



SOCIETY FOR AMERICAN ARCHAEOLOGY

April 13, 2020

Mr. John Ketchum
Federal Preservation Officer
Federal Emergency Management Agency (FEMA)
VIA email: john.ketchum@fema.dhs.gov

RE: COVID-19 alternate Section 106 procedures

Dear Mr. Ketchum:

The Society for American Archaeology (SAA) submits the following comments on the alternate procedures for compliance under Section 106 of the National Historic Preservation Act (NHPA) being proposed by FEMA as part of its response to the COVID-19 national emergency. While we appreciate the gravity of the situation, we are not convinced that the existing 2013 Prototype Programmatic Agreement (PPA) is inadequate to the task confronting FEMA, and are concerned that the proposed alternate procedures would give too much leeway for the agency to engage in undertakings that could damage historic sites and properties.

The SAA is an international organization that, since its founding in 1934, has been dedicated to the research about and interpretation and protection of the archaeological heritage of the Americas. With more than 7,000 members, SAA represents professional archaeologists in colleges and universities, museums, government agencies, and the private sector. SAA has members in all 50 states as well as many other nations around the world.

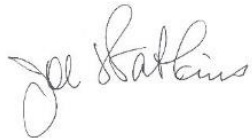
FEMA has in place a PPA for dealing with Section 106 during emergency situations. This existing framework has in place numerous expedited consultation timelines. Nevertheless, FEMA has preemptively determined that the PPA does not provide enough flexibility for the agency to act quickly enough for undertakings carried out in response to the COVID-19 crisis, and has drafted a seven point alternative procedures plan.

While some of the proposals would provide reasonable consideration for and protection of historic properties that might be impacted by COVID-19 related emergency undertakings, we are skeptical that the consultation with state and tribal officials promised in the document will be adequate. In addition, other provisions would go too far in limiting or even eliminating FEMA's Section 106 responsibilities. This is especially the case for provision "D", which would give the agency the ability to unilaterally make findings of no historic properties affected, or no adverse effect, even in situations that do not involve immediate threats to life and property.

We are also troubled by the language of provision “G”, which states that FEMA will “communicate and coordinate” with recipients of its assistance and others who are “carrying out work on behalf of FEMA” to “encourage project proponents of emergency undertakings” to avoid adverse effects to historic properties, limit ground disturbance to previously disturbed soils, and “immediately cease construction” if potential archaeological resources or human remains are discovered. To be frank, we do not find these conditions sufficient. In our experience, agencies and outside contractors must be held to rigorous standards when carrying out undertakings, or their Section 106 responsibilities often go unmet.

SAA understands the urgency and seriousness of the COVID-19 outbreak situation, and appreciates the need for FEMA and other federal agencies to respond with alacrity. Nevertheless, we believe that the proposed changes go too far in allowing FEMA and other parties to essentially cast off their Section 106 duties. We urge you to withdraw this document and work within the existing PPA.

Sincerely,

A handwritten signature in cursive script that reads "Joe E. Watkins". The signature is written in dark ink and is positioned above the typed name.

Joe E. Watkins, Ph.D., RPA
President