

TITLE V
HISTORIC PRESERVATION PROGRAMS
CHAPTER 35
ADMINISTRATION
[Prior to 5/31/89, see [490] Ch 10]

223—35.1(303) Purpose. The historic preservation program operates to survey, evaluate significance, nominate to the National Register of Historic Places, and protect the historic buildings, structures, historic sites, objects, districts and landscapes of Iowa. Through the historic preservation program the society creates, fosters, and plans for the preservation of Iowa’s historic resources.

223—35.2(303) Definitions. The definitions listed in Iowa Code section 17A.2 and rule 223—1.2(303), Iowa Administrative Code, shall apply for terms as they are used throughout Title V of these rules. In addition, the following definitions apply:

“*Act*” means the National Historic Preservation Act of 1966, Public Law 89-665, as amended through December 22, 2006 (16 U.S.C. §470 et seq.).

“*Advisory Council*” means the Advisory Council on Historic Preservation established under the Act.

“*Applicant*” means any individual or entity seeking funding, permitting, licensing or approval from a federal agency or funding or service for a historic preservation activity from the society.

“*Certified local government*” means a unit of local government which is certified by the National Park Service to carry out the purposes of the National Historic Preservation Act in accordance with Sections 101(c), 103(c) and 301 of the Act and 36 CFR Part 61.

“*Considered eligible*” means properties formally determined as eligible in accordance with regulations of the Secretary of the Interior and all other properties that meet the National Register criteria.

“*Deputy state historic preservation officer*” means the designee of the state historic preservation officer who is responsible for the daily administration of the historic preservation program in the state.

“*Determination of eligibility*” means the process described in 36 CFR § 800.4(c) for evaluating the historic significance of identified properties.

“*Historic context*” means a historical theme summary created for planning purposes that links historical information with related historic properties based on the minimal components of a shared theme, specific time period, and geographical area.

“*Historic preservation*” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.

“*Historic Preservation Fund*” means the federal source from which moneys are appropriated to fund the program of matching grants-in-aid to the states and other authorized grant recipients for historic preservation programs, as authorized by Section 108 of the National Historic Preservation Act as amended through December 22, 2006.

“*Historic property*” means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places. “Historic property” includes artifacts, records, and material remains that are related to such properties or resources.

“*Investment tax credit*” means a federal income tax credit for the substantial rehabilitation of historic buildings for commercial, industrial, and rental residential and nonresidential purposes.

“*National Register of Historic Places*” means the national list of historic properties significant in American history, architecture, archaeology, engineering, or culture, maintained by the Secretary of the Interior.

“*National Trust for Historic Preservation*” means the private, nonprofit organization chartered by legislation approved by Congress on October 26, 1949, with the responsibility for encouraging public participation in the preservation of districts, structures, sites, buildings, and objects significant in American history and culture.

“*Review and compliance*” means the review of undertakings pursuant to Section 106 of the Act and its implementing regulations at 36 CFR Part 800.

“*Secretary’s Standards and Guidelines*” means the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation (36 CFR Part 61), which provide technical information about archaeological and historic preservation activities and methods. The subjects covered include preservation planning; identification, evaluation, registration, historic research and documentation; architectural and engineering documentation; archaeological investigation; historic preservation projects; and preservation terminology.

“*Section 106*” means the section of the Act that requires federal agencies to take into account the effects of the undertakings that the agencies carry out, fund, license, permit or approve on historic properties and afford the Advisory Council a reasonable opportunity to comment. The regulations of 36 CFR Part 800 define the process used by an agency to meet these responsibilities and the role of the state historic preservation officer in review and comment on these undertakings.

“*State historic preservation officer*” or “*SHPO*” means the governor’s appointee who is responsible for the management of the historic preservation program of the state and compliance of the state historic preservation program with federal statutes and regulations including those of the National Park Service.

“*State historic preservation review board*” means the Iowa state national register of historic places nominations review committee established as provided in Section 101(b)(1)(B) of the Act:

1. The members of which are appointed by the SHPO (unless otherwise provided for by state law);
2. A majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture; and
3. Which has the authority to:
 - Review National Register nominations and appeals from nominations;
 - Review appropriate documentation submitted in conjunction with the Historic Preservation Fund;
 - Provide general advice and guidance to the state historic preservation officer; and
 - Perform such other duties as may be appropriate.

“*Technical assistance*” means services provided for the development of skills or the provision of knowledge relative to the background, significance, operation, or implications of some aspect of the historic preservation program.

[ARC 0267C, IAB 8/8/12, effective 9/12/12]

223—35.3(303) Organization of programs. The division operates the following preservation programs:

1. Certified Local Governments;
2. Investment Tax Credits;
3. National Register of Historic Places;
4. Education;
5. Preservation Partnership;
6. Survey and Inventory of Cultural Resources;
7. Review and Compliance;
8. Technical Assistance;
9. State Register of Historic Places; and
10. Comprehensive Preservation Planning.

223—35.4(303) Eligibility.

35.4(1) Participation in any historic preservation program is open to any individual, community, organization, or governmental unit which meets the requirements of the specific program as determined by the state historic preservation officer.

35.4(2) Recipients of Federal Historic Preservation Fund moneys shall agree when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing

projects or programs funded in whole or in part with federal money, to clearly state the percentage of the total cost of the program or project which will be financed with federal money, and the dollar amount of federal funds for the project or program as well as contributions by the society.

35.4(3) All programs supported by Federal Historic Preservation Fund moneys shall be open to the public.

223—35.5(303) Contracts and grants.

35.5(1) Funds from other federal programs, with the exception of specially identified programs, shall not be used to match Federal Historic Preservation Fund grants.

35.5(2) Applications shall be submitted on the appropriate forms and with the requested supporting materials to be considered for funding.

35.5(3) Unless otherwise specified in a prior written contract, all products, artifacts, patents, copyrights, or legal interests of relevance to projects funded by Federal Historic Preservation Fund moneys shall become the sole and exclusive property of the society.

35.5(4) All applications for grants or contracts may be submitted to the Certified Local Governments Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

35.5(5) All applications for funding shall be reviewed by a staff person. An advisory committee may be appointed to assist in the review process. All grant or contract awards shall receive the written approval of the state historic preservation officer.

35.5(6) Evaluation criteria. The following evaluation criteria shall be applied to all grant or contract applications:

- a. Compliance with state and federal standards and grant guidelines.
- b. Clearly stated or specific goals that can be realistically attained within the funding period and proposed budget.
- c. Measurable results or products (number, quality).
- d. Linkage with goals and objectives embodied in state or local preservation plans.
- e. Past grant/contract performance of applicant.

35.5(7) Appeals.

a. Eligible applicants, whose applications are not funded or otherwise serviced adequately, in the view of the applicant, shall have the right of appeal.

b. If state funds are involved in the grant or contract, the first appeal shall be directed to the deputy state historic preservation officer; the second appeal shall be directed to the state historic preservation officer; and the final appeal shall be directed to the director of the department of cultural affairs. All appeals shall be mailed to the appropriate official at the State Historical Society of Iowa or the Department of Cultural Affairs, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741; (515)281-8837; (515)281-6258.

c. The initial appeal shall be received within 15 days of the notification of the selection.

d. The written appeal shall contain the following items:

- (1) Facts of the appeal;
- (2) Argument in favor of the appeal; and
- (3) Remedy sought.

e. Appeals shall be considered on the grounds that staff or review committee action was:

- (1) Outside the statutory authority;
- (2) Violated state or federal law;
- (3) Afforded inadequate public notice;
- (4) Procedure was altered to the detriment of the applicant without sufficient prior notice; or
- (5) A conflict of interest.

f. The deputy state historic preservation officer, state historic preservation officer, and director of the department of cultural affairs shall successively consider and rule on the appeal. Each officer shall notify the appellant of the decision within 30 days.

If the decision and remedy is believed insufficient by the appellant, the next step of the appeal process may be contacted. The decision of the director of the department of cultural affairs shall be final except as provided by Iowa Code sections 17A.19 and 17A.20.

If federal funds are involved, the first appeal shall be directed to the deputy state historic preservation officer; the second appeal shall be directed to the state historic preservation officer; and subsequent appeals to the National Park Service. Inquiries and appeals related to federal funds may be directed to the Rocky Mountain Regional Office, Division of Cultural Resources, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, CO 80225, (303)969-2875.

223—35.6(303) Advisory committees.

35.6(1) Advisory committees may be appointed by the state historic preservation officer for the purpose of conducting peer reviews of grant products, reviewing and rating grant applications for funding, nominating historic resources to the National Register of Historic Places, and providing other professional input.

35.6(2) Advisory committees may be permanent or temporary. The term of office on temporary advisory committees shall be determined by the state historic preservation officer.

35.6(3) Recommendations by all advisory committees shall be nonbinding on the state historic preservation officer.

35.6(4) Members of an advisory committee shall not submit an application for a grant or contract from the state historical society of Iowa. Action by an advisory committee member shall be in accordance with Iowa Code chapter 68B and 223—subrule 1.6(6), Iowa Administrative Code.

35.6(5) Members of advisory committees may be reimbursed for travel, lodging, and expenses at the discretion of the deputy state historic preservation officer.

35.6(6) Iowa state national register of historic places nominations review committee.

a. The committee shall be a permanent advisory committee within the historic preservation program.

b. Responsibilities. The committee shall have the following responsibilities as a minimum:

(1) Review of all nominations of Iowa properties to the National Register of Historic Places for the purpose of determining if the property meets the National Register criteria for significance, and recommending that the state historic preservation officer nominate or reject the proposed nomination;

(2) Review of appeals to National Register nomination and provide written opinions on the significance of the properties;

(3) Advise the deputy state historic preservation officer concerning Historic Preservation Fund grant applications, end-of-year reports, and the state comprehensive historic preservation plan;

(4) Provide general advice, guidance, and professional recommendations to the state historic preservation officer in carrying out the duties and responsibilities assigned by the federal program in Procedures for Approved State and Local Historic Preservation Programs 36 CFR 61, April 13, 1984, and August 30, 1984; and

(5) Approve operating bylaws consistent with federal regulations.

c. Membership.

(1) The committee shall be composed of no more than 12 voting members, all of whom are citizens of Iowa, and the majority of whom are professionals in historic preservation disciplines of American history, architectural history, architecture, prehistoric and historical archaeology, or related professional disciplines.

The committee may include citizen members, representatives of other preservation-related professions, and nonvoting members.

(2) The committee may include two nonvoting or ex officio members appointed by representatives of primary public preservation organizations.

d. Qualifications.

(1) The professional requirement for historians and architectural historians shall consist of a graduate degree, or a bachelor's degree with two years of relevant experience. The bachelor's degree shall include a concentration of study in American history or American architecture. Substantial

contributions to the discipline's field of scholarly knowledge through research and publication may be accepted in lieu of experience.

(2) The professional requirement for an archaeologist shall be a graduate degree in archaeology, one year of relevant experience with a minimum of four months' independent research as a principal investigator in North American archaeology, and demonstrated ability to complete research.

(3) The professional requirement for an architect shall be a bachelor's degree in architecture and two years' relevant experience or a state license.

e. Appointment. The state historic preservation officer shall appoint members to the committee. Approval of appointees by the Department of the Interior shall be obtained. The state historic preservation officer shall seek to appoint members consistent with affirmative action policy; reflective of the urban-rural, regional and minority representation concerns of Iowa; and representative of citizen expertise in the field of historic preservation.

f. Term of office.

(1) The term of office for committee members shall be three years. The terms shall be staggered to permit one-third of the appointments to be made each year.

(2) The term of appointment shall begin on January 1 and be effective through December 31 three years later.

g. Meeting procedures.

(1) Members shall be reimbursed for travel, lodging, and expenses incurred in the performance of committee service.

(2) Members shall adhere to the conflict of interest statements in accordance with federal regulations stated in the National Register Programs Manual, NPS-49, Chapter 3 and 223—1.6(6), Iowa Administrative Code.

(3) Committee members shall refrain from voting and commenting upon any nominated property for which the member serves as an officer, trustee, fiduciary employee, or for which the member has consulted either for remuneration or gratis in the preparation of the nomination, or for which the member has or expects to participate in the development or use of the property.

(4) The committee shall meet quarterly. The committee may schedule additional meetings as necessary to carry out its business.

(5) The state historic preservation officer or designee shall preside at all meetings of the committee.

(6) Members are permitted to miss no more than two regular meetings in a year and shall notify the deputy state historic preservation officer at their earliest opportunity of the need to miss a meeting. If a member misses more than two regular meetings in a year, the state historic preservation officer may replace the member.

(7) Meetings shall be open meetings conducted in accordance with Iowa Code chapter 21 and Robert's Rules of Order, Revised Edition.

(8) The quorum necessary to conduct committee business shall be a majority of full, active, voting members of the committee. Acceptance of nominations for recommendation to the National Register of Historic Places shall be a majority of full, active committee members present. No nomination shall be considered by the committee unless one committee member with professional expertise in the area of nomination is present.

(9) Citizens may appear before the committee to discuss a nomination. The length of presentations may be limited by the chair.

223—35.7(303) Grants available. The following categories of historic preservation grants may be funded:

35.7(1) Survey and planning subgrants.

a. Purpose. The program provides funds for planning and implementation of activities related to the survey, evaluation, nomination, and protection of Iowa's cultural resources.

b. Procedure.

(1) Individuals or other entities may submit survey or planning proposals to the deputy state historic preservation officer during the annual workplan development period between June 1 and August 31. If

the proposal is accepted, a competitive bidding process shall be held. The individual or entity suggesting the proposal may be an eligible bidder.

(2) Allowable activities shall include the survey of cultural resources, nomination and evaluation of cultural resources, research on historic contexts, and preservation planning.

(3) All applicants are encouraged to include community involvement and local volunteer participation.

(4) All grants under this program require match equal to or greater than 30 percent of state funding.

(5) All questions and applications may be directed to Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8741.

35.7(2) *Preservation partnership subgrants.*

a. Purpose. This program provides preservation education and technical assistance for a one-year period to a competitively selected multicounty area which has not been the subject of a cultural resources survey and does not participate in the certified local government program.

b. Procedure.

(1) Individuals or other entities may submit competitive applications for the selection of their two-or three-county area to the deputy state historic preservation officer during the annual workplan development period between March 1 and April 15. Potential applicants shall be notified by a mailing to all county boards of supervisors and county and local historical organizations in counties with no county preservation commissions or existing cultural resource surveys 45 days prior to the application deadline. Award decisions shall be made by May 15 of each year.

(2) Applicants shall identify goals and objectives to be achieved during the project, interested individuals and organizations, sources of potential matching funds, known historical resources in the county, and a potential local project coordinator for each county.

(3) Survey and planning grants may be awarded in the same project area.

(4) All applicants are encouraged to include community involvement and local volunteer participation.

(5) All proposals shall be limited to activities to be completed within one year.

(6) All questions and applications may be directed to Deputy State Historic Preservation Officer, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-8719.

35.7(3) *Certified local government subgrants.*

a. Purpose. This program seeks to enrich, develop, and help local historic preservation programs in cooperation with state and federal historic preservation programs.

b. General policy.

(1) Only certified local governments shall be eligible to apply for and receive a grant through this program.

(2) The state historic preservation officer shall not be required to award funds to all certified local governments.

(3) The program shall operate as a competitive grant program.

(4) Following the award of a grant a contractual agreement specifying the terms of the grant shall be executed between the society and the grant recipient.

c. Procedure.

(1) Application packets shall be sent to all eligible applicants at least 45 days prior to each application deadline.

(2) All applications shall be submitted on the forms provided by the state historical society of Iowa. All applications shall contain a description of the proposed project including a time schedule for implementation; the amount of grant funds requested; the amount, kind, and source of local match which is committed to the project; a budget for the project; written assurance that the applicant shall follow the Secretary of the Interior's Standards for Archaeology and Historic Preservation; and written assurance that the applicant shall select a principal investigator who meets the Secretary of the Interior's professional qualification standards.

(3) Survey projects shall have local match not less than 30 percent of the total project cost. All other types of projects shall have local match not less than 50 percent of total project cost.

(4) Staff shall be available for consultation with applicants regarding the development of project proposals.

(5) Staff shall review applications for completeness and eligibility upon receipt of the application. Incomplete or ineligible applications shall be returned to the applicant. The applicant may correct and return the application prior to the grant deadline.

(6) Program staff shall conduct a preliminary review of each application to determine eligibility, completeness, consistency with program purpose, and amount of local match. Applications which do not meet these criteria shall not be considered for funding. Results of the staff review shall be transmitted to the state National Register nominations review committee which will prepare recommendations for the board of trustees.

(7) Applications shall be reviewed by the state National Register nominations review committee at a regular meeting closely following the application deadline. The date of review shall be established by the administrator of the society. Recommendations from the committee shall be submitted to the board of trustees for formal approval. Final authority for funding shall rest with the state historic preservation officer.

(8) Applicants objecting to the decision of the state historic preservation officer may appeal to the National Park Service. Inquiries and appeals may be directed to the Rocky Mountain Regional Office, Division of Cultural Resources, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, CO 80225, (303)969-2875.

d. Grant awards.

(1) Upon the approval of a grant by the state historic preservation officer, a grant agreement shall be prepared that specifies the terms and conditions of the grant, including the grant amount, project description, matching requirements, and dates for the submission of specified products.

(2) The grant agreement shall be signed by the state historic preservation officer or designee and the chief elected local official of the certified local government or designee.

(3) If grant funds are awarded and later the certified local government determines that the project cannot be completed, the certified local government coordinator shall recommend to the state historic preservation officer alternatives for expenditure of the funds. The decision of the state historic preservation officer shall be final.

223—35.8(303) Reporting and audit requirements.

35.8(1) The state historical society of Iowa may require subgrantees to submit progress reports on the status of projects.

35.8(2) All subgrantees shall submit a financial compliance audit of their subgrant project expenditures.

35.8(3) All subgrantees shall submit documentation of expenses for all subgrant expenditures.

35.8(4) All inquiries and applications may be directed to the Certified Local Government Coordinator, State Historical Society of Iowa, Capitol Complex, Des Moines, Iowa 50319, (515)281-6826.

These rules are intended to implement Iowa Code section 303.2 and Iowa Code chapter 303, subchapter II.

[Filed 6/22/77, Notice 5/18/77—published 7/13/77, effective 8/18/77]

[Filed 4/13/78, Notice 3/8/78—published 5/3/78, effective 6/12/78]

[Filed 5/12/89, Notices 1/11/89, 4/5/89—published 5/31/89, effective 7/5/89]

[Filed emergency 12/2/93—published 12/22/93, effective 12/2/93]

[Filed 1/27/94, Notice 12/22/93—published 2/16/94, effective 3/23/94]

[Filed 11/17/95, Notice 10/11/95—published 12/6/95, effective 1/10/96]

[Filed ARC 0267C (Notice ARC 0104C, IAB 4/18/12), IAB 8/8/12, effective 9/12/12]