

**EMERGENCY SITUATION PROCEDURES REGARDING  
SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT COMPLIANCE FOR  
FEDERAL EMERGENCY MANAGEMENT AGENCY UNDERTAKINGS RESPONDING TO  
COVID-19 DISASTERS AND EMERGENCIES**

**WHEREAS**, Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108 (Section 106), requires federal agencies to take into account the effects of undertakings they carry out, license, or assist on historic properties and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on them;

**WHEREAS**, the regulations implementing Section 106, at 36 CFR part 800, allow federal agencies to develop and use procedures for Section 106 compliance for undertakings that respond to a disaster or emergency declared by the President, a tribal government, or the Governor of a State, or which respond to other immediate threats to life or property, after consultation with the appropriate State and Tribal Historic Preservation Officers (SHPOs/THPOs), affected Indian tribes and Native Hawaiian organizations (NHOs) and the ACHP's approval, 36 CFR § 800.12(a);

**WHEREAS**, as a result of President Trump declaring a national emergency concerning the Novel Coronavirus Disease (COVID-19) on March 13, 2020, and subsequent major disaster declarations in all 50 States, the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and Samoa, which includes an incident period beginning January 20, 2020, and continuing, the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security anticipates receiving requests from States, territories, eligible local governments, and certain eligible private non-profit organizations to approve direct Federal assistance and/or funding for emergency work which must be done immediately, as defined in 44 CFR § 206.201(b), the regulations implementing the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended at 42 U.S.C. § 5121 *et seq.*) (Stafford Act), including work already completed, to save lives and to protect improved property and public health and safety (emergency undertakings). Additionally, FEMA is working directly with at least 70 Indian tribes under the emergency declaration;

**WHEREAS**, the immediate threat to public health and safety resulting from this national emergency and subsequent major disaster declarations continues, and FEMA has determined that: (a) the expedited procedures for emergency undertakings outlined in Stipulation II.B.2 of the 2013 FEMA Prototype Programmatic Agreement (PPA), and currently effective State and Tribal specific PAs, including those based on the PPA, (b) the procedures at 36 CFR § 800.12(b)(2), (c) the lack of a PPA in certain State and Tribal jurisdictions, and (d) the FEMA personnel and consulting parties needed to carry out the said terms of the PPA and the regulations for emergency situations, are inadequate to provide for FEMA's compliance with Section 106 for the undertakings that may be required to respond to the immediate threat to public health and safety resulting from the COVID-19 pandemic, and FEMA has proposed

additional efficiencies beyond the terms of its PPA to comply with Section 106 for COVID-19 emergency/disaster response undertakings;

**WHEREAS**, FEMA therefore requested ACHP approval of this Emergency Situation Procedure (Procedure), after consultation with the ACHP, SHPOs/THPOs, Indian tribes and NHOs;

**WHEREAS**, that consultation included FEMA providing the ACHP, SHPOs/THPOs, Indian Tribes, and NHOs a draft of this agreement on Tuesday, April 7, 2020, for their six (6) day consideration and comment, various conference calls, and FEMA and ACHP consideration of the issues raised in those comments and conference calls;

**WHEREAS**, after the completion of the consultation, it became apparent to FEMA that most of the undertakings within the scope of this Procedure may be handled as reimbursements, and therefore this Procedure needed to reflect that reality;

**WHEREAS**, notwithstanding that most of the applicable undertakings will be reimbursements, FEMA adhered to the applicable terms of effective State specific and Tribal PAs or 36 CFR § 800.12(b)(2) for proposed COVID-19 emergency/disaster response undertakings before the approval of this Procedure;

**WHEREAS**, FEMA has developed, disseminated, and will continue to update and provide to State and Tribal Grant Recipients and subrecipients as well as directly to other mission assigned Federal agencies COVID-19 specific guidance and best management practices to avoid adverse effects to historic properties when carrying out emergency/disaster response undertakings.

**WHEREAS**, the ACHP finds that it is reasonable for FEMA to assume that the intent of Recipients, subrecipients, and other mission assigned Federal Agencies in carrying out such reimbursement undertakings was, and will be, to respond in a timely fashion to the urgent need for such undertakings rather than any plausible intent to avoid the requirements of Section 106;

**WHEREAS**, FEMA anticipates that the vast majority of emergency/disaster response undertakings will have no potential to affect historic properties, such as procurement and storage of supplies, commodities, and equipment, reimbursement for administrative actions including supplies and staff, and collection and storage of medical waste, or pose no or limited potential to affect historic properties such as modification of existing facilities. However, in certain rare circumstances, where existing facilities are insufficient, new construction of temporary medical facilities, shelters, or emergency operations centers may affect historic properties. Other emergency/disaster response undertakings likely to affect historic properties may be determined eligible for FEMA assistance including the depopulation and disposal of livestock;

**WHEREAS**, since the timing and duration of this COVID-19 emergency/disaster and potential follow up outbreaks is particularly unpredictable, the Procedure’s deadline for consideration of mitigation measures (and other deadlines) may later need to be adjusted through amendment-;

**NOW THEREFORE**, in accordance with 36 CFR § 800.12(a), FEMA will comply with Section 106 for COVID-19 emergency/disaster response undertakings as follows.

FEMA shall ensure that the following stipulations are carried out:

**I. Scope:**

- A. This Procedure applies solely to undertakings carried out, approved, or assisted by FEMA in response to the following COVID-19 emergencies and disaster declarations:
  - 1. National emergency declared by President Trump on March 13, 2020 under 501(b) of the Stafford Act and the National Emergencies Act (50 U.S.C. 1601 et seq.); and
  - 2. All COVID-19 emergencies or disaster declarations that (a) have already been issued by the President, a tribal government, or the governor of a state, or (b) may be issued by any of them while this Procedure is in place.
- B. This Procedure will not be applicable to any scopes of work (SOWs) within FEMA funded emergency/disaster response undertakings that restore an eligible facility to its “pre-disaster condition,” and FEMA will review any such SOWs in accordance with the applicable “standard project review” terms of its currently effective State and Tribal specific PAs, including those based on the PPA, or 36 CFR § 800.3 – 800.7, or 36 CFR § 800.12(b)(2) as applicable.

**II. Consideration of Reimbursement Undertakings**

As noted above, FEMA currently expects that most of the undertakings under the scope of this Procedure will be presented to FEMA as requests for reimbursements. That is, the undertakings will already have been carried out by the time FEMA receives a request for reimbursement funding. To the extent any of such undertakings raise issues under 54 U.S.C. 306113 and 36 CFR § 800.9(c) (Section 110(k) of NHPA), and considering the emergency circumstances addressed by this Procedure:

- A. The ACHP finds that it is reasonable for FEMA to assume that the intent of Recipients, subrecipients, and other mission assigned Federal agencies in carrying out such reimbursement undertakings was, and will be, to respond in a timely fashion to the urgent need for such undertakings rather than any plausible intent to avoid the

requirements of Section 106;

- B. FEMA does not have to consult with the ACHP per Section 110(k) for such undertakings;
- C. The ACHP does not object to a blanket finding by FEMA that circumstances justify granting the assistance for such undertakings despite adverse effects, if any, that may have been created or permitted by the applicant; and
- D. FEMA will have no further Section 106 responsibilities for these reimbursement undertakings beyond producing a summary of these undertakings, including to the extent practicable, findings of effects on historic properties, making this summary available to the ACHP, the National Park Service (NPS) with regard to National Historic Landmarks (NHLs), National Conference of State Historic Preservation Officers (NCSHPO), National Association of Tribal Historic Preservation Officers (NATHPO), Indian Tribes, Office of Hawaiian Affairs, and NHOs, and subsequently consulting to resolve adverse effects identified by FEMA as outlined in accordance with Stipulation IV, below.

### **III. Review Process for Each Non-Reimbursement Undertaking:**

FEMA will proceed in accordance with the following steps, in order, regarding proposed undertakings within the scope of this Procedure that are not reimbursement undertakings covered by Stipulation II, above:

- A. If FEMA determines that the undertaking is an immediate rescue and salvage operation conducted in response to an event to preserve life and property, FEMA has no further Section 106 responsibilities, in accordance with 36 CFR § 800.12(d). Otherwise, proceed to B., below.
- B. If FEMA determines the undertaking is one or more of the types of activities outlined in Appendix A to this Procedure, that FEMA has determined have limited or no potential to affect historic properties, FEMA has no further Section 106 responsibilities for those undertakings. Otherwise, proceed to C., below.
- C. If FEMA determines that the undertaking meets one or more of the applicable Programmatic Allowances listed in Appendix B to this Procedure or the applicable Programmatic Allowances in any currently effective FEMA State or Tribal-specific subsequent agreement based on the 2013 PPA, or in any currently effective legacy State specific PA, listed in Appendix D to this Procedure, FEMA shall complete the Section 106 review process based on the applicable Programmatic Allowance(s) and will have no further Section 106 responsibilities for those undertakings. Otherwise, proceed to D., below.

D. In the case where the undertaking is not covered by Stipulations III.A., B., or C., above, FEMA will:

1. To the extent practicable, when utilizing the process listed below, communicate and coordinate with State and Tribal grant Recipients of its assistance and other mission assigned federal agencies carrying out work on behalf of FEMA to encourage them to:
  - i. Avoid adverse effects to identified historic properties, and if avoidance is infeasible, minimize adverse effects;
  - ii. Limit ground disturbance to the footprint of “previously disturbed soils” that have been altered by human activity within the last 100 years, are not likely to possess intact and distinct soil horizons, and have the reduced likelihood of possessing historic properties that may include human remains, burial patrimony and/or sacred and cultural objects within their original depositional contexts in the area and to the depth to be excavated;
  - iii. When ground disturbing activities occur during construction and any potential human remains, burial patrimony, sacred and cultural objects, and/or archeological resources or human remains are discovered, immediately cease construction in that area and notify the Recipient or other federal agency as well as FEMA, who will immediately notify the SHPO/THPO. Work will not resume until FEMA determines all applicable state and Federal legal requirements are satisfied; and
  - iv. Nothing in these procedures supersedes the obligations of FEMA, Recipients, and other Federal agencies to comply with other applicable state, Tribal, and Federal laws regarding the protection and treatment of inadvertently discovered archaeological material and human remains, including the Native American Graves Protection and Repatriation Act (codified as amended at 25 U.S.C. §§ 3001-3013), and its implementing regulations (codified at 43 CFR Part 10).
2. Determine, based on available information, if the undertaking would affect a historic property and result in a finding of:
  - i. No historic properties affected; or
  - ii. No adverse effect;

3. If FEMA determines that the undertaking would adversely affect a historic property, FEMA will to the extent practicable:
  - i. Propose treatment measures in accordance with Appendix C of this Agreement or pursuant to Appendix C of the relevant FEMA State or Tribal PPA that would address adverse effects during implementation, and request the comments of the SHPO/THPO and participating Tribe(s) or NHO(s) within 1 calendar day of receipt of this information unless FEMA determines the nature of the emergency warrants a shorter time period;
  - ii. Provide this information through written requests, telephone conversations, meetings, or electronic media. In all cases, FEMA shall clarify that an “expedited COVID-19 review” is being requested for the undertaking;
  - iii. Take into account any timely comments provided by the SHPO/THPO and/or participating Tribe(s) or NHO(s) in making a decision on how to proceed;
  - iv. Should the SHPO and/or participating Tribe(s) or NHO(s) not comment within 1 day, complete Section 106 consultation for the undertaking based on the available information; and
  - v. Proceed in accordance with its decision.

4. FEMA will:

- i. Utilize staff whose qualifications meet the Secretary of the Interior’s *Professional Qualifications* set forth in the Federal Register at 48 Fed. Reg. 44716-01 (September 29, 1983), as amended (Qualified), to determine if the undertaking would affect a historic property, and the extent of any effects; and
- ii. Document these effect findings, including its efforts to identify and assess historic properties, and how any comments received were considered in addressing identified adverse effects and use such information for purposes of Stipulation IV, below.

**IV. Post COVID-19 Consultations to Consider Mitigation Measures to Resolve Adverse Effects**

No later than July 1, 2021, FEMA will:

- A. Reasonably gather and summarize information about the undertakings documented in accordance with Stipulation II.D, including any adverse effects to historic properties that may have resulted from them, undertakings documented in accordance with Stipulation III.D.4.ii, as well as any inadvertent discoveries; and
- B. Share the summary of all undertakings, including findings of effects to historic properties, with the ACHP, the NPS NHLs, NCSHPO, NATHPO, Indian tribes and NHOs;
- C. Meet with the ACHP, the SHPOs/THPOs for States and tribal lands where FEMA reported that particular undertakings may have resulted in adverse effects to historic properties, and Tribes or NHOs, and other consulting parties, including the Recipient and subrecipient of FEMA funding (Post-COVID Consulting Parties) via methods chosen by FEMA, to discuss mitigation measures that FEMA should consider to resolve any adverse effects not otherwise resolved in accordance with Stipulation III.D.3.i-iv.
- D. No later than December 31, 2021, determine, through further consultation with the Post-COVID Consulting Parties, what mitigation measures, if any, will be feasible to carry out to resolve identified adverse effects, and notify the Post-COVID Consulting Parties about such a determination in writing.
- E. As such mitigation measures are completed, notify the appropriate Post-COVID consulting parties.

**V. Amendment:**

- A. This Procedure may be amended in writing by the ACHP Executive Director, after consultation with the FEMA Federal Preservation Officer (FPO). The amendment will be effective on the date the ACHP notifies the FEMA FPO about the amendment.
- B. The ACHP will also notify NCSHPO and NATHPO about the amendment as soon as reasonably possible.

**VI. Severability**

In the event any provision of this Procedure is deemed by a Federal court to be contrary to, or in violation of, any applicable existing law or regulation of the United States of America, only the conflicting provision(s) shall be deemed null and void, and the remaining provisions of the Procedure shall remain in effect.

**VII. Termination:**

- A. The ACHP Executive Director may terminate this Procedure, after consultation with the FEMA FPO. The termination will be effective on the date the ACHP notifies the FEMA Federal FPO about the termination in writing. Upon termination, FEMA will review the undertakings under the scope of this Procedure in accordance with its applicable Programmatic Agreements, 36 CFR 800.3 through 800.7, or the process provided by 36 CFR § 800.12(b)(2) as applicable.
- B. The ACHP will also notify NCSHPO and NATHPO about the termination as soon as reasonably possible.

### **VIII. Concerns raised by Consulting Parties and the Public:**

Due to the nature of the undertakings under the scope of this Procedure where time is of the essence, it does not have a Dispute Resolution stipulation. However, any SHPO/THPO, Indian tribe, NHO, or member of the public may communicate its concerns about how this Procedure is being implemented to the ACHP and FEMA. The ACHP and FEMA will make a reasonable effort, within the relevant time constraints, to consider such concerns. After FEMA and the ACHP have discussed a concern, FEMA will make a final decision on how to respond to it and will notify that ACHP and the entity that raised the concern about said decision.

### **IX. Duration:**

This Procedure will expire on December 31, 2021. However, use of Stipulations II and III after August 31, 2020 will require:

- A. A written request from the FEMA FPO to the Executive Director of the ACHP, with a copy to the Executive Director of NCSHPO and the Chair of NATHPO; and
- B. The written approval of the Executive Director of the ACHP.

Execution of this Procedure by the ACHP Executive Director and implementation of its terms evidence that FEMA has taken into account the effects of the undertakings under its scope on historic properties and afforded the ACHP an opportunity to comment.





5/14/2020

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John M. Fowler  
Executive Director  
Advisory Council on Historic Preservation

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Date

## Appendix A

### List of Activities with limited or no potential to affect historic properties per Stipulation III.B.

1. Pursuant to 44 CFR § 206.110(m). assistance to individuals and households provided under 44 CFR Part 206, Subpart D and Section 408 of the Stafford Act, including funding for owner occupied home repair and replacement, content replacement, personal property, transportation and healthcare expenses, is exempt from the provisions of Section 106.

However, for ground disturbing activities, and construction related to 44 CFR 206.117(b)(1)(ii) (temporary housing), 206.117(b)(3) (replacement housing), 206.117(b)(4) (permanent housing construction), 206.117(c)(1)(vi) (repair or replacement of privately owned access routes), and repair of multi-family housing units, FEMA shall proceed in accordance with Stipulation III.C. and D. of the Agreement.

2. Administrative actions such as personnel actions, travel, procurement of services, supplies (including vehicles and equipment) for the support of day-to-day and emergency operational activities, and the temporary storage of goods provided storage occurs within existing facilities or on previously disturbed soils.
3. Granting of variances, and actions to enforce Federal, State, or local codes, standards or regulations.
4. Monitoring, data gathering, and reporting in support of emergency and disaster planning, response and recovery, and hazard activities.
5. Research and development of hazard warning systems, hazard mitigation plans, codes and standards, and education/public awareness programs.
6. Assistance provided for planning, studies, design and engineering costs that involve no commitment of resources other than staffing and associated funding.
7. Assistance provided for training, management and administration, exercises, and mobile/portable equipment purchases: with the exception of potential ground disturbing activities and modification of existing structures.
8. Community Disaster Loans for funding to perform governmental functions for any eligible jurisdiction in a designated disaster area that has suffered a substantial loss of tax and other revenue.

9. Funding the administrative action of acquisition or lease of existing facilities where planned uses conform to past use or local land use requirements.
10. Funding the administrative action of acquiring properties in acquisition projects, including the real estate transaction.
11. Labor, equipment and materials used to provide security in the Declaration area, including lease, rental, purchase or repair of equipment or vehicles and payment for staff and contract labor.
12. Application of pesticides to reduce adverse public health effects, including aerial and truck-mounted spraying.
13. Unemployment assistance.
14. Distribution of food coupons.
15. Legal services.
16. Crisis counseling.

## Appendix B

### Programmatic Allowances per Stipulation III.C.

This list of Programmatic Allowances enumerates FEMA funded activities that based on FEMA experience have no or minimal effect on historic properties if implemented as specified in this Appendix and will not require review by the SHPO/THPO and participating Tribe(s) or Native Hawaiian organization(s).

The Programmatic Allowances consist of two tiers – First Tier and Second Tier. Staff may apply First Tier allowances whether or not they meet professional historic preservation qualification standards, while only staff meeting the applicable SOI Professional Qualifications Standards in accordance with Stipulation III.D.4.i may apply Second Tier allowances.

When referenced in the Programmatic Allowances, “in-kind” shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects, including form, color, and workmanship. The in-kind repair provided for in both First and Second Tier allowances in Appendix B should be limited to pre-existing architectural features and physical components of buildings and structures.

When referenced in the allowances, “previously disturbed soils” shall refer to soils that are not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing historic properties within their original depositional contexts in the area and to the depth to be excavated.

#### I. First Tier Allowances

- A. **GROUND DISTURBING ACTIVITIES AND SITE MODIFICATION**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.

## 1. Debris and Snow Removal

- a. Debris removal and collection, including removal of snow, uprooted trees, limbs and branches from public rights of way and public areas and areas as well as the transport and disposal of such waste to existing licensed waste facilities or landfills. This includes the temporary establishment and expansion of non-hazardous debris staging, reduction, and disposal areas at licensed transfer stations, or existing hard-topped or graveled surfaces (e.g. parking lots, roads, athletic courts) but not the creation of new or temporary access roads.
- b. Removal of debris from private property provided that buildings are not affected, ground disturbance is minimal and in-ground elements, such as driveways, walkways or swimming pools are left in place.
- c. Chipping and disposal of woody debris by broadcasting within existing rights-of-way.
- d. Sediment removal from man-made drainage facilities, including retention/detention basins, ponds, ditches, and canals, in order to restore the facility to its pre-disaster condition. The sediment may be used to repair eroded banks or disposed of at an existing licensed or permitted spoil site.
- e. Dewatering flooded developed areas by pumping.

## 2. Temporary Structures and Housing

- a. Installation and removal of temporary structures for use as school classrooms, offices, or temporary shelters for essential public service agencies, such as police, fire, rescue and medical care, as well as temporary housing for disaster personnel and survivors at the following types of locations:
  - i. Single units on private residential sites when all utilities are installed above ground or tie into pre-existing utility lines.
  - ii. Existing RV/Mobile Home Parks and campgrounds with pre-existing utility hookups;
  - iii. Paved areas, such as parking lots and paved areas at such facilities as conference centers, shopping malls, airports, industrial port facilities business parks, and military bases when all utilities are installed above ground or tie into pre-existing utility lines.

- iv. Sites that have been previously prepared for planned construction, such as land being developed for public housing, office buildings, city parks, ball fields, schools, etc. when all utilities are installed above-ground or tie into pre-existing utility lines.
  - v. Areas previously filled to depths of at least six feet so that subsurface utilities can be installed.
2. Recreation and Landscaping
- a. Installation of temporary removable barriers.
  - b. In-kind repairs, installation, or replacement, and minor upgrades/mitigation of bollards and associated protective barriers when in previously disturbed areas.

**B. BUILDINGS AND STRUCTURES**

- 1. Repair or retrofit of buildings less than 45 years old.
- 2. Removal of water by physical or mechanical means.
- 3. Installation of exterior security features and early warning devices on existing light poles or other permanent utilities.

**C. TRANSPORTATION FACILITIES**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including any staging areas.

- 1. Roads and Roadways
  - a. Paving and repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders medians, clearances, curbs, and side slopes. This allowance does not include improvement to existing roadways and appurtenances.
  - b. Construction of temporary emergency access roads in previously disturbed soils to allow for passage of emergency vehicles.
  - c. Repairs to road slips and landslides that do not require grading of undisturbed soils on the up-hill side of the slip.
  - d. Re-establishment, armoring and/or upgrading of existing roadway ditches.

- e. In-kind repair or replacement of traffic control devices such as traffic signs and signals, delineators, pavement markings, traffic surveillance systems.
- f. Installation and removal of temporary traffic control devices, including pre-formed concrete barriers and fencings.
- g. In-kind repair or replacement of roadway safety elements such as barriers, guardrails, and impact-attenuation devices. In the case of guardrails, the addition of safety end treatments is permitted.

## 2. Airports

- a. In-kind repair or replacement of existing runway surfaces and features (e.g. asphalt, concrete, gravel, and dirt) and associated air transportation safety components and systems (e.g. lighting bars, beacons, signage and weather sensors).

## 3. Rail Systems

- a. In-kind repair or replacement of safety components.
- b. In-kind repair or replacement of existing track system and passenger loading areas.

### **D. FEES AND SERVICES**

- 1. Reimbursement of a subgrantee's insurance deductible, not to exceed \$2,500.

## **II. Second Tier Allowances**

- A. GROUND DISTURBING ACTIVITIES AND SITE WORK**, when proposed activities described below substantially conform to the original footprint and/or are performed in previously disturbed soils, including the area where the activity is staged.

### 1. Footings, Foundations, Retaining Walls, Slopes, and Slope Stabilization Systems

- a. In-kind repair, replacement, and reinforcement of footings, foundations, retaining walls, slopes, and slope stabilization systems (e.g., gabion baskets, crib walls, soldier pile and lag walls) if related ground disturbing activities are within the boundary of previously disturbed soils.

- b. Installation of perimeter drainage (e.g. French drains) when performed in previously disturbed soils.
- 2. Recreation and Landscaping
    - a. In-kind repairs or replacement, and minor upgrades to recreational facilities and features (e.g. playgrounds, campgrounds, fire pits, dump stations and utility hook-ups, swimming pools, athletic fields and signage, batting cages, basketball courts, swing sets, pathways, simple wooden/wire stream crossings).
    - b. In-kind repair, replacements, and minor upgrades to landscaping elements (e.g., fencing, free standing walls, paving, planters, irrigation systems, lighting elements, signs, flag poles, ramps, steps).
  - 3. Piers, Docks, Boardwalks, Boat Ramps, and Dune Crossovers
    - a. In-kind repair and replacement and minor upgrades to existing piers, docks, boardwalks, boat ramps and dune crossovers in areas of previously disturbed soils.
  - 4. Cemeteries
    - a. Removal of woody debris such as branches and limbs, from cemeteries, provided that heavy equipment and other machinery are not operated or staged on areas potentially containing human remains.

## **B. BUILDINGS AND STRUCTURES**

- 1. Interior Work: Floors, Walls, Stairs, Ceilings and Trim
  - a. In-kind repair and replacement of floors, walls, stairs, ceilings, and/or trim. The allowance does not apply to decorative finishes, including murals, glazed paint, gold leaf, or ornamental plaster.
  - b. Interior cleaning of surfaces using a weak solution of household bleach and water, mold remediation, or mold removal. The allowance applies to interior finishes, including plaster and wallboard, provided the cleaning is restricted to damaged areas and does not affect adjacent materials.
  - c. Non-destructive or concealed testing for hazardous materials (e.g., lead paint, asbestos) or for assessment of hidden damages.



## 1. Building Contents

- a. Repair or replacement of building contents including furniture, movable partitions, computers, cabinetry, supplies, and equipment and any other moveable items which are not character defining features of a historic property.

## 2. Utilities and Mechanical, Electrical, and Security Systems

- a. In-kind repair or replacement, or limited upgrading of interior utility systems, including mechanical (e.g., heating, ventilation, air conditioning), electrical, and plumbing systems. This allowance does not provide for the installation of new exposed ductwork.
- b. Elevation of heating, ventilation, and air conditioning system (HVAC) and mechanical equipment as long as it is placed or located where it is not visible from the street.
- c. Installation or replacement of interior fire detection, fire suppression, or security alarm systems. The allowance does not apply to surface mounted wiring, conduits, piping, etc., unless previously existing, provided that installation of the system hardware does not damage or cause the removal of character-defining architectural features and can be easily removed in the future.
- d. Installation of communication and surveillance security systems, such as cameras, closed-circuit television, alarm systems, and public address systems, provided that installation of the system hardware does not damage or cause the removal of character defining architectural features and can be easily removed in the future.
- e. Installation of building access security devices, such as card readers, enhanced locks, and security scanners (e.g., metal detectors), provided the device does not damage or cause the removal of character-defining architectural features and can be removed in the future without impacts to significant architectural features.

## 4. Windows and Doors

- a. In-kind repair of damaged or severely deteriorated windows and window frames, shutters, storm shutters, doors and door frames, and associated hardware, where profiles, elevations, details and materials match those of the originals.

- b. In-kind replacement of window panes. Clear plate, double, laminated or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This allowance does not apply to the replacement of intact decorative glass.
  - c. Replacement of exterior, utilitarian, non-character-defining metal doors and frames leading into non character-defining spaces with metal blast resistant doors and frames.
  - d. Installation of security bars over windows on rear elevations.
5. Exterior Walls, Cornices, Porches, and Foundations
- a. In-kind repainting of surfaces, provided that destructive surface preparation treatments are not used, such as water blasting, sandblasting, power sanding and chemical cleaning.
  - b. In-kind repair of walls, porches, foundations, columns, cornices, siding, balustrades, stairs, dormers, brackets, trim, and their ancillary components or in-kind replacement of severely deteriorated or missing or lost features, as long as the replacement pieces match the original in detail and material. Any ground disturbance will be limited to previously disturbed soils.
  - c. In-kind repair or replacement of signs or awnings.
  - d. Installation of temporary stabilization bracing or shoring, provided such work does not result in additional damage.
  - e. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.
  - f. In-kind repair of concrete and masonry walls, columns, parapets, chimneys, or cornices or limited in-kind replacement of damaged components including comparable brick, and mortar that matches the color, strength, content, rake, and joint width.
  - g. Bracing and reinforcing of walls, chimneys and fireplaces, provided the bracing and reinforcing are either concealed from exterior view or reversible in the future.

- h. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
- i. Repairs to and in-kind replacement of elements of curtain wall assemblies or exterior cladding that is hung on the building structure, usually from floor to floor, and when the color, size reflectivity, materials, and visual patterns are unaltered.

## 6. Roofing

- a. Installation of scaffolding, polyethylene sheeting, or tarps, provided such work will not result in additional damage or irreversible alterations to character defining features.
- b. In-kind repair, replacement, or strengthening of roofing, rafters, fascia, soffits, gutters, verge boards, leader boxes, downspouts, or other damaged roof system components.
- c. Repairs to flat roof cladding, including changes in roofing materials, where the repairs are not highly visible from the ground level.

## 7. Weatherproofing and Insulation

- a. Caulking and weather-stripping to complement the color of adjacent surfaces or sealant materials.
- b. In-kind repair or replacement of insulation systems, provided that existing interior plaster, woodwork, exterior siding, or exterior architectural detail is not altered.

## 8. Structural Retrofits

- a. The installation of the following retrofits/upgrades, provided that such upgrades are not visible on the exterior: attic bracing, cross bracing on pier and post foundations; fasteners; collar ties; gussets; tie downs; strapping and anchoring of mechanical, electrical, and plumbing equipment; concealed anchoring of furniture; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters, and on roofs; and automatic gas shut off valves.
- b. Replacement, repair or installation of lightning rods.

## 9. Americans with Disabilities Act (ADA) Compliance

- a. Installation of grab bars and other such minor interior modifications.

#### 10. Safe Rooms

- a. Installation of individual safe rooms within the property limits of a residence where the installation would occur within the existing building or structure or in previously disturbed soils.

#### 11. Elevation, Demolition, and Reconstruction

- a. Activities related to the elevation, demolition and/or reconstruction of buildings or structures less than 45 years of age so long as the proposed activities substantially conform to the original footprint and/or are performed in previously disturbed soils including any staging area, and the buildings or structures are not located within or adjacent to a National Register listed or eligible historic district.

### **C. TRANSPORTATION FACILITIES**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

#### 1. Roads and Roadways

- a. Repair of roads to pre-disaster geometric design standards and conditions using in-kind materials, shoulders, medians, clearances, curbs, and side slopes. This allowance permits minor improvement to meet current code and standards or hazard mitigation measures, such as those designed to harden exposed surfaces, including the application of gravel armoring to side slopes and ditches.
- b. In kind repair to historic paving materials for roads and walkways.
- c. In-kind repair or replacement, or minor upgrade of culvert systems and arches beneath roads or within associated drainage systems, including provision of headwalls, riprap and any modest increase in capacity for the purposes of hazard mitigation or to meet current codes and standards, provided that the work substantially conforms to the existing footprint. For stone or brick culverts or arches beneath roadways, this allowance only applies to in-kind repair.
- d. In-kind repair or replacement of road lighting systems, including period lighting fixture styles.

- e. In-kind repair or replacement of road appurtenances such as curbs, berms, fences, and sidewalks.

## 2. Bridges

- a. Installation of a temporary (Bailey-type) bridge over an existing structure or at a previously disturbed location, such as a former bridge location, to allow passage of emergency vehicles.
- b. In-kind repair or replacement of bridges and bridge components (e.g. abutments, wing walls, piers, decks, and fenders) in previously disturbed soils.

## **D. UTILITIES, COMMUNICATIONS SYSTEMS AND TOWERS**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

### 1. General

- a. In-kind repair or replacement, or minor upgrading, small scale realignment, and elevation of utilities and associated features and structures within previously disturbed soils of rights-of-way or utility corridors.
- b. Installation of new utilities and associated features within existing rights-of-way.
- c. Directional boring of new/replacement service line and related appurtenances involving boring or silt trenches within previously disturbed soils of rights-of-way or utility corridors.
- d. In-kind repair or replacement, or minor upgrade of water towers provided activities take place within previously disturbed soils. Ground-level facilities may be added or expanded in previously disturbed areas. This allowance does not apply to masonry water towers.

### 2. Generators and Utilities

- a. In-kind repair or replacement, or minor upgrades, elevation, and/or installation of generators, HVAC systems, and similar equipment provided activities occur within previously disturbed soils and any roof mounted equipment is not visible from the ground level.

### 3. Communication Equipment/Systems and Towers

- a. Acquisition, installation, or operation of communication and security equipment/systems that use existing distribution systems, facilities, or existing infrastructure right-of-way.
- b. The collocation of communication and security equipment on existing towers and buildings/structures less than 45 year in age, provided that the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
- c. Enhancement, repair or replacement of existing communication towers and antenna structures provided the work does not increase existing tower height or footprint by more than 10% and occurs within previously disturbed soils.
- d. Installation of new temporary (not to exceed 12 months) communications towers and antenna structures provided that the work occurs does not require modification of buildings/structures 45 years or older and occurs within previously disturbed soils.
- e. Installation of new communication towers, less than 200 feet tall, in previously developed urban complexes when the work does not require modification of buildings/structures 45 years or older, occurs within previously disturbed soil, and is not within 1,000 feet of the boundaries of a historic property.

**E. WATER RESOURCE MANAGEMENT AND CONTROLS**, when proposed activities substantially conform to the original footprint and/or performed in previously disturbed soils, including the area where the activity is staged.

1. Canal Systems

- a. In-kind repairs or replacement to canal systems and associated elements.

2. Breakwaters, Seawalls, Revetments, and Berms

- a. In-kind repair or replacement of breakwaters, seawalls, and revetments, provided the work occurs in previously disturbed soils.

3. Dams, Levees, and Floodwalls

- a. In-kind repair of dams, levees, floodwalls and related features, including spillways, tide gates, and fuse plugs, provided the work occurs in previously disturbed soils.

4. Fish Hatcheries
  - a. In-kind repair or replacement of fish hatcheries and fish ladders.
5. Waste-Water Treatment Lagoon Systems
  - a. In-kind repair or replacement, or minor upgrades of waste-water treatment lagoon systems.

## Appendix C

### Treatment Measures

When avoidance or minimization of adverse effects is not feasible, the following Treatment Measures are suggested for the resolution of adverse effects:

If Undertakings may or will result in adverse effects, FEMA, the SHPO/THPO, participating Tribes(s) or Native Hawaiian organization(s), and NPS for NHLs, may develop a treatment measure plan that includes one or more of the following Treatment Measures, depending on the nature of historic properties affected and the severity of adverse effects.

#### A. Recordation

1. Digital Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a digital photography package prepared by staff or contractors meeting the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate. The digital photography package will meet the standards cited in the NPS' **National Register of Historic Places Photographic Policy March 2010 or subsequent revisions** (<http://www.nps.gov/nr/publications/bulletins/photopolicy/index.htm>).
- a. The digital photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site

address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.

- b. The digital photography package shall include printed color copies of the digital photographs (on appropriate paper, per *NPS Photographic Policy*), a CD/DVD of the digital photographs, a completed state architectural inventory form, and a written site history of the historic property.
  - c. The designated responsible party shall submit the digital photography package to the SHPO, participating Tribe(s), or Native Hawaiian organization(s) for review and approval. Once approved by the SHPO, participating Tribe(s), or Native Hawaiian organization(s), the designated responsible party shall submit a copy of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.
2. 35mm Black and White Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a 35 mm film black and white film photography package prepared by staff or contractors meeting the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
- a. The 35 mm film black and white film photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
  - b. The 35 mm film black and white film photography package shall include one (1) full set of 35mm film black and white photographs printed on acid free paper, the corresponding 35mm film negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
  - c. The designated responsible party shall submit the 35 mm black and white film photography package the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) for review and approval. Once approved by the SHPO, participating Tribe(s), or Native Hawaiian organization(s), the designated responsible party shall submit a copy of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.



3. Large Format Photography Package: Prior to project implementation, the designated responsible party shall oversee the successful delivery of a large format photography package prepared by staff or contractors meeting the Professional Qualifications for Architectural History, History, Architecture, or Historic Architecture, as appropriate.
  - a. The large format photography package shall include a comprehensive collection of photographs of both interior and exterior views showing representative spaces and details of significant architectural features and typical building materials. Exterior photographs shall include full oblique and contextual images of each elevation. Exterior views shall be keyed to a site plan while interior views shall be keyed to a floor plan of the building/structure. The photographs shall be indexed according to the date photographed, site number, site name, site address, direction, frame number, subject matter and photographer's name recorded on the reverse side in pencil.
  - b. The large format film photography package shall include one (1) full set of 4 x 5 or 5 x 7-inch photographs printed on acid free paper, the corresponding 4 x 5 or 5 x 7-inch negatives in acid free sleeves, a completed state architectural inventory form, and a written site history of the historic property.
  - c. The designated responsible party shall submit the large format film photography package to the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) for review and approval. Once approved by the SHPO, and/or participating Tribe(s) or Native Hawaiian organization(s), the designated responsible party shall submit copies of the approved documentation to a state or local historical society, archive, and/or library for permanent retention.

#### B. Public Interpretation

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) to design an educational interpretive plan. The plan may include signs, displays, educational pamphlets, websites, workshops and other similar mechanisms to educate the public on historic properties within the local community, state, or region. Once an interpretive plan has been agreed to by the parties, SHPO and/or participating Tribes, or Native Hawaiian organization(s) and the designated responsible party shall continue to consult throughout implementation of the plan until all agreed upon actions have been completed by the designated responsible party.

#### D. Historical Context Statements and Narratives

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and participating Tribe(s) or Native Hawaiian organization(s) to determine the topic and framework of a historic context statement or narrative the designated responsible party shall be responsible for completing. The statement or narrative may focus on an individual property, a historic district, a set of related properties, or relevant themes as identified in the statewide preservation plan. Once the topic of the historic context statement or narrative has been agreed to, the designated responsible party shall continue to coordinate with the SHPO and participating Tribe(s) or Native Hawaiian organization(s) through the drafting of the document and delivery of a final product. The designated responsible party shall use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

E. Oral History Documentation

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) to identify oral history documentation needs and agree upon a topic and list of interview candidates. Once the parameters of the oral history project have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) through the data collection, drafting of the document, and delivery of a final product. The designated responsible party shall use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

F. Historic Property Inventory

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribe(s), or Native Hawaiian organization(s) to establish the appropriate level of effort to accomplish a historic property inventory. Efforts may be directed toward the resurvey of previously designated historic properties and/or districts which have undergone change or lack sufficient documentation, or the survey of new historic properties and/or districts that lack formal designation. Once the boundaries of the survey area have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribe(s), or Native Hawaiian organization(s) through the data collection process. The designated responsible party shall use SHPO and/or participating Tribe(s), or Native Hawaiian organization(s) standards for the survey of historic properties and SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) forms as appropriate. The designated responsible party shall prepare a draft inventory report, according to SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) templates and guidelines, and work with the SHPO and/or participating Tribes, or Native Hawaiian

organization(s) until a final property inventory is approved. The designated responsible party shall use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

#### G. National Register and National Historic Landmark Nominations

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribes, or Native Hawaiian organization(s) to identify the individual properties that would benefit from a completed National Register or National Historic Landmark nomination form. Once the parties have agreed to a property, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribes, or Native Hawaiian organization(s) through the drafting of the nomination form. The SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) shall provide adequate guidance to the designated responsible party during the preparation of the nomination form and shall formally submit the final nomination to the Keeper for inclusion in the National Register. The designated responsible party shall use staff or contractors that meet the Secretary's Professional Qualifications for the appropriate discipline.

#### H. Geo-References of Historic Maps and Aerial Photographs

Prior to project implementation, FEMA, the Grantee(s), and subgrantee shall work with the SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) to identify the historic maps and/or aerial photographs for scanning and geo-referencing. Once a list of maps and/or aerial photographs have been agreed upon, the designated responsible party shall continue to coordinate with the SHPO and/or participating Tribes or Native Hawaiian organization(s) through the scanning and geo-referencing process and shall submit drafts of paper maps and electronic files to the SHPO, and/or participating Tribe(s) or Native Hawaiian organization(s) for review. The SHPO and/or participating Tribe(s) or Native Hawaiian organization(s) shall have final approval on the quality of the documentation provided by the designated responsible party. The final deliverable produced by the designated responsible party shall include a paper copy of each scanned image, a geo-referenced copy of each scanned image, and the metadata relating to both the original creation of the paper maps and the digitization process.

## Appendix D

### List of Other Programmatic Agreements with Programmatic Allowances per Stipulation III.C.

Currently Effective FEMA Statewide, Territorial, and Tribal-specific Programmatic Agreements  
Based on the 2013 PPA

State/Territory/Tribal PA based on 2013 PPA	FEMA Region	PA Type	Executed Date (mm/dd/yyyy)	PA Duration
AR- Arkansas	6	PPA	7/1/2015	10 years
AS- America Samoa	9	PPA	10/8/2014	7 years
AZ- Arizona	9	PPA	8/19/2015	5 years
CA- California	9	PPA	10/29/2019	7 years
CNMI- Commonwealth of Northern Mariana Islands	9	PPA	9/2/2015	7 years
CO- Colorado	8	PPA	9/24/2014	7 years
CT- Connecticut	1	PPA	1/3/2020	7 years
Chippewa Cree Tribe of the Rocky Boy's Reservation	8	PPA	4/7/2015	7 years
DC- District of Columbia	3	PPA	4/24/2019	7 years
DE- Delaware	3	PPA	6/22/2016	7 years
Eastern Shoshone	8	PPA	4/25/2019	10 years

Tribe of the Wind River Indian Reservation				
The Flandreau Santee Sioux Reservation	8	PPA	8/2/2019	10 years
Fort Belknap Indian Community of the Fort Belknap Indian Reservation	8	PPA	1/24/2017	7 years
GA- Georgia	4	PPA	5/22/2014	7 years
HI- Hawaii	9	PPA	7/11/2016	7 years
IA- Iowa	7	PPA	12/9/2015	7 years
ID- Idaho	10	PPA	12/9/2019	7 years
IL- Illinois	5	PPA	6/8/2018	5 years
IN- Indiana	5	PPA	10/15/2019	5 years
KS- Kansas	7	PPA	8/1/2018	10 years
KY- Kentucky	4	PPA	7/21/2014	7 years
LA- Louisiana	6	PPA	12/20/2016	7 years
MA- Massachusetts	1	PPA	3/11/2019	7 years
MD- Maryland	3	PPA	6/20/2019	7 years
ME- Maine	1	PPA	12/12/2016	7 years
Middletown Rancheria of Pomo Indians of California	9	PPA	2/25/2016	5 years
MI- Michigan	5	PPA	1/14/2016	7 years
MO- Missouri	7	PPA	11/7/2018	10 years
MS- Mississippi	4	PPA	9/15/2016	5 years
MT- Montana	8	PPA	11/30/2015	7 years
ND- North Dakota	8	PPA	6/23/2014	7 years
NE- Nebraska	7	PPA	8/26/2015	7 years
NH- New Hampshire	1	PPA	4/30/2019	7 years
NJ- New Jersey	2	PPA	5/1/2015	5 years
NM- New Mexico	6	PPA	5/23/2016	7 years
NV- Nevada	9	PPA	1/15/2016	7 years
NY- New York	2	PPA	11/26/2019	5 years
OK- Oklahoma	6	PPA	3/10/2015	7 years
OR- Oregon	10	PPA	2/27/2018	7 years
PA- Pennsylvania	3	PPA	3/29/2018	7 years
PR- Puerto Rico	2	PPA	5/6/2016	7 years
RI- Rhode Island	1	PPA	11/25/2019	7 years
The Rosebud Sioux	8	PPA	7/23/2019	10 years

Tribe of the Rosebud Sioux Indian Reservation				
The Sisseton Wahpeton Oyate of the Lake Traverse Reservation	8	PPA	7/21/2016	7 years
SC- South Carolina	4	PPA	1/9/2015	7 years
Spirit Lake Dakota Nation	8	PPA	3/29/2017	7 years
SD- South Dakota	8	PPA	8/29/2014	7 years
TN- Tennessee	4	PPA	1/23/2017	10 years
TX- Texas	6	PPA	9/11/2014	7 years
Turtle Mountain Band of Chippewa Indians of the Turtle Mountain Indian Reservation	8	PPA	7/25/2017	7 years
USVI- United States Virgin Islands	2	PPA	7/14/2016	7 years
UT- Utah	8	PPA	9/26/2016	10 years
VT- Vermont	1	PPA	5/10/2018	7 years
WI- Wisconsin	5	PPA	7/13/2017	8 years
WV- West Virginia	3	PPA	6/22/2016	7 years

Currently Effective FEMA Disaster or Legacy State-specific Programmatic Agreements

<b>State/Territory/Tribal Legacy PA</b>	<b>FEMA Region</b>	<b>PA Type</b>	<b>Executed Date (mm/dd/yyyy)</b>	<b>PA Duration</b>
AK- Alaska	10	Legacy PA	11/4/2015	10 years
FL- Florida	4	Legacy PA	9/10/2014	7 years
GU- Guam	9	Legacy PA- DR Specific	8/13/2002	no end date
GU- Guam Amendment	9	PA Addendum	10/24/2014	no end date
MN- Minnesota	5	Legacy PA	10/30/2014	7 years
NC- North Carolina	4	DR Specific	5/8/2020	5 years
VA- Virginia	3	Legacy PA	8/13/2011	no end date
VA- Virginia Amendment	3	PA Addendum	4/22/2016	5 years

WA- Washington	10	Legacy PA	11/8/2012	7 years
WA- Washington 2 <sup>nd</sup> Amendment	10	PA Addendum	4/16/2019	until 10/31/2020