

Memorandum of Agreement Process

1. What is a Memorandum of Agreement (MOA)?

An MOA is a document prepared under Section 106 of the National Historic Preservation Act. In this case it will detail an agreement among FEMA, SHPO, IHSEMD, the Advisory Council on Historic Preservation if they choose to participate and the APPLICANT and/or the CLG on what may be done to resolve the adverse effects of demolition of an historic property.

Examples of stipulations or treatment measures in an MOA include, but are not limited to, historic and architectural surveys, archaeological surveys, NRHP nominations, preservation planning projects, interpretive programs, improvement of existing historic property databases with GIS information and publications. More about treatment measures is included in #11 below.

2. Why is one needed?

To spell out the responsibilities of each party to the agreement.

3. Who is involved?

- **FEMA** – lead federal agency
- **Advisory Council on Historic Preservation (ACHP)** – federal agency responsible for providing overall guidance and advice on the Section 106 process.
- **State Historic Preservation Office (SHPO)** – reflects the interest of the state in protecting their cultural heritage.
- **Iowa Homeland Security and Emergency Management Division (IHSEMD)** – as the applicant for Federal assistance and a representative of the local government.
- **Applicant and/or CLG** – the organization with a demonstrated concern for the project's effects on historic properties by way of their legal, economic and community relation to the project.
- **Tribal Historic Preservation Office (THPO)** – a designated representative of a tribal organization for all projects involving tribal lands or Native American resources (invited for specific projects).
- **Invited Parties** – Organizations or individuals that have a specific interest or connection to the related project.

4. What are the responsibilities?

- FEMA invites public comment
- FEMA invites identified interested parties
- FEMA writes a draft document including details of the project and its effect on historic properties and submits it to identified parties.
- Comments are incorporated into the document and all parties review/make comments and revisions until each party is satisfied.

5. What are the differences between a “signatory party” and a “concurring party”?

A “signatory party” may execute, amend or terminate the agreement. Typically a signatory party will have responsibilities assigned by the stipulations of the MOA.

The only **required** signatories are FEMA and the SHPO except where the ACHP has decided to participate. Other interested parties may be invited to be a signatory party.

A “concurring party” is a group or individual with an interest in the project who has been consulted about the effects of the project but does not have responsibilities under the MOA.

6. What happens after the MOA is signed?

The applicant will work with the SHPO to develop a request for proposals (RFP) to address the requirements in the stipulations.

7. What happens if terms of the MOA cannot be fulfilled?

A signatory party that cannot fulfill their obligations may propose to FEMA that the MOA be amended. FEMA will consult with all signatories to the MOA to consider such an amendment. Signatures of all the signatories are required for any amendment to be effective.

8. What happens if a party refuses to sign the MOA?

The refusal of any **invited** signatory or concurring party does not invalidate the Memorandum of Agreement.

9. What are the parts of an MOA?

A typical MOA is divided into three parts:

a) **"Whereas" clauses** that describe:

- i) the funding source
- ii) the activities undertaken by the project
- iii) whether the ACHP will participate
- iv) all participants in the agreement

b) **Stipulations** that describe requirements for and steps to be taken to:

- i) document and record the site
- ii) protect archaeological sites
- iii) deal with any discoveries made in the course of the work
- iv) resolve any disputes between parties to the MOA
- v) amend the agreement
- vi) terminate the agreement
- vii) report on the implementation of the agreement

Stipulations are specific to the project and can also include details of acquisitions, mitigation and/or salvage measures where appropriate.

c) **Signature pages**

10. What are the steps of an MOA?

- a) Applicant report sent.
- b) Initial Briefing Meeting – MOA process explained, examples given, options discussed.
- c) Public Notification – FEMA responsibility.
- d) Advisory Council - Notified of adverse effect determination – FEMA responsibility.
- e) Public Meeting - This is only needed if a large number of properties are affected or the applicant requests it.
- f) Invited Parties Meeting – Discuss and finalize the options for mitigating the adverse effects
- g) MOA drafted – FEMA responsibility
- h) MOA Signed

11. What are Treatment Measures?

Treatment measures to mitigate adverse effects will be commensurate with the level of adverse effects. Alternate treatment measures may include, but are not limited to, preservation planning, interpretive programs, or improvement of existing historic properties databases with Geographic Information Systems.

Some of the more common treatment measures for FEMA projects include: recordation: measured drawings, photographs, written description; curation: collection, preservation and interpretation of elements of a historic property; elevation: a common treatment measure to avoid demolition is elevation of a property at the current site to comply with floodplain management ordinances; relocation: physically moving a property out of a hazardous area, such as a floodplain.

In addition to the more common treatment measures, FEMA can develop measures that provide public benefit but are not necessarily related to the undertaking. In development of such measures, FEMA and the consulting parties may exercise creativity and should not limit their options. Alternate treatment measures must have a tangible benefit to the community and must have reasonable costs.

Examples of alternate treatment measures include: community-wide heritage preservation plans; risk assessments within historic communities; large-area historic property surveys and inventories; training or education programs for hazard reduction in historic communities; educational and interpretive programs such as museum exhibits; portable displays; or walking tours with plaques, monuments or guidebooks; contributions to tribal, state, or local GIS for historic properties.