

**CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Development

AGENDA DATE: Public Hearing: November 13, 2012

CONTACT PERSON/PHONE: Providencia Velázquez, Historic Preservation Officer, 915-541-4027,
velazquezpx@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

Discussion and action on a resolution to authorize the Mayor to sign a revised Certification Agreement between the Texas Historical Commission and the City of El Paso for participation in the Certified Local Government program. Applicant: City of El Paso. (All Districts)

BACKGROUND / DISCUSSION:

See attached Staff Report

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Carlos Gallinar 
Deputy Director for City Development, Planning

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____



City of El Paso – Staff Report

Application Type: Discussion and action on a resolution to authorize the Mayor to sign a revised Certification Agreement between the Texas Historical Commission and the City of El Paso for participation in the Certified Local Government program.

Staff Planner: Providencia Velázquez, Historic Preservation Officer, 915-541-4027,
velazquezpx@elpasotexas.gov

Applicant: City of El Paso

APPLICATION DESCRIPTION

The Texas Historical Commission's Certified Local Government (CLG) Program is part of the agency's responsibilities in administering the National Historic Preservation Act of 1966. Administration of the program is required to comply with the Act and with the Historic Preservation Fund Grants Manual, which stipulates the minimum requirements for administration and operation of the program. States may amplify minimum CLG requirements so long as any additional requirements are consistent with the Act and applicable federal regulations, including 36 CFR Part 61.

The purposes of the CLG program are: 1) to ensure the broadest possible participation of local governments in the national historic preservation program while maintaining standards consistent with the National Historic Preservation Act and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation;" 2) to enrich, develop, and help maintain local historic preservation programs in cooperation and coordination with the SHPO; and 3) to provide financial and technical assistance to further these purposes.

The adoption of this revision is proposed to allow for better organized and streamlined procedures that should promote a broader range of interest and participation in the CLG program in Texas. The proposed rules remove a significant amount of information already codified in the federal regulations. In addition, the proposed revision eliminates requirements that may be more restrictive than those of federal regulations. The proposed revision includes language that provides the framework but is less specific to day to day operations of the program which can be more effectively conveyed through guidance materials such as applications and handbooks. Utilizing guidance materials rather than administrative code will allow better flexibility and efficiency for the program and CLGs to adapt to current needs including scheduling and application procedures.

CITY DEVELOPMENT DEPARTMENT – HISTORIC PRESERVATION OFFICE **RECOMMENDATION**

The Historic Preservation Office recommends **APPROVAL** of the request.

Attachments

Revised Certification Agreement
Previously approved Resolution and Certification Agreement
Texas Administrative Code, Title 13, Cultural Resources, Part 2, Texas Historical Commission, Chapter 15, Administration of Federal Programs

**CITY DEVELOPMENT
PLANNING DIVISION**

MEMORANDUM

DATE: November 5, 2012

TO: The Honorable Mayor and City Council
Joyce Wilson, City Manager

FROM: Providencia Velázquez, Historic Preservation Officer

SUBJECT: Certification Agreement between the Texas Historical Commission and the City of El Paso for participation in the Certified Local Government program

The Texas Historical Commission's Certified Local Government (CLG) Program is part of the agency's responsibilities in administering the National Historic Preservation Act of 1966. Administration of the program is required to comply with the Act and with the Historic Preservation Fund Grants Manual, which stipulates the minimum requirements for administration and operation of the program. States may amplify minimum CLG requirements so long as any additional requirements are consistent with the Act and applicable federal regulations, including 36 CFR Part 61.

The purposes of the CLG program are: 1) to ensure the broadest possible participation of local governments in the national historic preservation program while maintaining standards consistent with the National Historic Preservation Act and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation;" 2) to enrich, develop, and help maintain local historic preservation programs in cooperation and coordination with the SHPO; and 3) to provide financial and technical assistance to further these purposes.

The adoption of this revision is proposed to allow for better organized and streamlined procedures that should promote a broader range of interest and participation in the CLG program in Texas. The proposed rules remove a significant amount of information already codified in the federal regulations. In addition, the proposed revision eliminates requirements that may be more restrictive than those of federal regulations. The proposed revision includes language that provides the framework but is less specific to day to day operations of the program which can be more effectively conveyed through guidance materials such as applications and handbooks. Utilizing guidance materials rather than administrative code will allow better flexibility and efficiency for the program and CLGs to adapt to current needs including scheduling and application procedures.

Attachments: Revised Certification Agreement
Previously approved Resolution and Certification Agreement
Texas Administrative Code, Title 13, Cultural Resources, Part 2, Texas Historical Commission, Chapter 15, Administration of Federal Programs

RESOLUTION

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

THAT the Mayor is authorized to sign the Certification Agreement between the Texas Historical Commission and the City of El Paso for participation in the Certified Local Government Program (the "Program"), and that the City's policies and ordinances are consistent with the revised state rules for the Program.

PASSED AND APPROVED this _____ day of _____, 2012.

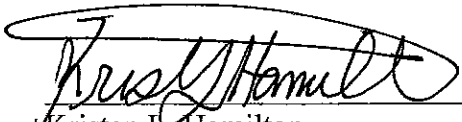
CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

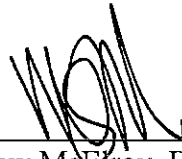
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Kristen L. Hamilton
Assistant City Attorney

APPROVED AS TO CONTENT:



Mathew McElroy, Director
City Development Department

TEXAS HISTORICAL COMMISSION

real places telling real stories

CERTIFICATION AGREEMENT BETWEEN THE TEXAS HISTORICAL COMMISSION AND THE CITY OF EL PASO FOR PARTICIPATION IN THE CERTIFIED LOCAL GOVERNMENT PROGRAM

The City of El Paso, in consideration of having been granted Certified Local Government status, agrees to carry out the following responsibilities as a Certified Local Government, in cooperation with the National Park Service and the Texas Historical Commission.

It will:

1. enforce the local historic preservation ordinance for the designation and protection of local historic properties;
2. establish and maintain by the local preservation ordinance a qualified review commission, board or committee for historic preservation having specific powers, such as review responsibility pertaining to proposed National Register nominations as well as actions that will affect local historic properties;
3. designate a city official, staff person or other appropriate resident of the municipal entity to serve as a local Historic Preservation Officer for the purpose of administering the local preservation ordinance;
4. provide appropriate training for historic preservation officer, related city staff and members of the historic preservation commission;
5. maintain a system for the survey and inventory of local historic properties that is coordinated with the statewide cultural-resource-survey-process, with technical assistance provided by the National Register Program office of the Texas Historical Commission's History Programs Division;
6. ensure, to the maximum extent possible, public participation in the local historic preservation program, including the process of nominating properties to the National Register of Historic Places;
7. adopt the Secretary of the Interior's Standards for Rehabilitation as the standards by which the local review commission will review all work applications brought before it under the terms of the local historic preservation ordinance;
8. review and comment upon nominations to the National Register of Historic Places for properties within its jurisdiction within 60 days of receiving the nominations from the National Register Program office of the Texas Historical Commission, and submit the city commission's reports and the recommendations of the chief elected official of the city to the National Register Program office as to whether or not the nominated properties meet the criteria of the National Register;

9. assist the National Register Program office of the Texas Historical Commission, if necessary, in verifying the names and addresses of property owners within local historic districts being nominated to the National Register, and assist with arrangements for local public information meetings at mutually agreeable times and locations when such districts are nominated;
10. submit to the State Historic Preservation Officer by the end of each calendar year an annual report that describes the actions of the local review commission, board or committee and other preservation-related activities of the previous fiscal year (October 1st through September 30th);
11. monitor and report to the Texas Historical Commission any actions affecting any county courthouse, Recorded Texas Historic Landmark, State Archeological Landmark, National Register property, and any locally designated landmark;
12. coordinate local historic preservation efforts, to the extent practicable, with the Texas Historical Commission, which shall provide technical assistance, guidance, and information to the Certified Local Government as feasible upon request;
13. carry out the general program procedures as outlined in the Texas Administrative Code, Title 13 Cultural Resources, Part 2 Texas Historical Commission, Chapter 15 Administration of Federal Programs, Rule 15.6 Rules and Procedures for Certified Local Governments; and
14. assist the Texas Historical Commission in any duties and powers assigned to the State Historic Preservation Office by the National Historic Preservation Act of 1966 as amended, and other federal enabling legislation.

 Signature: Mayor (or chief elected official)
 City of El Paso

 Date

 Printed Name

 Mark Wolfe, State Historic Preservation Officer

 Date



TEXAS HISTORICAL COMMISSION
real places telling real stories

CERTIFICATION AGREEMENT
BETWEEN THE TEXAS HISTORICAL COMMISSION
AND THE **CITY OF EL PASO** FOR PARTICIPATION IN THE
CERTIFIED LOCAL GOVERNMENT PROGRAM

The City of El Paso, in consideration of having been granted Certified Local Government status, agrees to carry out the following responsibilities as a Certified Local Government, in cooperation with the National Park Service and the Texas Historical Commission.

It will:

1. enforce the local historic preservation ordinance for the designation and protection of local historic properties;
2. establish and maintain by the local preservation ordinance a qualified review commission, board or committee for historic preservation having specific powers, such as review responsibility pertaining to proposed National Register nominations as well as actions that will affect local historic properties;
3. designate a city official, staff person or other appropriate resident of the municipal entity to serve as a local Historic Preservation Officer for the purpose of administering the local preservation ordinance;
4. provide appropriate training for historic preservation officer, related city staff and members of the historic preservation commission;
5. maintain a system for the survey and inventory of local historic properties that is coordinated with the statewide cultural-resource-survey-process, with technical assistance provided by the National Register Program office of the Texas Historical Commission's History Programs Division;
6. ensure, to the maximum extent possible, public participation in the local historic preservation program, including the process of nominating properties to the National Register of Historic Places;
7. adopt the Secretary of the Interior's Standards for Rehabilitation as the standards by which the local review commission will review all work applications brought before it under the terms of the local historic preservation ordinance;
8. review and comment upon nominations to the National Register of Historic Places for properties within its jurisdiction within 60 days of receiving the nominations from the National Register Program office of the Texas Historical Commission, and submit the city commission's reports and the recommendations of the chief elected official of the city to the National Register Program office as to whether or not the nominated properties meet the criteria of the National Register;

9. assist the National Register Program office of the Texas Historical Commission, if necessary, in verifying the names and addresses of property owners within local historic districts being nominated to the National Register, and assist with arrangements for local public information meetings at mutually agreeable times and locations when such districts are nominated;
10. submit to the State Historic Preservation Officer by the end of each calendar year an annual report that describes the actions of the local review commission, board or committee and other preservation-related activities of the previous fiscal year (October 1st through September 30th);
11. monitor and report to the Texas Historical Commission any actions affecting any county courthouse, Recorded Texas Historic Landmark, State Archeological Landmark, National Register property, and any locally designated landmark;
12. coordinate local historic preservation efforts, to the extent practicable, with the Texas Historical Commission, which shall provide technical assistance, guidance, and information to the Certified Local Government as feasible upon request;
13. carry out the general program procedures as outlined in the Texas Administrative Code, Title 13 Cultural Resources, Part 2 Texas Historical Commission, Chapter 15 Administration of Federal Programs, Rule 15.6 Rules and Procedures for Certified Local Governments; and
14. assist the Texas Historical Commission in any duties and powers assigned to the State Historic Preservation Office by the National Historic Preservation Act of 1966 as amended, and other federal enabling legislation.

 Signature: Mayor (or chief elected official)
 City of El Paso

 Date

 Printed Name

 Mark Wolfe, State Historic Preservation Officer

 Date



PREVIOUSLY APPROVED RESOLUTION & CERTIFICATION AGREEMENT

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RESOLUTION

WHEREAS, the City of El Paso has received request to enter into a new Certification Agreement with the Texas Historic Commission for participation in the Certified Local Government Program;

WHEREAS, a Certified Local Government Agreement is necessary to assure continued state and federal funding of the City's historic preservation efforts; and

WHEREAS, whereas the terms of the proposed Certified Local Government Agreement are consistent with current ordinance and City policy;

NOW, THEREFORE, BE IT RESOLVED:

That the Mayor be authorized to sign a certification agreement between the Texas Historical Commission and the City of El Paso for participation in the Certified Local Government program. This agreement will ensure that the City of El Paso can continue to apply for and receive federal grant money distributed through the Texas Historical Commission.

PASSED AND APPROVED this 26th day of August 2003.

THE CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Matt Watson
Assistant City Attorney

APPROVED AS TO CONTENT:

Rudy Valdez, Chief Urban Planner
Planning, Research, and Development

MW: 93222

**CERTIFICATION AGREEMENT BETWEEN THE TEXAS HISTORICAL
COMMISSION AND THE CITY OF EL PASO FOR PARTICIPATION IN THE
CERTIFIED LOCAL GOVERNMENT PROGRAM**

The City of El Paso, in consideration of having been granted Certified Local Government status, agrees to carry out the following responsibilities as a Certified Local Government, in cooperation with the National Register Department and the Texas Historical Commission.

It will:

1. enforce the local historic preservation ordinance for the designation and protection of local historic properties;
2. maintain an adequate and qualified review commission for historic preservation established by the local ordinance;
3. maintain a system for the survey and inventory of local historic properties that is coordinated with the state-wide cultural-resource-survey-process, with technical assistance provided by the National Register Department;
4. ensure, to the maximum extent possible, public participation in the local historic preservation program, including the process of nominating properties to the National Register of Historic Places;
5. adopt the Secretary of the Interior's Standards for Rehabilitation as the standards by which the local review commission will review work applications brought before it under the terms of the local historic preservation ordinance when more specific local standards are not applicable;
6. review and comment upon nominations to the National Register of Historic Places for properties within its jurisdiction, and within 60 days of receiving the nominations from the National Register Department of the Texas Historical Commission, submit the city commission's reports and recommendations of the chief elected official of the city to the National Register Department as to whether or not the nominated properties meet the criteria of the National Register;
7. submit an annual report to the State Historic Preservation Officer about the activities of the local review commission for historic preservation by August 1st of each year, describing that year's activities;
8. assist the National Register Department, if necessary, in verifying the names and addresses of property owners within local historic districts being nominated to the National Register, and assist with arrangements for local public information meetings at mutually agreeable times and locations when such districts are nominated;

MW: 93222

9. monitor and report to the Texas Historical Commission any actions affecting any county courthouse, Recorded Texas Historic Landmark, State Archeological Landmark, National Register property, and any locally designated landmark;
10. coordinate local historic preservation, to the extent practicable, with the National Register Department, which shall provide technical assistance, guidance, and information to the Certified Local Government as feasible upon request; and
11. carry out the general program procedures as outlined in the Texas Administrative Code, Title 13 Cultural Resources, Part 2 Texas Historical Commission, Chapter 15 Administration of Federal Programs, Rule 15.6 Rules and Procedures for Certified Local Governments.

 Joe Wardy
 Mayor

ATTEST:

 Richarda Duffy Momsen
 City Clerk

 F. Lawrence Oaks, State Historic Preservation
 Officer

STATE OF TEXAS §
 §
 COUNTY OF EL PASO §

This instrument was acknowledged before me on the _____ day of _____, 2003, by F. Lawrence Oaks in his capacity as State Historic Preservation Officer for the Texas Historic Commission, a governmental agency of the State of Texas.

 (NOTARY PUBLIC SIGNATURE)
 commission expiration date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

 Matt Watson, Asst. City Attorney

 Rudy Valdez, Chief Urban Planner

MW: 93222

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

specific to day to day operations of the program which can be more effectively conveyed through guidance materials such as applications and handbooks. Utilizing guidance materials rather than administrative code will allow better flexibility and efficiency for the program and CLGs to adapt to current needs including scheduling and application procedures.

The proposed rule simplifies the detailed requirements for achieving and maintaining CLG status found in the previous version of the rule to agency guidance materials and procedures to allow more flexibility for the state and CLGs to effectively achieve program goals.

The proposed rule eliminates the specific procedures for the state and CLG to process nominations to the National Register of Historic Places for properties within a CLG as these procedures are already codified in federal regulations.

The proposed rule specifically eliminates the requirement for local matching of CLG grant funds on a 50-50 basis as a match is not required by federal regulations. The new rule will allow the agency to establish, lower, or waive match requirements to encourage more effective and competitive applications from CLGs. Other detailed requirements for the grants such as application deadlines, schedules, and meeting requirements have been removed by the proposed rule and will be outlined in the application and grant materials. Obsolete terminology, steps, and meetings have been eliminated from the rule.

The proposed §15.6 requires that the agency evaluate each CLG no less than once every four years in conformance with federal regulations rather than every three years as in the previous version of the rule. The new rule will allow greater efficiency given an increase in the number of CLGs since the adoption of the previous rule.

Mark Wolfe, Executive Director, has determined that for the first five-year period the new rule is in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the rule.

Mr. Wolfe has also determined that for each year of the first five years the new rule is in effect the public benefit anticipated will be an increase in the number and impact of potentially important preservation projects that are eligible for grants under the Texas CLG program. Additionally, Mr. Wolfe has determined that there will be no effect on small or micro businesses or individuals.

Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 60 days after publication in the *Texas Register*. Under federal requirements, the public comment period is required to be 60 days, and, accordingly, an additional 30 days will be allowed for comments following the 30-day comment period.

The new section is proposed under §442.005(g) of the Texas Government Code, which provides the Texas Historical Commission with the authority to promulgate rules and conditions to reasonably affect the purposes of this chapter.

The proposed new section implements §442.005(e) and §442.0155 of the Texas Government Code. No other statutes, articles, or codes are affected by this new section.

§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

13 TAC §15.6

The Texas Historical Commission proposes new §15.6, concerning Rules and Procedures for Certified Local Governments. The repeal of current §15.6, concerning Rules and Procedures for Certified Local Governments, is contemporaneously proposed in this issue of the *Texas Register*.

The Texas Historical Commission's Certified Local Government (CLG) Program is part of the agency's responsibilities in administering the National Historic Preservation Act of 1966. Administration of the program is required to comply with the Act and with the Historic Preservation Fund Grants Manual, which stipulates the minimum requirements for administration and operation of the program. States may amplify minimum CLG requirements so long as any additional requirements are consistent with the Act and applicable federal regulations, including 36 CFR Part 61.

The purposes of the CLG program are: 1) to ensure the broadest possible participation of local governments in the national historic preservation program while maintaining standards consistent with the National Historic Preservation Act and the Secretary of the Interior's "Standards and Guidelines for Archeology and Historic Preservation;" 2) to enrich, develop, and help maintain local historic preservation programs in cooperation and coordination with the SHPO; and 3) to provide financial and technical assistance to further these purposes.

Section 15.6 is proposed to allow for better organized and streamlined procedures that should promote a broader range of interest and participation in the CLG program in Texas. The proposed rule removes a significant amount of information already codified in the federal regulations. In addition, the proposed §15.6 eliminates requirements that may be more restrictive than those of federal regulations. The proposed §15.6 includes language that provides the framework but is less

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. Section 211.00111 of the Texas Local Government 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 Certified Local Government (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 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 subsection (e)(2) of this section 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.

PROPOSED RULES March 4, 2011 36 TexReg 1429

(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.

(i) 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.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on February 15, 2011.

TRD-201100614

Mark Wolfe

Executive Director

Texas Historical Commission

Proposed date of adoption: May 3, 2011

For further information, please call: (512) 463-2182

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36 TexReg 1430 March 4, 2011 Texas Register