be included in the indirect cost pool.

d. In accordance with Section 102(e) of the Act, the total direct administrative costs and any State indirect costs charged for carrying out State programs may not exceed 25 percent of the aggregate costs.

2. Direct Costs Chargeable to Grant Programs. Typical direct costs include the following.

a. Compensation of employees for the time and effort devoted and identified specifically to the performance of grant awards.
b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.
c. Equipment and other approved capital expenditures.
d. Travel expenses incurred specifically to carry out the grant award.

3. Unallowable Direct Costs. The costs of certain activities are not allowable as charges to HPF grants or contracts or subgrants awarded by grantees using grant funds. These costs may not be charged to HPF grants as direct or indirect costs. However, even though a particular activity or cost is designated as unallowable for purposes of computing charges to HPF grants, it must nevertheless be treated as a direct cost for purposes of determining if a portion of the grantee's indirect cost (as defined in the following section) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in Section F. In general, an unallowable grantee activity shall be accounted for as an unallowable direct cost when it (a) includes salaries of personnel, (b) occupies space, and (c) benefits from the grantee organization's indirect cost pool. Chapter 13 includes specific items of unallowable costs; the costs associated with these activities shall be treated as direct costs and may not be charged to HPF grants.

For non-profit grantees and subgrantees, the costs of activities performed primarily as a service to members, clients, or the general public when significant and necessary to the organization's mission must be treated as direct costs whether allowable or not allowable and be allocated an equitable share of indirect costs. (See Attachment A, Section B.3 and 4 of OMB Circular A-122.)

4. Minor Items. Any direct cost of a minor amount may be treated as an indirect cost where such accounting treatment for that item of cost is consistently applied to all cost objectives (see Section F, below).

F. Indirect Costs.

1. General. Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs" applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefited cost objectives on bases that will produce an equitable result in consideration of relative benefits derived. Where in-kind donations are treated as indirect costs, indirect cost rates must separate the value of the donations so that reimbursement will not be made where no costs were incurred. Under OMB Circular A-21, the indirect costs of universities are termed “Facilities and Administrative Costs.”

2. Grantee Departmental Indirect Costs. All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this Chapter (see Sections E.1.d. and G).

3. Predetermined Fixed Rates for Indirect Costs. A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated with the appropriate cognizant Federal agency in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

4. Limitation on Indirect Costs. HPF grants are subject to a statutory limitation upon the amount of indirect costs that may be allowed pursuant to a current indirect cost rate approved by the cognizant Federal agency. See Section 102(e) of the Act. The total direct administrative costs and any State indirect costs, charged for carrying out State programs may not exceed 25 percent of the aggregate costs except in the case of grants to Micronesia under Section 101(e)(6) of the Act, as amended.

G. Application of Indirect Cost Principles and Procedures.

1. Indirect costs shall be allowable to the extent that they are directly related, necessary, reasonable, allocable, and determined allowable in view of the factors set forth in Section C, above, and Chapter 13, which details standards for selected items of cost.

2. Grantees must examine the elements of subgrantee organizations' indirect cost pools to ensure that proposed indirect costs to be charged to an HPF assisted grant conform to these guidelines.

3. In accordance with Cost Principles for Educational Institutions, OMB Circular A-21, Section G.3: a negotiated fixed amount in lieu of Facilities and Administrative (indirect costs) may be appropriate for self contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's Facilities and Administrative services cannot be readily determined. Such negotiated Facilities and Administrative costs will be treated as an offset before allocation to instruction, organized research, other sponsored research and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted. A special indirect cost rate may also be negotiated for a large non-recurring project when such project costs would distort the normal direct cost base in computing the overhead rate.

H. Cost Allocation Plan.

1. General. A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. Requirements. The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational units which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. the nature and extent of services provided and their relevance to the federally sponsored programs;

b. the items of expense to be included; and

c. the methods to be used in distributing cost.

3. Instructions for Preparation of Cost Allocation Plans. The Department of Health and Human Services has issued instructions for use by State and local government grantees in preparing cost allocation plans. This applies to both central support services of State and local governments and indirect cost proposals of individual grantee departments. Refer to ASMB C-10, "Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government, A Guide for State and Local Government Agencies." Those procedures are applicable to grants awarded by all Federal agencies. Nonprofit grantees should refer to OMB Circular A-122, Attachment A, Part D.

4. General Guidelines for Preparing a Cost Allocation Plan.

a. There are three basic steps in the preparation of a plan:

1) classifying grant costs as either direct or indirect according to the established policy of the State;

2) selecting an appropriate distribution base(s) for indirect costs; then

3) distributing the indirect costs to the programs.

b. The cost allocation plan is subject to Federal audit to determine that:

1) Indirect costs have been distributed to all benefiting programs (Federal and nonfederal);

2) the distribution is based on method(s) reasonably indicative of the amount of services or supplies provided;

3) the services provided are necessary to the successful performance of Historic Preservation Fund grants;

4) the grant costs claimed are otherwise allowable in accordance with this Chapter and Chapter 13.

c. Indirect costs should be distributed to each applicable direct cost objective on the basis of one of the following:

1) Total direct salaries;

2) Total direct salaries plus applicable fringe benefits;

3) Total direct costs;

4) Other bases for certain indirect costs, such as those shown below:

Type of Indirect Expense	Possible Base for Allocation
Office space and related costs (heat, light, janitor service, etc.)	Square feet of space occupied for HPF activities
Data processing	Machine hours
Organization and management services	Direct
Printing and reproduction	Direct hours, job basis, pages printed, etc.
Telephone	Number of telephone instruments
Office supplies	Number of employees
Postage	Usage, letters written
Payroll services and personnel Administration	Number of employees
Accounting or bookkeeping services	Total dollar volume or number of transactions processed
Auditing	Direct audit hours

d. Any method of distribution which will provide an equitable distribution of costs can be used. However, it is not acceptable to allocate either direct or indirect costs on the basis of revenue received or on the basis of funds received under Federal grants. Costs must be allocated on the basis of services rendered or goods provided.

e. Required documentation must be maintained.

1) Project records must reflect NPS approval of those costs listed in Chapter 13, Section C.

2) Grantee records must include the applicable indirect cost allocation plan and the written approval of the plan and indirect cost rate by the cognizant Federal agency.

5. Negotiation and Approval of Indirect Cost Proposals for States.

a. The Department of Health and Human Services, will be responsible for negotiation, approval, and audit of central support service cost allocation plans submitted to it by the States. At the grantee department level in a State, a single cognizant Federal agency will have responsibility for the negotiation, approval, and audit of the indirect cost proposal. Cognizant Federal agencies (those with the predominant financial interest in the work of the grantee department) have been designated for this purpose. A current list of agency assignments is maintained by OMB.

b. Questions concerning the cost allocation plans should be directed to the agency responsible for such approvals.

c. The following guidance is provided for grantees when the Department of the Interior is the cognizant Federal agency:

If indirect costs are to be applied, a cost allocation plan must be submitted annually to the Department of the Interior's Office of Inspector General (Attention: Regional Audit Manager) for negotiation and approval. In cases where the grantee's approved indirect cost rate is a provisional rate, subject to later finalization after the actual costs for the applicable fiscal period are known, the amount budgeted for indirect costs must not exceed the amount derived under a provisional rate contained in the agreement for the current budget period. Guidance and advice concerning indirect cost proposals may be obtained from the Office of Inspector General (see addresses in Exhibit 23-A).

6. Negotiation and Approval of Indirect Cost Proposals for Local Government.

   a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

   b. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval and audit of the indirect cost proposal. A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is maintained by OMB.

7. Negotiation and Approval of Indirect Cost Proposals for Federally Recognized Indian Tribal Governments. The Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval and audit of the indirect cost proposal. This will typically be the Department of the Interior.

Chapter 13 - Standards for Allowability of Costs

A. Purpose and Applicability.

This Chapter provides standards for determining the allowability of selected items of cost in accordance with Office of Management and Budget Circulars A-87 and A-122. It also includes additional cost items specific to the Historic Preservation Fund program. The National Trust must comply with OMB Circular A-122, Cost Principles for Nonprofit Organizations, and the HPF specific items in this Chapter. Subgrantees that are educational institutions shall be governed by Circular A-21 and the HPF specific items in this Chapter. Note that certain listed costs are allowable (Section B), other costs are allowable with the prior written approval of NPS (Section C), and other costs are unallowable (Section D). The costs not specifically addressed in the Circulars are preceded by an asterisk.

These standards will apply irrespective of whether a particular item of cost is treated as a direct or an indirect cost, or as part of either the Federal or nonfederal matching share of grant assistance. This listing of cost items is not all inclusive. Failure to mention a particular item of cost in these standards is not intended to imply that it is either allowable or unallowable, rather a determination of allowability in each case will be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the policies and principles stated in Chapter 12, "Cost Principles," particularly Section C.

B. Allowable Costs.

1. Accounting Costs.
The cost of establishing and maintaining accounting and other fiscal information systems is allowable.

2. Acquisition Costs.
Acquisition costs incurred to obtain title or to purchase a preservation easement on a property listed individually in the National Register of Historic Places, or a contributing property in a National Register District, are allowable when the acquisition complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with Section L of Chapter 6. Appraisal costs incurred to obtain an appraisal of the property's current fair market value by a licensed appraiser, title search and recordation fees, property surveys, title insurance, legal fees, broker's commissions, and purchase price for an amount equal to or less than the appraised value are allowable for an acquisition of real property that meets the requirements of Chapter 6 of the Historic Preservation Fund Grants Manual. The boundary of the HPF acquisition project must not exceed the boundaries described in the National Register nomination. (Costs such as annual property taxes, escrow fees, and loan interest or points are not allowable costs.)

3. Administrative Costs.
Under Section 102(e) of the NHPA, the total direct administrative costs and any State indirect costs charged for carrying out State projects may not exceed 25% of the aggregate costs. See Chapter 7, Exhibit 7-B (Additional Instructions for the SF 424-A), and Chapter 12, Section F.4, for guidance.

4. Advertising and Public Relations Costs.
Advertising media include newspapers, magazines, radio and television programs, direct mail, exhibits, and the like.

a. Allowable advertising costs are those which are solely for: recruitment of personnel necessary for the grant program; the procurement of goods and services required for the performance of the HPF grant agreement; and notices required by Federal or State regulations pertaining to the HPF program.

b. Public Relations costs are allowable when: (1) specifically required by the Federal award and then only as a direct cost; (2) incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or (3) necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc. (Also see Public Information Costs, Section B.36, below.)

5. Advisory Councils.
Costs incurred by advisory councils or committees established pursuant to Federal requirements to carry out programs, such as State Review Boards, are allowable. The costs of like organizations, such as local review boards established by "certified local governments" is allowable when provided for in an approved subgrant agreement, and when in compliance with the cost allowability provisions of this Chapter. (See Section B.42.)

6. Appraisals.
The cost of necessary appraisals by a licensed appraiser is allowable. (See Chapter 6, Section L.)

7. Audit Service.
The costs of audits necessary for the administration and management of functions related to grant programs are allowable, provided that the audits were performed in accordance with the requirements of the Single Agency Audit Act and of OMB Circular A-133 implementing it (see Chapter 23). Generally, the percentage of costs charged to Federal awards for a single audit shall not exceed the percentage derived by dividing Federal funds expended by total funds expended by the recipient or subrecipient (including program matching funds) during the fiscal year. The percentage may be exceeded only if appropriate documentation demonstrates higher actual costs. Other audit costs are allowable if specifically approved by the awarding or cognizant agency as a direct cost to an award, or included as an indirect cost in a cost allocation plan or rate.

8. Automatic Electronic Data Processing.
The cost of data processing services is allowable (also see Section B.17, regarding Equipment).

9. Bonding.
Costs of bonding employees and officials are allowable for HPF grantees. In addition, costs of such bonds as bid, performance, payment, advance payment, infringement, and fidelity are allowable if required pursuant to the terms of the HPF award, and if such bonding is in accordance with sound business practice. (See unallowable insurance costs in Section D.22.)

10. Budgeting.
Costs incurred for the development, preparation, presentation and execution of HPF assisted program and project budgets are allowable.

11. Communications.
Communication costs incurred for telephone calls or service, mail, messenger, and similar communication expenses necessary for and directly related to HPF grant program operations are allowable.

12. Compensation for Personal Services (including Fringe Benefits).

    a. General. For State and local governments, compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries and fringe benefits. Such compensation is allowable to the extent that it satisfies the specific requirements of the OMB Cost Principles and that the total compensation for individual employees:

        1) Is reasonable for the services rendered, and conforms to the established policy of the governmental unit consistently applied to both Federal and nonfederal activities;

        2) Follows an appointment made in accordance with State, local, or Indian tribal government laws and rules and which meets other requirements required by Federal law, where applicable;

        3) Is determined and supported as provided in b., below.

    b. Reasonableness. Compensation for employees engaged in work on HPF grant-assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for Federal awards are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

    c. Unallowable Costs. Costs which are unallowable under the provisions of this Chapter shall not be allowable solely on the basis that they constitute personal compensation.

    d. Fringe Benefits. Allowability is subject to the following considerations: (1) Fringe Benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave, employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in the OMB Cost Principles, the costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit employee agreement, or an established policy of the governmental unit. (2) The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, holidays, court leave, military leave, and other similar benefits, are allowable if: (a) they are provided under established written leave policies; (b) the costs are equitably allocated to all related activities, including Federal awards; and, (c) the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit. (4) The accrual basis may be only used for those types of leave for which a liability as defined by Generally Accepted Accounting Principles (GAAP) exists when the leave is earned. When a governmental unit uses the accrual basis of accounting, in accordance with

GAAP, allowable leave costs are the lesser of the amount accrued or funded. (5) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in Section B.21); pension plan costs (see subsection e., below); and other similar benefits, whether treated as indirect costs or direct costs, shall be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities.

e. Pension Plan Costs. Pension Plan Costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the governmental unit. (1) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. (2) Pension Costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant agency may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursement and the governmental unit's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of the contributions to the pension fund. (3) Amounts funded by the governmental unit in excess of the actually determined amount for a fiscal year may be used as the governmental unit's contribution in future periods. (4) When a governmental unit converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion shall be allowable if amortized over a period of years in accordance with GAAP. (5) The Federal Government shall receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

f. Post-retirement Health Benefits. Post-retirement health benefits (PRHB) refers to costs of health insurance or health services not included in a pension plan covered by subsection e., above, for retirees and their spouses, dependents, and survivors. PRHB costs may be computed using a pay-as-you-go method or an actuarial cost method in accordance with established written policies of the governmental unit. (1) For PRHB financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries. (2) PRHB costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six-month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The cognizant may agree to an extension of the six-month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal Government and related Federal reimbursements and the governmental unit's contributions to the PRHB fund. Adjustments may be made by cash refund, reduction in current year's PRHB costs, or other equitable procedures to compensate the Federal Government for the time value of Federal reimbursements in excess of contributions to the PRHB fund. (3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the government's contribution in a future period. (4) When a governmental unit converts to an acceptable actuarial cost method and funds PRHB costs in accordance with this method, the initial unfunded liability attributable to prior years shall be allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency. (5) To be allowable in the

current year, the PRHB costs must be paid either to: (a) an insurer or other benefit provider as current year costs or premiums, or (b) an insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries. (6) The Federal Government shall receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the governmental unit in the form of a refund, withdrawal, or other credit.

g. Severance Pay. (1) Payments in addition to regular salaries and wages made to workers whose employment is being terminated are allowable to the extent that, in each case, they are required by: (a) law, (b) employer-employee agreement, or (c) established written policy. (2) Severance payments (but not accruals) associated with normal turnover are allowable. (3) Abnormal or mass severance pay will be considered on a case-by-case basis and is allowable only if approved by the cognizant Federal agency.

h. Distribution of Time for Salaries and Wages. Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, must be based upon payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the grantee. No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity. Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee. Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets standards for personnel activity records (a) through (e) below, unless a statistical sampling system (see below) or other substitute system has been approved by the cognizant Federal agency.

Documentary support for time distribution will be required where employees work on: (a) more than one Federal award, (b) a Federal award and a nonfederal award, (c) an indirect cost activity and a direct cost activity, (d) two or more indirect cost activities which are allocated using different allocation bases, or (e) an unallowable activity and a direct or indirect cost activity. The time distribution method used must account for the total salaried effort of the persons covered. A system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable. Time should be accounted for in units no longer than working days, and a brief description linking work performed to a specific approved project or activity should be used. (For example, "Consulted with subgrantee's architect on project XX--0001" would be acceptable; "Grant activities" would not.)

Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards.

Personnel activity reports or equivalent documentation must meet the following standards: (a) they must reflect an after-the-fact distribution of the actual activity of each employee; (b) they must account for the total activity for which each employee is compensated; (c) they must be prepared at least monthly and must coincide with one or more pay periods; and (d) they must be signed by the employee. Note that budget estimates or other distribution percentages determined

before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that: (i) the grantee's system for establishing the estimates produces reasonable approximations of the activity actually performed; (ii) at least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and (iii) the budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency. [See OMB Circular A-87, Item B.11h.(6).]

i. Donated Services. Donated or volunteer services may be furnished to a grantee by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not reimbursable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of Chapter 14. The value of donated services used in the performance of a direct cost activity shall, when material in amount, be considered in the determination of the grantee's indirect costs or rate(s) and, accordingly, shall be allocated a proportionate share of applicable indirect costs. To the extent feasible, donated services will be supported by the same methods used by the grantee to support the allocability of regular personnel services.

j. Nonprofit Organizations. For nonprofit organizations charges for personal services must comply with the requirements of OMB Circular A-122, Attachment B, Item 6.

k. Educational Institutions. For educational institutions charges for personal services must comply with the requirements of OMB Circular A-21, Item J.6.

13. Depreciation and Use Allowances.

a. Grantees may be compensated for the use of buildings, capital improvements, and equipment used in grant program operations through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. A combination of the two methods may not be used in connection with a single class of fixed assets (e.g., buildings, office equipment, computer equipment, etc.).

b. The computation of depreciation or use allowance shall be based on acquisition cost of the assets involved. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used. The computation of depreciation or use allowances will exclude the cost or any portion of the cost of buildings and equipment borne or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides; and any portion of the cost of buildings or equipment which has been contributed by or for the grantee or its governmental unit in satisfaction of a matching share requirement.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for

all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding two percent (2%) of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6-2/3 percent (i.e., 6.67 percent) of the acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated, provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the amount of any depreciation previously charged to the government, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges, decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated. Use allowances or depreciation applicable to the asset shall not exceed the total acquisition cost of the asset, or its fair market value at the time of its donation.

f. Charges for use allowances or depreciation must be supported by adequate property records. Physical inventories must be taken at least once every two years (a statistical sampling approach is acceptable) to ensure that assets exist, and are in use. Governmental units will manage equipment in accordance with State laws and procedures. When the depreciation method is followed, records indicating the amount of depreciation taken each period must be maintained.

g. For nonprofit grantees, see OMB Circular A-122, Item 9.

14. Development Costs.
Development costs incurred by subgrant, contract or force account as follows are allowable when such work complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with the provisions of Section K of Chapter 6 of the Historic Preservation Fund Grants Manual:

a. Costs of exterior work, structural work, and necessary improvements in wiring, plumbing, and other utilities;

b. Costs of interior restoration if the public is to have access to the interior in accordance with public benefit policies.

15. Disbursing Service.
The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable.

16. Employee Morale, Health, and Welfare Costs.
The costs of health or first aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expense incurred in accordance with general State, local, or Indian tribal government policy, are allowable. Income generated from any of these activities will be offset against expenses. For nonprofit grantees, see OMB Circular A-122, Item 11.

17. Equipment and Other Capital Expenditures.
Any article of nonexpendable tangible personal property having a useful life of more than one (1)

year and an acquisition cost of $5,000 or less is defined as supplies, and is allowable as a direct cost, without specific prior NPS approval, if necessary for the performance of the HPF grant. (See Section C.2 of this Chapter for prior approval of items costing more than $5,000.) When replacing equipment purchased with Federal funds, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement equipment. Capital expenditures which are not charged directly to a Federal award may be recovered through use allowances, or depreciation (see Section B.13).

18. Exhibits.
Costs of temporary exhibits relating specifically to HPF grant assisted program operations, accomplishments, or results are allowable. (See Section D.29 for unallowable exhibition costs.)

19. Furnishings.
The cost of project furnishings is allowable as part of a development project when such furnishings are original pieces of furniture or permanently attached items that are integral to building construction or documented historic design or reconstruction based upon documented original furnishings. Some rehabilitation projects may involve furnishings when such furnishings are essential to major objectives of the project. (Replicas of furnishings are not eligible for HPF grant assistance.)

20. General Conditions for Construction Contracts.
This term, used in construction cost estimates, bids, and construction administration documents, refers to provisions by the general contractor of miscellaneous requirements to other contractors and subcontractors, thereby eliminating the duplication and expense of each trade providing its own temporary facilities. General conditions including, but not limited to, temporary heat, power, lighting, water, sanitary facilities, scaffolding, elevators, walkways and railings, construction office space and storage, as well as cleanup, security, and required insurance, permits, and surety bonds, are allowable when identified as a line item in the project application. (See Section D.9. for contingency costs, and D.22 for insurance costs, which are unallowable.)

21. Indirect Costs.
Indirect costs are allowable only in accordance with the applicable indirect cost principles and when based on a current approved or provisional rate awarded by the cognizant Federal agency. (See Chapter 12; also see Section D.21 of Chapter 13.)

22. Insurance and Indemnification.
Costs of hazard and liability insurance to cover personnel or property directly connected with the HPF-assisted program or project site required or approved and maintained pursuant to the grant agreement are allowable during the grant period. Costs of other insurance in connection with the general conduct of activities are allowable if maintained in accordance with sound business practice, except that the types and extent and cost of coverage or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the NPS has specifically required or approved such costs. (See OMB Circular A-87, Item B.25, for the allowability of self-insurance reserves.) For nonprofit grantees, see OMB Circular A-122, Item 18. (Also see Section D.22 for certain unallowable insurance costs.)

23. Interest.
Financing costs (including interest) paid or incurred on or after September 1, 1995, associated with the otherwise allowable costs of office building acquisition, construction, or fabrication, reconstruction or remodeling completed on or after October 1, 1980, is allowable, subject to the

following conditions: (1) the financing is provided (by other than tax or user fee sources) by a bona fide third party external to the grantee; (2) the assets are used in support of Federal award; (3) earnings on debt service reserve funds or interest earned on borrowed funds pending payment of construction or acquisition costs are used to offset the current period's cost or the capitalized interest, as appropriate. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable; (4) Governmental units will negotiate the amount of allowable interest whenever cash payments (interest, depreciation, use allowances, and contributions) exceed the grantee's cash payments and other contributions attributable to that portion of real property used for Federal awards.

24. Interpretive Signs.
The costs of purchasing and installing (but not maintaining) a minimum number of interpretive or informational markers or signs at grant-assisted historic buildings and structures and archeological sites are allowable. (See Section D.24, below.)

25. Labor Relations Costs.
For nonprofit grantees, see OMB Circular A-122, Item 20.

26. Landscaping.
Costs of landscaping are allowable as follows:

    a. Restoration, rehabilitation, stabilization, or protection of a well-documented historic landscape listed in the National Register of Historic Places either individually, or as a contributing element to a National Register property;

    b. Grading for purposes of drainage, building or site safety, and protection of a National Register listed property;

    c. Improvements necessary to facilitate access for the disabled to a National Register listed property; or

    d. Revegetation to stabilize and protect an archeological site or other National Register property.

    (Note: Non-historic features such as parking lots, street paving, street lamps, and benches are not eligible for HPF grant assistance.)

27. Legal Expenses.
The cost of legal expenses required in the administration of HPF grant programs is allowable. (Legal expenses for the prosecution of claims against the Federal Government are unallowable.)

28. Maintenance, Operations, and Repair.
Costs of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like for office space are allowable to the extent that they: (1) keep property in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures (see Section B.17., above and Section C.2., below). However, costs of ongoing maintenance and administration of real property

assisted with Historic Preservation Fund monies are unallowable (see D.26). For nonprofit grantees, see OMB Circular A-122, Items 22, 38, and 39.

29. Materials and Supplies.
The cost of materials and supplies necessary to carry out the HPF grant program is allowable. Purchases made specifically for the grant program should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

30. Memberships, Subscriptions, and Professional Activities.

a. Memberships. The cost of the grantee organization's membership in civic, business, technical, and professional organizations (dues) is allowable provided:

1) the benefit from the membership is directly related to achieving grant program objectives;

2) the expenditure is for agency membership;

3) the cost of the membership is reasonably related to the value of the services or benefits received; and

4) the expenditure is not for membership in organizations substantially engaged in lobbying.

Note: The Lobbying Disclosure Act of 1995 explicitly defines organizations of State government officials as not being lobbying organizations. Therefore, payment of dues to the National Conference of State Historic Preservation Officers is an allowable grant cost. (See Section D.25 for ineligible Lobbying Costs which cannot be charged to the HPF grant.) For nonprofit grantees, see OMB Circular A-122, Item 21.

b. Reference Material. The cost of the grantee organization's subscriptions to business, technical, and professional periodicals is allowable when necessary to accomplish grant program purposes.

c. Meetings and Conferences. Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program. The costs of meals, transportation, rental of meeting facilities, and other incidental costs are allowable. For nonprofit grantees, see OMB Circular A-122, Item 25.

31. Motor Pools.
The costs of a service organization which provides automobiles to grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection, and repair services are allowable.

32. Page Charges in Scientific or Professional Journals.
Page charges for scientific or professional publications are allowable as a necessary part of grant cost where: the papers report work supported by the HPF grant and acknowledge the grant; the charges are levied impartially on all papers published by the journal, whether by non-government or by Government authors; and there will be a significant and direct benefit to the achievement of HPF grant program objectives.

33. Plans and Specifications.
Costs of architectural plans and specifications, shop drawings, and/or other materials required to document and plan development project work according to the Secretary's Standards for the Treatment of Historic Properties are allowable.

34. Professional and Consultant Service Costs.

a. Costs of professional and consultant services rendered by persons or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the grantee, are allowable, subject to the provisions of Chapter 5 of the Historic Preservation Fund Grants Manual and subject to the subsections below, when reasonable in relation to the services rendered, and when not contingent upon recovery of the costs from the Government (i.e., contingent fees are prohibited).

b. Factors to be considered in determining the allowability of costs in a particular case include: 1) the nature and scope of the service rendered in relation to the service required; 2) the necessity of contracting for the service, considering the grantee organization's capability in a particular area; 3) the impact of HPF grants on the grantee organization; (4) the qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government contracts and grants; and 5) the adequacy of the contractual agreement for the service (i.e., description of the service and products to be provided, estimate of time required, rate of compensation, and termination provisions).

Retainer fees supported by evidence of bona fide services available or rendered are allowable.

c. Costs of legal, accounting, and consulting services, and related costs incurred in the prosecution of claims against the Government are unallowable. (See Section D.33.)

d. Written agreements shall be executed between the parties which detail the responsibilities, standards, and fees.

e. Compensation for Consultants. No person employed as a consultant, or by a firm providing consultant services, shall receive more than a reasonable rate of compensation for personal services paid with HPF funds, or when such services are contributed as nonfederal share. This rate shall not exceed the maximum daily rate of compensation in the Federal Civil Service equal to 120 percent of a GS-15, step 10 salary (as of January 2007, this limit is $660 per day, or $172,165 divided by 2,087 hours (Federal work year) rounded to the next whole dollar, or $82.49 per hour).

When consultant services rates exceed this rate, only the amount up to that rate can be charged to the HPF grant, or be claimed as nonfederal matching share costs. Where consultants are hired at salaries above that rate, the excess costs must be paid outside the historic preservation grant (and nonfederal share).

f. For nonprofit grantees, also see OMB Circular A-122, Item 35.

35. Protective Devices.
Costs of burglar and fire alarm systems and other protective devices or protective measures for HPF programs, projects, and records are allowable.

36. Public Information Services Costs.
Public information services costs include the costs associated with newsletters, pamphlets, news releases, films, videotapes, and other forms of historic preservation related information services.

    a. Allowable costs are those normally incurred to: 1) inform or instruct individuals, groups, or the general public about specific historic preservation activities, accomplishments, and issues that result from performance of the HPF grant; 2) interest individuals and organizations in participating in HPF grant supported programs of the grantee and the achievement of NPS approved work program objectives; 3) provide necessary stewardship reports to State and local government agencies, contributing organizations, and the like; or to 4) disseminate the results of grantee sponsored activities to preservation professionals, interested organizations, and the general public.

    b. Within the foregoing parameters, public information services which (1) are not directly related to historic preservation or NPS approved activities, or (2) are costs related to fundraising appeals are unallowable. Public information costs are allowable as direct costs only. For nonprofit organizations, see OMB Circular A-122, Item 37.

37. Publication and Printing Costs.
Costs of printing and reproduction services necessary for grant administration, including but not limited to forms, manuals, the State Comprehensive Historic Preservation Plan, annual subgrant application instructions, and informational literature, are allowable. Publication costs of reports or other media relating to HPF grant program accomplishments or results are allowable when necessary to comply with grant supported program or project requirements, such as Final Project reports, publications undertaken at the written direction of NPS, as well as other publications necessary for grant assisted program administration. See Chapter 3, Section D.3. In addition, for nonprofit organizations, see OMB Circular A-122, Item 38.

38. Recruiting Costs.
For nonprofit grantees, see OMB Circular A-122, Item 41.

39. Relocation Assistance.
Costs of relocation assistance payments made under the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987 (42 U.S.C. 4601; see 49 CFR 24), are allowable. See Chapter 20 for details and limits. In addition, for nonprofit organizations, see OMB Circular A-122, Item 42.)

40. Rental Costs.
Rental of office space is allowable, subject to the provisions of Chapter 12, Section C, and OMB Circular A-87, Item B.38. The cost of office space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the following conditions: (1) the total cost of space, in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality; (2) the cost of space procured for

grant program usage may not be charged to the program for periods of nonoccupancy without authorization of NPS. For nonprofit organizations, see OMB Circular A-122, Item 43.

Equipment rental is allowable only to the extent that the equipment is only needed for a short time and it would not be more cost effective to purchase the equipment.

41. Research.
Costs of historical, architectural, and archeological research necessary for project accomplishment are allowable. Purely archival research is unallowable. (See Section D.1, below.)

42. Review Boards.
Costs incurred by State review boards or committees established and acting pursuant to NPS requirements are allowable. Members of the State review board may receive subsistence, travel allowances, and compensation while serving on the business of the review board, in accordance with State law, regulations, and practices applicable to persons performing comparable duties and services for the State.

43. Royalties and Other Costs for Use of Patents and Copyrights.
See Chapters 16 and 19. In addition, for nonprofit grantees, refer to OMB Circular A-110 and Circular A-122, Item 44. Payment of royalties is allowable unless patent or copyright is invalid or the Federal Government has a right of royalty-free use (which is a requirement for all grant-assisted publications).

44. Severance Pay.
For nonprofit grantees, refer to OMB Circular A-122, Item 45.

45. Signs.
Costs of signs acknowledging HPF assistance at construction project sites during the grant period are allowable. [See Chapter 6, Section K.2.b.3)]

46. Specialized Service Facilities.
For nonprofit grantees, see Circular A-122, Item 46.

47. Taxes.
In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable. In no case are Federal income taxes an allowable grant cost. In addition, for nonprofit grantees, refer to OMB Circular A-122, Item 47. (Also see Item D.35, for unallowable costs.)

48. Termination Cost.
For nonprofit grantees, see OMB Circular A-122, Item 48.

49. Training and Education.
The cost of training for employee development is allowable. For nonprofit grantees, see OMB Circular A-122, Item 49.

50. Travel.
Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business incident to the HPF grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or

on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-Federally sponsored activities. Lodging costs must be documented by a receipt in order to be eligible for reimbursement under the HPF grant.

The difference in cost between first class air accommodations and less than first class accommodations is unallowable except when less than first class accommodations are not reasonably available, and the provisions of OMB Circular A-87, Item B.41(c) are met. Foreign travel costs are allowable only with prior written approval of NPS. (See Section C.4, below.) Notwithstanding the provisions of Section D.17, travel costs of officials covered by those subsections, when specifically and directly related to the HPF grant program, are allowable with the prior written authorization of NPS. For nonprofit grantees, see OMB Circular A-122, Item 51. The maximum allowable mileage rate that can be charged to the HPF grant as of November 2020 is forty-eight and one half cents (48.5) cents per mile. (To confirm the most current allowable mileage rate, consult the website: **http://www.policyworks.gov/org/main/mt/homepage/mtt/pov.htm**.)

C. Costs Allowable with Approval of NPS.

1. Automatic Data Processing.
The cost of data processing services for the HPF grant program is allowable. This cost may include rental of equipment or depreciation on grantee owned equipment. The acquisition of equipment with a unit acquisition cost over $5,000, whether by outright purchase, rental purchase agreement, or other method of purchase, is allowable only upon specific prior approval of NPS. (See Section C.2.)

2. Equipment and Other Capital Expenditures.
The cost of facilities, equipment, other capital assets, and repairs or improvements which materially increase the value or useful life of capital assets is allowable when such procurement is specifically justified in writing and specifically approved in writing by NPS. When assets acquired with HPF grant funds are sold, no longer available for use in the NPS sponsored program, or used for purposes not authorized by NPS, the NPS equity in any assets with a current fair market value over $5,000 will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost after trade in allowances of the newly acquired assets is allowable. Articles with a unit cost of more than $5,000 and a useful life of more than one (1) year are allowable when specifically approved by NPS as a direct cost. (See Section B.17 regarding articles costing less than $5,000.)

3. Extended Training.
Costs of out of service training involving extended periods of time (more than a month of time away from work) is allowable only when specifically authorized in writing by NPS.

4. Foreign Travel.
Foreign travel costs are allowable only when the travel has received specific prior written approval from NPS. Each separate foreign trip must be specifically approved and justified on the basis of direct benefits to the HPF grant program. For purposes of this provision, foreign travel is defined as "any travel outside of Canada or any jurisdiction defined as a State by the National Historic Preservation Act, as amended."

5. Moving Historic Structures or Objects.
Costs of moving or reconstructing properties are allowable only if the project meets NPS criteria and

if the property remains listed in the National Register, either individually listed or as a contributing property to a historic district. The Keeper of the National Register must give prior written approval for the move in accordance with 36 CFR 60.14b. If the Keeper does not concur that the property will remain on the National Register after the move, then no costs of moving the property are eligible for HPF grant assistance (see Chapter 6, Section J.2.c).

6. Overtime.
   For nonprofit grantees, see OMB Circular A-122, Item 28.

7. Participant Support Costs.
   For nonprofit grantees, see OMB Circular A-122, Item 30.

8. Preagreement Costs.
   Costs incurred prior to the effective date of the grant award, whether or not they would have been allowable if incurred after such date, are allowable only with prior written approval of NPS and when specifically provided for in the grant agreement. See additional requirements for nonprofit grantees in OMB Circular A-122, Item 34.

9. Proposal Costs.
   Costs of preparing proposals for potential Federal Government grant agreements are allowable as direct costs when specifically provided for in the grant agreement. (Proposal costs should normally be treated as indirect costs.)

10. Rearrangements and Alterations.
    Costs incurred for special rearrangements and alterations of facilities required specifically for the grant program are allowable when specifically approved in writing by NPS. (See Section C.2.)

11. Revolving Fund Costs.
    The costs of planned financial assistance by a grantee through a revolving fund mechanism are unallowable except with prior written NPS approval (see Chapter 8, Section F.2.h).

D. Unallowable Costs.

1. Archival Research.
   Costs of purely archival research are unallowable. Grant-assisted research must directly relate to achieving the purposes of the HPF grant program.

2. Acquisition of Previously Assisted Properties.
   Costs of an acquisition of real property which has previously received HPF assistance for development (or acquisition) are not allowable during the term of the covenant or preservation agreement.

3. Alcoholic Beverages.
   Costs of Alcoholic Beverages are unallowable.

4. Archeological Salvage.
   Costs of data recovery unrelated to increasing an understanding of a National Register property are unallowable. (See Chapter 6, Section K.4.d.)

5. Bad Debts.
   Any losses arising from uncollectible accounts and other claims, and related collection costs, are unallowable.

6. Certified Historic Structures.
   Grantees may not provide HPF development assistance for projects which have been accorded Federal preservation tax benefits for that same work. Similarly, HPF development grant assistance used for any portion of a building by an owner and/or lessee precludes that owner and/or lessee from obtaining the Federal tax incentives for historic preservation contained in the Internal Revenue Code for that portion of the building.

7. Church-owned Property.
   Costs of acquiring and/or repairing church-owned property are unallowable because of the Administration's policy on maintaining the separation of Church and State. (See Chapter 6, Section D.6 for allowable technical assistance and planning costs.)

8. Conditional Donations.
   Any donation of real property containing a reversionary provision to the donor which can be exercised during the term of the covenant is not eligible as matching share.

9. Contingencies.
   Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. (The term "contingency reserve" excludes self-insurance, pension plan, and post-retirement health benefit reserves computed using acceptable actuarial cost methods; see Section B.12.)

10. Contributions and Donations.

    a. Charitable contributions and donations of grant funds, property, or grant-assisted services are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 8, and see discussion of donations in A-122, Item 10.

    b. The value of services donated by employees or other persons paid with HPF grant funds or other Federal funds is unallowable.

    c. Donated goods (i.e., expendable personal property/supplies and donated use of space) may be furnished to a grantee, subgrantee, or grant supported contractor. The value of the goods and space is not reimbursable as a direct or indirect cost. However, the value of the donations may be used to meet matching share requirements when determined in accordance with the conditions described in Chapter 14.

11. Curation.
    Costs of curation or exhibition of artifacts or other materials after the project end date are unallowable.

12. Entertainment.
    Costs of entertainment, including amusements, social activities, and any costs directly associated with

such costs (such as tickets to shows or sports events, meals, lodgings, rentals, transportation, and gratuities) are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 12.

13. Equipment.
Equipment and other capital expenditures are unallowable as indirect costs. (See Section B.13, for the allowability of use allowances or depreciation on buildings, capital improvement, and equipment.)

14. Federal Properties.
Costs related to federally owned properties are not eligible for HPF assistance. (However, see Chapter 6, Section H.3.i., for allowable costs for surveys on Federal lands.) Note that the Consolidated Rail Corporation is not an instrumentality of the Federal Government and is therefore eligible for grant assistance. (See 45 U.S.C. 741b.)

15. Fines and Penalties.
Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the grantee to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by NPS authorizing in advance such payments. For nonprofit grantees, see OMB Circular A-122, Item 14.

16. Fundraising and Investment Management Costs.
Expenses and costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, investment counsel, and similar expenses incurred to raise capital or obtain contributions are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 19 for other unallowable fundraising costs.

17. General Government Expenses.
The salaries and expenses of the Office of the Governor of a State or the chief executive of a political subdivision or the chief executives of a Federally recognized Indian tribal government are considered a cost of general State or local government and are unallowable. For a federally recognized Indian tribal government, only that portion of the salaries and expenses of the office of the chief executive that is a cost of general government is unallowable; the portion of salaries and expenses directly attributable to managing and operating historic preservation programs by the chief tribal executive and his staff is allowable. Salaries and expenses of State legislatures, tribal councils, county supervisor or board, city council, school boards, etc., are unallowable.

18. HABS/HAER Costs for Federal Supervision.
Payments of HPF grant funds to Federal officials supervising or otherwise administering HABS/HAER projects are not allowable. See exception for temporary limited employees in Chapter 6, Section E.7.

19. Honoraria.
Payments of HPF grant funds for honoraria are not allowable when the primary intent is to confer distinction on, or to symbolize respect, esteem, or admiration for, a recipient. (Payments for services rendered, such as a speaker's fee at a grant-assisted workshop, are allowable.)

20. Idle Facilities and Idle Capacity.
For State and local government grantees, the provisions of OMB Circular A-87, Item B.24 are applicable. For nonprofit grantees, the provisions of OMB Circular A-122, Item 16, are applicable.

21. Indirect Costs to Individuals.
Indirect costs to individuals under grantee awarded subgrants and contracts are not allowable. "Overhead" or administrative support costs must be charged on a direct cost basis and documented by appropriate supporting documentation.

22. Insurance and Indemnification.
Actual losses which could have been covered by permissible insurance (through an approved self insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools which occur in the ordinary course of operations, are allowable. Indemnification includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal Government is obligated to indemnify the grantee only to the extent expressly provided for in the Federal award. Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship are unallowable.

23. Interest and Other Financial Costs.
Costs incurred for interest on borrowed capital or the use of a grantee's own funds, however represented, are unallowable, except as specifically provided in Item B.23 of this Chapter, or when authorized by Federal legislation. For nonprofit organizations, costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable, except to acquire capital assets and equipment by purchase or lease agreements on assets acquired after September 29, 1995. (See OMB Circular A-122, Item 19.)

Payment of interest penalties for late payment of bills to contractors is prohibited by the Prompt Payment Act (31 U.S.C. 3901 *et. seq.*). That Act specifies:

"(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

"(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any nonfederal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant."

24. Interpretive Expenses.
Interpretive expenses, such as staff salaries or maintenance of interpretive devices (with the exception of purchase and installation costs for such devices in accordance with Section B.24 above) are unallowable.

25. Lobbying.
The cost of certain activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to HPF grants, contracts, cooperative agreements, and loans shall be governed by 31 U.S.C. 1352 and the provisions of the Common Rule "New Restrictions on Lobbying," published in the *Federal Register* (55 FR 6736) on February 26, 1990, as well as the Office of Management and Budget's "Governmentwide Guidance for New Restrictions on Lobbying" and the associated notices published in the *Federal Register* at 54 FR 52306 (December 20, 1989), at 55 FR 24540 (June 15, 1990), and at 57 FR 1772 (January 15, 1992).

The costs associated with activities or any form of communication designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation are unallowable. In addition, all recipients of Federal grant assistance over $100,000 must certify on the DI-2010 Form that they will not use grant funds for lobbying expenses. (See Chapter 7, Exhibit 7-D, for the DI-2010 form.)

The cost of membership in the National Conference of State Historic Preservation Officers is an allowable cost (see explanation in Chapter 13, Section B.30).

a. Lobbying Provisions for Nonprofit Organizations. For nonprofit organizations, notwithstanding other provisions of OMB Circular A-122, costs associated with the following activities are unallowable:

   1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

   2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;

   3) Any attempt to influence: the introduction of Federal or State legislation; or the enactment or modification of any pending Federal or State legislation:

      a) through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any government official or employee in connection with a decision to sign or veto enrolled legislation; or

      b) by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or

   4) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. Exceptions. The following activities are excepted from the provisions detailed above:

   1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request in accordance with the stipulations of OMB Circular A-122, Attachment B, Item 21.b.

2) Any lobbying made unallowable by subsection a.3), above, to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.

3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

c. Indirect Costs.

1) When an organization seeks reimbursement for indirect costs, total lobbying costs shall be separately identified in the indirect cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of paragraph B.3 of Attachment A of OMB Circular A-122.

2) Organizations shall submit as part of their annual indirect cost rate proposal a certification that the requirements and standards of this paragraph have been complied with.

3) Organizations shall maintain adequate records to demonstrate that the determination of costs as being allowable or unallowable pursuant to paragraph B.21 of Attachment A of OMB Circular A-122 complies with the requirements of that Circular.

4) Time logs, calendars, or similar records shall not be required to be created for the purposes of complying with this section during any particular calendar month when: (1) the employee engages in lobbying, as defined in subsection a. and b. (above), 25% or less of the employee's compensated hours of employment during that calendar month, and (2) within the preceding five-year period, the organization has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs. When conditions (1) and (2) above are met, organizations are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions (1) and (2) above are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

26. Maintenance and Administration.
Costs of ongoing maintenance and administration of properties following HPF grant assistance are not allowable, in accordance with Section 102(a)(5) of the Act, as amended. This prohibition is not applicable to the National Trust.

27. Meals.
Costs of meals for grantee employees, Review Board members (including any other State oversight or advisory boards), or CLG Commission members are unallowable except as per diem when such persons are on travel status in conjunction with activities eligible for HPF assistance.

28. Mitigation Expenses.
Costs of mitigation activities performed as a condition or pre-condition for obtaining a Federal permit or license or funding by other Federal programs are not allowable.

29. Museums.
    Costs of museum exhibits, staff salaries, and other administrative expenses, including maintenance, are unallowable, if they are not directly related to HPF eligible activities. (See Section B.18.)

30. Nonconformance with Applicable Secretary of the Interior's Standards.
    Work performed under grants, subgrants, or other contractual arrangements that do not conform to the applicable Secretary's Standards are unallowable costs.

31. Organization Costs.
    For nonprofit grantees, see OMB Circular A-122, Item 27.

32. Profits and Losses on Disposition of Depreciable Property or Other Capital Assets.
    For State and local government and Indian tribe grantees, see OMB Circular A-87, Item B.22. For nonprofit grantees, see OMB Circular A-122, Item 36.

33. Prohibition on Compensating Intervenors.
    Compensation to any person intervening in any proceeding under the Act is unallowable due to the provisions of Section 101(f) of the National Historic Preservation Act. (See Legal Expenses in Section B.27.)

34. Purchase Price.
    The purchase price of real property is not allowable as an eligible development project cost. (It is an allowable cost for an acquisition project because it is a direct and necessary contribution to achieve acquisition project purposes.)

35. Taxes.
    Taxes or tax penalties which the organization involved would not have been liable to pay under prudent management are unallowable. This includes payroll tax penalties or interest paid on late taxes. (See Section B.47 for allowable taxes.)

36. Underrecovery of Cost Under Grant Agreements.
    Any excess cost not covered by the Federal contribution under one grant agreement is unallowable as a cost under any other Federal agreement. This includes, but is not limited to, the grantee's contributed portion of cost sharing agreements, or any underrecoveries through negotiation of lump sum for, or ceilings on, indirect costs. For nonprofit grantees, see OMB Circular A-122, Item B.22.

Chapter 14 - Matching Share

A. Purpose and Scope.
This Chapter sets forth the criteria and procedures for the allowability and evaluation of cash and in-kind contributions made by grantees and their subgrantees and subcontractors in satisfying matching share requirements in accordance with OMB Circulars A-87, A-102 (as codified in 43 CFR 12.64) for States, and OMB Circulars A-122 and A-110 (as codified in 43 CFR 12.923) for the National Trust.

B. Definitions.

1. Cash Contributions. Cash contributions represent the grantee's cash outlay, including the outlay of money contributed to the grantee by nonfederal third parties. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts or funds received from other Federal grants shall not be used as part of the grantees' cash contribution except as specified in Section M of this Chapter.

2. In-kind Contributions. In-kind contributions represent the value of noncash contributions provided by the grantee or nonfederal third parties. In-kind contributions may consist of charges for real property, nonexpendable personal property, and the value of goods and services directly benefiting and specifically identifiable to approved objectives of the grant-supported program.

3. Grant costs. Grant costs are the sum of the allowable costs (as set forth in the applicable Federal cost principles, and Chapters 12 and 13) incurred by the grantee and the values of the cash or allowable in-kind contributions made by the grantee or third parties in lieu of cash to accomplish the objectives of the grant (or subgrant) agreement during the grant period.

4. Grant period. The grant period is the span of time stipulated in the grant agreement during which all nonfederal share is contributed and during which all work to be accomplished under the terms of the agreement must be completed (but see the exceptions described in Sections E and F of this Chapter).

C. Basic Guidelines.

1. Matching share (or "cost sharing") represents that portion of total project or program costs not borne by the Federal Government. Cash or in-kind (non-cash) matching share may consist of:

   a. Charges incurred by the grantee as costs during the grant period.

   b. Costs financed with cash contributed or donated to the grantee by other nonfederal third parties.

   c. Costs represented by services and real and personal property, or use of these, contributed or donated by nonfederal third parties during the grant period. Where in-kind contributions are made by the Federal Government, they may be included in the grantee's matching share only if Federal legislation authorizes such inclusion.

2. All contributions, whether cash or in-kind will be accepted as an eligible part of the grantee's matching share when such contributions meet all of the following criteria:

   a. Are verifiable from the grantee's records;

b. Are not included as matching contributions for any other federally assisted program or any Federal contract (i.e., are not double counted);

c. Are necessary and reasonable for proper and efficient accomplishment of approved grant objectives;

d. Are incurred and contributed within the grant period;

e. Are types of costs which are allowable under the applicable Federal cost principles (Chapter 12) as well as the provisions of Chapter 13;

f. Are not paid by the Federal Government directly or indirectly under another assistance agreement unless authorized by Federal law to be used for cost sharing or matching (see Section M of this chapter);

g. Are provided for in the approved grant agreement; and

h. Conform to other provisions of this Manual.

D. Allowability.
General principles for establishing the allowability of matching share are as follows:

1. Either cash or in-kind contributions of goods, property, services, or combinations of these, can qualify for and meet matching share requirements when the criteria of Section C (above) are met.

2. In-kind contributions must be fairly valued and must be of such nature that, if the Federal share had been used to pay for the contribution, the grantee would have incurred an allowable cost. In-kind contributions are eligible only to the extent that they represent actual necessary costs for which Federal funds could be applied for project or program objectives. Any grant funds applied in excess of actual cost would constitute an unallowable profit to the grantee or subgrantee. (See Chapter 12, Section C.5.c.)

3. Following grant approval, all cash and in-kind contributions, including those applicable to subgrantees or subcontractors, must be recorded in the ledger accounts as grant costs when the in-kind services or goods are performed or received. Records, including required supporting documentation, of in-kind services performed or goods received must be maintained on a current basis. Note: After-the-fact certification for personnel costs contributed by University subgrantees is allowable if documentation is prepared in accordance with OMB Circular A-21, Section J.6.

4. In accordance with 48 U.S.C. 1469a, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Freely Associated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands are not required to contribute nonfederal share for HPF grants, unless the matching share required exceeds $200,000 for a grant.

5. Grantees may choose to contribute matching share in excess of the minimum required 40 percent as part of the grant application. Each subgrant need not be matched on a 60-40 basis as long as the total grant to the State is matched at the required rate during the NPS-approved grant period; i.e., grantees

may aggregate or "pool" matching share contributions from individual historic preservation projects so long as the total costs incurred during the fiscal year are at least 40 percent matching share.

a. The nonfederal share including any overmatch is subject to audit, as is the Federal share.

b. Documentation of the basis for applying allowable indirect cost rates as matching share is discussed in Chapter 12. Any indirect costs must be claimed pursuant to a current rate approved by the cognizant Federal agency.

c. The basis for determining the matching share charges for personal services, material, equipment, indirect costs, buildings, and land must be documented.

d. Matching share for multi-resource projects involving several contributing properties within historic districts must be directly related to the grantee's proposed grant work and must meet all the requirements of this Chapter. Unrelated work or contributions outside the scope of eligible HPF-assisted work does not qualify as matching share merely because it occurs within a historic district during the approved grant period.

E. Timing of Contributions.

Matching share (as with costs borne by the Federal share) will not be allowable if contributed prior to the effective date of the grant award (refer to Chapter 13, Section C), whether or not the cost would have been allowable if incurred after such date, with the following exceptions:

Some costs must be incurred before an annual grant application or before a Project Notification can be submitted to NPS with the required descriptive and cost data. The costs of appraisals, site investigation and selection, site planning, feasibility studies, preliminary design, environmental assessment, preparation of cost estimates, construction drawings and specifications and similar items necessary for preparation of the application or Project Notification may be eligible for assistance, although incurred prior to NPS concurrence.

While nonfederal share contributions need not be made in exact time concurrence and proportion with withdrawal and expenditure of Federal funds, the full grantee matching share must be contributed by the end of each 12-month grant period, or of any stipulated NPS-approved grant period.

Requests for approval of preagreement costs must be detailed in either: 1) the Annual Grant application submitted to NPS with the line item, amount, and date these costs were incurred listed in a cover letter accompanying the grant application (when these costs are known at the time of the application); or 2) noted specifically in the Project Notification by line item, amount, and date. Pre-agreement costs must be specifically approved by NPS in writing in accordance with Chapter 13, Section C.8.

F. Relationship of Costs to Grant Period.

1. General. To be eligible for matching assistance, costs must have been incurred within the approved grant period, with the specific exceptions described in this Chapter. Costs incurred, or contributions of services made, or assets acquired prior to or subsequent to the grant period authorized by NPS, unless specified in the grant agreement, in a Project Notification concurred in by NPS in writing, or in a subsequently approved amendment, are not allowable.

2. Acquisition costs. Since the transfer of ownership in real property can be a protracted process which differs under various State laws and grantee procedures, the relationship of acquisition costs to the grant period is separated into two elements: the date when the acquisition cost is incurred and the date when the cost is eligible for reimbursement. Acquisition costs are incurred on the date when the earliest of any of the following transactions takes place: (a) Grantee or subgrantee accepts deed, lease, or other appropriate conveyance; or (b) Grantee or subgrantee makes full payment for the property; or (c) Grantee or subgrantee makes full payment to an escrow agent.

3. Development costs. Development (construction) costs are ordinarily first incurred at the start of actual physical work on the site (such as the clearing of ground, the beginning of construction of a building, or the delivery of material to the site), and continue through the period the work is being done. Development costs are not ordinarily incurred at some earlier time when contracts are signed, funds obligated, or purchase orders issued, or at a later time when the ensuing bills are paid (but see Section E, above).

G. Valuation of In-kind Contributions.
In-kind contributions will be valued at the actual costs incurred in accordance with the principles for determining costs specified in Chapters 12 and 13.

H. Valuation of In-kind Contributions from Nonfederal Third Parties.

1. Valuation of volunteer services. Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteer services may be counted as matching share if they are an integral and necessary part of the approved work (but see Exclusions, Section N, below).

2. Rates for volunteer services.

   a. Volunteer services charged to the NPS grant must be such as will make a meaningful and desirable contribution. Volunteers must possess the required qualifications in the skill or profession involved, and must actually perform that specific work. Rates claimed for volunteer services must be consistent with those regular rates paid for similar work in other activities of the State Government. In those instances in which the skills required for the HPF-assisted work are not found in the State Government, rates used must be consistent with those paid for similar work in the labor market in which the grantee competes for the kind of services involved.

   b. If a volunteer performs services outside his profession or trade, this volunteer time must be valued at the Federal minimum wage rate unless a higher rate can be documented as applicable and is approved by the SHPO. All such rates are subject to NPS field and audit review. (As of September 1997, the minimum wage is $5.15 per hour). [The minimum wage will change soon.]

   c. The use of volunteer services must be documented by the same methods used by the grantee, subgrantee, or other third party for its own employees, although stricter accountability standards may be agreed to by the grantee and third parties.

3. Volunteers employed by other organizations. When an employer other than the grantee, a local government subgrantee, or an institution of higher education subgrantee furnishes the services of an employee, these services will be valued at the employee's regular rate of pay (exclusive of fringe

benefits and overhead costs) provided these services are in the same skill for which the employee is normally paid.

4. Review board contributions. Time spent by review or any other advisory board members which is directly related to the development, conduct, or administration of the grantee's Historic Preservation Fund grant program is allowable as a matching share contribution to the extent that the contributed time is spent solely in the members' capacity as board members and to the extent that all requirements of this Chapter are fulfilled. Time spent in meetings directly relating to approved program objectives which is chargeable as matching share must be documented by the agenda, minutes of the meeting, and separate time records for each volunteer (as with all other volunteered services). Travel time must be reasonable and meetings must be held in easily accessible places. Unreasonable or undocumented donations of time will be subject to audit review and possible adjustment or disallowance.

I. Required Supporting Documentation for Volunteer Services.
All volunteer services claimed as nonfederal matching share must be substantiated by time cards or records that are signed by both the volunteer and supervisor, as required for all other employees of the grantee or subgrantee. Such records must show the actual hours worked and the specific duties performed. The records must also indicate the basis for determining the rate of the volunteer's contributions, and such documentation must be available for audit (see suggested recordkeeping form at the end of this Chapter, and Chapter 13, Section B.12, Compensation for Personal Services).

J. Valuation of Donated Expendable Personal Property.
Expendable personal property includes such items as expendable equipment, office supplies, laboratory supplies, or workshop supplies. Values assessed to donated or contributed expendable personal property included as matching share must be reasonable and must not exceed the fair market value at the time of donation. The basis for determining the valuation must be documented and available for audit.

K. Valuation of Donated Nonexpendable Personal Property, Buildings and Land, or Use of These Types of Property.

1. General. As stipulated by OMB Circular A-102 (codified in 43 CFR 12.64) and OMB Circular A-110 (codified in 43 CFR 12.923), the method used for charging matching share for donated nonexpendable property, buildings and land differs according to the purpose of the grant:

   a. If the purpose of the grant is to furnish equipment, buildings or land to the grantee or otherwise to provide a facility, the total value of the donated property may be claimed as matching share.

   b. If the purpose of the grant is to support activities that require the use of equipment, buildings or land on a temporary or part-time basis, depreciation or use charges for equipment and buildings may be made. The full value of equipment or other capital assets and fair rental charges for land may be made provided that NPS has approved the charges.

2. Valuation of donated nonexpendable personal property.

   a. The valuation of donated nonexpendable personal property shall not exceed the fair market value of equipment and property of the same age and condition at the time of donation.

b. Donation of title. If the donor transfers title to the property, the amount allowable as matching share shall be determined as if the grantee had purchased the property and paid the fair market value of the property at the time of the transfer. (See suggested recordkeeping form for donated material in Exhibit 14-C).

c. Donation for use. If only use of property is donated as a loan, the amount allowable as matching share shall be determined as if the grantee had rented the property and paid the fair rental value at the time of the donation. (See suggested recordkeeping form for equipment use in Exhibit 14-B.)

3. Valuation of donated real property: buildings and land.

a. General. The value of donated land and buildings may not exceed its fair market value at the time of donation to the grantee as established by an independent certified real property appraiser or GSA representatives and certified by a responsible official of the grantee (see Chapter 6, Exhibit 6-B, for appraisal requirements).

b. Use of space. The value of donated space shall not exceed the fair rental value of space established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.

4. Donation of less-than-appraised value of real property as matching share for acquisition of historic property.

a. The difference between fair market value and the selling price will be allowable as matching share for an acquisition for the remainder purchase cost of that property, or for the remainder cost of a preservation easement, if the owner willingly and knowingly sells the property or easement for less than the appraised fair market value.

b. The grantee must ensure that a legally sufficient arm's length relationship exists between the donor and the donee.

c. When a partial donation of less-than-the-full-appraised market value of real property is applied as matching share, grantee records must fully document that the acquisition was conducted in compliance with the acquisition policies established by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601-4651), particularly the statement of just compensation (see Chapters 6 and 20).

L. Use of Federal Funds.

1. General prohibition. Generally, Federal funds cannot be matched with other Federal funds. However, the statutory provisions of the Federal programs listed below specifically allow the funds provided under them to be used as nonfederal matching share.

2. Exceptions. The funds derived from the following Federal programs may be applied as matching share for HPF grants-in-aid:

a. Federal funds granted to Tribal organizations under grants pursuant to Section 104 of the Indian Self Determination and Education Assistance Act, provided the NPS grant contributes to the purposes of Section 104 (see 25 CFR 272-12). Grantees must justify the use of such funds in

writing and NPS must approve their use as matching share prior to the award of the HPF grant. (Grantees will be required to ensure that covenants and all other terms and conditions of NPS grants, including public access, can be enforced by the State as a precondition for work involving Indian Tribes as subgrantees, or for projects located on Indian lands.)

b. Federal funds available under Section 105(a)(9) of the Housing and Community Development Act of 1974, 42 U.S.C. 5305(a)(9), as amended (the Community Development Block Grant Program). The provisions of the Davis-Bacon Act will apply if CDBG funds are used as matching share for an HPF grant.

3. Supplemental Funding. The statutory provisions of certain other Federal grant programs' legislation allow the use of their program funding to supplement HPF grants. In such instances grantees must identify the source of the funding, and, if the grant application is approved by NPS, the other Federal agency will transfer funds to NPS for administration by NPS. No more than 80 percent of total costs may be federally supported. These funds will be subject to all grant terms and conditions and all provisions of this Manual. The following may be used to supplement HPF grant assistance:

a. Public Works and Economic Development Act of 1965, as amended. Commonly known as Regional Commission Supplemental Grants. (See 13 CFR 560 et. seq. and 42 U.S.C. 3188a); and

b. Appalachian Regional Development Act of 1965 (40 U.S.C. Appendices 214).

4. Grantee Reimbursements as Matching Share. After the Federal share of eligible HPF grant costs has been reimbursed to the State, these reimbursed funds may be treated as nonfederal in nature. The reimbursed funds may subsequently be used as nonfederal matching share if contributed for future HPF grant work.

M. Exclusions.
The following items are not allowable matching share:

1. Any cash or in-kind contribution used to match another Federal grant cannot be used again as matching share for NPS grant funds.

2. a. Volunteer work performed by grantee staff members within the scope of the normal responsibilities of the position in excess of their paid working hours is not allowable as matching share.

b. Consultants who are sole proprietors of their firms may donate services only if the employment contract specifies that the consultant is accepting less than his/her normal rate of pay and is explicitly donating the difference for the achievement of project work. Such donations must be documented in accordance with the provisions of this Chapter. A written statement of intention to donate the rate difference should be on file and available for audit.

c. Employees of consultants may not donate services or accept less than their regular rate of pay as a donation because this violates the provisions of the Fair Labor Standards Act.

3. Federally guaranteed loans are not eligible as matching share for HPF grant funds because of the possibility of directly involving Federal funds in matching HPF monies should a default occur.

4. Students in a federally funded work/study or Federal student loan program cannot contribute donated services as matching share for an HPF grant.

5. Items such as legal advice which are normally provided to grantees by other State governmental units without charge are not allowable as matching share. (When these services are not normally provided without charge, the services may be eligible as matching share.)

6. Donated property as matching share for development work. 43 CFR 12.64 requires all nonfederal share contributions to be "necessary and reasonable for proper and efficient accomplishment of project objectives"; and requires that "values for grantee in-kind contributions will be established in accordance with OMB Circular A-87." Accordingly, donation of real property or a preservation easement is not eligible nonfederal share for development work. Title to the property is not necessary to perform development work and does not involve any cost sharing for the development work.

7. Any real property donation or contribution containing a reversionary provision to the donor which can be exercised during the term of the preservation covenant is not eligible as matching share.

8. Donation of a Remainder Interest with a Reserved Life Estate. This type of donation involves a gift with the condition that the real property be retained for the remainder of the donor's (or his/her immediate family's) life. While these benefits may also ensure the preservation of the property, no contribution in keeping with the requirements of, and this Chapter is effected and no eligible matching share is created.

9. Irrevocable long-term leases. As with a preservation easement, the value of the lease is not allowable as matching share.

N. Examples of forms.
Exhibits A, B, and C provide examples of the kind of recordkeeping forms grantees should maintain to evaluate donated labor, material or equipment use. These are suggested models only; comparable formats would also serve for audit purposes.

EXHIBIT 14-A VALUE OF DONATED LABOR
TIME SHEET
HISTORIC PRESERVATION FUND
Retain for Audit

PROJECT NAME AND NUMBER

NAME OF PERSON CONTRIBUTING DONATED TIME (LABORER, PLUMBER, MASON, ETC.)

KIND OF WORK PERFORMED

Hourly Rate -- Based On:

A person donating time to a project will be paid at the Federal minimum wage unless he/she is professionally skilled in the work they are performing on the project (i.e., plumber doing work on pipes, mason doing work on a brick building). When this is the case, the wage rate this individual is normally paid for performing this service may be charged to the project.

DATE	TIME OF WORK				TOTAL WORK HOURS	HOURLY RATE	VALUE (DONATED HOURS X RATE)
	START	END	START	END			
TOTAL VALUE OF DONATION							

SIGNATURE REQUIRED VERIFYING RECORD:

SIGNATURE OF PERSON DONATING TIME

DATE

SUPERVISOR VERIFYING ACCURACY

DATE

EXHIBIT 14-B VALUE OF DONATED EQUIPMENT USE
HISTORIC PRESERVATION FUND

RETAIN FOR AUDIT

_____
PROJECT NAME AND NUMBER

_____
DONOR

Value of Donated Equipment Use					
DATE	**TYPE & SIZE OF EQUIPMENT**	**TOTAL HOURS OF USE**	**HOURLY RATE**	**VALUE OF DONATION (HOURS OF USE X HOURLY RATE)**	**EQUIPMENT OPERATOR'S SIGNATURE**

TOTAL VALUE OF DONATION

_____ _____
VERIFYING OFFICIAL'S SIGNATURE DATE

EXHIBIT 14-C VALUE OF DONATED MATERIAL
HISTORIC PRESERVATION FUND

RETAIN FOR AUDIT

_____
PROJECT NAME AND NUMBER

_____
DONOR

Value of Donated Material			
DESCRIPTION OF MATERIAL DONATED	**DATE OF DONATION**	**CURRENT FAIR MARKET VALUE**	**BASIS OF VALUE**

TOTAL VALUE OF DONATION

_____ _____
VERIFYING OFFICIAL'S SIGNATURE DATE

Chapter 15 - Application and Budget Changes

A. Purpose.
This Chapter sets forth requirements and procedures for requesting post award programmatic changes and budget revisions in grants and subgrants in accordance with 43 CFR 12.70 (for States) and 43 CFR 12.925 (for the National Trust).

B. Applicability.
The provisions of this Chapter apply to changes in: (1) the Annual Grant and (2) subgrants, projects, and contracts awarded by the grantee with HPF assistance.

Any substantive revision in the NPS approved grant application which served as the basis of the Grant Agreement must be approved in writing by NPS prior to effecting the change. Any substantial alterations in the scope or objectives previously described in individual Project Notifications (see Chapter 8, Exhibit 8-A) must be submitted to NPS prior to proceeding. An amendment may also be initiated by NPS to carry out requirements such as deobligations of funds or changes in Federal appropriations, laws, or regulations affecting NPS grants.

C. General.
Grantees and subgrantees are permitted to re-budget within the approved direct cost budget of each grant and subgrant to meet unanticipated requirements, and may make limited program changes to the approved grant and/or individual project without NPS prior approval. Certain types of post award changes do require prior NPS written approval.

1. Waiver of Cumulative Transfers of Funds among Budget Categories. An amendment is not required for transfers of funds among direct cost categories (personnel, travel, equipment, etc.) unless the cumulative amount of transfers exceeds 10 percent of the total budget and the Federal share exceeds $100,000.

2. Relationship to Cost Principles. The cost items specified in Chapter 13, Section C, require prior NPS approval. These requirements apply to all grants and subgrants even when programmatic scope of work changes or budget revisions discussed below are not applicable. Grantees may request NPS approval by letter if such costs are not identified in the grant application.

D. Programmatic Grant or Budget Changes.
Except as stated in other regulations or in a grant award document, grantees (and subgrantees through the grantee) will notify the NPS grant awarding official whenever the following actions are anticipated:

1. Any revision of the scope or objectives of the grant, regardless of whether there is an associated budget revision requiring prior approval.

2. A revision pertains to cost items requiring prior NPS approval. (See Chapter 13, Section C.)

3. A budget revision that would result in the need for additional Federal funding.

4. A fund or budget transfer from nonconstruction to construction or vice versa. See 43 CFR 12.70(c)(3).

5. For subgrants, grantees shall require subgrantees to obtain prior approval from the SHPO whenever changes are proposed in the subgrant project director, principal investigator, or any other persons expressly identified as key project personnel in the subgrant award. Approval by NPS is not required.

6. The amount of funds awarded is expected to exceed need. The grantee should transmit a formal amendment to NPS to deobligate the unneeded funds.

7. The required 10 percent Certified Local Government Pass-through percentage cannot be fully obligated or expended.

E. Subgrant Project or Budget Changes.
When Project Notifications are required, grantees shall forward revised information to NPS prior to implementing proposed scope of work or budget changes whenever a proposed revision results in a change in the scope or objective of a project summarized in the Project Notification. However, minor revisions should be noted in the Final Project Report (see Chapter 8, Exhibit 8-E) and not in an amendment request unless one of the provisions below is applicable. Documentation of the revisions must still be retained in State project files subject to NPS review.

An amendment is required when the revision results in a change in scope and objectives, or when one of the following provisions is applicable.

1. The revision increases the budgeted amounts of Federal funds needed to complete the project.

2. The revision involves cancellation of a project previously summarized in a Project Notification sent to NPS.

3. A new project is proposed, requiring a Project Notification, funded from one or more decreases to previously approved projects.

4. Additional time is required to complete a project requiring a Project Notification (but not to exceed the end date of the Annual Grant funding the subgrant).

5. Project budget revisions involve those costs requiring prior NPS approval. (See Chapter 13, Section C.)

6. The project requiring a Project Notification is completed for less Federal share than budgeted, but only if the "excess" money is to be transferred to another use within the 24-month period of availability. (See Section G.2., below.)

F. Requesting Prior Approval: Grants.

1. A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and must be accompanied by a narrative justification for the proposed revision. Requests for amendments must be sent in writing to NPS. NPS approval shall not be valid unless it is in writing and signed by the NPS grant awarding official.

NPS will not act on grant amendment requests after the grant end date unless the amendments close out the grant. Any subsequent revisions other than individual cost items requiring NPS approval (see

Section C, above) must be noted in the End-of-Year Report. (See Chapter 25) Note: Neither the End-of-Year Report nor revisions to the Report are grant amendments.

2. Documentation. To submit a grant amendment forward one SF 424 with the original signature of the SHPO or SHPO authorized grantee official. Instructions for completion of the SF 424 are given in Chapter 7, Exhibit 7-A. Note that item 8 of the SF 424 should include entering either "C," "D," or "E." Item 15 should be left blank unless the Federal or nonfederal share of the program is being increased or decreased. The reason(s) for the requested changes must be specified on the reverse side of the SF 424. The applicable Attachment A pages and grant budget forms affected by the changes must be included, and each page marked "Amended" with the date of the amendment request.

3. Timing. If the request for approval is still under consideration at the end of 20 calendar days, the NPS grant awarding official shall inform the grantee in writing as to when a decision can be expected. This includes requests for approval of costs requiring NPS prior approval.

G. Subgrantees Requesting Prior Approval from the Grantee.

1. A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such requests and respond in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of its HPF grant. For subgrants requiring a Project Notification, if the revision requested by the subgrantee will result in a change in the project scope of work, objectives or budget requiring NPS action (see above), the grantee shall obtain that determination from NPS before approving its subgrantee's request. Except in unusual circumstances, NPS will not act on any subgrant amendment requested after the subgrant end date stated on the Project Notification. In such instances, deviations from the scope of work or budget must be specifically discussed in the Final Project Report.

2. Documentation. For subgrant amendments requiring NPS approval, forward a revised Project Notification, with the elements to be amended and the reasons for the amendment specified. The purpose of the amendment must be clearly noted on the Project Notification.

   a. Cancellation. Subject to the limitations specified in Sections I and K, below, a grantee may unilaterally rescind any subgrant award prior to commencement of project work by submitting a Project Notification executed in accordance with the instructions for that form, with an explanation of the reasons for the termination. A project will be considered to be commenced when Federal funds have been disbursed to the project by the grantee.

      After Federal funds have been disbursed, the subgrant project agreement may be terminated only by mutual agreement with NPS. For subgrants requiring Project Notifications, the grantee will submit a Project Notification executed in accordance with the instructions for that form, with an explanation of the reasons for the termination. The amount of decrease must be shown. This information will also be provided in the Project/Activity Database Report submitted with the End-of-Year Report. (See Chapter 25, Section D.1.).

   b. Completion at Lower Cost. If a subgrant is completed at a Federal share of costs less than the Federal share specified on the Project Notification, and the 24-month term of obligational authority of the applicable apportionment has not expired, the remaining funds can be reassigned

by grantee amendment request to other eligible activity (including a new subgrant) under the terms of the applicable NPS grant agreement until the end of the 24-month Annual Grant period.

Transferring Funds among Existing Subgrants (within the same grant, i.e., with the same grant number). For States on Reduced Review Status, revised Project Notifications reporting increases and decreases are only needed for subgrants greater than $25,000 Federal share. (States not on Reduced Review Status must send them in for each project.) Documentation of the funds transfer must still be retained in State project files subject to NPS review. This information must be included in the Project/Activity Database Report in the End-of-Year Report. (See Chapter 25, Section D.1.b.)

1) Forward a revised Project Notification completed as in Section G.1, above. Only the amount of decrease should be entered.

2) Forward a revised Project Notification completed as in Section G.1, above, with an explanation of the reasons for the increase. Only the amount of increase, Federal and nonfederal share, if applicable, should be entered. The "Remarks" section must also:

   a) Identify the additional work elements to be undertaken with the increase in estimated costs;

   b) State the source of the additional Federal funds to be applied to the amendment; e.g., completion of another project under budget;

   c) Specify donor, source, kind, and amount of additional nonfederal share. (If none, so state.)

3. Timing. If NPS does not concur or notify the grantee of deficiencies requiring corrective action prior to the end of the 20-calendar-day review period, grantees may proceed with the amended subgrant, but remain responsible for complying with the terms and conditions of the grant under which the subgrant was awarded.

   EXCEPTIONS:

   a) Written NPS concurrence of the Project Notification is required for all development subgrants, contracts, or projects affecting National Historic Landmarks. The 20 calendar day review period limit is not applicable for National Historic Landmarks; however, NPS will meet the 20 day timeframe as closely as possible.

   b) Written NPS approval must be obtained before incurring costs for work requiring prior NPS approval. (See Chapter 13, Section C.)

H. Phased Projects.
For subgrants requiring Project Notifications (see Chapter 8, Section F.2.b.), a separate Project Notification must be submitted for each phase of a subgrant project financed with separate HPF grants. (For example, a subgrant funded with the FY 1995 grant must be completed within that grant period. Costs may not be charged to the grant after September 30, 1996. A new Project Notification, marked "Phase 2," may be submitted to continue the second phase of planned work on that project using, for

example, FY 1996 grant funds.) All phased projects should be keyed to the applicable HPF grant numbers to avoid audit questioned costs. For phased projects, a new Project Notification must be submitted for NPS concurrence in the regular manner before additional costs from a subsequent appropriation are incurred.

I. Use or Lose Carryover Limitation.
If an amendment involves the cancellation of a project in full, or reduction of Federal share awarded to a previous subgrant, such that the cancellation or reduction will result in the grantee exceeding the 25 percent carryover policy, this fact must be noted on the amendment request and justified. An excessive increase in SHPO "in-house" expenses and an accompanying decrease in subgrant/contract commitments will result in a reduction in obligational authority by NPS if the 25 percent limit is exceeded (without a written NPS approved waiver) because of the particular amendment or the cumulative effect of several amendments.

J. CLG Pass-Through.
If a subgrant amendment results in less than 10 percent of the State's apportionment being expended for CLG subgrants in the 24-month period of grant availability, NPS will reduce the State's obligational authority. See Chapter 9, Section K.7.

K. Extensions of Time for Annual Grants.
No extensions of time to incur costs will be approved by NPS for grants beyond the grant period provided in the NPS grant agreement. This applies to the overall program grant and all projects undertaken within the program grant. Funds not expended for costs incurred during the 24-month Annual Grant period "expire" and will be deobligated in accordance with Section L, below. NOTE: An NPS approved increase in the Federal share does not automatically provide any additional time to complete proposed work, nor does it alter the period to obligate or expend funds.

L. NPS Initiated Reprogramming and Deobligations.
NPS may initiate an amendment to carry out administrative requirements such as changes in Federal appropriations laws, or administrative regulations, including deobligations of funds.

1. NPS may reduce the amount of grant funds for the current fiscal year by an amount equal to the amount of the prior year's apportionment unobligated or unpaid in accordance with grant procedures. (See Chapter 3, Section K.2.d.) Sometimes "unused" prior year's funds will be deobligated by NPS instead of reducing the current year's allocation of funds.

2. NPS may, after written notice to the grantee, deobligate unbilled funds after the grant period has expired.

When submitting proposed Project Budget amendments, the following form may be used to detail the proposed budget changes.

EXHIBIT 15-A MODEL PROJECT BUDGET FORM			
Budget Category	**Original Budget**	**Proposed Changes (+/-)**	**New Revised Budget**
Personnel and Fringe Benefits	$	$	$
Travel and Per Diem	$	$	$
Supplies and Materials	$	$	$
Consultant/Contractual Services	$	$	$
Equipment	$	$	$
Indirect Costs	$	$	$
Total	$	$	$

Chapter 16 - Program Income (Grant-Related Income)

A. Purpose.
This Chapter sets forth policies and requirements relating to (a) program income and (b) interest and other investment income earned on advances of HPF grant funds. Its provisions are in accordance with OMB Circular A-102, as codified in 43 CFR 12.65 (for States), and Circular A-110, as codified in 43 CFR 12.924 (for the National Trust).

B. Policy.

1. Applicability. Program income (or grant-related income) means gross income earned by a grantee (or subgrantee or contractors) from activities of which part or all of the cost is either borne as a direct cost by a grant or counted towards meeting matching requirements of a grant. It includes, such income in the form of fees for services performed during the grant or subgrant period, proceeds from the sale of tangible personal or real property, usage or rental fees, and patent or copyright royalties. If income meets this definition, it shall be considered program income regardless of the method used to calculate the amount paid to the recipient (whether, for example, by a cost-reimbursement method or a fixed price arrangement). Nor will the fact that the income is earned by the recipient from a Federal procurement contract under a Federal grant awarded to another party affect the income's classification as program income.

   The following shall not be considered program income:

   a. Revenues raised by a government recipient under its governing powers, such as taxes, special assessments, levies, and fines. (However, the receipt and expenditure of such revenues shall be recorded as part of a grant or subgrant project transactions when such revenues are specifically earmarked for the project in accordance with the terms of the grant or subgrant.)

   b. Tuition and related fees received by an institution of higher education for a regularly offered course taught by an employee performing under a grant or subgrant.

2. General program income.

   a. Definition. General program income means all program income accruing to a grantee during the period of grant support, or to a subgrantee during the period of subgrant support, other than the special categories of such income in subsections 3, 4, and 5 below. See Section B.6., below, for a discussion of program income generated after the grant period.

   b. Use. General program income shall be retained by the grantee or recipient and used with NPS approval in accordance with one or a combination of the following alternatives:

      1) Deductive alternative. Under this alternative, the income is deducted from the total grant or project costs to arrive at net costs on which the Federal share of costs will be based. This alternative results in the same size program and unanticipated program income is used to reduce the Federal share and nonfederal share contributions (rather than increase the total funds committed to the grant or project). The income shall be used for current costs unless NPS authorizes deferral to a later period.

To illustrate this alternative: Assume a project in which the grantee incurs $100,000 of allowable costs and receives no third-party in-kind or cash contributions. If the grantee earns $10,000 in general program income and this alternative is chosen, that $10,000 must be deducted from the $100,000 (resulting in $90,000 of total grant costs) before applying the maximum percentage of Federal participation. If the Federal participation is 60 percent, the most that could be paid to the grantee would be $54,000 (60 percent of $90,000).

2) Cost-sharing or matching alternative. Under this alternative, the income is used to finance the nonfederal share of allowable costs of the project or program when approved by NPS. This alternative results in the same size program and the grantee is allowed to use program income as part or all of its contribution towards project costs rather than having to contribute its share from its own resources. The Federal share percentage will remain the same as if there was no program income.

   To illustrate this alternative: Assume the same situation as in the preceding section. Under this alternative, the 60 percent maximum Federal percentage of participation would be applied to the full $100,000 and $60,000 could be paid to the grantee.

3) Additional costs alternative. Under this alternative, the income is used for costs which are in addition to the allowable costs of the project or program but which further eligible program objectives. This alternative is intended to result in a larger program than would otherwise have been operational. Examples of purposes for which the income may be used are:

   a) Expanding the project or program.

   b) Continuing the project or program after grant or subgrant support ends.

   c) Supporting other eligible projects or programs that further the objectives of the National Historic Preservation Act.

   d) Obtaining equipment or other assets needed for the project or program.

3. Program Income -- Proceeds from the sale of real property and sale of equipment and supplies acquired for use. The following kinds of program income shall be treated in accordance with OMB Circular A-102, as codified in 43 CFR 12.71-73 for States and 43 CFR 12.924 for the National Trust (also see Chapter 19, Section D):

   a. Proceeds from the sale of real property purchased or developed under a grant or subgrant intended for direct use in the subgrant project or program rather than for sale or rental.

   b. Proceeds from the sale of equipment and supplies fabricated or purchased under a grant or subgrant and intended for use in the grant or subgrant-supported project or program rather than for sale or rental.

4. Program income -- royalties and other income earned from a copyrighted work. This section applies to royalties, license fees, and other income earned from a copyrighted work developed under a grant or subgrant. This section applies whether a third party or the grantee itself acts as the publisher,

seller, exhibitor, or performer of the copyrighted work. If the recipient of HPF assistance incurs costs to earn the income but does not charge these costs to HPF grant funds, to required matching funds, or to other program income, such costs may be deducted from the gross income in order to determine how much must be treated as program income.

The terms of the grant govern the disposition of income subject to this section. Unless the grant terms treat this kind of income, there are no NPS requirements governing the disposition. A grantee is not prohibited from imposing its own requirements on the disposition of this type of program income which is earned by its subgrantees or contractors, provided those requirements are in addition to and not inconsistent with any requirements imposed by the terms of an HPF grant.

5. Program income - royalties or income earned from patents or from inventions. Unless the grant agreement provides otherwise, grantees will have no obligation to NPS with respect to royalties received as a result of patents or inventions arising out of activities assisted by HPF grants. (See Chapter 19.)

6. Program income - income after grant or subgrant support not otherwise treated. This section applies to program income other than that treated above which arises from or is attributable to an activity while supported by an HPF grant or subgrant, but which does not accrue until after the period of grant or subgrant support has ended. One example is the proceeds from the sale or rental of a residual inventory of merchandise fabricated or purchased by a grant-supported workshop during the period of support.

   The terms of the grant govern the disposition of program income subject to this section. If the terms of the grant do not treat this kind of income, there are no NPS requirements governing the disposition. A grantee is not prohibited from imposing requirements of its own on the disposition of this kind of income which is earned by its subgrantees, provided those requirements are in addition to, and not inconsistent with, any requirements imposed by the terms of the HPF grant.

7. Interest earned on advances of grant funds.

   a. Except where exempted by Federal statute (see paragraph 7.b., below for the principal exception), the National Trust and all subgrantees of a State shall remit any interest or other investment income which exceeds $250 per year earned on advances of HPF grant funds. This includes any interest or investment income earned by subgrantees and contractors on advances to them that are attributable to an advance of HPF grant funds to the grantee. Unless the grantee receives other instructions from the responsible NPS official the grantee shall remit the amount due by check or money order payable to: "National Park Service." The check or money order must be submitted to the Historic Preservation Grants Division, National Park Service, 1849 C Street, N.W. (2255), Washington, DC 20240. The Grant Number should be written on the check and referenced in a cover letter if possible.

   b. Interest earned by all subgrantees (including units of local government) on advances of HPF funds shall be remitted to NPS except for interest earned on advances to States as provided by the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231) and advances made to tribal organizations pursuant to Section 102, 103, or 104 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450).

c. Interest earned on the investment of HPF grant funds will be reported on item 13a of the SF 272 Report of Federal Cash Transactions, with the remittance noted on that form.

d. Grantees are cautioned that they are subject to the provisions of Chapter 21 to minimize the time between the transfer of advances and their disbursement. These provisions apply even if there is no accountability to NPS for interest or other investment income earned on the advances, in order to minimize Federal borrowing.

8. Service Fees. States shall not charge a fee to recipients for any service or activity for which HPF grant assistance is available. This prohibition shall apply to all Program Areas including, but not limited to National Register nominations and tax certifications, whether or not a State chooses to apply available HPF assistance to a particular Program Area for which it wishes to charge fees. However, this prohibition shall not prevent any owner of grant-assisted properties from charging a reasonable nondiscriminatory admission fee, comparable to fees charged at similar facilities in the area (see Covenant Requirements, Chapter 6, Section M.).

   This prohibition does not apply to nominal fees charged for providing public access to existing program information (e.g., duplication/photocopying of existing documentation or publications, access to computer information, and other actions taken to respond to requests from the general public).

9. Application of program income for grant-related purposes. The grantee will elect any of the three alternatives specified in Section B.2., above, if the terms and conditions of the grant do not specify which is to be followed. The grantee will request written approval of its proposed method of disposition from NPS at the time of grant application or by a program amendment. Failure to request and obtain written NPS approval of a proposed disposition method may result in audit questioned costs. The actual use of program income in accordance with the treatment approved by NPS must be documented in the grantee's files for audit purposes and reported in accordance with subsection B.10, below.

10. Reporting program income. Program income will be reported on the SF 272 Report of Federal Cash Transactions Report, or on the SF 270 Request for Advance or Reimbursement (see Chapter 21), in the reporting period in which it was accrued. Grantees will record the receipt and expenditure of revenue (such as taxes, special assessments, levies, fines, etc.) as part of grant transactions when such revenues are specifically earmarked for a grant in accordance with the grant agreement.

Chapter 17 - Procurement Standards

A. Applicability.
This Chapter provides standards and guidelines applicable to procurement of supplies, equipment, construction work, and other services supported with HPF grant funds. These standards are designed to ensure that such materials and services are obtained efficiently and economically and in compliance with applicable Federal laws, and OMB Circular A-102, as codified in 43 CFR 12.76 (for States), and OMB Circular A-110, as codified in 43 CFR 12.940-948 (for the National Trust and non-profit institutions).

B. Grantee/Grantor Responsibility.

1. The grantee is responsible for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant. These include, but are not limited to: source evaluation, protests, disputes, and claims. NPS will not substitute its judgment for that of the grantee unless the matter is primarily a Federal concern. Violations of law are to be referred to the local, State, or Federal authority having proper jurisdiction.

2. Grantees shall use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements for HPF-assisted work conform to the standards set forth in this Chapter and applicable Federal laws. Accordingly, if State or local requirements are more stringent (e.g., State regulations require that all contracts over $10,000 be bid), the grantee must comply with those more restrictive requirements.

3. Grantees should not execute contracts or subgrant agreements until the grant agreement against which costs will be charged has been executed by NPS, unless written NPS authorization for such preagreement costs is obtained (see Chapter 13, Item C.8).

4. Grantees shall maintain a contract administration system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

C. Code of Conduct.
Grantees will maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by HPF funds. No employee, officer, or agent of the grantee shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award: (1) the employee, officer, or agent; (2) any member of his immediate family; (3) his or her partner; or (4) an organization which employs, or is about to employ, any of the above.

The grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subgrant agreements. Grantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by State or local law or regulations, such standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents. Refer to Chapter 3, Section C. for detailed requirements involving conflict of interest.

D. Procurement Procedures.
The grantee shall establish procurement procedures which provide that proposed procurement actions shall be reviewed by grantee officials to avoid the purchase of unnecessary or duplicative items. Consideration should be given to consolidation or breakdown as appropriate, to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease-versus-purchase alternatives, and any other appropriate analysis to determine which approach is the most economical. Grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

E. Contracting with Minority Business Enterprise and Woman Business Enterprise Firms.

1. It is the Federal Government's policy to award a fair share of contracts to Minority Business Enterprises (MBEs) and Woman Business Enterprises (WBEs). The instructions regarding the reporting of MBEs/WBEs under grants and cooperative agreements awarded by the Department of the Interior (DOI) bureaus and offices are based on Executive Orders 11625, 12138, and 12432. In accordance with 43 CFR 12.76 (or 43 CFR 12.944 for nonprofit organizations), affirmative steps must be taken to assure that MBEs/WBEs are utilized when possible as sources of supplies, equipment, construction, and services. The affirmative steps shall include the following:

   # Including qualified MBEs/WBEs on solicitation lists;
   # Assuring that MBEs/WBEs are solicited once they are identified;
   # When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum MBE/WBE participation;
   # Where feasible, establishing delivery schedules which will encourage MBE/WBE participation;
   # Encouraging use of the services of the U.S. Department of Commerce's Minority Business Development Agency (MBDA) and the U. S. Small Business Administration to identify MBEs/WBEs, as required;
   # If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps listed above.

2. Minority Business Enterprise (MBE). An MBE is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners. Executive Order 11652 designates the following:

   a. Black American (with origins from Africa);

   b. Hispanic American (with origins from Puerto Rico, Mexico, Cuba, South or Central America);

   c. Native American (American Indian, Eskimo, Aleut, or native Hawaiian);

d. Asian-Pacific American (with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia, Northern Marianas, Laos, Cambodia, Taiwan, or the Indian subcontinent); or

e. Other groups whose members are U. S. citizens and are found to be disadvantaged by the Small Business Administration pursuant to section 8(d) of the Small Business Act as amended (15 U.S.C. 637(d)), or the Secretary of Commerce.

3. Women's Business Enterprise (WBE). A WBE is a business concern that is,

a. at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women; and,

b. whose daily business operations are managed and directed by one or more of the women owners. Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals.

4. Grantees are encouraged to procure goods and services from labor surplus areas.

F. Types of Contracts.
The types of contracts which are allowable when Federal funds are involved include cost reimbursement contracts, firm fixed-price contracts, fixed-price incentive contracts, or cost-plus-a-fixed-fee contracts. Other types of special contracts may be acceptable, depending upon the individual circumstances. However, cost-plus-a-percentage-of-cost and percentage-of-construction-cost contracts may not be used under any circumstances, and costs incurred under these types of contracts are unallowable.

G. Selection Procedures.

1. All procurement transactions, regardless of whether by sealed bids or by negotiation, and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition consistent with this Chapter. Procurement procedures shall not restrict or eliminate competition. Examples of what is considered to be restrictive of competition include, but are not limited to:

a. placing unreasonable requirements on firms in order for them to qualify to do business,

b. noncompetitive practices between firms,

c. organizational conflicts of interest, and

d. unnecessary experience and bonding requirements.

2. The grantee shall have written selection procedures which stipulate that:

a. Solicitations of offers, whether by competitive sealed bids or competitive negotiation, shall:

1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured but which does not unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. (Detailed product specifications should be avoided.) When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used. The specific features of the named brand which must be met by offerors shall be clearly stated.

2) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals, such as a deadline for completion of project work.

b. Contract awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of proposed procurement. Contractor integrity, compliance with public policy, record of past performance, and financial and technical resources should be considered. (Note: evidence of default, adverse record of past performance, or related factors are necessary to demonstrate lack of responsibility.)

c. Contract awards shall not be made to a former employee, contractor or professional who has developed or has drafted bid specifications, requirements, a statement of work, an invitation for bids, and/or a request for proposals for a particular procurement. Project records must include evidence of an analysis by the SHPO that the solicitation or specifications were nonrestrictive.

3. Consultants. States shall apply State government policies with respect to use and payment of consultant services, shall ensure that those policies apply equally to the use of consultants paid for by HPF grant funds and by other matching funds, and shall ensure that these will include, at a minimum, the standards described below. They do not apply to the use of consultants whose fees are treated as an indirect cost.

4. Written Agreements. Written agreements between the parties shall be executed which detail the responsibilities, standards, and fees. The grantee shall ensure that the agreement includes the following provisions pertaining to consultant conduct:

a. A consultant shall not use his/her position for the actual or apparent purpose of private gain other than payment for services rendered for himself/herself or another person, particularly one with whom he/she has family, business, or financial ties (see Chapter 3, Section C.).

b. A consultant shall not convey inside information that has not become part of the body of public information and that would not be available upon request, directly to any person for the purpose of private gain for himself/herself or another person, particularly one with whom he/she has family, business, or financial ties.

c. A consultant shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his/her employment with the grantee, except when that information has been made available to the general public or will be made available upon request, or when the SHPO gives written authorization for the use of non-public information on the basis that the use is in the public interest.

H. Methods of Procurement.
Procurement under HPF grants shall be made by one of the following methods: 1) small purchase procedures; 2) competitive sealed bids (formal advertising); 3) competitive negotiation; 4) noncompetitive negotiation. (See Section J, below, concerning required documentation and Chapter 24, for information relating to retention of procurement records.)

1. Small purchase procedures. Small purchase procedures are simple, informal methods (i.e., imprest funds, purchase orders, blanket purchase agreements) used for a procurement of services, supplies or other property, costing in the aggregate not more than $100,000. Grantees shall comply with State or local small purchase dollar limits if they are lower than the Federal Threshold of $100,000. If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources to assure competition.

2. Competitive sealed bids. In competitive sealed bids (formal advertising), sealed bids are publicly solicited, and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest in price, and is most advantageous to the grantee, considering price, discounts, transportation costs, taxes, and the contractor's ability to fulfill the contract.

   a. In order for formal advertising to be feasible, the following conditions must be present:

      1) A complete, adequate and realistic specification or purchase description is available, which avoids unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders.

      2) Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.

      3) The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

   b. If formal advertising is used for a grant procurement, the following requirements apply:

      1) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. (The period allowed for bids to be submitted should generally be at least 20 to 30 calendar days.) In addition, the invitation shall be publicly advertised.

      2) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

      3) All bids shall be opened publicly at the time and place stated in the invitation for bids.

      4) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to

determine low bid when prior experience of the grantee indicates that such discounts are generally taken.

5) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program. If all bids are rejected as too costly, and the scope of work is then substantially altered, the work must be re-advertised.

c. Guide to Formal Advertising. Formal advertising, with adequate purchase descriptions, sealed bids, and public openings will be the required method of procurement unless negotiation is necessary to accomplish sound procurement. Procurements of $100,000 or less need not be formally advertised unless otherwise required by State or local law or regulation.

Formal advertising includes placing the "Invitation to Bid" in a major newspaper that covers the area affected by the project. Notices should be published at least three times (which can be either three successive times in one publication, or published one time simultaneously in three different publications). Use of pre-selected bid lists, posting in public places, and publication in trade journals and magazines are legitimate steps to ensure free and open competition and reflect prudent administration of Federal funds if used in conjunction with newspaper and other mass media announcements. Minimum documentation of formal advertising for audit purposes consists of a copy of the actual advertisement run in appropriate newspapers with an invoice showing the dates published.

The formal advertisement must state that Federal funds are involved and that compliance with all applicable Federal, State, and local laws, rules, and regulations is required. After all bids are received, they should be tabulated and summarized in a manner that will facilitate comparison of the relative advantages and disadvantages of each bid. In awarding contracts which include additive and deductive bid items, the award procedures should include a disclosure of the selection priority for these items. This tabulation and/or summary should be signed and dated to provide documentation as to the basis for awarding the bid.

It is not always necessary to award the contract to the lowest bidder simply because it is the lowest. There may be important considerations that obviate such action, such as State or local laws and regulations which make provisions for implementation of socioeconomic programs giving priority to the disabled, small business, or minority-owned contractors. However, the justification for doing so should be documented in writing. NPS should be consulted when there is: (1) failure to receive a sufficient number of bids; (2) great disparity in bid quotations; or (3) intent to award a contract to other than the low bidder.

If no bid or no acceptable bids are received, a contract can be negotiated for the same scope of work if each bidder is given notice of this intent and a reasonable opportunity to negotiate. In such circumstances, notices concerning negotiations should be sent to all bidders, if any, by certified mail with "signed receipt requested" to provide documentation of compliance. Any material change in the invitation to bid, including changes in specifications, would necessitate re-advertising.

In accordance with OMB Circular A-110, nonprofit grantees may select the most appropriate procurement procedure without prior concurrence by NPS, unless a sole source procurement in

excess of $100,000 is involved. However, nonprofit grantees must maintain procurement records for all purchases in excess of $100,000 which shall include the following: (1) basis for contractor selection; (2) justification for lack of competition when competitive bids or offers are not obtained; and (3) basis for award cost or price.

3. Competitive negotiation. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is distributed to several prospective bidders, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may only be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the following requirements shall apply:

   a. Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposals shall be publicized (distributed to several prospective bidders; it does not require publication) and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

   b. The Request for Proposals shall identify all significant evaluation factors, including price or cost where required and their relative importance.

   c. The grantee shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

   d. Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.

   e. Grantees must use competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. Resumes, references, and past work experience will be evaluated to assess professional qualifications for procurement of professional services.

4. Noncompetitive negotiation. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising), or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

   a. The item is available only from a single source (which is often best documented after no responses are received from a preliminary formal advertising);

   b. Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation;

c. NPS authorizes in writing noncompetitive negotiation because of compelling special circumstances; or

d. After solicitation of a number of sources, competition is determined inadequate.

I. Cost or Price Analysis.
Grantees shall perform some form of cost or price analysis in connection with every procurement action, including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles. In particular, a change order must not be used to increase the cost of a contract which was deliberately underbid to get the award. Change orders to adjust the cost of the contract without an increase in scope may be adjusted for materials and labor costs only. The fixed fee profit amount must remain the same.

J. Grantee Procurement Records.
Grantees shall maintain records sufficient to detail the history of a procurement. These records shall include, but are not necessarily limited to the following information: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for cost or price.

K. Contract Provisions.
In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all grant-related contracts and subcontracts:

1. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanction and penalties as may be appropriate.

2. All contracts in excess of $100,000 shall contain suitable provisions for termination by the grantee, including the manner by which it will be effected and the basis for settlement.

3. All construction contracts in excess of $100,000 awarded by grantees and their contractors or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled " Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60). (See Chapter 18.)

4. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to NPS.

5. The National Historic Preservation Act is silent about and therefore does not require compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7). Therefore State law and administrative procedures govern whether all construction contracts in excess of $2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act.

However, HPF grantees should be aware that the provisions of the Davis-Bacon Act are applicable when: Community Development Block Grant (CDBG) monies are used as the nonfederal share of an HPF grant; or supplemental funding is provided through a Federal program to which the Davis-Bacon Act applies (see Chapter 14, Section L, Use of Federal Funds).

6. The National Historic Preservation Act is silent about and therefore does not require compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330). Therefore State law and administrative procedures govern whether all contracts awarded by grantees and subgrantees in excess of $2,000 for construction contracts, and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act regarding overtime pay and safe working conditions.

7. The contract shall include notice of NPS requirements and regulations pertaining to reporting and patent rights under any contract involving research, developmental, experimental, or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of NPS requirements and regulations pertaining to copyrights and rights in data (see Chapter 19).

8. All negotiated contracts awarded by grantees (except those awarded by small purchase procedures) shall include a provision to the effect that the grantee, the Department of the Interior, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcription. Grantees shall require contractors to maintain all required records for 3 years after grantees make final payments and all other pending matters are closed.

9. Contracts, subcontracts, and subgrants of amounts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency (NPS) and to the EPA Assistant Administrator for Enforcement.

10. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-165). NPS may require changes, remedies, changed conditions, access and record retention, and suspension of work clauses approved by the Office of Federal Procurement Policy.

L. Bonding and Insurance.

Grantees are to follow their own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those over $100,000 NPS may accept the grantee's procedures if NPS determines that the Federal Government's interests are adequately protected (see 43 CFR 12.76 or 43 CFR 12.948(c)).

1. Definitions.

   a. Bid guarantee. A bid guarantee is a firm commitment, such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

   b. Performance bond. A performance bond is a bond executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

   c. Payment bond. A payment bond is executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract.

2. Contracts for Construction.

   a. Bids and contracts of $100,000 or less. Except as otherwise required by law, the grantee shall follow its own regular requirements and practices relating to bid guarantees, performance bonds, and payment bonds.
   b. Bids and contracts exceeding $100,000. The recipient may follow its own regular policy and requirements if NPS has determined that the Federal Government's interest will be adequately protected. If this determination has not been made, the minimum requirements shall be as follows:

      1) A bid guarantee from each bidder equivalent to 5 percent of the bid price;

      2) A performance bond on the part of the contractor for 100 percent of the contract price; and

      3) A payment bond on the part of the contractor for 100 percent of the contract price.

3. Sources of Bonds. Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties (31 CFR 223). A list of these companies is published annually by the Department of the Treasury in its Circular 570 (the current list can be accessed at **http://www.fms.treas.gov/c570/c570.html**). The Department of the Treasury Circular 570 may also be obtained from the Government Printing Office, 732 North Capitol St. NW • Washington, DC 20401 (202) 512-1800.

M. Record keeping and Access to Contractor Records.
43 CFR 12.76 and 43 CFR 12.948 both require grantees (and subgrantees) to include in specified kinds of contracts a provision for access to the contractors' records by the grantee and by the Federal Government. The following applies to the provision:

1. The provision must require the contractor to place the same provision in any subcontract which would have to have the provision were it awarded directly to the subgrantee.

2. The provision must require retention of records for 3 years after final payment is made under the contract or subcontract and all pending matters are closed. The provision must also require that, if an

audit, litigation, or other action involving the records is started before the end of the 3-year period, the records must be retained until all issues arising out of the action are resolved or until the end of the 3-year period, whichever is later.

3. In contracts and subcontracts under a subgrant, the provision must require that access to the records be provided to the grantee as well as the subgrantee and the Federal Government.

EXHIBIT 17-A MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND OTHER FEDERAL FINANCIAL ASSISTANCE

OMB NOS. 9999-0001 AND 0640-0017

PART 1. (REPORTS ARE REQUIRED QUARTERLY EVEN IF NO CONTRACTS TO MBE/WBE FIRMS WERE MADE)			
1.A. FEDERAL FISCAL YEAR	1.B. REPORTING QUARTER (Check appropriate box) _____ 1st (Oct.-Dec.) _____ 2nd (Jan.-Mar.) _____ 3rd (Apr.-Jun.) _____ 4th (Jul.-Sep.)		
2.FEDERAL FINANCIAL ASSISTANCE AGENCY (Department/Agency, Bureau/Administrating Office, Address)		3.REPORTING RECIPIENT (Name and Address)	
2.A. REPORTING CONTACT	PHONE:	3.A. REPORTING CONTACT	PHONE:
4.A.FINANCIAL ASSISTANCE AGREEMENT ID NUMBER		4.B.FEDERAL FINANCIAL ASSISTANCE PROGRAM 15.904 HISTORIC PRESERVATION	
4.C. TYPE OF FEDERAL ASSISTANCE AGREEMENT ____ GRANT		____ COOPERATIVE AGREEMENT OTHER FEDERAL FINANCIAL ASSISTANCE	
5.A. PERIOD WHEN PROCUREMENT UNDER THIS AWARD WILL OCCUR START DATE:		END DATE:	
5.B. AMOUNT OF TOTAL PROJECT DOLLARS PLANNED FOR PROCUREMENT THIS FISCAL YEAR	5.C. RECIPIENT'S MBE/WBE GOALS (Percent of total procurement dollars (5b) for each) MBE _____ %	WBE %	
5.D. MBE/WBE PROCUREMENT ACCOMPLISHED THIS QUARTER MBE $ _____	WBE $	5.E. NEGATIVE REPORT (Check) _____ SEE INSTRUCTIONS	
6. COMMENTS:			
7. NAME OF AUTHORIZED REPRESENTATIVE		TITLE	
8. SIGNATURE OF AUTHORIZED REPRESENTATIVE		DATE	

STANDARD FORM 334 AUTHORIZED FOR LOCAL REPRODUCTION

MBE/WBE PROCUREMENT OVER $10,000 MADE DURING REPORTING QUARTER

PART II.

Procurement Made By		Business Enterprise		$ Value of Procurement	Date of Award (MM/DD/YY)	* Type of Product or Service (Enter Code)	Name/Address of MBE/WBE Contractor or Vendor
Recipient	Other	Minority	Women				

*
Type of Product Service Codes

1. Agriculture	5. Transportation	9. Services	a=Business Services
2. Mining	6. Whole Sale Trade	10. Other	b=Professional Services
3. Construction	7. Retail Trade		c=Repair Services
4. Manufacturing	8. Finance, Insurance, Real Estate		d=Personal Services

Exhibit 17-A (Continued)

INSTRUCTIONS for MBE Report (SF 334)

MBE/WBE UTILIZATION UNDER FEDERAL GRANTS, COOPERATIVE AGREEMENTS, AND OTHER FEDERAL FINANCIAL ASSISTANCE

A. General Instructions: MBE/WBE utilization is based on Executive Orders 11625, 12138 and 12432 and OMB Circular A-102. Standard Form 334 must be completed by recipients of Federal grants, cooperative agreements, or other Federal financial assistance valued at $500,000 or more and which involve procurement of supplies, equipment, construction or services to accomplish Federal assistance programs. **Even if no procurements involving minority firms were awarded, a report must be filed each quarter by grantees who receive more than $500,000 of Federal assistance.**

Recipients are required to report to agency award officials within 15 calendar days following the end of each Federal fiscal year quarter (i.e., January, April, July, and October).

B. Definitions: Procurement is the acquisition through order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish federal assistance programs.

A minority business enterprise (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one ore more minority individuals and (2) whose daily business operations are managed and directed by one ore more of the minority owners.

There is no standard definition of minority individuals used by all Federal assistance agencies. However, recipients shall presume that minority individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, or other groups whose members are found to be disadvantaged by the Small Business Act or by the Secretary of Commerce under Section 5 of Executive Order 11625. The reporting contact at your Federal financial assistance agency can provide additional information.

A woman business enterprise (WBE) is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women: and, (2) whose daily business operations are managed and directed by one or more of the women owners.

Business firms which are 51 percent owned by minorities or women, but are in fact managed and operated by non-minority individuals do not qualify for meeting MBE/WBE procurement goals.

C. Instructions for Part 1:

1. Complete Federal fiscal year and check applicable reporting quarter. (Federal fiscal year runs from October 1 through September 30.)

2. Identify the Federal financial assistance department or agency including the bureau, office or other subactivity which administers your financial assistance agreement.

3. Identify the agency, state, authority, university or other organization which is the recipient of the Federal financial assistance and the person to contact concerning this report.

4a. Assistance agreement number assigned by Federal financial assistance agency.

4b. If appropriate, identify specific department or agency Federal financial assistance program under which this project is awarded.

4c. Check type of Federal assistance.

5a. Period during which contracts and other purchases under this award will actually be executed.

5b. Includes procurement using Federal funds plus recipient matching funds and funds from other sources.

5c. Portion of total procurement dollars recipient plan to spend with MBEs or WBEs this fiscal year. With the concurrence of the Federal financial assistance agency, a fair share goal shall be determined by each recipient.

5d. Dollar amount of all MBE/WBE contracts awarded under this assistance agreement this quarter.

5e. Check only if one or more procurements in excess of $10,000 were executed this reporting quarter but no MBE/WBE procurements occurred. Sign and date form and return it to Federal financial assistance agency.

6. Additional comments or explanations. Please refer to specific item number(s) if appropriate.

7. Name and title of official administrator or designated reporting official.

8. Signature and month, day, year report submitted.

D. Instructions for Part II: For each MBE/WBE procurement over $10,000 made under this assistance agreement during the reporting quarter, provide the following information. (Recipients may also report on individual MBE/WBE procurements of less than $10,000 if they want these credited toward their MBE/WBE goals. However, reporting on smaller procurements is not required.)

1. Check whether this is a first tier procurement made directly by Federal financial assistance recipient or other second tier procurement made by recipient's subgrantee or prime contractor. Include all qualifying second tier purchases executed this quarter regardless of when the first tier procurement occurred.

2. Check MBE or WBE.

3. Dollar value of procurement.

4. Date of award, shown as month, day, year.

5. Using codes at the bottom of the form, identify type of product or service acquired through this procurement (e.g., enter 1 if agriculture, 2 if mining, etc.).

6. Name and address of MBE/WBE firm.

Chapter 18 - Equal Employment Opportunity Construction Contract Compliance

A. Purpose.
This Chapter implements certain compliance procedures required by Executive Order 11246, and by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor (41 CFR 60-4). These regulations apply to all federally-assisted construction contracts and subcontracts in excess of $10,000. In determining whether HPF-assisted construction contracts exceed this dollar limit, the total amount of the contract awarded, rather than the amount of Federal assistance, shall apply.

B. Women and Minority Construction Hiring Goals.
The Department of Labor has developed regulations regarding goals and timetables for female and minority participation in the construction industry (41 CFR 60-4). Certain geographic areas have been established for the purpose of establishing goals for minority participation in the construction industry. A list of these geographic areas is found in the Federal Register of May 5, 1978: goals and timetables established for women are national in scope and apply uniformly throughout the Nation, and are found in Appendix A of Women and Minorities in Construction; goals and timetables established for minorities apply only in the specific geographic areas listed in Appendix B of Women andMinorities in Construction.

C. Grantee Responsibilities.
The following are grantee responsibilities under Executive Order 11246 for HPF construction projects as well as responsibilities which must be required of subgrantees:

The grantee must provide a copy to contract bidders of the " Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity," including goals which are to be inserted by contracting officer or applicant. (See Exhibit 18-A of this Chapter.) Goals may be obtained from the OFCCP.

1. For construction contracts over $10,000 the following must be included in the contract:

   a. " Equal Opportunity Clause" (This may be included by reference; see Exhibit 18-C.)

   b. "Standard Federal Equal Employment Opportunity Construction Contract Specification" (see Exhibit 18-B.)

   c. "Certification of Non-Segregated Facilities" signed by prime contractor and subcontractor. (See Exhibit 18-D)

2. Provide notice of contract awards subject to these provisions to Director of OFCCP within 10 days after the award (including name, address and telephone number of contractor, employer identification number, dollar amount of contract, estimated starting and completion dates, contract number, and geographical area in which the contract is to be performed). Notice is to be

sent to OFCCP's Regional Office or Area office. The location of these offices is listed in Section F, below.

3. Ensure that EEO posters are displayed at federally assisted construction sites. Posters may be obtained from OFCCP.

4. Ensure that contractors engaged in federally assisted construction contracts are providing data and reports to the appropriate OFCCP regional office as required or requested.

5. Ensure that the provisions of the "Equal Opportunity Clause" (Exhibit 18-C) are also followed for construction contracts involving force account labor (see Glossary).

6. Pursuant to Executive Order 11246, carry out sanctions and penalties imposed by the Secretary of Labor upon the federally assisted construction contractor or subcontractor, and refrain from entering into any contract, extension of a contract, or other modification of such a contract with a contractor debarred from Government contracts under this Order. Debarred contractors are listed at the General Services Administration web site at **http://www.epls.gov/**

D. Contractor Responsibilities.
The following are the responsibilities of federally assisted construction contractors under Executive Order 11246.

1. Abide by the provisions of the "Equal Opportunity Clause" (Exhibit 18-C).

2. Abide by the provisions of the following: "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity." (Exhibit 18-A), and "The Standard Federal Equal Employment Opportunity Construction Contract Specification." (Exhibit 18-B).

3. Ensure that personnel decisions are also in accordance with the following:

   a. Uniform Guidelines on Employee Selection Procedures (see 41 CFR 60-3).

   b. Guidelines Restricting Sex Discrimination (see 41 CFR 60-20).

   c. Guidelines on Restricting Discrimination Because of Religion or National Origin (see 41 CFR 60-50).

4. Incorporate into all subcontracts the following:

   a. "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity." (Exhibit 18-A)

   b. "The Standard Federal Equal Employment Opportunity Construction Contract Specification". (Exhibit 18-B)

   c. "The Equal Opportunity Clause." (Exhibit 18-C)

5. Provide data and reports to OFCCP as required or requested, including the following:

    a. One-time notification within 10 days of all construction projects in the designated geographic area, Federal and nonfederal, by agency, contract number, location, estimated dollar value, percent completed and project completion date.

    b. Notification of any subsequent construction work (Federal and nonfederal) in the designated geographic area in excess of $10,000.

    c. Workforce Utilization Report to be filed monthly (Form CC-257, available from OFCCP, see Section F for the OFCCP address).

6. Maintain non-segregated facilities.

7. Include a signed "Certification of Non-Segregated Facilities" in contracts and require sub-contractors to include a signed "Certification of Non-Segregated Facilities." (See Exhibit 18-D.)

8. Expressly state in all employment solicitation or advertising that the contractor is an Equal Opportunity Employer.

9. Display Equal Opportunity Poster.

10. Allow OFCCP personnel access to site, records, and employees for purpose of determining the contractor's compliance status.

11. Refrain from entering into contracts with contractors debarred from Federal contracts or federally assisted construction contracts. A list of debarred contractors is available at the General Services Administration web site at http://www.epls.gov/.

E. Sanctions.
In the event of noncompliance with the provisions of this Chapter, sanctions outlined in Section 303(b) of Executive Order 11246 and 41 CFR 60-1.4(b) may include one or all of the following NPS actions:

1. Cancellation, termination, or suspension, in whole or in part, of the grant.

2. Refraining from extending any further assistance to the grantee or subgrantee until satisfactory assurance of future compliance has been received.

3. Referring the case to the U.S. Department of Justice for appropriate action.

F. Complaints.
States and local project sponsors receiving complaints alleging violation of Executive Order 11246, as amended, by contractors or by any of their subcontractors shall promptly transmit such complaints to the appropriate Department of Labor Regional Office; (Office of Federal Contract Compliance Programs). A list of OFCCP's Regional, District, and Area Offices' addresses and telephone listings is available from the Office of Federal Contract Compliance Programs.

Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210
OFCCP-Public@dol.gov.
1-800-397-6251

EXHIBIT 18-A NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

TIMETABLES	Goals for Minority Participation for Each Trade	Goals for Female Participation in Each Trade
	(Insert Goals for Each Year)	(Insert Goals for Each Year)

These goals are applicable to all the Contractor's construction work (whether it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on the Contractor's implementation of the Equal Employment Clause, specific affirmative action obligations required by the specification set forth in 41 CFR 60-4.3(a), and the Contractor's efforts to meet the goals established for the geographical areas where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor-to-Contractor or from project-to-project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the State, county and city, if any).

EXHIBIT 18-B STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

   a. "Covered area" means the geographic area described in the solicitation from which this contract resulted.

   b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

   c. "Employer identification number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

   d. "Minority" includes:

      (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin):

      (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

      (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

      (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, the Contractor/Subcontractor shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which the contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, the Contractor's affirmative action obligations on all work in the Plan Area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with their obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse

any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan's goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of this Attachment. The goals set forth in the solicitation are expressed as percentages of the total hours of employment and training that the Contractor should reasonably be able to achieve for minority and female utilization in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward these goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women, shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Training must be in accordance with training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon the Contractor's efforts to achieve maximum results from these actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

    a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

    b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or the Contractor's union have employment opportunities available, and maintain a record of the organizations' responses. (See Chapter 17, Section E.2.)

    c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

    d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person

or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's effort to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the areas which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractors' employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b, above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper; annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment sources, the Contractors shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.

l. Conduct, at least annually, an inventory and evaluation of at least all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of the affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community (or other similar group of which the contractor is a member and participant), may be asserted as fulfilling any one or more of their obligations under 7a through 7p of these specifications provided that:

   a. the contractor actively participates in the group,

   b. makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry,

   c. ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation,

   d. makes a good faith effort to meet its individual goals and timetables,

   e. and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor.

   The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in substantially disparate manner (for example, even though the Contractor has achieved the goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables of affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling the obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of this Attachment, so as to achieve maximum results from the efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions thereof as may be required by the Government, and keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other area residents (e.g., those under the Community Development Block Grant Program).

EXHIBIT 18-C EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor codified as 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees to the following:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure the applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

3. The contractor will send to each labor union or representative of workers with which the Contractor has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order 11246, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and others.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided in that Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in

the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees to be bound by the above equal opportunity clause with respect to its own employment practices when participating in federally assisted construction work; provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees to assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, to furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and to otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees to refrain from entering into any contract or contract modification subject to Executive Order 11246, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally-assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that failure or refusal to comply with these undertakings may cause the administering agency to take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant, contract, loan, insurance, guarantee; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the U.S. Department of Justice for appropriate legal proceedings.

EXHIBIT 18-D CERTIFICATION OF NON-SEGREGATED FACILITIES

(Applicable to federally assisted construction contracts and related subcontracts exceeding $10,000 which are not exempt from the Equal Opportunity clause).

The federally-assisted construction contractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he does not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally-assisted construction contractor certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The federally-assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting room, work area, rest rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. The federally-assisted construction contractor agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause, and that he/she will retain such certifications in his/her files.

_____

Signature Date

_____

Name and Title of Signer (Please Type)

(NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.)

Chapter 19 - Property Management Standards

A. Purpose.
This Chapter sets forth standards governing the acquisition, use, and disposition of real property, equipment, and supplies purchased in whole or in part with HPF grant assistance in accordance with OMB Circulars A-102 (as codified in 43 CFR 12.71-73), and Circular A-110 (as codified in 43 CFR 12.930-937). To be considered acquired with HPF grant support, some or all of the property's acquisition cost must be a direct cost under the grant, a subgrant, or a cost-type contract and must be either borne by grant funds or counted toward satisfying a grant matching requirement. This Chapter also deals with inventions, patents, and copyrights arising out of activities assisted by a grant or subgrant. Grantees must follow their own property management policies and procedures provided the requirements of this Chapter are observed. NPS shall not impose additional property management requirements on grantees unless specifically required by Federal laws or Executive Orders.

B. Scope and Applicability.
The provisions of this Chapter apply to both grantees and subgrantees. It is the grantee's responsibility to ensure that its subgrantees, including Certified Local Governments, comply with these property management standards.

Exceptions. This Chapter does not apply to:

1. property where only depreciation or use allowances are charged;

2. property donated entirely as a third-party in-kind contribution (as defined in Chapter 14);

3. equipment or supplies acquired primarily for sale or rental;

4. equipment or supplies acquired by a contractor under a grant or subgrant when, by the terms of the contract, title is not vested in the grantee or subgrantee; or

5. real property purchased with HPF grant assistance when title is subject to the preservation covenant, unless otherwise specified in the grant agreement, or unless the property will be used by the grantee for office space.

C. Definitions.

1. Real property. Land, land improvements, structures, and appurtenances thereto, but excluding movable machinery and equipment.

2. Personal property. Property of any kind except real property. Such property may be tangible (having physical existence) or intangible (having no physical existence, such as patents, inventions, or copyrights).

3. Nonexpendable personal property. Tangible personal property, including equipment, having a useful life of more than 1 year and an acquisition cost of $5,000 or more per unit. A grantee may

use its own definition of nonexpendable personal property provided that such definition includes at least all tangible personal property as defined here.

4. Expendable personal property. Tangible personal property other than nonexpendable personal property.

5. Acquisition cost of purchased nonexpendable personal property. The net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or in-transit insurance, will be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices. If the item is acquired by trading in another item and paying an additional amount, “acquisition cost" means the amount received for trade-in plus the additional outlay. The term does not include rental of property or alterations and renovations of real property.

D. Property Management Standards.

1. Real property acquired for historic preservation purposes. Where HPF monies are used to assist private individuals and organizational entities or non-State government public bodies to acquire title to real property when the purpose is to preserve and maintain a property for a term of up to 20 years for public benefit, the grantee will be considered a "pass-through" agent only. Titles to such federally assisted property will vest in the non-State property owner.

   Use and disposition of the real property will be in accordance with the terms and conditions of the preservation covenant or agreement executed between the grantee and the property owner.

2. Real property acquired for administration of program operations. The provisions of this section apply to HPF-assisted properties purchased for use in administering program operations or in carrying out program objectives. The use and disposition of real property acquired wholly or in part with HPF assistance by the grantee (as deedholder) will be governed by the following requirements:

   a. Real property acquired for HPF grant-supported activities shall be used by the grantee solely for authorized purposes.

      When the grantee no longer needs the property to conduct HPF grant-supported activities, the grantee may request approval from NPS to use the property for other purposes. Use for other purposes shall be limited to:

      1) Projects or programs supported by other Federal grants or assistance agreements; or

      2) Activities or programs having purposes consistent with those authorized for support by NPS.

   b. Title to real property acquired for administration will vest in the grantee (not the subgrantee) subject to the condition that the grantee will use the real property for the authorized purpose of the grant.

c. Disposition. When the real property is no longer to be used as provided in subsection 2.a., above, the grantee shall request disposition instructions from NPS. The instructions will provide for one of the following alternatives:

1) The grantee may be permitted to retain title after it compensates NPS in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

2) The grantee may be directed to sell the property under guidelines provided by NPS and pay NPS an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

3) The grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the grantee shall be entitled to compensation computed by applying the grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

3. Nonexpendable personal property. When nonexpendable tangible property is acquired by a grantee with HPF funds, title shall not be taken by the Federal Government but shall vest in the grantee subject to the following conditions:

a. Right to transfer title. For items of nonexpendable personal property having a unit acquisition cost of $5,000 or more, NPS reserves the right to transfer the title to the Federal Government or to a third party named by NPS when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

1) The property shall be appropriately identified in the grant or otherwise made known to the grantee in writing.

2) NPS shall issue disposition instructions within 120 calendar days after the end of the Federal support of the program or project for which it was acquired. If the NPS fails to issue disposition instructions within the 120 calendar-day period, the grantee shall apply the standards of subsections 3.c. and 3.d., below, as appropriate.

3) When the NPS exercises its right to take title, the property shall be subject to the provisions for federally owned nonexpendable personal property. Disposition instructions will be provided by NPS on a case-by-case basis.

4) When title is transferred either to the Federal Government or to a third party, the provisions of subsection 3.c.2 (b) should be followed.

b. Use of other tangible nonexpendable property for which the grantee has title.

1) The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the grantee shall use the property in connection with its other federally sponsored activities, in the following order of priority:

a) Activities sponsored by NPS;

b) Activities sponsored by other Federal agencies.

2) Shared use. During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by NPS; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by NPS. User charges should be considered if appropriate, but must be treated as program income (see Chapter 16).

c. Disposition of other nonexpendable property. When the grantee no longer needs the property as provided in 3.b., above, the property may be used for other activities in accordance with the following standards:

1) Nonexpendable property with a unit acquisition cost of less than $5,000: the grantee may use the property for other activities without reimbursement to the NPS or sell the property and retain the proceeds.

2) Nonexpendable personal property with a unit acquisition cost of $5,000 or more: The grantee may retain the property for other uses provided that compensation is made to NPS. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from NPS.

NPS shall determine whether the property can be used to meet NPS requirements. If no requirement exists within NPS, the availability of the property shall be reported to the General Services Administration by NPS to determine whether a requirement for the property exists in other Federal agencies. NPS shall issue instructions to the grantee no later than 120 days after the grantee request and the following procedures shall govern:

a) If so instructed or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse NPS an amount computed by applying to the sales proceeds the percentage of Federal

participation in the cost of the original project or program. However, nonprofit grantees shall be permitted to deduct and retain from the Federal share $500 or 10 percent of the proceeds, whichever is less, for the grantee's selling and handling expenses (in accordance with 43 CFR 12.934(g)(1)).

b) If the grantee is instructed to ship property elsewhere, the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

d. Property management standards for nonexpendable property. The grantee's property management standards include the following procedural requirements:

1) Property records shall be maintained accurately and shall include:

a) A description of the property.

b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

c) Source of the property, including grant or other agreement number.

d) Whether title vests in the grantee or the Federal Government.

e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

g) Location and condition of the property and the date the information was reported.

h) Unit acquisition cost.

i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where the grantee compensates NPS for its share.

2) Property owned by the Federal Government must be marked to indicate Federal ownership interest.

3) A physical inventory of property shall be taken and the results reconciled with the property records at least every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection

with the inventory, verify the existence, current utilization, and continued need for the property.

4) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify NPS.

5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

6) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

4. Expendable personal property. Title to expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $5,000 in total aggregate fair market value, upon termination or completion of the grant, and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must, in either case, compensate the Federal Government for the Federal share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

5. Intangible property.

a. Inventions and patents. If any grant-assisted activity or project work produces patentable items, rights, processes, or inventions, in the course of work sponsored by NPS, such fact will be promptly and fully reported to NPS. Unless there is a prior agreement between the grantee and NPS on disposition of such items, NPS will determine whether protection on the invention or discovery will be sought. NPS will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, will be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" as printed in 36 Federal Register 16889. Nonprofit recipients are subject to applicable regulations governing patents and inventions, including Governmentwide regulations issued by the Department of Commerce and codified as 37 CFR 401.

b. Copyrights. Except as otherwise provided in the terms and conditions of the grant agreement, the author or grantee is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a project financed by NPS. However, any such copyrighted materials will be subject to a royalty-free, nonexclusive, and irrevocable license to the Federal Government to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

6. Federal rights to data and copyrights.

a. The term "subject data" used in this section includes writings, technical reports, sound recordings, magnetic recordings, computer programs, computerized data bases, pictorial

reproductions, plans, drawings, specifications, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are

1) submitted with a proposal or grant application; or

2) specified to be delivered under an NPS grant; or

3) developed or produced and paid for in whole or in part by an NPS grant. The term does not include financial reports, cost analysis, and other information incidental to grant administration.

b. Except as may otherwise be provided in the grant agreement, when publications, films, or similar materials are developed directly or indirectly from a program, project, or activity supported by NPS funds, the author is free to arrange for copyright without approval. However, such materials must include an acknowledgment of NPS grant assistance (Chapter 3, Section C.7., provides the required statement).

As a condition of grant assistance, the grantee agrees to, and awards to the Government and its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Government purposes, to publish, translate, reproduce, and use all subject data or copyrightable material based on such data covered by the copyright.

c. The grantee shall not include in the subject data any copyrighted matter without the written approval of the copyright owner. Such approval must include permission for the Government to use the material in the manner provided in subsection 6.b., above.

d. Nothing contained in the foregoing shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other rights otherwise granted to the Government under any patent.

e. Unless otherwise limited below, the Government may, without additional compensation to the grantee, reproduce, publish, or otherwise use the data first produced under an award; and authorize others to receive, reproduce, publish, or otherwise use the data for Federal purposes.

f. Notwithstanding any provisions of any grant or specific limitations concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate, or ignore any marking not authorized by the terms of a grant on any piece of subject data furnished under the grant.

Chapter 20 - Uniform Relocation Assistance and Real Property Acquisition Policies

A. Purpose and Policy.
This Chapter provides for the application of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, to undertakings by State agencies funded with financial assistance from the Historic Preservation Fund. The Relocation Act provides for the uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs. It also establishes uniform and equitable land acquisition policies for Federal and federally assisted programs. The procedures described in this part are based on the Governmentwide rule in 49 CFR 24 implementing the Relocation Act.

The provisions of the Relocation Act and the requirements of this Chapter apply to the acquisition of all real property for, and the relocation of all persons displaced by, projects which receive Historic Preservation Fund assistance for all or part of the project cost and which involve public subgrantees or the State as current owner or buyer. The provisions of the Relocation Act requiring relocation assistance for displaced persons, businesses or farm operations do not apply to acquisition or development projects undertaken by private or nonprofit subgrantees. However, it is NPS policy that the uniform property acquisition standards (Section B, below) do apply to all projects regardless of the type of subgrantee involved.

For the purposes of this Chapter, “State agency” shall include any department, agency, or instrumentality of a State or of a political subdivision of a State, or any department, agency, or instrumentality of two or more political subdivisions of a State or States.

B. Acquisition Involving no Federal Assistance.
The Relocation Act and these regulations apply even when HPF funds are not used for the cost of the purchase of real property acquired for the assisted projects. When the purchase of property by a grantee without Federal financial assistance results in the displacement of any person, business, or farm operation, eligibility for Historic Preservation Fund assistance for the later development of the property will depend on the following criteria:

1. If the acquisition or development occurred within the 2 years preceding the time the grantee submits a funding application, the grantee must provide the assurances required by Sections 210 and 305 of the Relocation Act (see Section C, below) or a written certification (see subsection B.4., below) as part of the application. The certification must state that at the time of the acquisition and displacement, the grantee had not yet initiated planning activity to obtain NPS assistance. The statement must be signed and dated with the certifying official's name, title, and agency.

2. If the acquisition and last displacement occurred more than 2 but less than 5 years before the grantee applies for HPF assistance, the grantee need not provide the assurances required by Sections 210 and 305 of the Relocation Act unless written certification is provided as part of the project application by the head of the State or local government agency sponsoring the project.

The Certification will indicate that at the time of the acquisition and last known displacement, such agency had not yet initiated planning activity to obtain the particular Federal assistance being applied for.

3. If the acquisition and last displacement occurred more than five (5) years before the State applies for HPF assistance the State need not provide the assurances required by Section 210 and 305 of the Relocation Act, unless the Service has evidence to indicate that at the time of the acquisition and last known displacement, the State or local government had initiated planning activity to obtain the particular Federal assistance being applied for. In such case, Sections 210 and 305 assurances will be required.

4. A sample certification is as follows:

   I, _____, _____
   (NAME) (TITLE - AGENCY)
   hereby certify, under penalty for willful misstatement (18 U.S.C. 1001)* that at the time of the acquisition and last known displacement on the project property for which this Federal financial assistance is being sought, no planning had been initiated by this agency to obtain this financial assistance.

   _____
   (SIGNATURE)

   _____
   (DATE)

* "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up any trick, scheme, or device or material fact, or makes any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

5. For the purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, "project" under this section would mean that property or portion thereof, that is needed to support or qualify the particular project for which the assistance is being requested.

C. Assurances.
NPS will not approve any project which will result in the acquisition of real property and/or the displacement of any person, business, or farm operation unless the grantee provides the assurances required by Section 210 and 305 of the Act and the procedures in this Chapter. These assurances specify that:

1. Fair and reasonable relocation payments and assistance will be provided to displaced persons, as required by Sections 202, 203, and 204 of the Relocation Act. (See 49 CFR 24, Subparts c, d, and e).

2. Relocation assistance programs offering the services described in Section 205 of the Relocation Act will be provided to displaced persons. (See 49 CFR 24.205).

3. A survey and analysis of available replacement housing has been made in accordance with Department of the Interior regulations, and that within a reasonable period of time prior to displacement, there will be available decent, safe, and sanitary replacement housing in accordance with Section 205(c)(3) of the Relocation Act. (See 49 CFR 24, Subpart C).

4. In acquiring real property, the grantee must be guided, to the greatest extent practical under State law, by the land acquisition policies set forth in Section 301 and 302 of the Relocation Act. (See 49 CFR 24.103(a) and 24.104.)

5. Property owners must be paid or reimbursed for necessary expenses as specified in Sections 303 and 304 of the Relocation Act. (See 49 CFR 24.106 and 24.107.)

6. The displaced persons must be informed of the benefits available under Title II of the Relocation Act and the policies and procedures relating to the payment of such benefits. (See 49 CFR 24.203.)

7. Terms for compliance with these assurances are contained in the general provisions of the State's project agreement.

D. Responsibility of the Grantee.

The grantee is responsible for implementing the provisions of the Relocation Act and the regulations contained in this Chapter. The State Historic Preservation Officer must advise subgrantees on, and assure compliance with, all relocation and acquisition matters related to the Relocation Act and these procedures.

The grantee will maintain the following documentation available for NPS inspection for each acquisition project, unless waived by NPS in writing:

1. Appraisal documentation including the State Historic Preservation Officer's written acceptance of the appraisal report;

2. A statement of just compensation and copy of the written offer to purchase for that amount (see 49 CFR 24.102);

3. Documentation showing that the owner or his designated representative has been invited to accompany the appraiser during the inspection of the property;

4. Relocation Plan, advisory services program description, and appeals procedure when displacement has occurred;

5. Evidence that occupants of property acquired were furnished adequate information explaining their eligibility for payments under Title II of the Relocation Act at the beginning of negotiations (see 49 CFR 24.203);

6. Appropriate claims forms and supporting documentation;

7. Evidence of purchase price and of clear title;

8. A statement of difference in value if the purchase price is greater than the approved appraisal of fair market value (see 49 CFR 24.102(I)); and

9. Copies of waivers where applicable (see 49 CFR 24.7).

E. Service Action on Relocation and Acquisition Documents.
Except for statements of difference in value and waivers to benefits, the Service will not generally require the documentation under Section D, above, to be submitted at the time of billing unless otherwise requested. All required documentation must be kept on file in the office of the State Historic Preservation Officer for purposes of fiscal audit and State Program Review.

F. Relocation Assistance Advisory Services.
As outlined in 49 CFR 24.205, "Uniform Relocation Assistance and Real Property Acquisition for Federal and federally assisted programs," the State shall carry out a relocation assistance advisory program, which includes in part, determining the relocation needs of each person to be displaced and providing an explanation of payments and other assistance for which the person may be eligible. All services required by 49 CFR 24.205 must be provided by the State or local sponsor.

G. Appeals.
Situations may occur when an applicant for payments under the Relocation Act may feel aggrieved by a displacing agency's determination as to the applicant's eligibility for payment or the amount of the payment. Each grantee must establish procedures that provide for adequate review by the State Historic Preservation Officer of the applicant's concerns. The procedures should also provide for an appeals process that can be followed should decisions remain disputed following review by the head of the State agency. The procedures must ensure that:

1. Each appellant applicant has the opportunity to present the basis of disagreement with the displacing agency's determination of eligibility for payment or the amount of payment.

2. Each appeal will be decided promptly.

3. Each appeal decision will include a statement of the reasons upon which it is based and a copy of such decision will be furnished the appellant.

4. Each appellant applicant has a final appeal to the State.

5. All eligible relocatees shall be furnished a written notice of their right to appeal. Such notification may be provided by brochure if the right to appeal is adequately described therein.

The appeals process must include procedures to be followed should decisions remain disputed following review by the State Historic Preservation Officer. Final appeal must be available and final determination made by higher officials of the State government, such as the State Relocation Officer or similar official.

H. Appraisals.

1. Grantees will comply with the current "Uniform Appraisal Standards for Federal Land Acquisitions" published by the Interagency Land Acquisition Conference. Copies of these standards are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Appraisals must be performed by certified independent appraisers. (See Chapter 6, Exhibit 6-B.)

   Policies respecting methods of acquisition and appraisal as set forth in Chapter 6, Section L, conform with these standards and are to be followed.

2. Except for projects involving donations, the State will have responsibility for reviewing and approving project-related appraisals prior to initiation of negotiations. NPS reviews will be limited to spot checking and post audit program reviews. NPS reviews shall include an evaluation of the adequacy of the appraisal in terms of thoroughness, reasonableness, impartiality and conformance to the Uniform Appraisal Standards for Federal Land Acquisition to the extent appropriate. Where the review results in substantive concerns as to the adequacy of the approved appraisal, the State Historic Preservation Officer will be responsible for providing NPS with supplemental appraisal documentation or a new appraisal in accordance with the review findings. The value established by the revised or new appraisal will be used as the basis for determining just compensation and for matching assistance.

3. Federal share of cost. The cost to a grantee of providing the payments and assistance required by these procedures must be included as part of the program or project cost, but shall not be included in any appraisal of real property value.

I. Acquisition at Less than Appraised Market Value.

1. Waiver of Right to Just Compensation. If real property is acquired at less than the estimate of fair market value determined by a certified independent professional appraiser(s), there must be documentation that the owner was first provided with a written offer to purchase for the full amount established as just compensation (equal to the approved appraisal of the fair market value).

   The grantee must submit in the project application a signed statement by the owner waiving the Right to Just Compensation and indicating that he or she:

   a. Has been informed of all of his or her rights and benefits under the Uniform Relocation Assistance and Real Properties Acquisition Policies Act;

   b. Has been provided with a statement of just compensation and a written offer to purchase for the amount appraised as full market value (the amount should be shown in the owner's statement);

   c. Is satisfied with the price to be paid even though it is less than the appraisal of fair market value; and

d. The reasons why he or she has elected to accept the lesser amount. (NOTE: When a partial donation of property (less than appraised fair market value) is to be applied as matching share for an acquisition project, the seller-owner's signed waiver of just compensation and statement of intention to donate the remainder value for historic preservation purposes must be clearly specified.)

2. Donations. Nothing in these guidelines is to be construed to prevent or deter a property owner from making a full or partial donation of property.

In those circumstances involving a partial donation, documentation must include evidence that the owner has been provided with a statement of just compensation. A written statement by the owner that he is making a partial donation is also required. A written offer to purchase and a statement of just compensation are not necessary when acquisition is by full donation; the legal act of donation itself precludes the necessity for these actions. This documentation relates only to acquisition. Relocation benefits as provided by these regulations must still be complied with in full under all circumstances (e.g., if tenants are displaced when an owner donates a property).

J. Annual report.
If a grantee has an HPF-assisted project involving relocation assistance activities, then that HPF grantee will report annually giving the numbers of persons and businesses relocated, numbers remaining to be relocated, relocation costs, and property acquired during the fiscal year for the State historic preservation program. This report must be submitted in duplicate to NPS by November 1. (See Exhibit 20-A.)

K. Regulations of the Department of the Interior.
The regulations of the Department of the Interior implementing the Common Rule for the Relocation Act, issued in the Appendices, have been prepared to cover both Federal and federally assisted programs. In addition, all other requirements and procedures of the Departmental regulations should be read as applicable to State agencies and agency heads where federally assisted programs are involved to the same extent as they apply to federal agencies and agency heads in strictly Federal programs.

Application by displaced persons for reimbursement of moving and related expenses under the Relocation Act may be accomplished by using Department of the Interior Forms DI-380 a-e. State approved forms which accomplish the same purpose may be used in lieu of these forms if prior approval is obtained from NPS.

L. Technical Assistance.
Local agencies knowledgeable about compliance with Relocation Act requirements are housing authorities, redevelopment agencies, State Departments of Transportation or highways, and HUD regional offices. These agencies may have brochures further explaining this law.

EXHIBIT 20-A ANNUAL REPORT ON RELOCATION AND REAL PROPERTY ACQUISITION

ANNUAL REPORT ON RELOCATION AND REAL PROPERTY ACQUISITION ACTIVITIES (UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970)

Report For PROGRAM Fiscal Year 19 _	PROGRAM TITLE	REPORTS CONTROL SYMBOL PB-122

AGENCY (Department, Bureau, Office, Division)

Section 1 - Relocation Assistance Payments and Expenses

	ITEM		NUMBER OF CLAIMS PAID (a)	AMOUNT PAID (b)
1	Payment's for Expenses moving individuals and families	Actual expenses (Sec. 202(a))		
2		Fixed payment including dislocation allowance (Sec. 202(b))		
3	Payments for searching and moving expenses for displaced businesses, farms and non-profit organizations	Actual expenses (Sec. 202(a))		
4		Payment in lieu of actual expenses (Sec. 202(c))		
5	Replacement housing payments for homeowners (Sec. 203)			
6	Rental assistance payments (Tenants and certain others) (Sec. 204(1))			
7	Down payment assistance (Tenants and certain others) (Sec. 204(2))			
8	Last resort housing (Sec. 206(a))			
9	**Subtotal** (Sum of lines 1 thru 8)			
10	Administrative costs in carrying out relocation program (Including cost of relocation advisory services provided under Section 205 of the Act)			
11	TOTAL (Sum of lines 9 and 10, column (b) only)			
12	TOTAL AMOUNT PAID FROM FEDERAL FUNDS THIS FISCAL YEAR			
13	TOTAL AMOUNT PROJECTED FOR NEXT FISCAL YEAR			
14	TOTAL AMOUNT PROJECTED FOR NEXT FISCAL YEAR TO BE PAID FROM FEDERAL FUNDS			

SECTION II - Real Property Acquisition Settlements Completed

	ITEM	Number of Parcels (a)	Compensation Paid (b)
15	Acquired by negotiation*		
16	Acquired by condemnation**		
17	TOTAL (Sum of lines 15 and 16)		
18	TOTAL AMOUNT PAID FROM FEDERAL FUNDS		

*Negotiated tracts include all tracts acquired by any method other than condemnation for reason of price or agreement.
**Include only tracts condemned because of price disagreement.

REMARKS

GENERAL SERVICES ADMINISTRATION (See instructions on reverse) GSA FORM 2997

INSTRUCTIONS

Section I - Relocation Assistance Payments and Expenses. For each of the types of assistance or payments shown in lines 1 through 8, report the total number of claims paid in column (a) and the amounts thereof in column (b). Descriptions for lines 1 through 5 and 7 through 9 are considered adequate for completion without further instructions. For line 6, report total rental assistance claims paid including rental assistance to former homeowners who elect to rent in lieu of receiving a replacement housing payment authorized by Section 203 of the Act. In the case of claimants who elect to have their rental assistance payment in installments, the total amount of the rental assistance entitlement should be reported as paid during the reporting year in which the first installment is paid. In line 10, report the total amount of administrative costs incurred in carrying out the relocation program including the cost of relocation assistance advisory services provided under Section 205 of the Act. Descriptions in lines 11 through 14 are considered to be adequate without further instructions.

Section II - Real Property Acquisition Settlements Completed. Report the number of parcels in column (a) and the compensation paid in column (b) for real property acquired and paid for during the reportable year. On line 15, report the total number of parcels and compensation paid for real property acquired by any method other than condemnation for reason of price disagreement. On line 16, report in the appropriate columns only tracts condemned because of price disagreement. Descriptions for lines 17 and 18 are adequate for completion without further instructions. It is understood that this section will only include settlements completed. It excludes the reporting of parcels acquired by condemnation where settlements have not been completed. Such parcels should be reported when settlement has been completed.

EXHIBIT 20-B RESIDENTIAL RELOCATION DISPLACEMENT STATISTICS

RESIDENTIAL RELOCATION DISPLACEMENT STATISTICS												
CLAIMANTS DISPLACED DURING FY												
	NEGRO/ BLACK		SPANISH SURNAMED		AMERICAN INDIAN		ASIAN AMERICAN/ ORIENTAL		ALL OTHERS		TOTAL ALL GROUPS	
UNDER AGE 62												
62 AND OVER												
TOTAL												

*****PEOPLE DISPLACED DURING FY

	NEGRO/BLACK	SPANISH SURNAMED	AMERICAN INDIAN	ASIAN AMERICAN/ ORIENTAL	ALL OTHERS	TOTAL ALL GROUPS
TOTAL						

*****Report total number of people displaced.

Note: Under "Spanish Surnamed" include persons of Puerto Rican, Mexican American, Cuban, Central or South American, or other Spanish descent. Under "Asian American/Oriental" include Chinese, Japanese and Korean. Under "All Others" include white persons not of Spanish descent.

Chapter 21 - Payments, Financial Management and Reporting Requirements

A. Financial Management System Requirements.
Grantee and subgrantee financial management systems shall provide for the following:

1. Financial reporting. Financial reporting must be accurate, current, and involve the complete disclosure of the financial results of each grant in accordance with the reporting requirements set forth in this chapter. When reporting on an accrual basis is statutorily required, a recipient whose accounting system is not maintained on that basis may develop the accrual information through an analysis of the documentation on hand.

2. Accounting records. Accounting records must adequately identify the source and application of funds for grant or subgrant supported activities. These records must contain information pertaining to HPF grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Internal control. Internal controls must be established to maintain effective control and accountability for all grant or subgrant cash, property covered by Chapter 19, and other assets. Grantees must adequately safeguard all such assets and ensure that assets are used solely for authorized purposes (see OMB Circular A-123 in the Appendices).

4. Budgetary control. The actual and budgeted amounts for each grant and subgrant must be compared. Financial information should be related to performance or productivity data, including the production of unit cost information whenever appropriate or required by NPS.

5. Advance payments. Procedures must be established to minimize the time elapsed between the advance of funds from the U.S. Treasury and disbursement by the grantee. When advances are made by Treasury check method, the grantee shall make drawdowns from the U.S. Treasury as close as possible to the time of making the disbursements. Advances made by grantees to subgrantees must conform substantially to the same standards of timing and amount as apply to advances by NPS to grantees, including requirements for timely reporting of cash disbursements and balances.

6. Allowable costs. Procedures must be established to determine the reasonableness, allowability, and allocability of costs in accordance with the provisions of the applicable cost principles (see Chapter 12), the terms of the grant agreement, and the Historic Preservation Fund Grants Manual.

7. Source documentation. Accounting records must be supported by source documentation such as canceled checks, paid bills, payrolls, contract and subgrant award documents, etc. (See suggested documentation in Chapter 24.) Separate subgrant project records must be established and identified by the applicable NPS grant number.

8. Non-Federal audits. Recipients (State and local governments, Indian tribes, and non-profit institutions) that expend NPS grant or subgrant funds must comply with the requirements concerning audits in OMB Circular A-133.

9. Audit resolution. Each grantee must follow a systematic method to ensure timely and appropriate resolution of audit findings and recommendations (see Chapter 23).

10. Fidelity bond. A fidelity bond is a bond indemnifying the recipient against losses resulting from the fraud or

lack of integrity, honesty or fidelity of one or more employees, officers, or other persons holding a position of trust. NPS may require a nongovernmental recipient to carry adequate fidelity bond coverage when the absence of coverage for grant-supported activity is considered as creating an unacceptable risk (see 43 CFR 12).

B. Financial Personnel.
It is expected that the State Historic Preservation Officer has been delegated adequate executive responsibility for all grant-supported operations, including those of a financial nature. The SHPO must ensure that his or her organization's financial operations are conducted in accordance with the financial management standards listed in Section A, above. The SHPO, on behalf of the State, is deemed accountable by NPS for meeting all statutory, regulatory, or other financial requirements; and for ensuring that generally accepted principles of accounting are applied, that an effective relationship exists between the SHPO and the chief financial officer responsible for grant financial management; and that the chief financial officer is adequately trained and competent to administer the amounts of funds controlled by the grantee.

C. Cash Depository Procedures.

1. Insurance coverage. Advances of Federal funds shall be deposited and maintained in insured bank accounts whenever possible.

2. Minority banks. Consistent with the national goal of expanding the opportunities for minority business enterprises, grantees and subgrantees are encouraged to use minority banks (i.e., a bank at least 50 percent of which is owned by minority group members). A list of minority-owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, D.C. 20230. (See Chapter 17, Section E.2.)

3. Cash Depositories. Grantees are not required to physically segregate grant funds in separate cash depositories; however, the grantee must maintain adequate accounting records to document the receipt and expenditure of grant funds for allowable costs. NPS will not establish any eligibility requirements for cash depositories for grant funds provided to a grantee.

D. Financial Reporting and Payment Requirements.

1. General. This section sets forth reporting requirements for grantees to: summarize expenditures made and Federal funds unexpended for each award, report the status of Federal cash advanced, request advances and reimbursement when the electronic funds transfer method is not used; and to define methods of making payments to grantees. Instructions for completion of the applicable standard forms are included.

2. Policy. Methods and procedures for making payments to grantees, and by grantees to subgrantees, must minimize the time elapsing between the transfer of funds from the U.S. Treasury and the recipient's disbursements. Grant payments are made through electronic fund transfer via the SMARTLINK Payment Management System, reimbursement by Treasury check or advance by Treasury check in accord with the guidelines of 43 CFR 12.61 (for States), 43 CFR 12.922 (for the National Trust) and U.S. Treasury Circular No. 1075 (see 31 CFR 205).

3. Financial Status Report. Monthly financial status reports are prepared by the NPS Accounting Operations Center and disseminated to grantees to expedite and contribute to the accuracy of reporting. NPS does not normally require the submission of any grantee generated financial status report (such as the SF 269), but grantees are responsible for reviewing and commenting in writing whenever the NPS printout appears inaccurate, and grantees are required to reply in writing to NPS requests to certify the accuracy of NPS records.

When NPS has determined that a grantee's accounting system does not meet the standards for financial management systems contained in this Chapter, it may require financial reports with more frequency or more detail (or both), upon written notice to the grantee, until such time as the standards are met.

E. Qualifications.
Electronic Fund Transfer via SMARTLINK is the preferred method of payment for States that meet the following conditions:

1. The State requests authorization for use from NPS;

2. The State has established or demonstrated to NPS the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds and their disbursement;

3. The State's financial management system meets the standards for fund control and accountability prescribed in 43 CFR 12; and

4. NPS has reviewed the State's financial practices and found them to be adequate based on the State's past performance, responsiveness to audit exceptions, and internal audit procedures.

F. Reimbursement by the SMARTLINK Payment Management System.

1. Applicable States/Grants. All States will use the SMARTLINK payment system with the exception of those which are either: (a) mandated by NPS to use the direct reimbursement method of payment (using the SF 270); or, (b) which lack the technical capability to use a computer-based system (in other words, State offices without access to appropriate computer equipment). Once the State has adopted SMARTLINK for reimbursement purposes, it must utilize only this method unless rescinded by NPS.

2. Getting Started.

   a. Equipment Needed: 1) A personal computer (PC); 2) A modem; 3) Telecommunications software [KERMIT software is provided and recommended by the Department of Health and Human Services (HHS) but others may work]. HHS operates the SMARTLINK system.

   b. Communication Parameters: 1) Baud rate = 1200; 2) Data bits = 7; 3) Stopbits = 1; 4) Parity = Even; 5) Emulation = VT100; 6) Duplex = Half.

   c. Initiation Steps.

      1) The SHPO must notify NPS in writing that the State is prepared to begin using SMARTLINK. Included with this notification should be the grantee name and address, grantee point of contact name (SHPO or designate), title and telephone number and a completed Direct Deposit Sign-Up Form (SF-1199A) which is to be obtained from the bank which maintains the State's account. This information will be forwarded by NPS to the Accounting Operations Center.

      2) NPS will certify in writing to HHS that the State is eligible to be on SMARTLINK for HPF drawdowns. This certification will involve the transmission, by NPS, of appropriate grantee payment authorization data [i.e., grantee name and address, grantee point of contact name (SHPO or designate), title and telephone number, project numbers, total amounts authorized/unpaid balances, and the completed SF-1199A] to HHS. Subsequent to the original initiation phase, data on new grants and dollar amendments

on old grants will be forwarded to HHS by NPS-AOC upon posting of the applicable grant agreements or amendments.

3) Following completion of the above steps, HHS will provide the following:

a) The telephone number used to access SMARTLINK.

b) A unique password permitting connection with the SMARTLINK greeting screen. (Lost passwords may only be replaced by contacting HHS).

c) A Payment Management System (PMS) account number.

d) An "Old Identification Number" which must be changed on the first use of SMARTLINK and at least every 60 days (since last use) thereafter.

e) "User's" and "Technical" Guides for detailed reference.

3. Making Drawdowns. Exhibit 21-A contains a sample payment screen for the SMARTLINK system.

a. Dial into SMARTLINK using the phone number provided.

b. When the screen displays "connect," press the Enter/Return key twice.

c. At the "Enter Translator Number" command, type "**5**" and press Enter/Return.

d. When the "Computer Center" and "Log on Commands" appear, type your **Password** and press Enter/Return.

e. A "Welcome" screen will appear. Press Enter/Return. (If you receive a "System Not Available at This Time" message, disconnect and try later).

f. The security screen will be displayed (the line at the bottom of the screen can either be ignored or deleted by holding down the Control key and pressing the letter "O"). Type:

1) Your Account Number; and,

2) Your Old Identification Number; and,

3) If changing the I.D. number: Your New Identification Number. (You will be permitted three attempts to enter the correct security data. Failure on the third try will result in disconnection.).

4) Press Enter/Return.

g. The "Payment Request" screen will now be displayed with the Identification and Account numbers already filled in. If, once you are connected, you must log off/disconnect without completing a transaction, type a question mark in one of the fields at the top of the screen (not a "Sub-Account" field) and press Enter/Return. A blank security screen will then appear. Type "End" in the Account Number field and press Enter/Return.

Use your Tab or Backspace key to move from field to field (refer to the HHS User's Guide section on cursor movement if these keys don't work). Enter the Payment Due Date ("YYMMDD") which should reflect

today's date, TOTAL amount requested, Federal Cash Balance on Hand (always "0"), and Expected Disbursement Amount (which should equal the total amount requested unless an advance has been authorized).

h. Remaining on the "Payment Request" screen, enter your "Sub-Account" data (for HPF purposes, a sub-account is a specific individual grant on which a payment is now being requested). Use the tab and backspace keys (or other keys as appropriate) to move from field to field. Do not press the Enter/Return key until all data has been entered correctly.

For each grant involved, up to a maximum of eight per screen, enter the full eight-character HPF Grant Number (two-digit State prefix, hyphen, five trailing digits) and the **Amount** (no dollar signs or commas and with or without the decimal point and cents) of this drawdown. The total amount requested (sum of the amounts requested for the eight or fewer drawdowns on this screen) must equal the "Total Amount Requested" entered in the top section of the screen.

i. Do not make entries in the "+/-" fields unless the entry for this project corrects an overdraw on a prior billing or payment on a Bill for Collection. In these instances, the amount (no "-" or "+" sign) should be entered in the "Amount" field and a "-" sign in the "+/-" field.

j. Check your entries/figures carefully and make any necessary corrections before pressing Enter/Return.

k. As a result of your entry, the SMARTLINK system will display either an error message(s) or a message that your request was successfully submitted. If an error message is received, make the required corrections.

l. When successfully completed with the above steps, enter either "**A**" ("Another Payment Request" which returns you to the Security screen to make another request for up to eight additional projects), "**E**" ("End" which logs you off of SMARTLINK), or "**M**" (which retains the Payment Request screen and allows the entry of more requests, subject to the eight-payment-requests-per-screen limitation). Failure to sign off by typing the appropriate End code may result in your incurring long-distance phone charges through the end of the work day when HHS turns SMARTLINK off.

m. Upon successful completion of the steps above, various computer edits will be performed. The HHS edits consist of validation matches of grant numbers, payment dates, fund balances, and account numbers. Requests passing all edits are posted to the grantee's account. Requests failing the edits are held in holding files for review by the HHS accountant(s) assigned to NPS activity who will take action, as appropriate, including contacting NPS to resolve problems or obtain authorization to proceed.

n. Payment files are transmitted to the Federal Reserve Bank for further processing (grantee payment). The grantee's bank will receive the requested funds within 24 hours (or less) of the request.

G. Signature Cards.

Two SF 1194 Signature Cards must be completed by the grantee and sent to NPS, Historic Preservation Grants Division, whenever a grantee is using the Treasury check payment method (i.e., SF 270 requests). This form is contained in Exhibit 21-B. The SHPO or Deputy SHPO must sign in the lower left blank to authorize the other staff's signature authority for those who sign in any of the four blanks provided for signatures of individuals authorized to draw funds.

If the grantee official signing in the lower left "authorizing official" space also wants to sign SF 270 payment requests, then their signature should appear also in the upper spaces of the SF 1194 Signature Card provided for

"signatures of individuals authorized to draw." If new personnel later need to be authorized to sign SF 270 payment requests, then new SF 1194 Signature Cards must be forwarded to NPS.

H. Reimbursement by Treasury Check.
Grantees shall use the SF 270 Request for Advance or Reimbursement form (see Exhibit 21-C) to request reimbursement by Treasury check . The State must submit one (1) original SF-270 when requesting reimbursement by Treasury check. Such requests may be submitted as necessary for reimbursements.

I. Advanced Payment Requirements.
An advance is a payment made to a grantee upon its request before cash outlays are made or through the use of predetermined payment schedules before such payments are made. Advances may be made through the Treasury check method subject to the conditions outlined below.

The timing of advances and the procedures to be followed must be in accord with Treasury Circular No. 1075 (see 31 CFR 205) and are described below:

1. Advances shall be limited to the minimum amounts needed and shall be timed to be in accord with only the actual cash requirements of the grantee in carrying out the purpose of the approved project. Advances made by a grantee to a subgrantee shall conform substantially to the same standards of timing.

2. The grantee shall make such reviews of the financial practices of subgrantees as necessary to ensure that excessive withdrawals of cash from the Treasury do not occur. The Grantee shall institute such remedial measures as may be necessary in the event of excessive withdrawals.

3. Any monies advanced to the grantee must be deposited in a bank with FDIC insurance coverage and the balances exceeding the FDIC coverage must be collaterally secure.

J. Advance by Treasury Check.
In requesting an advance by Treasury check the grantee shall submit to the NPS a "Request for Advance or Reimbursement" (SF 270, see Exhibit 21-C).

No later than 15 working days after the end of each quarter, the grantee must submit to NPS one original of the " Federal Cash Transactions Report" (SF 272, see Exhibit 21-D). This report is used by NPS to monitor cash advanced and to obtain disbursement or outlay information for each grant.

K. Review of Drawdowns.
At least monthly, NPS will review each State's drawdowns and disbursements for reasonableness of cash balances on hand and the timing of drawdowns. The review will also cover other financial practices of each State to ensure against excessive withdrawals of Federal funds.

In the event that NPS determines a State is making excessive withdrawals of cash, remedial measures such as placement on the direct reimbursement method of payment, and/or requesting immediate refund of excessive funds to the NPS shall be taken to ensure proper use of Federal funds.

L. Requests for Forms.
Requests for forms should be addressed to:

National Park Service, Accounting Operations Center, Accounting and Special Projects Team
P.O. Box 4800, Reston, Virginia 22090, 703-487-9033 (phone) or 703-487-9196 (fax).

EXHIBIT 21-A SAMPLE SMARTLINK PAYMENT SCREEN

SMARTLINK II - PMS PAYMENT REQUEST

PIN:	XXXX	(A)NOTHER PMT REQ (E)ND
ACCOUNT NUMBER:	XXXXX	(M)ORE SUBACCTS FOR ACCT
PAYMENT DUE DATE (YYMMDD):	950102	ENTER "A," "E" OR "M"-->E

TOTAL AMT REQUESTED:	17,000.12	
FEDERAL CASH BALANCE ON HAND:	0	+/-
EXPECTED DISBURSEMENT AMOUNT:	17,000.12	

	SUB-ACCT	AMOUNT	+/-		SUB-ACCT	AMOUNT	+/-
1.	14-50150	23000.00	+	5.			
2.	14-6023	6000.12	_	6.			
3.				7.			
4.				8.			

EXHIBIT 21-B AUTHORIZED SIGNATURE CARD FOR PAYMENT VOUCHERS

Standard Form 1194 I TFRM 6-2000 Fiscal Service Bureau of Accounts	**AUTHORIZED SIGNATURE CARD FOR PAYMENT VOUCHERS**	Grant Number
(Grantee)	(Federal Agency) **National Park Service**	
SIGNATURES OF INDIVIDUALS AUTHORIZED TO REQUEST PAYMENT ___ *ONLY ONE SIGNATURE REQUIRED ON PAYMENT VOUCHERS* OR ___ *ANY TWO SIGNATURES REQUIRED TO SIGN OR COUNTERSIGN*		
Typed Name and Signature	Typed Name and Signature	
Typed Name and Signature	Typed Name and Signature	
I CERTIFY THAT THE SIGNATURES ABOVE ARE OF THE INDIVIDUALS AUTHORIZED TO DRAW PAYMENT VOUCHERS Date and Signature of Authorized Grantee Official	APPROVED: Date and Signature of NPS Certifying Officer	

1194-101

INSTRUCTIONS FOR COMPLETING THE SF-1194

Block	Instructions
Signature of Individuals Authorized to Draw (Request Payment)	An "X" in the first box authorizes any one of the individuals signing the SF-1194 to sign Requests for Payment (SF 270s).
Typed Name and Signature	Type name(s) and signature(s) of person(s) authorized to sign and/or countersign Requests for Payment.
Typed Name and Signature of Authorizing Officials	Type name and date of signature of authorizing official (the official who has been delegated authority to approve the person(s) designated to sign Requests for Payment--usually the SHPO).
Approved	Leave blank.

See the Forms Section at the back of the Manual for copies of:

EXHIBIT 21-C REQUEST FOR ADVANCE OR REIMBURSMENT FORM (SF270)

EXHIBIT 21-D FEDERAL CASH TRANSACTIONS REPORT (SF272)

Chapter 22 - Grant Closeout, Sanctions, Suspension, and Termination

A. Purpose.
This Chapter sets forth procedures for grant closeout, suspension, and termination, in accordance with OMB Circular A-102, as codified in 43 CFR 12.90 (for States) and Circular A-110, as codified in 43 CFR 12.960-973 (for the National Trust). When a grantee fails to comply with the terms and conditions of the grant award, NPS may, upon reasonable notice to the grantee, withhold further payments, suspend the grant, or prohibit the grantee from incurring additional commitments of grant funds until corrective action is completed by the grantee or an NPS decision is made to terminate the grant.

B. Closeout Procedures.
The closeout of a grant is the process by which NPS determines that all applicable administrative actions and all required work of the grant have been completed by NPS and the grantee. Each grant shall be closed out as promptly as is feasible after expiration or termination.

1. In closing out HPF grants, the following actions are performed:

    a. Upon request, NPS will promptly pay the grantee for any allowable reimbursable costs not covered by previous payments. Note: It is the responsibility of the grantee to ensure that all grant assisted work conducted under grants, including subgrants or other agreements, is performed in keeping with the applicable Secretary of the Interior's Standards, the terms and conditions of the applicable HPF grant, and the scope of the NPS-approved grant or subgrant agreement. Costs not in conformance with these requirements will not be reimbursed with HPF monies. (See Chapter 13, Section D, Unallowable Costs.) Ineligible or improper payments issued by a grantee must be recovered.

    b. The grantee must immediately refund or otherwise expend outstanding cash balances advanced to the grantee in accordance with instructions from NPS.

    c. The grantee must submit, within 90 days of the date of expiration or termination, (or the date specified by a grant condition), all financial, performance, and other reports required by the terms of the grant. This includes End-of-Year performance reports, Final Project Reports, or any other special reports which may have been required as a condition of the grant.

    d. If called for by the terms and conditions of the grant, NPS will adjust the Federal share of costs.

2. The closeout of a grant does not affect the retention period for, or Federal rights of access to, grant records (see Chapter 24).

3. If a grant is closed out without audit, NPS retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

4. The closeout of a grant does not affect the grantee's responsibilities with respect to property or

equipment purchased with grant assistance as specified in Chapter 19, "Property Management Standards," or with respect to any program income for which the grantee is still accountable. See Chapter 16.

5. The closeout of a grant does not affect the grantee's responsibilities with respect to covenants or preservation agreements entered into as a condition of HPF grant assistance (see Chapter 6, Section M.).

C. Amounts Payable to the Federal Government.
For each grant, the following constitutes a debt(s) owed by the grantee to the Federal Government, and must be repaid by the grantee (whether or not a subgrantee or contractor has paid back funds to the grantee):

1. Any grant funds paid to the grantee by the Federal Government in excess of the amount to which the grantee is finally determined to be entitled under the terms of the grant;

2. Any interest or other investment income earned on advances of grant funds which is due the Federal Government (see Chapter 16, Section B.7)

3. Any amounts due the Federal Government under 43 CFR 12.71 from disposal of property (see Chapter 19, "Property Management Standards");

4. Any other amounts finally determined to be due the Federal Government under the terms of the grant(s).

D. Sanctions for Noncompliance.

1. Applicability. When a grantee has materially failed to comply with grant terms, or conditions, NPS may suspend the grant, terminate the grant for cause, or take such other remedies as may be legally available and appropriate under the circumstances. The approval of a grant and any subsequent payments made under the grant will not prevent NPS from withholding funds because of the grantee's failure to observe applicable Federal requirements.

2. Withholding of payments. NPS may withhold payments otherwise due to a grantee if the grantee has failed to comply with NPS reporting requirements, the HPF program objectives, requirements, standards or grant award conditions. A written advance notification will be sent by NPS to the grantee to identify the deficiency and to express the intent to withhold future payments if the deficiency is not corrected by a specific date. If the deficiency is not corrected promptly, NPS will notify the grantee in writing that payments will not be made until the deficiency is corrected. Continued noncompliance or grantee failure to act may result in suspension or termination. (Under grant suspensions or terminations, not only are payments withheld, but no additional costs, or only very limited additional costs, will be authorized by NPS to be incurred by the grantee.) NPS may also withhold payments to the extent of any grantee indebtedness to the United States.

3. Suspension. Suspension of a grant temporarily withdraws or limits a grantee's authority to utilize HPF grant assistance pending corrective action as specified by NPS or pending a decision by NPS to terminate the grant.

a. Notification. When a grantee has materially failed to comply with the terms and conditions of a grant, NPS may suspend any or all HPF grants after giving the grantee reasonable notice (usually 30 calendar days) and opportunity to show cause why the grant should not be suspended. The notice of the suspension will detail the reasons for the suspension, any corrective action required of the grantee, and the effective date of the suspension. The suspension may be made effective without prior notice in an emergency situation such as when a delayed effective date would unreasonably impair NPS' responsibility to protect the Federal Government's interest.

b. Commitments. No commitment of funds incurred by the grantee during the period of suspension will be allowed under the suspended grant, unless NPS expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the grantee could not reasonably avoid during the suspension period will be allowed if they result from charges properly incurred by the grantee before the effective date of the suspension, and not in anticipation of suspension or termination. At the discretion of NPS, third party contributions applicable to the suspension period may be allowed in satisfaction of matching share requirements.

c. Adjustments to payments. Appropriate adjustments to the payments submitted after the effective date of suspension under the suspended grant will be made either by withholding the payments or by not allowing the grantee credit for disbursements made in payment of unauthorized costs incurred during the suspension period.

d. Suspension period. Suspensions will remain in effect until the grantee has takes the appropriate corrective or gives written evidence to NPS that corrective action will be taken, or until NPS terminates the grant.

4. Termination. Termination is the cancellation of HPF grant assistance in whole or in part, at any time prior to the date of completion.

a. Termination for cause. NPS may terminate any grant, in whole or in part, at any time before the date of completion, whenever it is determined that the grantee has failed to comply with the terms and conditions of the grant. NPS will promptly notify the grantee in writing of the termination and the reasons for the termination, together with the effective date. Payments made to grantees or recoveries by NPS under grants terminated for cause will be in accordance with the legal rights and liabilities of the parties.

b. Termination for convenience. NPS or the grantee may terminate grants or subgrant projects in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties will agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated. For partial terminations, such termination will not affect the preservation agreement or covenant executed as a prior condition of grant assistance.

An amendment to the Grant Agreement or the Project Notification (as applicable) is required for all terminations for convenience.

c. Termination by grantee. The grantee may unilaterally cancel the NPS grant or any of its subgrants at any time prior to the first payment on the grant or subgrant, although NPS must be notified in writing. Once initiated, no HPF grant or subgrant may be terminated by a grantee prior to satisfactory completion without the approval of NPS. After the initial payment the project may be terminated, modified, or amended by the grantee only by mutual agreement of the grantee and NPS. Requests for termination prior to completion must fully explain the reasons for the action and detail the proposed disposition of the uncompleted work.

d. Commitments. When a grant is terminated, the grantee will not incur new obligations for the terminated portion after the effective date of termination. The grantee will cancel as many outstanding obligations as possible. NPS will allow full credit to the grantee for the Federal share of the noncancellable obligations properly incurred by the grantee prior to termination. Costs incurred after the effective date of the termination will be disallowed.

5. Applicability to subgrants. Grantees must adhere to the same standards regarding closeout, suspension, and termination of their subgrants as prescribed in this Chapter for NPS.

Chapter 23 - Grantee Accounting and Audit Responsibilities

A. Purpose.
This Chapter outlines audit requirements prescribed by OMB Circular A-133, Audits of States, Local Governments, and Non-profit Institutions. This Circular has been issued pursuant to the Single Audit Act of 1984 (31 U.S.C. 7501-7) and the Single Audit Act Amendments of 1996 [31 U.S.C. 7505(a)]. They establish audit requirements for recipients of Federal aid and define Federal responsibilities for implementing and monitoring those requirements. (Note that the Office of Management and Budget rescinded OMB Circular A-128, Audits of State and Local Governments, on July 30, 1997, but stipulated that Circular A-128 still applies to audits of State and local governments and Indian tribes for fiscal years beginning prior to June 30, 1996.)

B. Applicability.
OMB Circular A-133 is applicable to State and local governments, territories, and tribal governments, and non-profit institutions. Grantees must be audited under the provisions of OMB Circular A-133, and the appropriate OMB Cost Principles. Cost principles are discussed in Chapter 12 of this Manual.

Grantees are responsible for rendering a full accounting of each grant award in accordance with the applicable HPF grant agreement and the appropriate cost principles for the manner in which HPF grant funds are applied and for prompt resolution of audit findings.

C. Definitions.
For the purposes of Circular A-133 the following definitions from the Single Audit Act apply:

1. "Auditor" means an auditor that is a public accountant or a Federal, State, or local government audit organization which meets the general standards specified in Generally Accepted Accounting Standards. The term Auditor does not include internal auditors of non-profit organizations.

2. "Cognizant agency" means the Federal agency that is assigned audit responsibility for a particular recipient organization by the Office of Management and Budget. That Federal agency is normally the agency providing the majority of funds to a particular recipient organization. Where the Department of the Interior is the cognizant agency, the Office of Inspector General will be the responsible organizational unit.

3. "Federal financial assistance" means assistance that non-Federal entities receive in the form of grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals. It includes awards received directly from Federal agencies, or indirectly through other units of State and local governments.

4. "Generally accepted accounting principles" (GAAP) has the meaning specified in the Generally Accepted Auditing Standards issued by the American Institute of Certified Public Accountants.

5. "GAGAS" means Generally Accepted Government Auditing Standards issued by the Comptroller General of the United States, which are applicable to financial audits performed pursuant to OMB Circular A-133.

6. "Independent auditor" means a State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or a public accountant who meets such independence standards.

7. "Internal control" means a process effected by an entity's management and other personnel to provide reasonable assurance regarding the achievement of objectives in the following categories: (1) effectiveness and efficiency of operations; (2) reliability of financial reporting; and (3) compliance with applicable laws and regulations. "Internal control over Federally assisted programs" means a process effected by an entity's management and other personnel that is designed to provide reasonable assurance that: (1) Transactions are properly recorded and accounted for to permit the preparation of reliable financial statements and Federal reports, to maintain accountability over assets, and to demonstrate compliance with laws, regulations, and other compliance requirements; (2) Transactions are executed in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and (3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

8. "Subrecipient" means a non-Federal entity that expends Federal awards received from a grantee pass-through entity to carry out a program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

D. Policy.

The Single Audit Act, as amended, requires that non-Federal entities that expend $500,000 or more a year in Federal awards must have a single or program-specific audit conducted in accordance with OMB Circular A-133. This audit must also include an evaluation of compliance with grant terms and conditions.

The independent auditor must determine whether:

1. the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles;

2. the recipient has internal accounting and other control systems to provide reasonable assurance that it is managing its Federal financial assistance programs in compliance with applicable laws and regulations; and

3. the recipient has complied with laws, regulations, and the provisions of contracts and grant agreements that may have a material effect on its financial statements and on each of its programs.

E. Audit Costs.

The cost of audits made in accordance with the provisions of Circular A-133 is an allowable charge; however, a grantee or subgrantee which is required to conduct an audit pursuant to the Single Audit Act is prohibited from charging: (a) the cost of any financial or financial and compliance audit which is not conducted in accordance with that Act, and (b) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with the Act, unless appropriate documentation demonstrates higher actual cost.

F. Scope of Audit.
The audit examination is intended to ascertain the fairness of the presentation of the financial statements, effectiveness of the financial management systems and internal procedures that have been established to meet the terms and conditions of the grant agreements. Audits will be made in accordance with generally accepted audit standards, including the standards published by the U.S. General Accounting Office, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," as they apply to financial and compliance audits. Copies of the Audit standards can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; telephone 202-512-1800 (request document #020-000-00-265-4).

The audit must cover the entire operations of a State or local government or, at the option of that government, it may cover departments, agencies or establishments that received, expended, or otherwise administered Federal financial assistance during the year. A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered a single audit.

G. Frequency of Audit.
Audits must be made annually unless the State or local government has a constitutional or statutory requirement for less frequent audits. For those governments, biennial audits, covering both years, are permitted if the government so requests.

H. Sanctions.
The Single Audit Act provides that no cost may be charged to Federal assistance programs for audits required by the Act that are not made in accordance with Circular A-133. Noncompliance with any of the administrative requirements of this Chapter may result in withholding of payments or other sanctions as appropriate. Where continued inability or unwillingness to have a proper audit exists, the Department of the Interior will consider other appropriate sanctions, including: (a) withholding a percentage of assistance payments until the audit is completed satisfactorily, (b) withholding or disallowing overhead costs, and (c) suspending the Federal assistance agreement until the audit is made.

I. Grantee Accounting and Audit Responsibilities for Subgrantees (Subrecipients).
Audit reports from subgrantees covered by Circulars A-133, or prepared as part of a subgrant agreement must be received by the grantee. Grantees are responsible for reviewing audit and other reports submitted by and for subgrantees; identifying questioned costs and other findings; deciding whether to sustain the questioned costs, and accounting for sustained questioned costs as a receivable; and pursuing recovery or taking other appropriate follow-up action. These audit reports must be maintained in the grantee's files and made available for review during the grantee's own audit.

It is the grantee's responsibility to ensure that its subgrantees, including those awarded subgrants as Certified Local Governments, comply with all financial requirements, including determining that the expenditure of funds by subgrantees are in accordance with applicable laws, regulations, and grant terms and conditions.

Grantees who award $500,000 per year to a subrecipient must:

1. determine whether subgrantees have met the audit requirements of Circular A-133;

2. determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee

made in accordance with Circular A-133, or through other means (e.g., onsite visits, reviews of documentation supporting requests for reimbursement, or limited scope audits) if the subgrantee has not yet had such an audit;

3. ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

4. consider whether subgrantee audits necessitate adjustment of the grantee's own records; and

5. require each subgrantee to permit independent auditors to have access to the records and financial statements as necessary to comply with Circular A-133.

The written subgrant agreement does not relieve the grantee of any part of its responsibility to the Federal Government under a grant. The subgrant agreement or contract must therefore provide sufficient rights and control to enable the grantee to enable it to fulfill this responsibility and accountability. Grantees are responsible for providing technical advice to subgrantees and their independent auditors, particularly if a Federal cognizant agency is not assigned to the subgrantee.

The grantee's independent auditor is responsible for reviewing the Grantee's system for monitoring and disbursing funds to subgrantees, and obtaining and acting on subgrantee audit reports; testing to determine whether the system is functioning in accordance with prescribed procedures; commenting on the grantee's monitoring and disbursing procedures with respect to subgrantees (if warranted by the circumstances), and considering whether reported subgrantee questioned costs require adjustment of the grantee's financial statements, footnote disclosure, or a modification of the auditor's report on compliance.

J. Auditor Selection.

In arranging for audit services grantees must follow the procurement standards prescribed by OMB Circular A-133, Subpart C, and either 43 CFR 12.76 or 43 CFR 12.944. The standards provide that while grantees are encouraged to enter into intergovernmental agreements for audit and other services, analysis should be made to determine whether it would be more economical to purchase the services from private firms. In instances where use of such intergovernmental agreements are required by State statutes (e.g., audit services) these statutes will take precedence.

Grantees are responsible for ensuring that audit examinations are made by individuals who are sufficiently independent of those who authorize the expenditure of project funds, in order to provide unbiased opinions, conclusions, or judgments. The criteria for independence are explained in Chapter 3 of the General Accounting Office's "Standards for Audit of Governmental Organizations, Programs, Activities and Functions." (See ordering information in Section F, above.) The accounting profession has established principles through a Code of Professional Ethics to guard against the presumption of loss of independence. To be recognized as independent, the auditor must be free from any obligation to, or material interest in, the client, its management, or owners. If there is any doubt as to independence or conflict of interest, NPS should report the facts in writing to the cognizant agency's Office of Inspector General.

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts awarded with Federal funds. Grantees of Federal funds must follow the requirements of 43 CFR 12.76(e) or 43 CFR 12.944(b) in selecting and contracting for audit services to further this goal.

K. Audit Documentation.

Grantees will keep intact and accessible financial, records, supporting documents, statistical records, and all other records pertaining to grants from NPS in accordance with the guidelines set forth in Chapter 24 of this Manual.

Grantees will furnish the auditor copies of the organization's financial statements, financial reports issued during the audit period; charters, by-laws, incorporation documents, minutes of meetings of the board of trustees/directors or review board, and bank account authorizations; audit reports issued within the past 2 years, including those prepared by internal or external auditors; an executed copy of the grant agreement for each grant included within the scope of the audit; the approved budget for each program; copies of program instructions, agency regulations, and applicable OMB Circulars; all major contracts, such as leases, employment agreements, and major purchase commitments entered into by the grantee; the applicable cost allocation plan and negotiated indirect costs proposals and agreements; and copies of applicable NPS directives, including the Historic Preservation Fund Grants Manual.

The grantee is responsible for ensuring that the final audit report conforms to the requirements of the General Accounting Office's "Standards for Audit of Governmental Organizations, Programs, Activities and Functions." The cognizant agency's Office of Inspector General will review the audit report to determine if it complies with Circular A-133. If the audit does not comply with the Circular, the grantee will be required to obtain a re-audit. Grantees should consult with the cognizant agency's Office of Inspector General to coordinate audit efforts and resolve problems.

L. Submission of Single Audit Reports.

1. In accordance with Generally Accepted Government Audit Standards, reports must be submitted by the independent auditor to the organization audited and to those requiring or arranging for the audit.

2. When the recipient receives the report from its independent auditor, it must provide comments on the findings and recommendations in the report, including a plan for corrective actions.

3. The grantee must submit a completed “Data Collection Form for Reporting on Audits of States, Local Governments and Nonprofit Organizations,” form (SF-SAC) and copies of the reports to the cognizant audit agency and to all Federal agencies that provided funding, and to the Federal Audit Clearinghouse, Data Preparation Division, U.S. Bureau of the Census, 1201 E. 10th Street, Jeffersonville, Indiana 47132. (Form SF-SAC and instructions are provided in the forms section of the manual.)

4. The reports must be sent within 30 days after the completion of the audit, but no later than one year after the end of the audit period unless a longer period is agreed to by the cognizant Federal agency.

5. Subrecipients must submit copies of their audit reports to the recipients that provided them Federal assistance funds.

6. Recipients must keep their audit reports and reports from their subrecipients on file for 3 years from the date of issuance.

M. Response to Federal Audit Findings.

Grantees must respond in writing to findings and recommendations in the audit report within 30 calendar days from the date the report is transmitted by NPS, unless an extension of time is granted by NPS. Such extensions are awarded at NPS discretion. The time period for response shall depend on the complexity of the issues involved. In the response, the grantee may take exception to particular findings and recommendations. The rationale for such exceptions should be clearly set out in the response. The response should point out and document errors of fact (if any), corrections already made, and state what action is proposed and the estimated completion date of such action. Although the grantee need not send all documentation supporting corrections unless requested to do so, documentation of actions taken must be available for review during later audits.

The grantee's response and any additional requested information will be considered in determining whether specific expenditures of grant funds or contributions to the nonfederal share should be allowed or disallowed.

If the grantee does not respond within 30 days, or does not request an extension of time for a reasonable period and for justifiable reasons, NPS will resolve audit findings on the basis of the issued audit report.

NPS will send the grantee a written notice of the determination to allow or disallow expenditures. Unless the grantee appeals a disallowance determination within 15 calendar days after the postmark date of the notice, the determination will become final. In those instances where no adverse findings have been identified, the grantee will be notified that the audit report submitted is acceptable and that no further action is required.

N. Satisfaction of Final Federal Audit Disallowances.

Unless the grantee receives written notice granting an extension, all final disallowances will be satisfied within 30 calendar days of the date on which the disallowance becomes final. Failure by the grantee to satisfy a final disallowance or take corrective action to remedy deficiencies in its accounting and internal control systems may result in suspension, termination, or other remedial action. The Federal Government reserves the right to bring suit or take other appropriate legal action to recover the amounts in question. The audit cannot be closed until all final disallowances are satisfied.

O. Recovery of Disallowed Costs.

There are three acceptable methods of reimbursing disallowed audit costs:

1. By sending a check or warrant payable to the National Park Service; mailed to the Collections Officer, Accounting and Special Projects Team, Accounting Operations Center, National Park Service, P.O. Box 4800, Reston, Virginia 22090;

2. By applying previously unclaimed eligible matching share costs (total Federal and nonfederal costs must be verified by the State auditor or other organization that performed the audit prior to submission and acceptance by NPS) incurred within the approved project period to the specific grant in which costs have been disallowed, evidenced by the submission of:

- an SF 424, Application for Federal Assistance, amending the nonfederal share and total project costs for the specific project in which the disallowed costs were incurred. Item 8 of the SF 424 should specify that the amendment is for repayment of audit costs, and must include the audit number; and,

- an SF 270, Request for Advance or Reimbursement or SF 272, Federal Cash Transactions Report, evidencing that less than 50 percent of total project costs incurred as eligible matching share is being claimed for reimbursement. The "agency use" space of the form should refer to the project for which repayment is being made, the amount being repaid by the request, and the number of the audit report; and,

- revised SF 424A or SF 424C Budget Forms, documenting the additional costs claimed and identifying the work performed under the revised grant.

If the project involved was previously approved with nonfederal matching share in excess of the minimum required, the amount of nonfederal costs must be increased beyond that level by the amount of the disallowed audit costs to effect recovery.

3. By applying eligible additional matching share costs (total Federal and nonfederal costs must be verified by the State auditor or other organization that performed the audit prior to submission and acceptance by NPS) incurred for allowable activities in the current grant(s), evidenced by:

   - an SF 424, Application for Federal Assistance, amending the nonfederal share and total project costs in the current Annual grant(s). Note: After the matching share and total project costs are increased by NPS approval of the amendment, subsequent amendments to decrease the nonfederal share will not be approved; and,

   - an SF 270, Request for Advance or Reimbursement, or SF 272 Federal Cash Transactions Report, evidencing that less than 50 percent of total project costs incurred as eligible matching share is being claimed for reimbursement. The "agency use" space of the form should refer to the project for which repayment is being made, the amount being repaid by the request, and the number of the audit report; and, revised SF 424A or SF 424C Budget Forms detailing the additional work items and donor, source, kind, and amount of nonfederal share.

4. All documents evidencing repayment of audit disallowed costs must be forwarded to NPS, Historic Preservation Grants Division, in accordance with the NPS-approved repayment schedule.

P. Collection Procedures.
When costs questioned during audits are determined to be unallowable, and monies are due the Government, a Bill for Collection will be issued to the grantee by the Accounting and Special Projects Team of the NPS Accounting Operations Center. The Bill for Collection will establish a definite due date for repayment. Interest on audit-related debts shall begin to accrue no later than 30 days from the date of notification of the debt via the Bill for Collection, and shall continue to accrue when NPS audit resolution decisions are appealed. Interest charges will be made at a percentage rate prescribed quarterly by the Department of the Treasury for each 30 day period, or portion thereof, that payment is delayed. All interest charges levied must be paid in cash, and not through a net reduction of other Federal assistance to the grantee.

EXHIBIT 23-A OFFICE OF INSPECTOR GENERAL REGIONAL OFFICES U.S. DEPARTMENT OF THE INTERIOR

Headquarters
U.S. Department of the Interior
Office of Inspector General
1849 C Street NW
Mail Stop 5341
Washington, DC 20240
Main Number 202-208-5745
Fax 202-219-3856

Herndon (Audits)
381 Elden Street, Suite 1100
Herndon, VA 20170
Main Number 703-487-8011
Fax 703 487-8055

Herndon (Investigations)

381 Elden Street, Suite 1120
Herndon, VA 20170
Main Number 703-487-8057
Fax 703-487-8053

Reston (Audits)

12030 Sunrise Valley Drive
Reston Plaza 1, Suite 230
Reston, VA 20191
Main Number 703-487-5345
Fax 703-487-5214

Atlanta, Georgia (Investigations)

2300 Lake Park Drive, Suite 217
Smyrna, GA 30080
Main Number 770-801-7920
Fax 770-801-7924

Albuquerque, New Mexico (Audits)

2400 Louisiana Blvd., NE
AFC Building No 1, Room 230
Albuquerque, NM 87110
Main Number 505-346-2717
Fax 505-346-2722

Albuquerque, New Mexico (Investigations)

2400 Louisiana Blvd., NE
AFC Building No. 1, Room 230
Albuquerque, NM 87110
Main Number 505-346-2720
Fax 505-346-2744

Rapid City South Dakota (Investigations)

625 ½ Main Street, Suite 1
Rapid City, SD 57701
Main Number 605-342-7280
Fax 605-342-8690

Tulsa Oklahoma (Investigations

1603 S. 101 East Avenue
Room 116
Tulsa, Ok 74128
Main Number 918-669-7705
Fax 918- 669-7708

Sacramento, California (Audits)

2800 Cottage Way
Suite E-2712
Sacramento, CA 95825
Main Number 916-978-5650
Fax 916-978-5656

Sacramento, California

2800 Cottage Way
Suite E-2712
Sacramento, CA 95825
Main Number 916-978-5650
Fax 916-978-5656

St. Thomas, Virgin Islands (Audits)

Federal Building and U.S.
Courthouse
Veterans Drive, Room 207
St. Thomas, VI 00802
Main Number 340-774-8300
Fax 340-774-7847

Minneapolis/St. Paul, Minnesota (Investigations)

Farm Credit Services Building
375 Jackson Street
Room 300
St. Paul, MN 55101
Main Number 651-291-1334
Fax 651-291-1355

Fort Lee, New Jersey (Investigations)

New York Field Office
One Executive Drive
Suite L-05
Fort Lee, New Jersey 07024
Main Number 201-944-5327
Fax 201-944-4936

Lakewood, CO (Audits)

134 Union Boulevard
Suite 510
Lakewood, CO 80228
Main Number 303-236-9243
Fax 303-236-8211

Lakewood,CO (Investigations)

134 Union Boulevard
Suite 510
Lakewood, CO 80228
Main Number 303-236-8296
Fax 303-236-8279

Billings, MT (Investigations)

Post Office Building
2602 First Avenue North
Room 136
Billings, MT 59101
Main Number 406-657-6298
Fax 406-657-6319

Portland, Oregon (Investigations)

Columbia Tech Center
1498 SE Tech Center Place
Suite 165
Vancouver, WA 98683
Main Number 360-253-9193
Fax 360-253-9190

Honolulu, Hawaii (Audits)

733 Bishop Street
Suite 1400
Honolulu, HI 96813
Main Number 808-525-5310
Fax 808-525-5322

Honolulu, Hawaii (Investigations)

733 Bishop Street
Suite 1480
Honolulu, HI 96813
Main Number 808-525-5348
Fax 808-525-5349

Insular Areas Field Liaison Office-Pacific

415 Chalan San Antonio
Baltej Pavilion
Suite 307
Tamuning, Guam 96911
Main Number 671-647-6303
Fax 671-647-6309

Chapter 24 - Retention of Records

A. Purpose.
This Chapter sets forth record retention and access requirements for HPF grants in accordance with OMB Circular A-102, as codified in 43 CFR 12.82 for States and Circular A-110, as codified in 43 CFR 12.950-953 for the National Trust. Its provisions apply to all financial and programmatic records, supporting documents, and other records which are required to be maintained by the terms of an HPF grant, or otherwise reasonably considered as pertinent to an HPF grant. This Chapter also details documentation requirements to support costs incurred, matching share contributed, and work performed with grant assistance. (See Sections H and I, below.)

B. Applicability to Contractors and Subcontractors.
OMB Circulars A-102 and A-110 require grantees and subgrantees to include a provision in each contract for access to the contractors' records by the grantee and the Federal Government (see Chapters 17, Section K. and Chapter 18, Section C.).

C. Retention Period.
Grantees must retain financial records, supporting documents, statistical records, and all other records pertinent to a grant for a period of 3 years or until an acceptable audit has been performed and all claims and audit findings involving the records have been resolved. The 3-year retention period starts from the date of the submission of the final expenditure report.

1. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigations, claims, or audit findings involving the records have been resolved.

2. Records for nonexpendable property acquired with Federal funds must be retained for 3 years after the final disposition of the property.

D. Microfilm Copies.
Grantees may use microfilm for record keeping.

E. Access to Records.

1. Records of grantees. The Department of the Interior and the Comptroller General of the United States or any of their duly authorized representatives, have the right of access to any books, documents, papers, or other records of the grantee which are pertinent to the HPF grant in order to make audit, examination, excerpts, and transcripts. Examination may be made during the period of retention required by this Chapter or until all audit issues have been resolved.

2. Records of subgrantees. The Department of the Interior, the Comptroller General of the United States, and the grantee, or any of their authorized representatives shall have the right of access to any books, documents, papers, or other records of the subgrantee which are pertinent to the HPF grant in order to make audit, examination, excerpts, and transcripts.

F. Inspections.
The grantee, its subgrantees, and contractors will permit on-site inspections by NPS representatives, and

will effectively require their employees and review board members to furnish such documentation as, in the judgment of NPS representatives, may be relevant to a question of compliance with grant conditions and NPS directives on the effectiveness, legality, and achievements of the grant-assisted program.

G. Disclosure of Information.
Unless otherwise required by law, and as specified in Chapter 3, Section D.3., NPS will not place restrictions on grantees that will limit public access to the grantees' records or to the records of their subgrantees or contractors that are pertinent to a grant, except when the records must remain confidential for any of the following reasons:

1. To prevent a clearly unwarranted invasion of personal privacy;

2. To comply with an Executive Order or statute which requires the records to be kept secret;

3. To protect commercial or financial information obtained from a person or a firm on a privileged or confidential basis; or

4. To protect information that can be improperly exploited for personal gain.

H. Reports and Records.
Grantees must maintain documentation to support expenditures by the grantee organization and its subgrantees in accordance with 43 CFR 12.82 (for States) and 43 CFR 12.953 (for the National Trust). The grantee and its subgrantees will submit financial, progress, evaluation, and other reports as required by NPS, and will maintain such property, personnel, financial, other records, and accounts as are deemed necessary by NPS to ensure proper accounting for all program funds.

I. Supporting Documentation.

1. Procurement. Grantees must maintain documentation on file to support all procurements involving Federal funds, including:

   a. a copy of contract solicitations;

   b. a description of the methods of publicizing the solicitations, including dates and places of publication and posting;

   c. copies of the responses received;

   d. method and justification of contractor selection;

   e. bid tabulation;

   f. abstract of bids or proposals;

   g. justification of the use of negotiation (if used). (Negotiation by virtue of public exigency or on a noncompetitive basis requires written justification setting forth the circumstances, and written authorization by NPS.)

h. negotiation memorandum documenting that the prices are fair and reasonable;

i. types of contracts awarded;

j. a copy of the signed and dated contract;

k. evidence of the satisfactory completion of the contract; and

l. a copy of the contract specifications.

2. Contract compliance. Grantees must maintain documentation on file to ensure contract compliance as follows:

a. All construction contracts must evidence:

1) that work was accomplished in accordance with contract specifications;

2) formal advertising, sealed bids, and public openings of bids; or that negotiation only occurred when no acceptable bids were received after formal advertising; or that other conditions existed which allowed negotiation in lieu of formal advertising in accordance with the provisions of Chapter 17;

3) that the terms of all negotiated contracts met contract specifications.

b. All contracts over $10,000 (aggregate) must include evidence of:

1) a provision for termination and basis for settlement;

2) a description of conditions under which the contract may be terminated due to default;

3) a description of conditions for termination of the contract because of circumstances beyond the control of the contractor; and

4) a provision requiring compliance with Executive Order 11246, "Equal Employment Opportunity" (for construction contracts over $10,000; see Chapter 18).

3. Development Projects. SHPO project files must contain the following documentation:

a. A copy of the signed subgrant or contract agreement, which must include:

1) clear description of work to be performed;

2) definite beginning and end dates;

3) the Federal share awarded;

4) specification of final product(s) to be produced (with specific due dates and applicable standards);

5) nonfederal share required;

6) equal opportunity compliance statement;

7) specified time frames for billing;

8) amendment procedures;

9) reporting requirements (Final Project Report);

10) reference to the documentation needed to support billings (timesheets, front and back of canceled checks, etc.) for Federal and nonfederal share claimed;

11) stipulation that repayment be made to the SHPO organization if terms and conditions of the subgrant or contract agreement are not followed or costs claimed are disallowed following audit; and

12) reference to the administrative requirements of OMB Circulars A-87 and A-102 (as codified in 43 CFR 12). Note: Universities covered by OMB Circulars A-21 and A-110, and nonprofit organizations covered by OMB Circular A-122 must use the cost principles and administrative requirements of those Circulars in lieu of A-87 and A-102. (In accordance with OMB Circular A-21, universities may request payment from the SHPO by submitting an itemized billing and a certification statement in lieu of copies of invoices and canceled checks.)

b. Copies of all NPS approved change orders, amendments, and extensions.

c. Copies of vendors' invoices evidencing that:

1) invoices are in the name of the grantee (subgrantee);

2) invoice dates are within the project period;

3) purchase price is compatible with the estimated budget costs; and

4) purchases are relevant to the scope of the project.

d. Evidence that invoices were properly approved for payment, including:

1) that discounts and other credits were deducted; and

2) that merchandise/service was received.

e. Documentation to support billings (Federal and nonfederal share):

1) copies of properly endorsed canceled checks (both sides);

2) timesheets; and

3) evidence of employee's rate of pay (including justification for rates paid).

f. Documentation for procurements:

1) copies of advertisements for bids; and

2) copies of bid tabulations or copies of bids.

g. Evidence that grantee/subgrantee was given prior NPS approval to purchase equipment in excess of $5,000 per item with grant funds.

h. Evidence that work was accomplished in accordance with the terms of the grant agreement (Final Project Report).

i. Evidence that a project sign acknowledging DOI/NPS assistance was erected at the project site, or a copy of the written NPS waiver of this requirement. (See Chapter 6, Section K.2.b.(3)).

j. A copy of the executed covenant or preservation agreement (see Chapter 6, Section M).

4. Acquisition projects. SHPO project files must contain the following documentation:

a. A copy of the signed subgrant or contract agreement. Such agreements must include:

1) a clear description of the property to be acquired and related work to be performed;

2) definite beginning and end dates;

3) the Federal share awarded;

4) nonfederal share required;

5) specified time frames for billing;

6) amendment procedures;

7) reporting requirements (Final Project Report);

8) stipulation that repayment be made to the SHPO organization if terms and conditions of the subgrant agreement are not followed or costs claimed are disallowed following audit; and

9) reference to the administrative requirements of OMB Circulars A-87 and A-102. Note: Universities covered by OMB Circulars A-21 and A-110, and nonprofit organizations covered by OMB Circular A-122 must use the cost principles and administrative requirements of those Circulars in lieu of A-87 and A-102.

b. A copy of the appraisal report prepared by a certified land appraiser (see Chapter 6, Exhibit 6-B) and evidence that State staff reviewed the acceptability of the appraisal report for compliance with the HPF grants manual;

c. Evidence that the property owner was given the opportunity to accompany the appraiser;

d. A statement of difference in value, if the negotiated purchase price is higher from the appraised value (see Chapter 6, Exhibit 6-B);

e. A copy of the statement of just compensation signed by the property seller (see Chapters 6, Section L, and Chapter 20, Section I);

f. A copy of the deed to the property;

g. Documentation to support billings (Federal and nonfederal share):

1) copies of properly endorsed canceled checks (both sides) for acquisition and/or preacquisition costs (such as appraisals);

2) timesheets for donated services or for distribution of time for employees working part-time on the grant; and

3) evidence of employee's rate of pay (including justification for rates paid).

h. Evidence that a legally sufficient title search was performed and clear title confirmed;

i. Evidence that relocation was/was not involved (including relocation of either residential or commercial tenants);

j. A copy of the executed covenant or preservation agreement (see Chapter 6, Section M);

k. Evidence that a project sign acknowledging DOI/NPS assistance was erected at the project site, or a copy of the written NPS waiver of this requirement. (See Chapter 6, Section K.2.b.)

5. Nonconstruction projects. SHPO project files must contain the following documentation:

a. A copy of the signed subgrant or contract agreement (including all approved change orders). Such agreements must include:

1) clear description of work to be performed;

2) definite beginning and end dates with specific due dates and applicable standards;

3) specification of final product(s) to be produced (with specific due dates and applicable standards);

4) the approved budget, with Federal share awarded;

5) nonfederal share required;

6) Equal Opportunity compliance statement;

7) specified time frames for billing or expenditure reports;

8) amendment requirements and procedures;

9) reporting requirements (Final Project Report);

10) Reference to the documentation needed to support billings (timesheets, front and back of canceled checks, etc.) for Federal and nonfederal share claimed;

11) Stipulation that repayment be made to the SHPO organization if terms and conditions of the subgrant agreement are not followed or costs claimed are disallowed following audit;

12) Reference to the administrative requirements of OMB Circulars A-87 and A-102. Note: Universities covered by OMB Circulars A-21 and A-110, and nonprofit organizations covered by OMB Circular A-122 use the cost principles and administrative requirements of those Circulars in lieu of A-87 and A-102. (In accordance with OMB Circular A-21, universities may request payment from the SHPO by submitting an itemized billing and a certification statement in lieu of copies of vendor's invoices and canceled checks.)

b. Copies of vendors' invoices evidencing that:

1) invoices are in the name of the grantee (subgrantee);

2) invoice dates are within the project/contract period;

3) purchase price is compatible with the estimated budget costs;

4) purchase(s) are relevant to the scope of the project/contract.

c. Documentation to support billings (Federal and nonfederal share):

1) copies of properly endorsed canceled checks (both sides);

2) timesheets for donated services or for distribution of time of employees working part-time on the grant; and

3) evidence of employee's rate of pay (including justification for rates paid).

d. Evidence of approved extensions and amendments;

e. Evidence that invoices were properly approved for payment including:

   1) evidence that discounts and other credits were deducted; and

   2) evidence that merchandise/services were received.

f. Evidence that the grantee/subgrantee was given advance NPS approval to purchase equipment costing in excess of $5,000 with grant funds;

g. Copies of daily time records (including supervisor verification of time worked);

h. Evidence of employees' rates of pay (including justification for rates paid);

i. Evidence that work was accomplished in accordance with the terms of the grant agreement/subgrant agreement/contract (Final Project Report);

j. Evidence that the method for selecting professional services was accomplished in accordance with Federal procurement requirements.

Chapter 25 - Monitoring and Reporting Program Performance

A. Purpose.
This Chapter sets forth procedures and requirements for monitoring and reporting grantee program performance in accordance with OMB Circular A-102, as codified in 43 CFR 12.80, for States and OMB Circular A-110, as codified in 43 CFR 12.951, for the National Trust.

B. Standard for Monitoring by Grantees.
Each grantee is responsible for administering and monitoring its own HPF assisted activities and activities performed under its subgrants and contractual agreements to ensure that schedules are being met, work is being accomplished, and other performance goals are being achieved under the provisions of the HPF Grants Manual. HPF grant funds shall not be paid for any work or activity that does not conform to the terms and conditions of the NPS Grant Agreement, including the appropriate Secretary's "Standard(s)," and the specified scope of work. This prohibition also applies to the cost of goods and services claimed as matching share for HPF monies. The grantee is responsible to NPS for repayment of misapplied funds.

C. Required Performance Reports.
Each grantee shall submit annual performance reports to NPS and a final performance report after the completion of each project. These requirements are addressed by use of: 1) An annual "End-of-Year Report" and 2) a "Final Project Report" for each subgrant or contract, if applicable (see Chapter 8, Section G for Reduced Review subgrant requirements).

In addition, between the required performance reporting dates, the grantee must inform the NPS as soon as problems, delays, or adverse conditions become known which will materially affect the ability to attain program objectives or prevent the meeting of time schedules and goals. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation. If any performance review conducted by the grantee discloses the need for change in the budget estimates in accordance with the criteria in Chapter 15, the grantee shall submit a written request for budget revision.

D. End-of-Year Report -- States.
The End-of-Year Report provides a framework for NPS to compare actual results achieved during the annual grant period (October 1 through September 30) to the planned performance specified in the grant application and approved through the Grant Agreement. It includes all activities for which costs were incurred during the grant period, whether funded by the previous or the current year's Annual Grant, or both. The data contained in the Report may be used for determining allocations of HPF appropriated funds (see Chapter 2). NPS expects that the State's tracking and reporting system results in data which are accurate, replicable, and based upon regularly updated source records.

End-of-Year Report Documents. All End-of-Year Reports must contain the following:
Cumulative Products Table. (Exhibit 7-E) Project/Activity Database Report. (Exhibit 25-B) Unexpended Carryover Funds Table and Carryover Statement. (Exhibit 25-C) Sources of Nonfederal Matching Share Report. (Exhibit 25-A) Significant Preservation Accomplishments Summary. (Section D.1.e., below) SF269A, Financial Status Report short form for the current and closing years (Exhibit 25-D)
States without an NPS-approved Comprehensive Statewide Historic Preservation Plan must also submit:
Accomplishments Narrative. (Section D.1.f., below)

1. Cumulative Products Table.
Refer to the Glossary and the Guidelines for Completing the Cumulative Products Table in Chapter 7, Exhibit 7-E, before entering any data.

   a. Only allowable costs and activities are to be included.

   b. There must be some entry (even zero) reported for each element.

   c. As part of the Cumulative Products Table, provide the documentation listed below for Review and Compliance activity only if those specific products are used for HPF apportionment purposes in a specific fiscal year. States will be informed of such a requirement, in writing, at least 30 days prior to the beginning of the fiscal year for which such records must be kept. When this documentation is required, the number of products on each list must equal the number in the corresponding Products Table blank(s).

      Review and Compliance Products. See Chapter 6, Section O for definitions and documentation requirements. When applicable, provide a list of the following:

      1) Eligibility Opinions. Include each property for which an opinion (that it was eligible for listing on the National Register) was rendered in writing, the date on which each opinion was sent to the Federal agency, and the name of the Federal agency. Non-eligible properties will not be used as an apportionment factor.

      2) "Findings of 'No Properties' and/or 'No Effect' On Which Written Opinions are Provided." Identify the specific undertaking, the Federal agency, the type of the finding (i.e., "No Properties" or "No Effect"), and the date the State's opinion was sent to the Federal agency. Undertakings with "No Properties" findings and "No Effect" findings may be combined into a single list.

      3) "Other Findings of `Effect' On Which a Written Opinion Has Been Provided." Include opinions on findings of "No Adverse Effect" and "Adverse Effect." Include in this category "'Conditional' No Adverse Effects" when the State negotiates the steps that the Federal agency agrees to take in order for the "Effect" to be determined to have "No Adverse Effect."

Identify on the list the specific undertaking, the type of the "Effect," the name of the Federal agency, and the date that the opinion was sent to the Federal agency. Undertakings with these findings may be combined into a single list.

4) "Memoranda of Agreement (MOAs) Signed." Include new or revised MOAs, but not if only renewed; there must be substantive changes made. Identify the undertaking, the Federal agency, and the date signed by the SHPO.

5) "Programmatic Agreements (PAs) Signed." Include new or revised PAs, but not if only renewed; there must be substantive changes made. Include the name of the agreement, the Federal agency, and the date signed by the SHPO.

2. Project/Activity Database Report.
The purpose of the Report is to provide data on all subgrants and major in-house activities (data on how the State is using its HPF grant funds). The database is computerized and is designed to allow reports, lists, and other kinds of data use by the State, NPS, or any other user. See Exhibit 25-B.

a. Preparation of the Project/Activity Database Report.

As part of the End-of-Year Report, the State must include a record for (and describe the status of) each major activity/project begun, underway, dropped, or completed during the last fiscal year. Major activity includes subgrants, contracts, cooperative agreements, and in-house staff work, even if paid for 100 percent with matching share. It is up to the State to define what its major activities are; however, every third-party activity must be included. Each Chapter 6 Program Area must have at least one database report record that addresses: a) a subgrant or a major in-house activity, or b) includes a statement that routine activities were carried out, or c) includes a statement that no activity was carried out in that Program Area. "Major in-house activity/project" means the major or most important in-house activities or projects as defined by the State that have been completed or are underway as of the end of the year.

Every project or activity that is mentioned in the Annual Application's Anticipated Activities List or Action Plan Narrative (see Chapter 7) must be addressed in the Project/Activity Database Report. For each major task described in the Annual Grant Application, briefly report the actual status to date. For tasks that were completed as described, report "Completed" and describe the specific accomplishments and products relative to the task. For planned tasks partially completed or amended, tasks not accomplished at all, or tasks that were canceled, report "Partially Completed," "Not Accomplished," "Carried Over," or "Canceled" and explain why.

NPS provides each State with information on accessing the databease data fields described in Exhibit 25-B. The software will allow for the automated generation of reports and electronic export into NPS' Project/Activity Database. Each State may use the database software to generate these reports. However, when submitting this information through the database, a hard paper copy must also be submitted to ensure NPS' timely review of the End-of-Year Report, and to facilitate the State's verification of the data prior to transmitting it to NPS. See Exhibit 25-B, below, for the information required for each project/activity included in the annual database report to NPS.

b. 10 Percent Minimum CLG Pass-Through. The Project/Activity Database Report will be used by NPS to confirm that at least 10 percent of each year's apportionment award is passed through as subgrants to Certified Local Governments or recaptured by NPS.

3. Unexpended Carryover Funds Table and Carryover Statement (Use or Lose Policy).
Each State must complete the Unexpended Funds Table and the Carryover Statement as part of the End-of-Year Report (see Exhibit 25-E). The Carryover Statement is used to confirm that the grantee is complying with the "Use or Lose" Policy (see Chapter 3, Section K., for an explanation of the Use or Lose policy). Accordingly, no more than 25 percent of the prior year's apportionment shall be carried over into the second year of availability as uncommitted funds unless there is an explicit, written waiver from NPS.

The total unexpended subgrant Federal funds (for the proper Federal fiscal year) from the Unexpended Carryover Funds Table, when subtracted from the total amount being carried over, should result in an amount that is 25 percent or less than the prior year's apportionment award. For example:

FY 1997 Funds Carried Over into FY 1998	$250,000
Minus the Committed yet Unexpended Subgrant Funds	$150,000
Equals the Uncommitted SHPO Carryover	***$100,000***
FY 1997 Annual Award	$500,000

$100,000 represents 20 percent of the FY 1997 Annual Award of $500,000, and is, therefore, under the 25 percent maximum uncommitted funds allowable.

4. Sources of Nonfederal Matching Share Report.
The summary format found in Exhibit 25-A must be used to report this information. State records must document amounts reported. See the guidelines for completing this Report in Exhibit 25-A. Pursuant to P.L. 96-205, this Report is optional for American Samoa, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and Guam. See Chapter 14, Section D.4.

5. Significant Preservation Accomplishments Summary.
Each State must include a brief narrative (not more than three pages) that discusses three to five of the State's significant accomplishments ("success stories") that resulted from HPF grant assistance during the fiscal year. The narrative must explain how each selected project or activity is identifying, evaluating, documenting, designating, preserving, or protecting significant historic and archeological properties. (These "success stories" may be used by NPS in annual reports and other written material to illustrate the benefits of the HPF grant program.)

Each State without an NPS-approved Comprehensive Statewide Historic Preservation Plan must also submit the following:

6. Accomplishments Narrative.
The Accomplishments Narrative describes the State's accomplishments in the last fiscal year in

relation to the Narrative transmitted with the Annual Grant Application. The Accomplishments Narrative parallels the organization of the Application Narrative. For each major task described in the Annual Grant Application Narrative, briefly report the actual status to date. For tasks that were completed as described, report "Completed" and describe the specific accomplishments and products relative to the task. For planned tasks partially completed or amended, tasks not accomplished at all, or tasks that were canceled, report "Partially Completed," "Not Accomplished," "Carried Over," or "Canceled" and explain why.

7. Transmittal of the End-of-Year Report.
The deadline for submitting the End-of-Year Report in its entirety is December 31. In certain cases, NPS may require States to submit some End-of-Year Products data earlier than December 31 for apportionment purposes, upon prior written notice.

E. Overdue or Unacceptable Reports.

1. Policy. NPS may take administrative action when required reports (including Project Notifications, Final Project Reports, End-of-Year Reports, etc.) are not submitted to NPS on a timely basis.

2. Procedures for Obtaining Compliance. If required reports are not submitted, or are substantively incomplete, the State may be advised in writing that one of the following steps will be taken by NPS:

   a. Suspending the State's Electronic Funds Transfer privileges and/or withholding of NPS action on SF 270 Requests for Advance or Reimbursement until the delinquent documents are received.

   b. Withholding the award of additional grants until the relevant documents are received.

   c. Halting the processing of the Annual Grant Application.

   d. Making the timely submittal of an acceptable End-of-Year Report a special grant condition on the following year's Annual Grant Agreement.

   e. Suspending the Grant by formal written notice that requests for reimbursement will not be processed for activities funded in the second year of the Annual Grant. See Chapter 22, Section D.

   f. Making the State ineligible to participate in any subsequent reapportionment of HPF funds during that year.

   g. Imposing additional reporting requirements.

   h. Failure to supply adequate data may result in a reduced subsequent HPF apportionment.

   i. The State may lose its Reduced Review Status (see Chapter 8, Section G, for procedures and criteria).

   j. NPS may take other appropriate administrative action.

Similar steps, including adjusting the grantee's obligational authority, may be taken by NPS (with prior written notice) if the grantee is significantly overdue in submitting acceptable grant applications or amendments to obligate funds.

F. NPS On-site Review.
NPS will make site visits as necessary or as requested to review program accomplishments and management control systems; and to provide technical assistance.

G. End-of-Year Report -- National Trust for Historic Preservation.
The National Trust shall submit an acceptable End-of-Year Report to NPS not later than December 31. This Report shall consist of Attachment A and an accompanying brief narrative shall address major performance areas specified by NPS.

In the Attachment A, the National Trust shall make a comparison of proposed objectives to actual accomplishments using the right-hand column of the Attachment A form submitted for the preceding fiscal year's Annual Grant Application. For every project or activity that is mentioned in the Annual Application (see Chapter 7), briefly report the actual status to date. For tasks that were completed as described, report "Completed" and describe the specific accomplishments and products relative to the task. For planned tasks partially completed or amended, tasks not accomplished at all, or tasks that were canceled, report "Partially Completed," "Not Accomplished," "Carried Over," or "Canceled" and explain why.

OMB Control Number: 1024-0038
Expiration Date: November 30, 2007

EXHIBIT 25-A SOURCES OF NONFEDERAL MATCHING SHARE REPORT

(TO BE SUBMITTED ONLY WITH THE END-OF-YEAR REPORT)

STATE: _____ FISCAL YEAR: _____ DATE: _____ AMENDMENT:

Each State shall supply the following data on nonfederal matching share. Documentation on file with the State should support the total amount claimed as contributed during the fiscal year for the matching share.

	TOTAL MATCHING FUNDS CONTRIBUTED DURING THE LAST FISCAL YEAR	
SOURCE OF MATCH	CASH ($)	DONATED SERVICES & PROPERTY ($)
FEDERAL.....		
STATE.....		
REGIONAL.....		
TRIBAL.....		
COUNTY.....		
MUNICIPAL.....		
CERTIFIED LOCAL GOVERNMENT.....		
*EDUCATIONAL INSTITUTION.....		
*NONPROFIT.....		
*COMMERCIAL ORGANIZATION.....		
*PRIVATE.....		
TOTAL		

* Identify sources and amount of match on a separate sheet of paper.

Guidelines for Completing the Sources of Nonfederal Matching Share Report

1. Each blank must be filled in, even if the entry is "zero" or "not applicable."

2. The word "contributed" refers to matching funds disbursed for activities performed during the fiscal year. This includes matching share for activities assisted with funds carried over from the previous fiscal year. It does not include matching share contributed in the following fiscal year. Contributed funds that are NPS-approved preagreement costs for the following year's grant should not be included in this year's Report. List only allowable nonfederal share of cash, goods, services, or property.

3. The "Federal" source line means Community Development Block Grant or other Federal funds that, by the law governing those funds, may be used as nonfederal share to match other Federal grants (such as Historic Preservation Fund grants). See Chapter 14, Section M. Do not enter the HPF grant award in this Report (Sources of Nonfederal Matching Share Report).

4. "Regional" refers to nonfederal governmental organizations or agencies (e.g., Councils of Government) that have a jurisdiction that is greater than local or municipal but less than Statewide.

5. "Nonprofit" refers only to organizations officially recognized as nonprofit by the Internal Revenue Service.

6. "Tribal" refers only to Federally-recognized Indian tribes or Native Alaskan groups.

7. The "Commercial Organization" source line means any "for profit" business organization.

8. The "Private" source line means an individual or family unit not contributing as a "nonprofit" or "commercial organization."

9. The grand total must at least equal the total nonfederal matching share as shown on the SF 424 (plus funds carried over from the previous fiscal year) minus any matching share that is to be used to match the HPF funds carried over into the following year. To qualify as "overmatch," additional funds must be listed on the SF 424 and SF 424A Budget Forms, not just on this Report.

EXHIBIT 25-B PROJECT/ACTIVITY DATABASE REPORT

As part of the End-of-Year Report, the State must complete a record for each major activity/project begun, underway, dropped, or completed during the last fiscal year (this includes subgrant, contract, cooperative agreement, or in-house staff work, even if paid for with 100 percent matching share). Every third-party activity must be included. "Major in-house activity/project" means for each Chapter 6 Program Area, the major or most important in-house activities or projects as defined by the State that have been completed or are underway as of the end of the year. Normally there will be at least one important activity (carried out in-house or through subgrant) in each Program Area. If a State has completed only routine activities in a Chapter 6 Program Area, an in-house record should state this situation. Every project or activity listed in the Anticipated Activities List or Annual Application Narrative must be addressed in a Project/Activity Database Report (PADB) record.

Data Entry Instructions. Each State must use the NPS approved database for entering information into the PADB report.

Data must be provided in every applicable field, even if the entry is zero.

Where a data field provides options, the State may check a box from among all of the options or merely type the choice and erase the other options. For example, a State may check the appropriate Program Area on the form or type in the appropriate Program Area and delete the rest. Data fields that apply solely to subgrants may be deleted for in-house activities.

Data Field (The numbers below correspond to the data field number in the report record)

1. The Record Number is made up of the State Code (i.e., the two letter Post Office Abbreviation), followed by the funding year, followed by the project/activity number beginning with 001. If a State wishes to use its own numbering system, it may do so as long as it also supplies a record number using the national format.

    ! The "Fiscal Year of funding" means the appropriations year of the money which pays for the project. For example, "97" should be entered for a project paid for with FY 1997 funds even if the work is being done during FY 1998.

    ! The project/activity record numbers start over with each new funding year. For example, if Wyoming's last project/activity for FY 1997 funding year has a record number of WY-97-105, then the first project/activity funded with FY 1998 funds has a record number of WY-98-001.

    ! Do not skip any numbers in submitting the Report. A record number of MS-97-045 for example would mean that this project or activity was the 45th project initiated by Mississippi with FY 1997 funds.

- ! Each project/activity has a unique record number. Updated information is not given a new record number. However, separately funded phases of an on-going project/activity would receive separate records.

2. The Title should be descriptive rather than numeric. For example, use "Inventory Computerization" or "Doe County Archeological Survey," but not "14-BAL-42B10." Separate phases of the same project should add phase numbers but retain the same title.

3. Briefly describe the tangible/measurable product or service that will result from completing the activity/project.

   Describe the status of the project's products. For projects/activities underway at the time of the End-of-Year Report, describe the currently planned products, services, etc. For activities/projects completed during the fiscal year, describe the actual accomplishments of the activity/project. If the results are significantly different (in the State's view) from initial expectations, explain what happened. If a project is canceled or completed under budget, explain what happened to the remaining funds; e.g., reprogrammed to another subgrant, to SHPO operational costs, etc. The description provided in this data field must be consistent with the status selected in data field 5, below.

4. Provide the name of the subgrantee or contractor.

5. Provide the current status of the project (check only one).

6. Provide the beginning and end dates for the project.

7. Select SUBGRANT/CONTRACT for subgrant projects and contracts, and IN-HOUSE for activities conducted within the State Historic Preservation Office.

8. Check this box only if the project/activity involves a National Historic Landmark.

9. Check this box only if a subgrant is going to a Certified Local Government.

10. Check the "Primary" Program Area that this project involves. For example, if the project is mainly a survey that may result in a National Register nomination, check "Survey and Inventory." "National Register" should be checked as one of the Secondary Program Areas in Number 5. Never select "Local Government Certification" for a CLG subgrant. "Local Government Certification" should be selected only for non-CLG subgrants or "in-house" projects that help a local government become certified or that help the State administer its CLG program. See the Guidelines for Completing the Cumulative Products Table in Chapter 7, Exhibit 7-E, and Chapter 6 for more information on Program Areas.

11. Check any additional Program Areas that apply to the project. Please note that each Program Area should be checked only once--either as the primary Program Area or as a secondary Program Area.

12. This data field refers to the U.S. House of Representatives--not to the State legislature.

13. Enter the State Plan Goal(s) and Objective(s), if any, that this activity or subgrant helps achieve. If multiple Goals and Objectives are relevant, all may be listed. If the Goals or Objectives of the State Plan

are not numbered, a short title or description should be used so that the reader can determine which Goal(s) and/or Objective(s) are being referenced.

14. Enter the number of any subgrant that is related to the current subgrant. This should only be used for ongoing phased projects that are funded through separate subgrants.

15. Enter the Planned amount of Federal share and nonfederal share at the beginning of the project (i.e., written into the subgrant agreement). Please note that this should be the current amount obligated to the subgrant or contract; the Planned amount should be changed if the subgrant or contract amount has been amended. For example, if the original subgrant award was $10,000 federal share and $6,000 matching share and the federal and matching share are increased or reduced through an amendment, the Planned amounts in the database should reflect those changes).

16. Enter the amounts (Federal and matching share) expended during the first fiscal year of the subgrant. A State may type in the Federal Fiscal Year (e.g., "FY 1997") rather than use "1st Fiscal Year."

17. Enter the amounts (Federal and matching share) expended during the second fiscal year of the subgrant. A State may type in the Federal Fiscal Year (e.g., "FY 1997") rather than use "2nd Fiscal Year."

18. Enter the amounts (federal and matching share) expended to date.

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HPF PROJECT/ACTIVITIES DATABASE REPORT

1. **RECORD #** ___ ___ -- ___ ___ -- ___ ___ ___ (i.e., State - Fiscal Year of funding - Project/Activity #)

2. **TITLE**
(Specify phase number if applicable)

3. **BRIEF DESCRIPTION** (Include project status and indicate publications, if applicable):

4. **SUBGRANTEE / CONTRACTOR NAME** _____ [Subgrants only]

5. **PROJECT STATUS [check only one]**:

ACTIVE ( )
COMPLETED ( )
CANCELED ( )

6. **PROJECT START DATE** ___/___/___ **END DATE** ___/___/

7. **SUBGRANT/CONTRACT** ( ) **IN-HOUSE PROJECT** ( ) [Check One]

8. **NHL** ( ) [Check, if applicable]

9. **CLG** ( ) [Check, if applicable] [subgrants only]

10. **PRIMARY PROGRAM AREA**
[Check the one that best applies] *See Chapter 6 and the Guidelines for Completing the Cumulative Products Table, Chapter 7, Exhibit 7-E.*

Acquisition ( )
Administration ( )
Covenants ( )
Development ( )
Local Government Certification ( )
National Register ( )
Other Activities ( )
Planning ( )
Preservation Tax Incentives ( )
Review and Compliance ( )
Survey and Inventory ( )

11. **SECONDARY PROGRAM AREA**
[Check all that apply] *See Chapter 6 and the Guidelines for Completing the Cumulative Products Table, Chapter 7, Exhibit 7-E.*

Acquisition ( )
Administration ( )
Covenants ( )
Development ( )
Local Government Certification ( )
National Register ( )
Other Activities ( )
Planning ( )
Preservation Tax Incentives ( )
Review and Compliance ( )
Survey and Inventory ( )

12. **CONGRESSIONAL DISTRICT(S)**

13. **ADDRESSES OR MEETS STATE PLAN OBJECTIVES** [Identify the Goal(s) and Objective(s) of the State Plan that this project helps achieve by description; i.e. number, letter or title.]

14. **RECORD NUMBER(s) OF RELATED PHASE**(s), if any, of project.

RECORD # ___ -- ___ -- ___ ___ --

RECORD # ___ -- ___ -- ___ ___ --

15. **PLANNED FEDERAL SHARE** $ _____ [Subgrants only]
PLANNED MATCHING SHARE $ _____ [Subgrants only]

16. **FEDERAL SHARE EXPENDED 1st FISCAL YEAR** $ _____[Subgrants only]
MATCHING SHARE EXPENDED 1st FISCAL YEAR $ _____[Subgrants only]

17. **FEDERAL SHARE EXPENDED 2nd FISCAL YEAR** $ _____[Subgrants only]
MATCHING SHARE EXPENDED 2nd FISCAL YEAR $ _____[Subgrants only]

18. **FEDERAL SHARE EXPENDED TO DATE** $ _____ [Subgrants only]
MATCHING SHARE EXPENDED TO DATE $ _____ [Subgrants only]

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EXHIBIT 25-C PROJECT/ACTIVITY DATABASE CARRYOVER STATEMENT

Each State must complete the Carryover Statement and the Table of Unexpended Carryover Funds as part of the End-of-Year Report. Only the Federal Share should be included.

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Project/Activity Database Carryover Statement

Item	Amount (Federal Share)
Costs Incurred First Fiscal Year	$
Committed Subgrants/Contracts Unexpended Balance to be Carried Over	$
Uncommitted Carryover	$
Total (Should Equal Grant Award)	$ 0.00

The total uncommitted dollar amount awarded in FY _____ (just completed fiscal year) to be carried over into FY _____ (current fiscal year) that is not committed to subgrants/contracts is $ _____."

Please check and complete one of the following sentences (choose the one that applies):

_____ *This amount does not exceed 25% of the amount apportioned by NPS, as demonstrated by the attached Unexpended Carryover Funds Table.*

OR

_____ *As demonstrated by the attached Unexpended Carryover Funds Table, this amount exceeds 25% of the amount apportioned by NPS by $_____. I am seeking a waiver for this amount to carry these funds over into the next Federal Fiscal Year for the reasons attached.*

_____
Signature of SHPO Date

Comments:

If the proposed uncommitted carry over amount exceeds 25%, see Chapter 3, Sections D.6. and K. which discuss Waivers and the Carryover (Use or Lose) policy on HPF funds.

EXHIBIT 25-D UNEXPENDED CARRYOVER FUNDS TABLE

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Unexpended Carryover Funds Table

Subrecipient (Subgrantee or Contractor)	Certified LocalGovernment?	Federal Share of Subgrant/ Contract Award	Federal Share Cost not Incurred as of 9/30/XXXX
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
CLG SUBGRANT TOTAL			
GRAND TOTAL		0.00	0.00

Enter with a check mark, or "yes" all subgrants that are passed through to a Certified Local Government in the second column. All of the subgrants/contracts listed in the Project/Activity Database Report must be included in the Unexpended Carryover Funds Table.

Chapter 26 GLOSSARY

Key: Terms can have special meanings (different from the standard meaning) depending on the contexts in which they are used. Terms having special applications are identified by the following source-related keys:

(60) 36 CFR 60; National Register Related
(61) 36 CFR 61
(67) 36 CFR 67; Tax Related
(800) 36 CFR 800; Advisory Council Related
(S&G) Secretary's Standards and Guidelines

Abuse. Violations of Departmental, Bureau, or program regulations which impair the effective and efficient performance of mission responsibilities.

Accessibility. When viewed in its entirety, a program must be readily accessible to and usable by qualified persons, as defined by Section 504 of the Rehabilitation Act of 1973. This does not mean that every existing facility or part thereof has to be made physically accessible (43 CFR 17.217 Subpart B). See Chapter 10.

Accrued Expenditures. The charges incurred by the grantee during a given period for: (1) goods and other tangible property received; (2) services performed by the employees, contractors, subgrantees, and other payees; and (3) amounts becoming owed under projects for which no current services or performance are required.

Acquisition Cost of Purchased Nonexpendable Personal Property. Net invoice unit price of a property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired.

Acquisition Project. A grant project which has for its purpose obtaining fee title, or interest other than fee title, of real property (including the acquisition of development rights or remainder interest).

Act (The). The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

Active. Pertaining to an item, report, project, subgrant, etc., that is in process during any part of the reporting period; e.g., an application for the preliminary certification of rehabilitation that has been received by the State but the recommendations for which have not yet been forwarded to NPS.

Actual. As used in the End-of-Year Report, Actual refers to Products that are completed during the fiscal year grant period. See Chapters 7 and 25.

Administrative Costs. Those costs including budget formulation and execution, personnel management, and other overhead functions not specifically chargeable to a particular HPF-assisted activity. Administrative costs include indirect costs, and are limited by the NHPA to 25% of the Annual Grant. See Chapter 6 and Exhibit 7-B.

Advance by Treasury Check. A payment made by a U.S. Treasury check to a grantee upon submittal of an SF 270 form. An advance is not recorded as an expenditure until the grantee submits an SF 272 Federal Cash Transactions Report. See Chapter 21.

Adverse Effect. The finding of a Section 106 review in which it is determined that the proposed Federal action will adversely affect historic properties. See 36 CFR 800.

Advisory Council. The Advisory Council on Historic Preservation (ACHP), established under Section 201 of the Act.

Allowable Cost. Those eligible, reasonable, necessary, and allocable costs that are permitted under the appropriate Federal cost principles, in accordance with program policy, within the scope of the project or program and authorized for HPF participation. See Chapters 12 and 13.

Amendment. An official alteration of the project or program agreement which modifies the approved project or grant agreement in a specified manner. See Chapter 15.

Annual Appropriation Grant. The grant funded by an appropriation derived from a regular, continuing resolution, or special purpose appropriation of new funds to the Department of the Interior authorized by Section 108 of the Act.

Apportionment. 1) A distribution by OMB to individual Federal agencies of amounts appropriated by Congress. The distribution is for specific time periods, activities, functions, programs, projects, or combinations thereof. 2) The distribution of Historic Preservation Fund monies made annually by the Secretary of the Interior to eligible grantees.

Appraisal of Real Property. A standardized procedure to establish the current fair market value of real property in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act. Appraisals must be performed by a certified professional real property appraiser. See Chapters 6 and 20.

Appropriation. The amount of funds (obligational authority) Congress makes available annually from the Historic Preservation Fund for purposes of the Act.

Approved State Program. (61) A State historic preservation program that has been approved by the Secretary of the Interior in accordance with Section 101(b) of the National Historic Preservation Act.

Audit. A systematic review or assessment to determine and report whether: (1) financial operations are being properly conducted, (2) financial reports are being presented fairly, and (3) applicable laws and regulations are being complied with. See Chapter 23.

Budget. The financial plan for expenditure of all Federal and nonfederal funds for a program or a project; developed by cost components in the grant application on the SF 424A (see Chapter 7, Exhibit 7-B), or on a Project Notification (see Chapter 8, Exhibit 8-A).

Budget Period. 1) The interval of time into which a multi-year period of assistance is divided for budgetary and funding purposes. 2) The period specified in the grant agreement during which Federal funds are authorized to be expended, obligated, or legally committed by the grantee for the purposes specified in the grant agreement.

Building. (60) A man-made construction created to shelter human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex such as a courthouse and jail, or a house and barn.

Carryover. Grant funds in excess of that needed for costs incurred during the first year of funding availability. See Chapter 3, Section J.

Categorical Exclusion. See Chapter 11 for categorical exclusions not requiring preparation of an environmental assessment for proposed HPF-supported actions. The appropriate exclusion must be cited on the Environmental Certification transmitted as part of the grant application (see Chapter 11).

Certification. A legally binding statement that certain requirements have been fulfilled. The penalty for false statements in certifications is prescribed in 18 U.S.C 1001.

Certification of State or Local Districts. The process of certifying that a district designated under a state or local statute meets substantially all of the requirements for the listing of districts in the National Register of Historic Places (see 36 CFR 67).

Certified Historic Structure. (67) A building (and its structural components) which is of a character subject to the allowance for depreciation provided in the Internal Revenue Code which is either (a) individually listed in the National Register; or (b) located in a registered historic district and certified by the Secretary as being of historical significance to the district. Portions of larger buildings, such as single condominium apartment units, are not independently considered certified historic structures. Rowhouses, even with abutting or party walls, are considered as separate buildings. For purposes of the charitable contribution provisions only, a certified historic structure need not be depreciable to qualify, may be a structure other than a building, and may also be a remnant of a building such as a facade, if that is all that remains. For purposes of the other rehabilitation tax credits under the Internal Revenue Code, any property located in a registered historic district is considered a certified historic structure so that other rehabilitation tax credits are not available; exemption from this provision can generally occur only if the Secretary has determined, prior to the rehabilitation of the property, that it is not of historic significance to the district.

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

Certified Rehabilitation. (67) The rehabilitation of a certified historic structure which the Secretary has certified as being consistent with the historic character of the structure and, where applicable, with the district in which such a structure is located.

Chief Elected Local Official. 1) (61) The elected head of a local government. 2) (60) 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.

Clearinghouse. An agency of State government designated by the Governor to review and disseminate to other interested public agencies for review, notices of intent to apply for Federal grant assistance in accordance with Executive Order 12372. Also known as the Single Point of Contact; see Chapter 4.

CLG Share. (61) HPF grant funds that are transferred to Certified Local Governments in accordance with Section 103(c) of the Act.

Code of Federal Regulation (CFR). A series published by the Federal Government which contains codification of the general and permanent rules published by agencies of the Federal Government.

Cognizant Federal Agency. The Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals prepared by grantees under OMB Circular A-87 or other Federal Cost Principles. The Federal agency that provides the largest amount of funding to a particular grantee is deemed to be the cognizant Federal agency for that grant recipient.

Competitive Negotiation. A method of procurement used when the nature of services or products needed precludes development of a precise description or specification that will enable prospective suppliers to have an identical understanding of the requirement. Competitive negotiation is used when formal advertising is not appropriate, and is normally the method used for obtaining professional services for nonconstruction work.

Comprehensive Statewide Historic Preservation Plan. (61) 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.

Conditional No Adverse Effect. The finding of a Section 106 review in which the SHPO determines that the project will not adversely affect properties, but only because of specified conditions which the Federal agency proposes or agrees to. For example, it includes "no adverse effect" findings contingent upon the satisfactory recovery of data present in archeological properties.

Conflict of Interest. A conflict between one's obligation to the public good and one's self-interest. See Chapter 3, Section B.4.

Considered Eligible. Those properties that both the SHPO and the Federal agency agree should be considered eligible for listing in the National Register of Historic Places, but have not been forwarded to NPS for a formal Determination of Eligibility. These are not Determinations of Eligibility.

Consultant. An individual who is engaged to give professional advice or services, for a fee, but not as an employee of the party that engages him/her. The term includes paid guest lecturers and speakers.

Continuing Resolution Grant. A grant awarded under a Continuing Resolution when congressional action on appropriations is not completed by the beginning of a fiscal year. A Continuing Resolution is legislation enacted to provide funding so that specific activities may continue operation until the regular appropriations are enacted. Continuing Resolution Grants are awarded by the Secretary of the Interior to prevent disruption during this period.

Contract. A written procurement agreement between the grantee (or its subgrantees) and another party (the contractor) obligating the grantee to pay for and the contractor to furnish property or services needed to accomplish the purposes of the grant. A "subcontract" means a procurement subcontract under such a contract. For purposes of HPF grants, a contract is considered equal to a subgrant for commitment of funds.

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."

Cost. For purposes of HPF assistance, a cost is determined on a cash, accrual, or other basis acceptable to NPS as a discharge of the grantee's accountability for Federal funds. See Chapter 12.

Cost Allocation Plan. The documentation identifying, accumulating, and distributing allocable costs under grants and contracts together with the allocation methods used. This plan forms the basis for a percentage indirect cost rate proposal to be submitted to the cognizant Federal agency for approval. The plan must describe the services provided and relevance to the grants program, list the expenses to be charged to grants, and explain the method used to distribute costs. See Chapter 12.

Cost-Plus-a-Percentage-of-Cost Contract. A cost-reimbursement contract whereby the contractor is reimbursed for costs plus a fixed percentage of costs. Its effect is to increase the profits of a contractor in proportion to the contractor's increased costs. Its use is prohibited by law [41 U.S.C. 254b and 10 U.S.C. 2306(a)] in Government contracting, and prohibited by 43 CFR 12.76(f)(4) and by 43 CFR 12.944(c) in grantee or subgrantee contracting.

Cost-Reimbursement Contract. A contract that establishes an estimate of total costs for the purpose of committing funds and a ceiling that the contractor may not exceed (except at contractor risk) unless the awarding party agrees to amend the contract to provide additional funds. This kind of contract may also provide for a fixed dollar profit (usually not more than 10 percent) which may not be increased unless the contract is amended to increase the scope of work. The contract provides for payment of all allowable costs to the extent prescribed in the contract.

Covenant. A deed restriction which is binding on future owners of a property during the term of the covenant. See *Preservation Agreement*.

Cultural Resource. Any district, site, building, structure, or object significant in American history, architecture, archeology, engineering, or culture at the national, State, or local level.

Cumulative Products Table. The form used in the annual grant application and End-of-Year Report to record Products in the program areas applicable to HPF eligible activities. See Chapters 7 and 25.

Cumulative Projection. The sum of estimates (Products) In the HPF Grant Application for activities to be accomplished with all of the current Federal fiscal year's grant awards made to the State to date. By the end of the fiscal year, this will include all awards made to the State during the fiscal year including any carryover funds, Continuing Resolution Grants, regular apportionment grants, etc.

Curation. The placement in a museum and subsequent care of artifacts and records associated with those archeological resources recovered with grant assistance.

Deferral. A Federal action to temporarily delay the obligational availability of appropriated funds. Deferrals may not extend beyond the end of the Federal fiscal year in which the deferral is proposed.

Depreciation. The systematic and rational allocation of the costs of equipment and buildings (having a useful life of more than 1 year) over their useful lives.

Designation of SHPO. The official written appointment by the Governor of an individual or specified agency official with authority to represent the State and to be responsible for carrying out the purposes of the Act. See 36 CFR 61 and Chapter 3, Section B.2.

Determination of Eligibility. (60) 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.

Development Project. A project which has for its purpose the protection, rehabilitation, restoration, or reconstruction of a historic property.

Direct Cost. Any cost that can be specifically identified with a particular project or program. Direct costs include, but are not limited to, salaries, travel, equipment, and supplies directly benefiting a particular project or activity.

Disabled Person. Any person who has a physical, mental, or sensory impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment as outlined in 43 CFR 17.202 Subpart B(k)(2)(i). With respect to employment, "Qualified handicapped person" means a disabled person who, with reasonable accommodation, can perform the essential functions of the job in question (43 CFR 17.202 Subpart B(k)(1)).
Disallowed Costs. Those charges to a grant which are determined to be unallowable.

Disbursements. Payments represented by valid invoices and documentation.

District. (60) 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.

Donation. Cash, land, material, or services provided to or by a subgrantee (or contractor) or third-party for incorporation in the project at no cost to the subgrantee. Donations must be necessary and reasonable

contributions directly benefiting and specifically identifiable to the project or grant to qualify as allowable matching share. See Chapter 14.

Duly Authorized Representative. (67) A state or locality's Chief Elected Official or his or her representative who is authorized to apply for certification of State/local statutes and historic districts.

Easement. The right of one person to use the property or property rights (e.g., the right of access, the right to limit exterior alterations) of another for a stated term. The owner retains the major interest and can live in the property, will the property to another, or sell the property. Transfer of title does not affect the easement, which remains in effect for the stated term.

Effective Date. See *Project Beginning Date*.

EISs (State Review). The substantive review of any Environmental Impact Statement (Preliminary, Draft, Final, etc.) promulgated by or on behalf of a Federal agency pursuant to the National Environmental Policy Act.

Evaluation. A process which permits a determination of whether a grantee or subgrantee is achieving defined program objectives.

Evaluations of Significance. The evaluation of whether a particular structure qualifies as a certified historic structure pursuant to 36 CFR 67. This term includes both determinations of significance and determinations of non-significance (i.e., decertifications of significance).

Executive Order (E.O.) 12372. This document establishes procedures for the cooperative implementation of proposed Federal assistance programs, Federal requirements for plans, and direct Federal development projects, through consultation which accommodates the concerns of the State and local elected officials. Replaces OMB Circular A-95. See Chapter 4.

Expenditures. All allowable disbursements chargeable to the approved budget plus the recorded dollar value of all unpaid invoices for materials received and services rendered, and all in-kind services and materials applied to the operation of projects.

Extension of Time. An NPS-approved amendment extending the end date of a project or grant period. See Chapter 15.

FAADS (The Federal Assistance Awards Data System). A computer-based, central collection of selected, uniform information on Federal assistance transactions. Such information includes the name and location of the recipient, amount of Federal funding, project description, and Federal program reported by geographic location. See Chapter 7, Exhibit 7-A.

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.

Federal Assistance. The term "Federal Assistance," (or "Federal Financial Assistance," "Federal Assistance Programs," or "Federally Assisted Program") means programs that provide assistance through grant or

contractual agreements, and includes technical assistance programs or programs providing assistance in the form of loans, loan guarantees, or insurance.

Federal Ownership or Control. (60) Federal ownership or control for Federal nominations to the National Register means property for which a Federal agency holds fee-simple title and other properties over which the Federal Government has jurisdiction, including those on the Outer Continental Shelf.

Federal Preservation Officer. (60) The official designated by the head of each Federal agency responsible for coordinating that agency's activities under the National Historic Preservation Act, as amended, including nominating properties under that agency's ownership or control to the National Register. The Federal Preservation Officer may delegate the authority to submit nominations to the National Register.

Federally Recognized Indian Tribal Government. An Indian tribe, band, nation, or other organized group or community, including a Native Village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Fee-Simple Acquisition. Acquisition of absolute ownership of real property without limitation or condition.

Final Project Report. A subgrant closeout report submitted to NPS. See Chapter 8 and Exhibit 8-E.

Fiscal Year. The Federal fiscal year; the 12-month period from October 1 through September 30.

Flood Plain. The area along waterways subject to periodic inundation.

Force Account (or Force Account Work). The performance of a project with the employees and facilities of the grantee or its State and local government subgrantees, rather than by contract with an outside organization.

Formal Advertising. A competitive procurement method which is normally used when the nature of the product or service permits development of a precise description or adequate specifications so that prospective suppliers will be enabled to have an identical understanding of the requirement. Bids are solicited publicly through advertising and by issuing "Invitations for Bids." In response to the solicitation, "formal" sealed bids are submitted which are not subject to negotiation or change. The sealed bids are opened publicly on a specified date and are read aloud. A firm fixed-price contract is awarded to the responsible bidder (see definition) whose bid, conforming to the material terms and conditions of the invitation for bids, is lowest in price. Formal advertising is normally the required method of procurement for construction work. See Chapter 17.

Fraud. The intentional, wrongful obtaining of money or some unfair or dishonest advantage or benefit from government programs. Fraud includes theft, embezzlement, false statements, illegal commissions, kickbacks, conspiracies, obtaining contracts through collusive arrangements, and similar activities.

General Conditions of Grant Award. Legally binding provisions applicable to and part of all HPF grant agreements. See Chapter 5. Also see *Special Conditions of Grant Award*.

General Conditions for Construction Contracts. Costs incurred by a general contractor for common elements to be used by other contractors or subcontractors. Included are temporary heat, power, lighting, water, sanitary facilities, scaffolding, elevators, walkways, railings, and office and storage space necessary for performance of contract work at the project site. (These items are distinct from "contingencies," which are unallowable.) See Chapter 13.

Goal. A timeless value statement that expresses the desired change that the grantee wants to accomplish and which serves as a guide for the grantee's planning and programming.

Grant. An award of financial assistance paid by the Federal Government under the National Historic Preservation Act to carry out specific objectives for a specified period of time consistent with the terms of an approved budget and executed grant agreement. The term does not include any Federal procurements subject to the procurement regulations in 41 CFR, nor does it include technical assistance or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct congressional appropriations.

Grant Agreement. The written contractual agreement and any subsequently approved amendments between NPS and a grantee in which the terms and conditions governing the grant award are stated and agreed to by both parties, and which documents the obligation of Federal funds in the NPS accounting system.

Grant Awarding Official. The NPS official whose name/title appears on the Grant Agreement.

Grant Budget. The NPS-approved financial plan for use of both the Federal and nonfederal shares to carry out the purposes of the grant-assisted program and projects.

Grant Beginning Date. The NPS-approved date when the grantee may begin to incur costs chargeable to the grant.
Grant Closeout. The process by which NPS determines that all applicable administrative actions and all required work of the grant have been completed by the grantee.

Grantee. The term generally means the department or agency of State government, Federally recognized Indian tribal government, or other direct recipient of HPF grant assistance from NPS. Primary recipients are States, as defined in the Act, tribes, and the National Trust for Historic Preservation. The organizational entity to which a grant is awarded is responsible and accountable to the Federal Government both for the use of the funds provided, including cash and non-cash contributions applied in support of the grant, and for the performance of grant-supported programs, projects, or activities. The grantee is the entire legal entity even if a particular component is designated in the grant award document. See *Subgrantee*.

Grant Period. The period of time specified in the grant agreement during which costs may be charged against a grant.

Grant Program. The activities and operations of the States, the National Trust for Historic Preservation, and any other grantee assisted under the Act, which are necessary to carry out the purposes of the grant, including that portion of the program financed by the nonfederal share.

Historic Context. A structured framework for organizing information about historic, prehistoric, and cultural resources based on a shared theme, time period, and geographical area. Historic contexts are those patterns or

trends in history by which a specific occurrence, property, site, or place is understood and its meaning (and ultimately its significance) within prehistory or history is made clear. In National Register Multiple Property Submissions, historic contexts provide for a standardized means of describing, comparing, and explaining the significance of a wide variety of properties. When the historic context contains goals and priorities for the identification, evaluation, registration, and treatment of historic properties, it plays an important role in preservation planning and decision making.

Historic District. (67) 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. (61) 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). (61) 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. (S&G) 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. See Chapter 6.

Indian Tribe. See *Federally Recognized Indian Tribal government*.

Indirect Costs. Costs incurred for common or joint objectives, and which therefore cannot be identified specifically with a particular project or program without effort disproportionate to the results achieved. These costs are allocated to the various classes of work in proportion to the benefit to each class. The cognizant Federal agency must approve a rate based on a cost allocation plan. See Chapter 12.

In-House. Refers to any HPF eligible activity conducted by Grantee staff rather than by contract or subgrant.

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.

Inspection. 1) (67) A visit by an authorized representative of the Secretary to a certified historic structure for the purposes of reviewing and evaluating the significance of the structure and the completed rehabilitation work. 2) The term is also used in relation to monitoring visits to grant-assisted properties or SHPO facilities.

Insular Areas. The Virgin Islands, Guam, American Samoa, the Republic of the Marshall Islands, the Federated State of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands. (Does not include Puerto Rico). Nonfederal share matching requirements were waived for insular areas by Section 601 of P.L. 96-205 (48 U.S.C. 1469a).

Integrity. (S&G) 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.

Intensive Level Survey. Systematic, detailed field (and archival) inspection of an area designed to identify fully the architectural, archeological, and historic properties; and calculated to produce a level of documentation sufficient, without any further data, to evaluate National Register eligibility (and nominate if appropriate).

Internal Operations (referred to in SF 424A, Budget Form). In-house activities that are tied directly to a Program Area other than Administrative Costs. See Chapter 7, Exhibit 7-A, Additional Instructions.

Internal Control or Management Control. The plan of organization, methods and procedures adopted by management to provide reasonable assurance that obligations and costs are in compliance with applicable laws; funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and revenues and expenditures applicable to operations are properly recorded and accounted for to permit the preparation of reliable financial and statistical reports and to maintain accountability over the assets. An Internal Control Review is a detailed examination of the system of internal controls to determine whether adequate control measures exist and are being utilized to detect, prevent, and deter fraud, waste, and abuse in a cost-effective manner. See OMB Circular A-123.

Inventory. 1) (S&G) 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.

Invitation for Bids (IFB). A set of documents which includes a description of the product or service desired and all other information needed to enable a prospective contractor to submit a bid. The invitation for bids is the specific term applied to the solicitation used in contracts involving Federal funds when the formal advertising procurement method is used.

Keeper of the National Register of Historic Places (Keeper). The individual to whom the authority has been delegated to list properties and determine their eligibility for the National Register.

Liquidation of Cash Advance. The reporting of the expenditure of funds, drawn as a cash advance from the U.S. Treasury, on the Report of Federal Cash Transactions (SF 272). An advance is not considered an expenditure until reported as liquidated. See Chapter 21.

Lobbying. Any activity designed to influence an officer or employee of an agency, a member of Congress, or an officer or employee of Congress to favor or oppose any legislation (including appropriation), whether before or after the introduction of any bill or resolution proposing such legislation. In accordance with 18 U.S.C. 1913, costs associated with lobbying efforts are unallowable as charges to HPF grants. See Chapter 5 and Chapter 13, Section D.25.

Local Commission. (61) See *Historic Preservation Review Commission*.

Local Government. (61) A city, county, parish, township, municipality or borough, or any other general purpose political subdivision of any State.

Market Value. As determined by competent appraisal or court decision, the highest price a property could reasonably be expected to bring if exposed for sale in the open market for a reasonable time, unaffected by grant assistance considerations, and taking into account all lawful uses to which such property is adapted and could reasonably be put. See Chapter 6, Exhibit 6-B, for appraisal methods.

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. See Chapter 14.

Memoranda of Agreement (MOA) (as it relates to Review and Compliance). Written agreements between the SHPO and a Federal agency involving a single Federal undertaking. Any project-specific or programmatic memoranda of agreement signed by the SHPO that is produced when a project triggers Section 106, or any proposal for such an agreement in which the SHPO concurs in writing (see 36 CFR 800; also see *Programmatic Agreement*).

Mitigation. Any action which reduces or eliminates adverse impacts resulting from a proposed action. Mitigation may include project redesign or relocation, data recovery and documentation, etc. See 36 CFR 800.

Monitoring. A process whereby the programmatic and business management performance aspects of a grant are reviewed by means of the collection and assessment of information gathered from various reports, audits, site visits, and other sources.

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. (60) National Register Nomination Form means National Register Nomination Form NPS-Form 10-900, with accompanying continuation sheets where necessary (Form 10-900a), 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.

Negotiated Procurement. A procurement method, normally competitive, which is used when the nature of a product or service precludes the development of specifications or a precise description enabling all prospective suppliers to have an identical understanding of the requirement. Requests for Proposals are circulated to at least three firms. Responses to solicitation (proposals) are not opened publicly; contents are generally not revealed prior to award; and they may be changed following evaluation, discussion, and negotiation. See Chapter 17.

NEPA Process. The process for the consideration of environmental impacts during project planning. This may include the preparation of an Environmental Assessment or Environmental Impact Statement, pursuant to the National Environmental Policy Act. See Chapter 11.

Nepotism. Patronage bestowed or favoritism shown on the basis of family relationship.

No Adverse Effect. The finding of a Section 106 review that the proposed Federal project will not adversely affect historic properties located within the impact area of the project. See 36 CFR 800.

Nomination (To Nominate). (60) To nominate is to propose that a district, site, building, structure, or object be listed in the National Register of Historic Places or, where a private owner or a majority of owners object to listing, that the property be determined eligible by submitting a nomination form, with accompanying maps and photographs which adequately document the property and are technically and professionally correct and sufficient.

Noncompetitive Negotiation. A negotiated procurement in which a proposal for goods or services is solicited from only one source. Only allowable in extraordinary circumstances. See Chapter 17.

No Effect on Properties. The finding of a Section 106 review in that there is no effect on historic properties that are or may be located within the impact area of the proposed project. See 36 CFR 800.

Nonexpendable Personal Property. Tangible personal property (including equipment) having an expected useful life of more than 1 year and an acquisition cost of $5,000 or more per unit. Personal property is property of any kind except real property.

Nonfederal Share. See *Matching Share*.

Nonprofit Organization. For purposes of the HPF grant program, a nonprofit organization means any corporation, trust, foundation, agency, or other organization which: (1) has been recognized by the Internal Revenue Service as being entitled to exemption under Section 501(c)(3) of the Internal Revenue Code, or (2) is not organized for profit and no part of the net earnings of which inures, or will inure upon dissolution, to the benefit of any private shareholder or individual.

No Properties in Impact Area. The finding of a Section 106 review that no properties meeting National Register eligibility criteria (or already listed on the National Register) are located within the impact area of the project. See 36 CFR 800.

Object. (60) A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Objective. A specific, often measurable, statement of results that the grantee intends to accomplish in relation to an identified problem within a determined time period. Objectives should be consistent with goals and strategies for achieving desired change.

Obligation. For purposes of HPF grants, an obligation of funds is the NPS action in approving a grant application via a grant agreement or subsequent amendments for the period of time specified in the grant agreement and amendments to it.

Obligational Authority. The total amount of Federal funds authorized for obligation which establishes the ceiling for obligation of Federal funds. This amount may include any unexpended funds (carryover) from prior apportionments.

Office of Management and Budget (OMB). Established in the Executive Office of the President to, among other things, assist the President in the formulation and administration of the Federal budget; and to promulgate uniform standards and requirements (issued as Circulars) governing Federal grants.

OMB Circular A-21. This Circular establishes principles for determining costs applicable to grants, contracts, and other agreements with educational institutions. For purposes of HPF grants, these cost principles apply to third parties that are educational institutions receiving HPF grant funds through agreements with grantees or through direct grants from NPS.

OMB Circular A-87. This Circular establishes principles and standards for determining costs applicable to Federal grants and contracts with State and local governments, and Indian tribes. See Chapter 12.

OMB Circular A-102. Promulgates the standards for establishing consistency and uniformity among Federal agencies in the administration of grants to State and local governments, and Indian tribes. Implemented by the Department of the Interior and codified as 43 CFR 12.1-92.

OMB Circular A-110. Promulgates standards for obtaining consistency and uniformity among Federal agencies in the administration of grants to, and other agreements with, public and private institutions of higher education, public and private hospitals, and other quasi-public and private nonprofit organizations. Implemented by the Department of the Interior and codified as 43 CFR 12.901-972.

OMB Circular A-122. Stipulates principles and standards for determining costs applicable to Federal grants and contracts with nonprofit organizations. For purposes of HPF grants, these cost principles apply to nonprofit organizations receiving HPF grant funds through subgrant or contract agreements with grantees or through direct grants from NPS.

OMB Circular A-133. Stipulates requirements for grantees and subgrantees who expend $300,000 of Federal assistance annually to obtain fiscal audits and to transmit them to Federal grantor agencies.

Operating Costs. The costs of staff and delivery of services for purposes defined in the Act, proposed for assistance in the NPS-approved annual grant application, and performed under arrangement with the State agency which administers the HPF-assisted program in the State. Operating costs assist activities directly related to the accomplishments of Program Area activities described in Chapter 6.

Outlays. The charges made to the HPF grant.

Owner. 1) For the purposes of HPF grants, the term means a) an owner of a compensable interest in a property; or b) a person who holds fee title, a life estate, or a 99-year lease. 2) (67) For Preservation Tax Incentive purposes, "owner" means a person, partnership, corporation, or public agency holding a fee-simple interest in a building or any other person or entity recognized by the Internal Revenue Code for purposes of the applicable tax benefits. 3) (60) For National Register purposes, owner or owners means those individuals, partnerships, corporations, or public agencies holding fee-simple title to property. 4) The term owner or owners also means Indian tribes or members of Indian tribes who own beneficial title to Indian lands either held in trust by the United States or subject to a restriction against alienation imposed by the United States. (Owner or owners does not include individuals, partnerships, corporations, or public agencies holding easements or less-than-fee interests in property of any nature, except for owners of Indian lands.)

Pass-Through Subgrant. A subgrant to a Certified Local Government (CLG) required by Section 103(c) of the Act.

Personal Property. Property of any kind, tangible or intangible, except real property.

Phase. A logical, identifiable portion of a project, consisting of one or more elements of acquisition, development, planning, or other activities specifically activated by an agreement and one or more subsequent amendments. It is an incremental approach to work in which several distinct stages of work are proposed.

Planning. This does not include internal fiscal or office management planning. See *Comprehensive Statewide Historic Preservation Planning*.

Planning Process. An ongoing series of activities designed to develop, produce, implement, and revise a Comprehensive Statewide Historic Preservation Plan. It typically includes such activities as public participation, assessing historic resource information, analyzing preservation needs, identifying goals and objectives, determining strategies for and monitoring goal achievement, and identifying the plan revision cycle and procedures. See Chapter 6, Section G.

Plans and Specifications. The detailed working drawings and technical specifications necessary to determine the scope of the work and provide a firm basis for competitive bidding and contractual obligations for proposed construction work.

Political Subdivision. A local unit of government, including specifically a county, parish, township, or municipal corporation created by or pursuant to State Law.

Preagreement Costs. Costs incurred prior to the NPS-approved grant beginning date stipulated in an HPF grant agreement; they must be authorized by NPS in writing. See Chapter 13, Section C.

Predevelopment Work. The historical, architectural, and/or archeological research necessary to properly document proposed construction work on a historic structure or site performed prior to the commencement of development. See Chapter 6.

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.

Preservation Agreement. An executed personal contract enforceable in a court of law that binds the owner of a property acquired or developed in part with funds authorized by the National Historic Preservation Act to assume responsibility for maintenance and administration of the property for a period of time relative to the amount of HPF assistance provided, and to provide access for viewing and enjoyment by the public in accordance with the terms of the agreement. See Chapter 6, Section M.

Prior Approval. The written approval required from the authorized NPS official before certain activities may be undertaken, funds expended, or when the cost of proposed actions exceed a certain dollar level. See Chapter 13.

Procurement. The acquisition of property or services, including construction (through purchase orders, contracts, leases, or other means) which are needed by NPS grantees or their subgrantees in carrying out projects under HPF grants. See Chapter 17.

Procurement by Formal Advertising. The procedure for selecting contractors and making contracts by means of competitive bids and awards solicited through public invitation for bids. This procedure is required by 43 CFR 12.76 in all cases in which its use is at all feasible and practicable.

Procurement by Negotiation. The procedure for selecting contractors and making contracts without formal advertising but still conducted in a manner so as to provide maximum open and free competition. See Chapter 17.

Procurement by Small Purchase Procedures. Those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies, or other property, costing in the aggregate not more than $100,000. Grantees shall comply with State or local government small purchase dollar limits under $100,000. Price or rate quotations must be obtained from an adequate number of qualified sources to ensure competition. See *Small Purchases*.

Professional Staff Requirements. The minimum qualified staff required to administer the State's historic preservation program (see 36 CFR 61; also see Chapter 3, Section B.3.).

Program. The overall plan for the use of Federal funds which is intended to be put into effect by the grantee through functions, activities, services, projects, and processes. Section 101(e)(1) of the Act provides for Grants to States: "The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act." Section 101(b)(1) of the Act defines a State's historic preservation program as one that (a) provides for the designation and appointment by the Governor of a "State Historic Preservation Officer" to administer such programs in accordance with Section 101 (b)(3) of the Act and for the employment by such officer of such professionally qualified staff as may be necessary for such purposes; (b) provides for an adequate and qualified State Historic Preservation Review Board designated by the State Historic Preservation Officer unless otherwise specified by law; and (c) provides for adequate public participation in the program, including the process of recommending properties for nomination to the National Register.

Program Area. A category or grouping HPF-eligible activities. Program Areas are a useful means to track, report on, and evaluate grantee programs. See Chapter 6.

Program Income. The proceeds from the sale, transfer, or disposition of real and personal property; royalties, patents and copyrights; the sale of publications; and permit fees realized from grant-assisted activities during the grant period. Proceeds from the sale, transfer, or disposition of real and personal property shall be handled in accordance with the procedures of 43 CFR 12.65, 43 CFR 12.71, and 43 CFR 12.72. A synonym for program income is grant-related income.

Programmatic Agreement (PA). Written agreement between the SHPO, a Federal agency, and the Advisory Council on Historic Preservation involving a type of activity or resource. PAs are published in the Federal Register; deal with types of activities, rather than specific projects; may be initiated by either the SHPO or a Federal agency; are signed by the Federal agency representative and the SHPO and ratified by the Chairman of the Advisory Council on Historic Preservation (ACHP). See 36 CFR 800.

Project. A project is any operation with the following elements: 1) a scheduled list of component activities, 2) a logical sequence or ordering of these activities, 3) a statement of the time required to perform each activity, and 4) an indication of activity costs in the case of resource allocation problems. For HPF grant purposes, a project is an organized activity carried out to reach a defined goal, usually under a subgrant, with a specified terminal point. The term "project" also applies to any HPF-assisted activity conducted through subgrants/contracts.

Project Activity. The smallest identifiable unit of work that in varying combinations constitutes the work to be performed as part of a project. An activity also refers to any portion of a project which consumes time and resources and has a specific starting and ending point.

Project/Activity Database Report. Information on individual subgrants and major in-house activities supplied as part of the State End-of-Year Report. See Chapter 25.

Project Beginning Date. The date the grantee or subgrantee may begin to incur costs chargeable to the project.

Project Costs. The sum of the allowable costs as set forth in the applicable Federal cost principles, incurred by the grantee or subgrantee in accomplishing the objectives of a grant during the project period. This includes allowable and necessary in-kind contributions made by third parties.

Project Notification. A brief description of proposed third-party subgrant/contract projects. These are not obligational authority documents; however, for States not on Reduced Review Status, and for all subgrants with a Federal share greater than $25,000, Project Notifications must be submitted to NPS for review at least 20 days prior to the award of each subgrant. See Chapter 8 and Exhibit 8-A.

Project (or Grant) Period. The total time for which a project (or grant) has been approved by the grant award agreement and subsequent amendments for support with Federal funds and during which all work is to be accomplished.

Property. See *Historic Property*; see *Real Property*.

Property Type. (S&G) A grouping of individual properties characterized by common physical and/or associative attributes.

Protection. 1) The act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent. 2) Also, "protection" means 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 Section 101(c) of the Act.

Public Benefit. The access and other advantages enjoyed by the public under the terms of the Preservation Agreement or covenant to the deed of properties assisted by Historic Preservation Fund grants. See Chapter 6.

Public Education. The provision of information, techniques, processes, requirements, etc., concerning the elements of the National Historic Preservation Act and the State and local programs operated under its requirements.

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 (see Chapter 8, Section C). 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.

Purchase Price. The cash price agreed upon as a consideration for which property is sold.

Real Property. Land, land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

Reasonable Cost. A cost that in its nature or amount does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

Reconnaissance Level Survey. Small-scale archival or field research, designed to provide a general impression of an area's architectural, archeological, and historical properties and their values, but not calculated to produce a level of documentation sufficient to determine a property's eligibility or to nominate a property to the National Register.

Reconstruction. The act or process of depicting, by means of new construction, the form features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Records. Documents of actions taken with respect to a grant, including financial records, performance records, and supporting documents.

Registered Historic District. (67) Any district listed in the National Register or any district: a) which is designated under a State or local statute which has been certified by the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of significance to the district;

and, b) which is certified by the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural values.

Reimbursement by Treasury Check. Payment made to a grantee with a Treasury Check upon request for reimbursement, by submission of an SF 270, from the grantee. See Chapter 21.

Remainder Interest. A future possessory interest in real property given to a third party which matures upon the stated term for a fee.

Reprogramming. The deobligation from one grant and reobligation into another grant by NPS of previously obligated but unexpended funds. Reobligation of HPF monies is limited to the year of appropriation by Congress plus the following Federal fiscal year. Funds deobligated after that period revert to the U.S. Treasury. This term should not be confused with change of scope amendments. See Chapter 15.

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. See Chapter 17.

Rescission. Legislatively approved cancellation of funds previously appropriated by Congress prior to the time when that authority would otherwise lapse. A rescission proposal transmitted to Congress must be approved by both Houses of Congress within 45 legislative days, or funds must be made available for obligation. See Impoundment Control Act of 1974 (31 U.S.C. 1400 *et seq*.).

Research Design. (S&G) A statement of proposed identification, documentation, investigation, or other treatment of a historic property that identifies the project's goals, methods, and techniques, expected results, and the relationship of the expected results to other proposed activities or treatments.

Responsible Contractor (or responsible bidder). A contractor or prospective contractor who appears to possess the ability to perform successfully under the terms and conditions of a proposed procurement based on a review of such factors as a satisfactory record of past performance, integrity, and business ethics; and financial and technical resources or access to such resources.

Responsive Bid. A bid or proposal which complies, with respect to method and timeliness of submission and to substance of the bid or proposal, in all material respects, with the requirements of the invitation for bids or request for proposal. A minor irregularity in a bid or proposal which is deemed a matter of form rather than substance, and the correction of which would not be prejudicial to other bidders, does not render a bid or proposal nonresponsive.

Restoration. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of

mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

Review Board. See *State Historic Preservation Review Board*.

Revolving Fund. Broadly defined for preservation purposes, a revolving fund is cash or other equities, a line of credit, or any combination of these owned and administered by a nonprofit organization. It can be cash lent by a nonprofit organization to individuals or organizations for the same purpose.

Sample Survey. (S&G) A survey of a representative sample of lands within a given area in order to generate or test predictions about the types and distributions of historic properties in the entire area.

Scope Change Amendment. Any revision requested by the grantee to the approved objectives or work products to be achieved by a grant or subgrant during the grant or project period. See Chapter 15.

Secretary. "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service, except where otherwise specified.

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.

SHPO. State Historic Preservation Officer.

Site. (60) The location of a significant event, a prehistoric or historic occupation or activity, landscape or traditional cultural property, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

Small Purchases. Purchases of services or supplies in which the aggregate amount in any one transaction, including handling and other costs, is $100,000 or less. Unless State or local laws require otherwise, bilateral agreements are normally not required, and purchase orders, vouchers or bills, sales slips, memoranda of oral price quotations, or similar records provide adequate documentation to meet Federal audit standards. See Chapter 17.

Sources of Nonfederal Matching Share Report. The form used in the End-of-Year Report to record State sources of nonfederal matching share. See Chapter 25.

Special Appropriation Grant. A grant whose ultimate source is outside the annual Departmental Appropriations process and that usually has a specific congressionally imposed use (e.g., Emergency Jobs Act).

Special Condition of Grant Award. A legally binding stipulation placed by NPS on the award of HPF funds for a particular grant, project, or activity.

State. Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

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.

Statement of Differences in Appraised Value. A statement from the grantee detailing circumstances which may justify a real property acquisition cost in excess of the appraised market value. This justification may be accepted at NPS discretion. See Chapters 6 and 20.

State or Local Statute. 1) (67) Law of the State or local government in this case designating or providing a method for the designation of a historical district or districts. 2) (CLG) State or local legislation for designation and protection of historic properties. For purposes of the CLG program, "designation" means 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. "Protection" means a local review process under State or local law for proposed demolition of, changes, to, or other action that may affect historic properties designated by any certified local government.

State Plan. The comprehensive statewide preservation plan required by the Act. See *Comprehensive Statewide Historic Preservation Plan.*

State Program Review Process. The assessment performed by NPS pursuant to Section 101(b)(2) of the Act to determine if the State programs are consistent with the Act, applicable regulations, and the terms and condition of grant awards.

Structure. (60) A man-made construction built for purposes other than shelter. It can be an engineering project large in scale, such as a bridge or tunnel.

Sub-agreement. A written agreement between an HPF grantee and another party for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including sub-contracts for personal and professional services and purchase orders.
Subgrant. An award of financial assistance made under a grant to an eligible subgrantee by a grantee.

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.

Substantial Impairment. A permanent alteration that results in a significant loss of the integrity of finished materials, design quality, or special character.

Substantive Review. Substantive Review means that a National Register nomination is given a professional review concerning whether or not the nomination meets the National Register criteria for evaluation, as well as a technical review.

Supporting Activities. 1) The auxiliary functions necessary to sustain the direct effort involved in administering the HPF grant program or an activity providing service to the HPF grant program. These services may be centralized in the grantee department or some other agency, and include procurement, payroll, personnel functions, maintenance and operation of office space, data processing, accounting, budgeting, auditing, mail, messenger service, and the like. 2) The actions through which the State carries out its responsibilities (as delineated by the Act) and addresses needs and problems identified in the Program Overview or State Historic Preservation Plan.

Suspension. Action taken by NPS which temporarily withdraws the grantee's authority to utilize Federal financial assistance under the grant pending corrective action by the grantee as specified by NPS, or pending a decision by the NPS to terminate the grant. Suspension also limits incurring additional costs under the grant. See Chapter 22.

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.

Termination. The cancellation of Federal assistance, in whole or in part, under a grant or project at any time prior to the date of completion. See Chapter 22.

Terms and Conditions of a Grant or Subgrant. All requirements of the grant or subgrant imposed by the Federal Government whether under statute, regulations, the grant award document, or other documents. The terms of the grant award may include standard and special provisions, appearing on each Grant Agreement, that are considered necessary to obtain the objective of the grant, facilitate post-award administration of the grant, conserve grant funds, or otherwise protect the Federal Government's interest.

Third Party. Any organization legally distinct from the grantee (whether or not affiliated with the grantee but cannot be part of the same organizational budgetary unit of government) or any individual not employed by the grantee other than a consultant or volunteer acting directly under the grantee's direction or control.

Tribal Lands. As defined in Section 301(14) of the Act, tribal lands include: (a) all lands within the exterior boundaries of any Indian Reservation; and (b) all dependent Indian communities.

Undertaking. Undertaking means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including: (a) those carried out by or on behalf of the agency; (b) those carried out with Federal financial assistance; (c) those requiring a Federal permit, license, or approval; and (d) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency. See 36 CFR 800.

Unexpended Balance. The actual Federal funds awarded less unpaid amounts remaining at a given time during the funding or budget period.

Unobligated Balance. That portion of the funds authorized by NPS which has not been obligated by the grantee according to NPS records; it is determined by deducting the cumulative obligations from the obligational authority apportioned to the grantee by the Secretary.

Waste. Incurring unnecessary costs as a result of inefficient or ineffective practices, systems, or controls.

Withholding Payments. An action taken by NPS where a grantee is notified that until a deficiency is corrected payments will be withheld for previously incurred costs. Grantees are not restricted from incurring additional allowable costs, but suspension or termination of the grant may be subsequently imposed by NPS. See Chapter 22.

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