

**GUIDELINES
FOR
IMPLEMENTATION OF THE
CERTIFIED LOCAL GOVERNMENTS PROGRAM
IN
PENNSYLVANIA**

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I. INTRODUCTION

In 1966, Congress enacted the National Historic Preservation Act that established a program of identification, evaluation and protection of historic resources that is carried out in partnership between the National Park Service and the states. The success of this working relationship encouraged Congress, in 1980, to expand the partnership to provide a formal role for local governments.

The National Historic Preservation Act as amended (16 USC, 470 et seq.) is the legal basis for the new federal-state-local preservation partnership. Qualified local governments will be certified to carry out functions in this partnership including the identification, evaluation, registration, and preservation of historic properties within their jurisdictions and promote the integration of local preservation interests and concerns into local planning and decision-making processes. Grant funding is available from the State Historic Preservation Officer earmarked for "certified local governments"

Specific responsibilities of a Certified Local Government include:

- 1) Enforce appropriate state and local laws and regulations for the designation and protection of historic properties;
- 2) Establish an historic preservation review commission by local ordinance;
- 3) Maintain a system for the survey and inventory of historic properties;
- 4) Provide for public participation in the local preservation program; and
- 5) Satisfactorily perform responsibilities delegated to it by the state.

In Pennsylvania in order to become certified, a local government must meet a number of requirements, chief of which is to have enacted a historic preservation ordinance and appointed a Board of Historical Architectural Review or historic preservation commission. The federal act directs the State Historic Preservation Officer and the Secretary of Interior to certify local governments to participate in the partnership. This document will outline how the partnership works in Pennsylvania.

These guidelines were prepared in response to the National Historic Preservation Act (36 CFR 61) and after extensive consultation with representatives of local governments and preservation organizations. Comments from these groups were particularly helpful in designing the funding portion of the program. Comments received are available for review at the Pennsylvania Historical and Museum Commission.

Currently, Pennsylvania has more than 150 municipalities with the ability to regulate over 180 locally established historic districts authorized by the Pennsylvania Historic District Act of 1961, P.L. 282, No. 167 as amended. The Certified Local Government Program will allow the State to recognize and strengthen existing programs to local governments with historic preservation articles in zoning ordinances (known also as "historic preservation overlays") authorized under the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247 as reenacted and amended, or under historic preservation ordinances established under home rule charters, as for example the

cities of Philadelphia, Pittsburgh, and Scranton. The Pennsylvania Historical and Museum Commission believes that many local government that have enacted ordinances or amendments to zoning ordinances to protect historic resources within their municipal boundaries will request Certified Local Government certification that will further reinforce municipal participation into Pennsylvania's state historic preservation programs and the integration of historic preservation into local planning and the decision making process.

II. REQUIREMENTS FOR CERTIFICATION OF LOCAL GOVERNMENT PROGRAMS IN PENNSYLVANIA

The federal law (National Historic Preservation Act as amended (16 USC 470 et. seq.) that established the Certified Local Government Program contains five broad standards, all of which must be met by Pennsylvania municipalities before the local government can receive and retain Certified Local Government certification. The federal standards, when appropriate, are further defined and expanded below to indicate the specific standards a local government must fulfill for certification in Pennsylvania.

DEFINITION:

"PRESERVATION REVIEW COMMISSION" REFERS TO A BOARD OF HISTORICAL ARCHITECTURAL REVIEW, HISTORICAL COMMISSION, DESIGN REVIEW BOARD OR OTHER SIMILAR COLLEGIAL BODY WHICH IS ESTABLISHED BY STATE OR LOCAL LEGISLATION, AND THE MEMBERS OF WHICH ARE APPOINTED BY THE CHIEF ELECTED OFFICIAL OF THE JURISDICTION, UNLESS OTHERWISE PROVIDED FOR BY STATE OR LOCAL LEGISLATION.

"LOCAL GOVERNMENT" REFERS TO MUNICIPALITIES CREATED UNDER THE STATE CONSTITUTION OF PENNSYLVANIA ARTICLE IX. "MUNICIPALITY MEANS A COUNTY, CITY, BOROUGH, INCORPORATED TOWN, TOWNSHIP OR ANY SIMILAR GENERAL PURPOSE UNIT OF GOVERNMENT WHICH SHALL HEREAFTER BE CREATED BY THE [PENNSYLVANIA] GENERAL ASSEMBLY.

A. In Pennsylvania local governments must "enforce appropriate state or local legislation for the designation and protection of historic properties."

1. Local governments *must have adopted an ordinance* under the Historic District Act (of 1961) or under the Municipalities Planning Code *and administer municipal historic districts or overlay historic districts* in accordance with requirements of that Act *or*, in the case of 1st and 2nd class cities and home rule municipalities, appropriate local legislation which provides a mechanism for the designation of historic properties *and, at a minimum, their protection and preservation through review and approval or denial of permits for all demolition proposals (see below).*

2. The local ordinance must be consistent with the federal statutory definition of designation and protection: (A). Designation means the identification and registration of properties for protection that meet criteria established by the Pennsylvania Historical and Museum Commission or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; (B) protection means a local review process under State or local law for proposed demolition of, change to, or other action that may affect historic properties.

“Historic property” is defined by Section 301(5) of the National Historic Preservation Act to consist of “any prehistoric, or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to a property or resource.”

The Pennsylvania Historical and Museum Commission, for the purposes of the Historic District Act, defines a historic district as:

A local historic district is an area, within a political subdivision, that possesses a group of buildings, monuments, bridges, cemeteries, parks, designed landscapes, or other constructed or naturally-occurring features that have been recognized for their local historical or cultural significance either by the municipality or by the Pennsylvania Historical and Museum Commission. Generally, the Pennsylvania Historical and Museum Commission will certify that a proposed local historic district is historically significant if certification would promote the goals and objectives of the municipality’s comprehensive plan, and if the area meets the criteria described below.

Criteria: PHMC’s evaluation of whether a proposed local historic district is historically significant will generally include (but not be limited to) consideration of whether the proposed district:

1. *has significant character, interest, or value associated with the development, heritage, or cultural characteristics of the municipality and is associated with a significant period of time in its history;*
2. *is representative of the built environment of an era of history as characterized by distinctive architectural styles;*
3. *is the site or location of a notable local event considered to have had a significant effect on the municipality;*
4. *is an example of the cultural, political, economic, social, or historical heritage of the community;*
5. *has achieved significance within the past fifty years or is of exceptional importance to the municipality; and/or*

6. *possesses a unique location or physical characteristics that represent an established and familiar visual feature of a neighborhood within the municipality.*
3. The criteria upon which a local government's Board of Historical Architectural Review or historic preservation commission reviews proposals for alteration and demolition must be clearly set forth in the ordinance. Design standards, which conform, to The Secretary of the Interior's *Standards for the Treatment of Historic Properties* with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (36 CFR 68) are recommended but not required.
4. The ordinance or, where appropriate, an administrative action pursuant to the ordinance, which designates resources for protection must clearly delineate and/or identify the landmarks or boundaries of designated districts to be protected.
5. The local government through its Board of Historical Architectural Review or historic preservation commission must review and render decisions on any proposed action or demolitions affecting properties within the district boundaries designated or landmarks identified by the ordinance and must have authority under the ordinance to deny demolition permits where appropriate.
6. The local government through its Board of Historical Architectural Review or historic preservation commission, where appropriate, may review and render decisions on alterations to or relocation of all structures or sites within the boundaries designated by the ordinance.
7. The local government through its Board of Historical Architectural Review or historic preservation commission *may review* and make recommendations on all proposed new construction within the boundaries designated by the ordinance to the governing body.
8. Decisions of the local governing body made pursuant to review as above must be binding upon the applicants. Provision for enforcing decisions and a right of appeal must exist in the preservation ordinance or, by reference, the administrative procedures act.
9. Each Board of Historical Architectural Review or commission and its local governing body shall have in effect rules of procedure or by-laws pertaining to all official duties related to historic preservation under the local government certification program and submit them to the State Historic Preservation Officer. At a minimum, these should establish regular meeting times, attendance and training requirements for commission members, and provisions to cover issues of conflict of interest.

10. No categorical exclusion can be made for any type of building, structure, site, or applicant.
- B. Local government shall “establish by state legislation an adequate and qualified Board of Historical Architectural Review or historic preservation commission composed of professional and lay members.”
1. Each Certified Local Government shall have a Board of Historical Architectural Review or preservation commission with a minimum of five (5) members. All members shall have a demonstrated interest, competence or knowledge in historic preservation.
 2. For municipalities with ordinances established under the Pennsylvania Historic District Act, “One member of the board shall be a registered architect, one member shall be a licensed real estate broker, and one member shall be a building inspector . . .”
 3. National Park Service regulations further require that the Board of Historical Architectural Review or preservation commission include members from the following fields “to the extent such professionals are available in the community:”
 - Architecture or landscape architectural
 - History or architectural history
 - Planning
 - Prehistoric and historic archaeology
 - Folklore or cultural anthropology
 - Curation or conservation

At least one Board of Historical Architectural Review or commission member shall be a registered architect, and other members shall meet relevant enabling legislation requirements and have professional expertise in a field closely related to historic preservation (i.e., architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation and landscape architecture).

4. Information on the credentials of the Board of Historical Architectural Review or commission members must be kept on file and available to the public and the State Historic Preservation Officer. Local governments may be certified without the minimum number of types of disciplines if they can demonstrate that they have made a reasonable effort to fill those positions to the extent available in the community. A good faith effort shall include contacting professionals who are known to reside in the community and contacting universities or professional organizations to locate such professionals in the community if they are not known to live there. Nothing in this part shall be construed to encourage the appointment of professionals who do not have a demonstrated interest,

competence, or knowledge in historic preservation. However, professional expertise in unrepresented disciplines must be sought when considering National Register nominations and other actions that will impact properties normally evaluated by a professional in such disciplines. (See #6 below.)

5. The appointing authority shall act within 90 working days to fill any vacancy.
 6. Each Board of Historical Architectural Review or commission member and staff person is required to attend at least 8 hours of informational or educational meeting(s) per year, made available or approved by the State Historic Preservation Officer, pertaining to work and functions of the Board of Architectural Review or commission, or to historic preservation. Such meetings may also be made available to elected municipal officials.
 7. An annual report of the activities of the Board of Historical Architectural Review Board or preservation commission shall be submitted to the State Historic Preservation Officer. Reports shall include, but are not limited to, items such as number of cases reviewed, newly designated districts or landmarks, résumés of new Historical Architectural Review Board or commission members and staff/consultants, appointments to the commission, attendance records, and all minutes relating to National Register nominations. The report must document the educational meetings referenced above.
 8. The Certified Local Government through its Board of Historical Architectural Review or historic preservation commission shall review 75 percent of all proposed National Register nominations for properties within the boundaries of the municipality. When a National Register nomination, which is normally evaluated by a professional in a specific discipline is considered (e.g., archaeological site) and that discipline (e.g., archaeology) is not represented on the Board of Historical Architectural Review or commission, the Board of Historical Architectural Review or preservation commission must seek expertise in this area before rendering its opinion. (See #2 above.) This can be accomplished through consulting (e.g., universities, private preservation organizations, the State Historic Preservation Officer, or regional planning commissions) or by other means as appropriate. (See Section III.)
- C. The local government shall "maintain a system for the survey and inventory of historic properties."
1. The municipality shall maintain a listing of officially designated historic districts, buildings, sites, objects, and/or structures in the municipality.
 2. The municipality must also maintain and periodically update an inventory of all surveyed areas, historic districts, buildings, sites, objects and/or structures identified to date as historic resources within the municipality.

3. A Certified Local Government shall develop or continue a program/procedure to carry out a comprehensive survey for identification of historic districts, buildings, sites, objects, and structures within the municipality.
 4. All inventory material shall be:
 - a. *Coordinated with the State Historic Preservation Officer through the Bureau for Historic Preservation's records, guidelines and formats for data collection and in accordance or consistent with the statewide comprehensive historic preservation plan and the Bureau for Historic Preservation's Guidelines for Historic Resource Surveys in Pennsylvania, or the Guidelines for Archaeological Investigations.*
 - b. Accessible to the public, except for restrictions on the location of archaeological sites when deemed necessary by the State Historic Preservation Officer or local government.
 - c. Up-to-date.
 - d. Copies of the inventory documentation must be submitted with photographs to the State Historic Preservation Officer.
- D. "Local government shall provide for adequate public participation in the local historic reservation programs, including the process of recommending properties for nomination to the National Register".
1. All meetings of the Board of Historical Architectural Review or historic preservation commission must be publicly announced and be open to the public. The agenda must be available to the public for review prior to the meeting. Commission meetings must occur at regular intervals at least four times a year. Public notice must be provided prior to any special meetings; all requirements of "Sunshine Act" No. 84 of 1986 shall be met.
 2. Careful minutes of all decisions and actions of the Board of Historical Architectural Review or preservation commission and the governing body, including the reasons for making these decisions, must be kept on file and available for public inspection.
 3. All decisions by the Board of Historical Architectural Review, preservation commission or governing body related to enforcement of local legislation or Certified Local Government responsibilities shall be made in a public forum, and applicants shall be given written notification by mail of decisions or recommendations of the Board of Historical Architectural Review or preservation commission. (This notification may be in the form of a copy of the recommendation made to or by the local governing body.) In the case of National Register nominations, notification should be given to the property

owner(s).

4. The rules of procedure adopted by the Board of Historical Architectural Review or historic commission shall be available for public inspection.
- E. "Local government shall satisfactorily perform the responsibilities delineated above and those specifically delegated to it under the Act by the State Historic Preservation Officer."
1. The State Historic Preservation Officer may, at his/her discretion and by mutual written agreement with the local governing body, delegate further responsibilities to the individual certified local government or Board Historical Architectural Review or historic preservation commission. Such responsibilities will be complementary to and carried out in coordination with the State Historic Preservation Officer as outlined in Sec. 36 CFR 61.4 (b).
 2. In order to carry out the duties delegated to it by the State Historic Preservation Officer and to provide technical and advisory services to the Board of Historical Architectural Review or historic preservation commission, other municipal agencies, and the public, the certified local government must employ, contract with, or otherwise have access to, on at least a part time basis, a qualified professional in historic preservation (as defined by U.S. Dept. of Interior regulations, 36 CFR Part 61 - Professional Qualifications Standards). Equivalent experience and/or training will be considered by the State Historic Preservation Officer. Minimum staff responsibilities must include reviewing and commenting to the Board of Historical Architectural Review or historic preservation commission on administration, applications, National Register nominations, and related preservation issues.

The process for monitoring of the certified local government is described in Part V.

III. CERTIFIED LOCAL GOVERNMENT PARTICIPATION IN THE NATIONAL REGISTER NOMINATION PROCESS

- A. All certified local governments are eligible to participate in the National Register process regardless of participation in the funding process.
- B. Before a property within the jurisdiction of the Certified Local Government is considered by the Pennsylvania Historic Preservation Board for nomination to the National Register, the State Historic Preservation Officer will notify in writing the owner and the certified local government. Notification will be sent to the chief elected official at least 60 days before the Pennsylvania Historic Preservation Board meeting at which the nomination will be considered. The Certified Local Government's official recommendation on the significance of the nominated property shall meet the

requirements of the National Register of Historic Places criteria for evaluation, and will be presented to the Pennsylvania Historic Preservation Board at their meeting in writing or, if the certified local government chooses, their staff may be present at the meeting to offer comments in person. This process may be expedited with the concurrence of the Certified Local Government.

If either or both the local chief elected official and the Board of Historical Architectural Review or historic preservation commission recommend that the property is eligible for nomination, the SHPO will present the nomination to the Pennsylvania Historic Preservation Board in accordance with the procedures in 36 CFR 60.

If both the local chief elected official and the Board of Historical Architectural Review or historic preservation commission recommend against a proposed National Register nomination on the basis of its significance, in that it does not appear to meet the requirements of the National Register of Historic Places criteria for evaluation, it will not be nominated by the State Historic Preservation Officer unless within 30 days of receipt of the CLG's recommendation a written appeal is filed with the State. If such an appeal is filed, the State shall follow procedures for making a nomination pursuant to the National Historic Preservation Act, Section 101(a) and 36 CFR60. Any report and recommendation made under this section shall be included with any nomination submitted by the State to the Secretary of Interior.

During its 60-day review period, the certified local government shall provide a reasonable opportunity for public comment.

The Certified Local Government may respond with "no comment" within the designated 60-day review period. However, certified local governments must comment on at least 75% of all National Register nominations within their jurisdiction.

The above noted CLG notification procedures do not apply where a Federal agency nominates a property under its ownership or control. Federal agencies should, however, be encouraged to coordinate their nominations with CLGs. When National Register nomination is processed by or through a CLG that provides its recommendation and report to the SHPO with the nomination package the SHPO notification procedures need not apply.

- C. Certified Local Governments are encouraged to hold public meetings on proposals for the establishment of National Register historic districts. Findings and recommendations may be presented to the Historic Preservation Board as described in part B above.
- D. The State Historic Preservation Office staff will advise the certified local government of any site visit to review a potential National Register property or district within the government's jurisdiction and invite a representative of the Certified Local Government to participate.

The State may not delegate authority to nominate properties directly to the National Register.

IV. PROCESS FOR CERTIFICATION OF LOCAL GOVERNMENTS IN PENNSYLVANIA

- A. The chief elected official of the appropriate local governing body shall request certification from the State Historic Preservation Officer. The request for certification shall include: 1) a written assurance by the chief elected official and evidence that the local government has fulfilled all the standards for certification outlined above, 2) a copy of the local historic preservation ordinance and by-laws or procedures, 3) a list and accompanying maps of the areas designated as historic districts or individual landmarks, and 4) résumés for members and staff of the Board of Historical Architectural Review or the historic preservation commission including credentials of expertise in fields related to historic preservation.
- B. Request for certification will be reviewed in accordance with the requirements for certification described previously in Section II. When a local government certification request is approved by the State Historic Preservation Officer, the State Historic Preservation Officer will prepare a written agreement stating the specific responsibilities of the local government when certified. The State Historic Preservation Officer will forward the approved request and signed certification agreement as well as a signed “review checklist” that shows the application is complete and meets the requirements for Certified Local Government status to the National Park Service.
- C. The State Historic Preservation Officer will respond to the chief elected official within 45 days of the receipt of an adequately documented written request and advise him/her of the recommendation made to the National Park Service. The State Historic Preservation Officer's certification of the local government to participate in the National Historic Preservation Program will constitute certification by the National Park Service unless exception is taken by the National Park Service within 15 working days of receipt of the State Historic Preservation Officer's approved certification.

V. PROCESS FOR MONITORING AND DECERTIFICATION OF CERTIFIED LOCAL GOVERNMENTS IN PENNSYLVANIA

- A. The State Historic Preservation Officer office will conduct periodic evaluation and monitoring of Certified Local Governments not less than every four years to assure that certified local government performance is consistent with requirements for certification and coordinated with the identification, evaluation, and preservation programs of the state historic preservation office. The Certified Local Government will be notified in advance of such an evaluation. Written evaluations will be maintained. The State Historic Preservation Officer shall also review the annual report submitted by certified local governments, records of the administration of funds allocated from the Historic Preservation Fund, and other documents as reasonable and necessary.

Evaluation criteria shall include, but not be limited to:

1. Meeting the five eligibility requirements described in Section II.
2. Performance of delegated responsibilities, such as review of National Register nominations, administration of grant funds, and other delegated functions within established standards and time periods.
3. Adherence to federal standards for grant administration, and
4. Coordination of responsibilities with the State Historic Preservation Officer.

If the State Historic Preservation Officer's evaluation indicates that the performance of a certified local government does not meet the requirements stated above, the State Historic Preservation Officer shall document that assessment and specify for the local government ways to improve performance. The certified local government shall be given a period of not less than 30 days, nor more than 120 days, to implement improvements. If the State Historic Preservation Officer determines that sufficient improvement has not occurred, the State Historic Preservation Officer may recommend decertification of the local government to the National Park Service, citing specific reasons for the recommendation.

The State Historic Preservation Officer 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.

When a local government, which has received grant assistance is decertified, the State will conduct financial assistance closeout procedures as specified in the National Register Programs Manual.

Effective Date of Decertification. The SHPO must affirm the decertification recommendation to NPS that the SHPO has notified the CLG. The local government is decertified if the National Park Service does not object within 30 working days of receipt of the recommendation.

- a. 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.

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VI. TRANSFER OF HISTORIC PRESERVATION FUNDS TO CERTIFIED LOCAL GOVERNMENTS

- A. The local share of the Pennsylvania allocation from the Historic Preservation Fund will be available to certified local governments on a matching basis historic preservation activities and projects. Local matching share may be cash or eligible in-kind expenses as per federal standards. Presently, federal law provides that at least 10% of the Historic Preservation Fund allocation to Pennsylvania be set aside for distribution to Certified Local Governments.

No certified local government can receive more than 30% of the available Certified Local Government share of funds, unless this requirement would preclude award of the required 10% allocation to Certified Local Governments. Proposals will be evaluated based on annual state historic preservation priorities and the five criteria established in Section C above.

Explanations for Certified Local Government grant awards and the amounts awarded shall be available to the public.

The State Historic Preservation Officer's, (Bureau for Historic Preservation) is responsible, through financial audit for the proper accounting of Historic Preservation Fund Certified Local Government pass-through monies in accordance with OMB Circular A-133 "Audits of State and Local Governments, and Nonprofit Organizations, Data Collection Form SFSAC, and appendix B, April 1999 Compliance Supplement"

The State Historic Preservation Officer's, Bureau for Historic Preservation-Pennsylvania Historical and Museum Commission is willing to assist all local governments in developing and implementing financial management systems and administrative procedures that address the requirements listed above.

- B. In order to be eligible to receive a portion of the local share of the Historic Preservation Fund allocation to Pennsylvania, the Department of Interior requires that each certified local government:

1. Shall have adequate financial management systems
 - a) Meet federal standards of the Office of Management and Budget Circular A-102, "Grants and Cooperative Agreements with State and Local Governments.
 - b) Are auditable in accordance with OMB Circular A-133 , "Audits of State and Local Governments." These audits shall be forwarded to the State Historic Preservation Office for review and appropriate action.
2. Shall adhere to all required administrative procedures in OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments. All costs claimed or applied as matching share must be reasonable and necessary for proper conduct of subgrant supported activities and adequate records must evidence compliance with the competition procurement requirements of OMB

Circular A-102 (Common Rule) including small purchase procedures or competitive negotiation for professional services.

3. Shall adhere to any requirements mandated by Congress regarding the use of Historic Preservation Funds. State Historic Preservation Office will advise Certified Local Government's of directives contained in annual appropriation laws.
 4. Shall adhere to requirements specified by the State Historic Preservation Office in the subgrant agreement.
- C. Each Certified Local Government will be eligible to apply for an annual grant, based on that year's Certified Local Government share of Pennsylvania's Historic Preservation Fund apportionment. The exact amount of the CLG share (no less than 10% of Pennsylvania's annual appropriation) will be determined and announced annually.

The State is not required to award funds to all governments eligible to receive them. The State Historic Preservation Officer will seek to assure a reasonable distribution and to maximize the number of communities receiving funds within the limits of other program requirements.

All funds will be awarded competitively to Certified Local Governments based on their applications submitted to the State Historic Preservation Officer.

VII. APPLICATION FOR PASS-THROUGH FUNDS

In order to receive Certified Local Government funds, the chief elected official of a certified local government shall submit an annual application to the State Historic Preservation Officer that outlines the proposed activity and the budget, including the source of the match. Application requirements are detailed in Section VI.

TIMING OF THE APPLICATION PROCESS

- The State Historic Preservation Officer announces annual priorities, notifies Certified Local Governments of available funds.
- State Historic Preservation Officer receives applications from Certified Local Governments by application submission deadline.
- State Historic Preservation Officer receives National Park Service approval of Annual Work Program (approximately January 1).
- Historic Preservation Officer reviews and evaluates applications within 45 days. Information on grant recommendations and selection process will be available to the public upon request.
- State Historic Preservation Officer notifies local governments of grant awards (approximately in March).