



FEMA

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TO: All State Administrative Agency Heads
All State Administrative Agency Points of Contact
All State Emergency Management Agency Directors
All Public and Private Sector Port Security Partners
All Urban Area Security Initiative Points of Contact
All Tribal Nation Points of Contact
All Eligible Regional Transit Agencies
All Private Sector Transportation Security Partners

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SUBJECT: National Historic Preservation Act Section 106 Review Requirements for
Communication Facilities

This Information Bulletin (IB) provides guidance on the National Historic Preservation Act (NHPA) Section 106 review requirements for GPD grant funded projects involving communication facilities.¹ GPD funds a variety of projects related to communication facilities including the construction, replacement, or repair of towers as well as the installation or repair of associated equipment such as antennas or repeaters. Section 106 of the NHPA requires Federal agencies to take into account the effect of their undertakings on historic properties through consultation with the relevant State Historic Preservation Office (SHPO), Tribal Historic Preservation Office (THPO) for Federally-recognized tribes, and Native Hawaiian organizations (NHOs). Historic properties are those listed in, or eligible for listing in, the National Register of Historic Places.

Many of the towers funded by GPD are also regulated by the Federal Communications Commission (FCC), and the FCC as a Federal agency is required to comply with Section 106. The FCC has executed two programmatic agreements with the Advisory Council on Historic Preservation (ACHP): the *Nationwide Programmatic Agreement for Review of Effects on Historic Properties for Certain Undertakings Approved by the Federal Communications Commission* (Nationwide PA) (October 2004) and the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas* (FCC Collocation PA) (March 2001). These agreements were put in place to streamline and expedite the Section 106 review process.

¹ For more information on the Section 106 review please see <http://www.achp.gov/106summary.html> and 36 CFR Part 800.

In October 2009, the ACHP issued a *Program Comment* on the Nationwide PA and the FCC Collocation PA to avoid duplicative reviews by other agencies, such as FEMA, that are required to comply with Section 106. The *Program Comment* states that FEMA will not have to complete the Section 106 process for the effects of the construction or modification of communication facilities that have either undergone or will undergo Section 106 by the FCC or are exempted from review by the FCC under the FCC Nationwide PA and/or the FCC Collocation PA. However, if the proposed communication facilities project funded by GPD contains additional components not covered by the Section 106 review completed by the FCC, GPD must ensure compliance with Section 106 and complete appropriate consultations. Furthermore, all other Environmental Historic Preservation (EHP) laws and regulations must be complied with to complete the EHP review process; there is no exemption from the EHP process via the *Program Comment*, and any exemptions apply only to Section 106 requirements under NHPA.

Section 106 Compliance for GPD Communication Facilities

Communication facilities funded by GPD preparedness grant programs must comply with all applicable EHP laws, regulations and Executive Orders. In order to take advantage of the streamlined process for Section 106 review provided by the *Program Comment*, grantees must complete the FCC's Section 106 review process and submit all documentation resulting from the review to GPD.

The following describes the steps grantees need to take to complete the FCC Section 106 review process.

Step 1

Grantees upload information into FCC's Tower Construction Notification System (TCNS). This system allows Federally-recognized Tribes and NHOs to respond to grantees via e-mail through the system (http://wireless.fcc.gov/outreach/index.htm?job=tower_notification).

Step 2

Upon completion of TCNS process grantees should upload information into FCC's E106 System (http://wireless.fcc.gov/outreach/index.htm?job=tower_notification).

- Not all states participate in the E106 system. If a state does not participate, grantees should complete the appropriate forms, then print and submit a hard copy of these documents to the SHPO.
- For States participating in the online E106 system, an automatic notification from the E106 System to the SHPO initiates consultation. The system assumes concurrence if no response is received from the SHPO in 30 days.
- While in the E106 system, grantees list GPD or FEMA as a "consulting party", and enter GPD's FCC Registration Number (FRN), #0020415444.

Step 3

Upon completion of the E106 and TCNS processes, grantees provide copies of all relevant EHP materials, including copies of the E106 submittal, and all E106 responses received from SHPO/THPO as part of their completed EHP Review Packet to GPD via the Centralized Scheduling and Information Desk (CSID) at AskCSID@dhs.gov. If grantees encounter any difficulties in obtaining responses from SHPOs, THPOs, or NHOs, they should contact the GPD EHP team at GPDEHPinfo@dhs.gov, and provide the TCNS and E106 reference numbers, the parties from whom they are awaiting information and

a brief project description in their e-mail. Please refer to IB 329 for further information about other requirements of the EHP review process.

Questions may be directed to your designated program analyst, or the Centralized Scheduling and Information Desk at 1-800-368-6498, or through email at AskCSID@dhs.gov or GPDEHPinfo@dhs.gov.