

**Texas Administrative Code
Title 13 Cultural Resources
Part 2 Texas Historical Commission
Chapter 15 Administration of Federal Programs**

15.6 Rules and procedures for Certified Local Governments

(a) Purpose. The Certified Local Government program (hereinafter referred to as the Program) is part of the Historic Preservation Fund (HPF) grants-in-aid program authorized by the National Historic Preservation Act of 1966, (16 U.S.C. 470 et.seq.) (also referred to as the Act), to provide a statutory framework for national historic preservation partnerships among federal, state, tribal, and local governments in the identification, evaluation, designation, and protection of historic and prehistoric properties. The Texas State Historic Preservation Office (Texas SHPO), within the Texas Historical Commission (THC), coordinates the state's preservation responsibilities as set out in the Act. Local participation in this Program is provided to local governments that are certified by the Secretary of the United States Department of the Interior and administered by the National Park Service (NPS) through the Program.

(1) Section 101(c)(1) of the Act directs the Texas State Historic Preservation Officer (SHPO) and the Secretary of the Department of the Interior through the NPS to participate in the partnership and Title 36, Code of the Federal Regulations, Part 61.6 lists requirements that the SHPO and local governments are to meet.

(2) These requirements are also found in the Historic Preservation Fund (HPF) grants manual, as published and amended by the NPS.

(b) City participation. City governments may participate in the Program through compliance with the Texas Local Government Code, Chapter 211, which empowers municipal governments to adopt zoning regulation for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance. Chapter 214.00111 of the Code also provides additional authority specifically to participating local governments for the purpose of preserving substandard buildings that are historic properties.

- (c) County participation. Counties may participate in the Program through compliance with the Texas Local Government Code, Chapter 318, which empowers the Commissioners Court of each county to appoint a County Historical Commission, for the purpose of initiating and conducting programs suggested by the Court and the THC for the preservation of the county's historic cultural resources that are consistent with the statewide preservation plan.
- (d) Indian Tribe participation. Indian tribes that effectively meet the definition of a local government in Section 301(3) of the Act may participate in the Program in accordance with Section 101(d)(1)(A) of the Act to establish a program and promulgate regulations to assist Indian tribes in preserving their historic properties.
- (e) Eligibility for certification of Local Governments. Any city, county, township, municipality, Indian tribe, or any other general-purpose political subdivision of Texas may apply to become a CLG by submitting a Request for Certification to the Texas SHPO. To be considered eligible, the local government must meet the minimum Program requirements pursuant to Title 36, Code of the Federal Regulations, Part 61, and outlined in the HPF grants manual. The Texas SHPO may expand or prescribe additional state requirements and responsibilities. The following are the minimum federal requirements local governments must satisfy for certification:
- (1) Enforces appropriate State or local legislation for the designation and protection of historic properties;
 - (2) Has established an adequate and qualified historic preservation review commission by State or local legislation;
 - (3) Maintains a system for the survey and inventory of historic properties;
 - (4) Provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and
 - (5) Satisfactorily performs the responsibilities delegated to it under the Act.

- (f) Certification process of Certified Local Governments. All eligible local governments must submit a completed Request for Certification and Certification Agreement, signed by the chief elected official of the applying local government, along with all necessary requested materials, to the THC. A Request for Certification may be submitted at any time throughout the year. Texas SHPO shall have a reasonable opportunity to review and respond to the request. If the local government meets the minimum requirements for participation in the Program, the Texas SHPO shall forward the Request for Certification and Certification Agreement to the NPS with a recommendation for certification. The NPS shall make the final certification decision. The local government shall become a Certified Local Government (CLG) upon receipt of written notice from the NPS, completing the certification process.
- (g) Annual requirements for Certified Local Governments for participation in Program. All annual requirements for participation and Program procedures are found in the Texas SHPO's Certified Local Government Preservation Handbook (Handbook), which shall be provided to each CLG upon its certification into the Program.
- (1) The Texas SHPO shall provide a 60-day period for all CLGs to comment on any proposed significant changes or amendments to the Handbook, keep a record of its consultation process, and follow the procedures outlined in the HPF grant manual.
 - (2) Written notification from the Texas SHPO to the CLGs is sufficient for minor changes, technical corrections and amendments to the Handbook.
- (h) Monitoring and evaluating CLG performance. The Texas SHPO shall monitor the performance of each CLG on an on-going basis to assure that CLGs fulfill their responsibilities in accordance with the requirements found in the Handbook and the terms of the Certification Agreement. In addition the performance of the CLG shall be reviewed by the Texas SHPO on the basis of recognized standards for historic preservation activities. These standards shall include but not be limited to the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation; National Register criteria for evaluation in reviewing the local government's role in the National Register Program; state survey grant requirements in assessing the local government's execution of the survey requirement of the CLG regulations;

and the Secretary of the Interior's Standards for the Treatment of Historic Properties in considering the local government's role in overseeing work to locally designated landmarks and districts. Evaluation of the performance of the CLG shall include the ability to maintain an adequate and qualified commission as called for in (e)(2) above with all commission members having a demonstrated interest, competence, or knowledge in historic preservation.

(1) The Texas SHPO shall conduct a full evaluation of each CLG no less than once every four years. Written procedures and standards for evaluating CLG performance in program operation and administration shall be included in the Certification Agreement and in the Handbook.

(2) The Texas SHPO shall promptly notify the CLG in writing of the results of the evaluation and must maintain written records for all evaluations.

(3) If the performance of a CLG is unsatisfactory, the Texas SHPO shall suggest ways the CLG can improve its performance and stipulate a time frame in which the improvements are to be made.

(i) Decertification. If the Texas SHPO determines that a CLG has not complied with the terms of the Certification Agreement, and/or has not improved sufficiently within a reasonable stipulated time frame as recommended during the monitoring process, the Texas SHPO must notify the CLG in writing of its intent to recommend decertification to the NPS. During the decertification process:

(1) The Texas SHPO may begin procedures for the suspension and termination of financial assistance to that local governmental entity in accordance with the HPF grants manual.

(2) Recertification shall not be permitted until all previously identified inadequacies have been addressed to the satisfaction of the Texas SHPO, and a demonstrated effort has been made by the local government to strengthen local preservation efforts above and beyond previous attempts.

(j) Funds for Certified Local Governments. The Act provides that at least 10 percent of the Texas SHPO's annual HPF allocation be made available in the form of sub grants to CLGs to provide financial assistance for local activities associated with the identification, evaluation, designation, and protection of historic and prehistoric properties. Although each CLG is eligible to receive funds from this allocation, there is no requirement that funds be awarded to all local governments that are eligible. All procedures, terms and conditions for application to receive a sub grant as part of the Program shall be found in the Handbook.

8/22/11

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