

Case Study – Georgia

Statewide Programmatic Agreement for Emergency Relief Projects in Georgia

Description of the Program:

The Federal Highway Administration (FHWA) makes funds available through its Emergency Relief Program (under Section 125 of Title 23 U.S.C.) for the repair of damage to bridges, streets, roads, or highways on the Federal-aid system as a result of disasters or catastrophic failures from an external source. Under FHWA's regulations (23 CFR 668), *emergency repairs* are defined as including repairs to temporary traffic operations undertaken during or immediately following the disaster occurrence for the purpose of minimizing the extent of damage; protecting remaining facilities; or restoring essential traffic; as well as permanent repairs or restoration done as part of the emergency repairs, as approved by FHWA. In many cases, the necessary and timely completion of emergency repairs do not permit FHWA to carry out the Section 106 review process within the time frames set forth in 36 CFR 800. FHWA and Georgia Department of Transportation (GDOT) have therefore developed this Programmatic Agreement (PA) to expedite the review for these projects.

Analysis of Consultation and Agreement:

The ACHP was invited to participate in consultation to develop this PA in August 2011. Due to the need to quickly develop an approach to streamline consultation on emergency repair work, FHWA, GDOT, the Georgia State Historic Preservation Officer (SHPO), and the ACHP were able to agree to the basic terms of the PA in a short time. FHWA invited the participation of 18 federally-recognized Indian tribes with historic ties to Georgia. Only one, the United Keetoowah Band, participated as a consulting party. Other consulting parties included FHWA, ACHP, GDOT, and the SHPO.

The procedures in the PA may be used to accomplish emergency repairs that are necessary after declaration of a state of emergency by the President of the U.S. and/or the Governor of Georgia. The repairs must generally be completed within 180 calendar days of the occurrence of the declared emergency event.

Immediate Threats to Life and Property Exempted from Review. As in the ACHP's regulations, rescue and salvage operations responding to immediate threats to life and property are exempt from 106 review. If possible, GDOT cultural resource staff will visit the project site and determine measures, if any, that are needed to avoid, minimize or mitigate adverse effects.

Streamlined review for Non-Exempt Emergency Repairs. GDOT, on behalf of FHWA, will complete identification and evaluation of historic properties for all non-exempt emergency repairs following GDOT/FHWA Cultural Resource Survey Guidelines and standard operating procedures. Bridges will be evaluated using the Georgia Historic Bridge Survey. The

evaluation of historic roadways and approaches will be conducted in consultation with the SHPO. In addition the following measures are used to streamline the review of non-exempt repairs:

- GDOT may proceed without SHPO review if no historic properties are identified in the APE.
- If historic properties are present, but will not be adversely affected, GDOT must provide documentation of the finding to FHWA, SHPO, any consulting parties, and Indian tribes that may ascribe traditional cultural and religious significance to the historic property(ies) for a seven (7) calendar day review.
- Historic bridges, in most cases, will be documented with archival photographs. Once this documentation is accepted by SHPO and in some cases by the National Park Service, FHWA may approve the proposed emergency repairs.
- GDOT will consult with FHWA, SHPO, and others, including Indian tribes to resolve adverse effects to other historic properties. Consultation will be informal and expedited, utilizing telephone, fax, and e-mail to reach agreement on the appropriate treatment of the property. Once all parties concur (or fail to file a timely objection), GDOT may proceed to implement the mitigation plan.
- GDOT may use a “Commitment Letter” in lieu of a Memorandum of Agreement (MOA) to document agreed upon mitigation measures. No ACHP review of the adverse effect finding is required unless the SHPO or a consulting party objects to the mitigation implementation plan.

WHY IS THIS A GOOD AGREEMENT?

The PA provides for the streamlined review of emergency repair projects that cannot be processed under the emergency provisions of the ACHP’s regulations (36 CFR 800.12) because they are not carried out within 30 days after declaration of the emergency. Under the new PA, if historic properties may be affected by emergency repairs, consultation under the PA is inclusive, although informal and expedited. Indian tribes will have an opportunity to be involved in identifying properties of concern and resolving adverse effects. Also, local governments and community groups concerned about the protection of a locally-significant bridge that has been damaged in a disaster will have an opportunity to participate in development of a mitigation plan for the structure. The PA is a good example of balancing the need for rapid response by FHWA with the stewardship of historic properties.

View the [Programmatic Agreement](#) referenced in this study.

For more information, please contact clegard@achp.gov.

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