

# GUIDELINES FOR PARTICIPATION IN MISSOURI'S CERTIFIED LOCAL GOVERNMENT PROGRAM

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## I. INTRODUCTION

Since 1966, when Congress enacted the National Historic Preservation Act (16 USC 470 *et seq.*), establishing a preservation program for the United States, the national historic preservation program has operated as a decentralized partnership between the federal government and the states. In the simplest of terms, the federal government established a program of identification, evaluation and protection of historic properties which the states, primarily, carry out. The success of that working relationship prompted Congress to expand the partnership to provide for the participation of local governments. The National Historic Preservation Act Amendments of 1980 (P.L. 96-515) establish the legal basis for the new federal-state-local preservation partnership. The role of the "certified local governments" in the new partnership involves, at a minimum, 1) commitment to enforce historic preservation laws, 2) responsibility for review and approval of nominations of properties to the National Register of Historic Places, and 3) eligibility to apply to the State Historic Preservation Officer for matching funds earmarked for "certified local governments." In order to become certified, a local government must meet several requirements, including enactment of an historic preservation ordinance and establishment of a qualified preservation commission. The federal law directs the State Historic Preservation Officer (SHPO) and the Secretary of the Interior to certify local governments to participate in the partnership. The purpose of this document is to outline how the partnership will be implemented in Missouri.

## II. DEFINITIONS

For the purposes of clarity, the following definitions shall apply in regard to these guidelines:

- A. **"Certified Local Government"** or **"CLG"** means a local government certified as meeting the requirements set forth in these guidelines.
- B. **"Chief elected official"** or **"chief elected local official"** means the elected head of a local government.
- C. **"Historic Preservation Fund"** or **"HPF"** means the monies accrued under the Outer Continental Shelf Lands Act, as amended, to support the program of matching grants-in-aid to the states for the historic preservation programs and projects.
- D. **"Historic preservation review commission"** or **"commission"** means a board, council, commission, or other similar collegial body which is established in accordance with these guidelines.
- E. **"Local government"** means a city, county, municipality, town, or village, or any other general-purpose political subdivision of the state.
- F. **"Missouri Advisory Council on Historic Preservation"** means the commission appointed by the Governor which is responsible for review and nomination of all Missouri properties to the National Register of Historic Places.
- G. **"National Register of Historic Places"** means the national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture maintained by the Secretary of the Interior.

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- H. *"The Historic Preservation Fund Grants Manual"* means the manual that sets forth National Park Service administrative procedures and guidelines for activities concerning the federally-related historic preservation programs of the states and local governments.
- I. *"State Historic Preservation Officer"* or *"SHPO"* means the official within the state who has been designated and appointed by the Governor to administer the state historic preservation program.

### **III. REQUIREMENTS FOR CERTIFICATION OF LOCAL GOVERNMENT PROGRAMS**

Pursuant to the National Historic Preservation Act of 1966, as amended (16 USC 470 *et seq.*), and subsequent regulations most recently promulgated by the National Park Service on March 9, 1999 (36 CFR Part 61), certified local government programs must meet five broad criteria. These criteria are outlined below, along with further amplification and definition of the guidelines that must be met by a local government to achieve certification in Missouri.

- A. The local government shall ***"enforce appropriate state or local legislation for the designation and protection of historic properties"*** with provisions to achieve substantially the purpose of identification, evaluation, and protection of cultural resources within the jurisdiction of the CLG.
  - 1. A local historic preservation ordinance meeting federal and state requirements is a prerequisite for certification. Such legislation (defined as a local historic preservation ordinance plus appropriate historic preservation review commission bylaws, adopted resolutions, and rules of procedure) shall include the following provisions, at a minimum:
    - a. Statement of purpose;
    - b. Establishment of an historic preservation review commission and a grant of powers;
    - c. Procedures for the designation of historic districts and individual landmarks;
    - d. Clearly defined standards and criteria for the designation of historic districts and individual landmarks;
    - e. Definition of actions that shall be reviewed by the commission, including proposed alteration, relocation, demolition, or new construction affecting designated properties;
    - f. Standards and guidelines for the review of such actions by the commission;
    - g. Specific time frames for review; and
    - h. Procedures for appeals.
  - 2. To ensure consistency of review, it is recommended that the local ordinance reference, where applicable, the National Register Criteria and the Secretary of the Interior's "Standards for Rehabilitation."
  - 3. At the request of a local government, the SHPO shall provide preliminary review of an existing, newly

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proposed, or revised ordinance.

- B. The local government shall ***"establish by state or local law and maintain an adequate and qualified historic preservation review commission."***
1. The commission shall have no fewer than five (5) members.
  2. Commission members shall have a demonstrated interest, competence, or knowledge in historic preservation.
  3. To the extent available in the community, commission members must be drawn from professionals in architecture, architectural history, history, prehistoric and historic archaeology, planning, urban design, cultural geography, cultural anthropology, folklore, curation, conservation, landscape architecture, or any other related disciplines or fields related to historic preservation. Local governments requesting certification must demonstrate that they have made a reasonable effort to secure such professionals as commission members. The appropriate number of professional members on a commission will vary depending on the availability of such professionals in the community and the needs and function of the commission in the community.
  4. If certain critical disciplines are not represented on the commission, the CLG shall seek the advice of consultants to assist the commission in reviewing a particular action. (For instance, an archaeologist might be consulted in regard to the impact of excavation for a new high-rise building on previously undisturbed land, while an architectural historian might be consulted for advice in regard to the significance of a building proposed for nomination to the National Register.) Possible sources for such consultants include universities, colleges, state or local preservation organizations, and architectural or planning firms.
  5. Terms of office of commission members shall be staggered and of no less than two-year duration (except as provided in the initiation of a commission). The two-year term shall not be construed as preventing a member from serving more than one consecutive term.
  6. The chief elected local official shall initiate action to fill vacancies, including expired terms, within sixty (60) days.
  7. Commission meetings shall be held at regular intervals and at least four (4) times each year.
  8. The commission shall submit an annual report on its activities to the chief elected local official for submission to the SHPO. The annual report shall include, but shall not be limited to, such items as: the number, types and resolution of cases reviewed, new designations made, revised resumes of commission members, new appointments to the commission, attendance records, and all minutes relating to National Register nominations. Reports shall be submitted within sixty (60) days after the end of the fiscal year and shall form the basis for the SHPO's assessment of the CLG's performance.
  9. Each commission member shall annually attend at least one informational or educational meeting, approved or conducted by the SHPO, pertaining to historic preservation. The SHPO shall initiate or develop training programs to assist commissions in meeting this requirement.
  10. The commission shall be responsible for:
    - a. Surveying, identifying and designating historic and prehistoric districts and landmarks within

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the jurisdiction of the CLG;

- b. Reviewing all alterations, relocation, demolition, new construction or other actions affecting designated properties under the jurisdiction of the CLG.
  - c. Reviewing all proposed National Register nominations for properties within the jurisdiction of the CLG.
11. The SHPO may, at his/her discretion and mutual agreement with CLG, delegate further responsibilities to the local commission. The CLGs may petition to assume greater responsibility for eligible historic preservation program activities provided they have sufficient and qualified staff.
- C. The local government shall ***"maintain a system for survey and inventory of historic properties."***
- 1. The CLG shall begin or continue a SHPO-approved process to identify historic and prehistoric properties with its jurisdiction and maintain an inventory of that information.
  - 2. A detailed inventory of the districts, sites and/or structures designated within the CLG's jurisdiction also shall be maintained.
  - 3. All inventory material shall be:
    - a. In conformance with standards and guidelines for cultural resource inventory as established by the SHPO;
    - b. Compatible with the statewide comprehensive historic preservation planning process;
    - c. Provided in a format consistent with a. and b. above;
    - d. Accessible to the public (except for archaeological site locations, which shall be restricted);
    - e. Updated periodically; and
    - f. Available through duplicates on file with the SHPO.
  - 4. At the discretion of the SHPO, the requirement for submission of duplicate inventory materials to the SHPO may be waived for CLG's not requesting pass-through funding.
- D. The local government shall ***"provide for adequate public participation in the local historic preservation program as a whole,"*** including the process for evaluating properties for nomination to the National Register of Historic Places.
- 1. All commission meetings shall be open to the public. Public announcement of such meetings shall be made in a timely fashion prior to the meeting date.
  - 2. Commission meetings shall be held at regular intervals, at least four (4) times each year.
  - 3. Careful minutes of all commission actions, including the specific reasons for making decisions, shall be kept on file and available to the public.

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4. Applicants shall be given written notification of commission decisions, including specific reasons for the decisions.
  5. Rules of procedure shall be adopted by the commission and shall be available to the public.
  6. Guidelines and criteria for the designation of properties and the review of actions affecting those properties shall be developed by the commission and made available to the public.
- E. The local government shall *"satisfactorily perform the responsibilities delegated to it under the National Historic Preservation Act"* by the SHPO, as outlined under A.--D. above.

### IV. PROCESS FOR CERTIFICATION OF LOCAL GOVERNMENTS

It is the local government, and not the commission, that is certified. Commissions are responsible to the SHPO only as representatives of the local government. The jurisdiction of the CLG is that of the local government and must coincide with the geographic jurisdiction of the local government for CLG purposes.

- A. The chief elected official of the local government shall request certification from the Missouri SHPO. The request for certification shall include:
1. A written assurance by the chief elected official that the local government will fulfill all of the requirements for certification as outlined in III. above;
  2. A copy of the local historic preservation ordinance and the legal instrument(s) creating the commission and any laws that provide for the designation and/or protection of historic and prehistoric properties within the jurisdiction of the applicant;
  3. A listing of any historic and prehistoric districts or individual landmarks designated under the local ordinance(s), along with statements of the historical significance of the properties, photographs, and maps indicating their locations and boundaries;
  4. Resumes for each of the current or proposed members of the historic preservation commission, including demonstration of their interest, competence or knowledge in historic preservation and, where appropriate, information sufficient to allow the SHPO to establish the qualifications of professional members. If the membership of the proposed commission does not meet the professional qualifications stipulated in III.B.3., the applicant must provide written information concerning how it has sought qualified professionals to participate in CLG activities.
  5. A copy of the local historic preservation plan, if available, or a statement describing the local preservation program, including survey, designation and protection activities; and
  6. Resumes for staff, if petitioning for additional responsibilities under III.B.11. of these guidelines. (If requested, the SHPO will consider professional staff in conjunction with the credentials for commission members in determining whether the local preservation commission meets the requirements set forth under III.B.3.)
- B. The Missouri SHPO shall respond to the chief elected local official within sixty (60) days of receipt of an

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adequately documented, written request.

- C. If, upon review of the local government request, it is determined that the proposal fulfills the requirements and guidelines for certification as stated herein, the SHPO shall prepare a written Certification Agreement to be enacted between the SHPO and the CLG. The Agreement shall outline the specific responsibilities of the CLG when certified, including:
  - 1. The five minimum responsibilities cited under III. A.--D. above;
  - 2. Any additional responsibilities delegated by the SHPO to all CLGs in Missouri, and
  - 3. Any other responsibilities delegated by the SHPO pursuant to III.B.11.
- D. After having determined that a CLG application meets all requirements of the state procedures, the SHPO shall forward the request for certification, a copy of the above-referenced signed Certification Agreement and a copy of the signed SHPO review checklist to the National Park Service (NPS).
  - 1. If the NPS does not concur with the request it will notify the SHPO within fifteen (15) working days of receipt. The NPS shall provide written notice of what is necessary for the request for concurrence to be approved.
  - 2. A Certification Agreement is not effective until it is signed by the chief elected local official and the SHPO, and concurred with in writing by NPS. The effective date of certification is the date of NPS concurrence. When NPS concurs with the SHPO recommendation for certification, NPS will notify the SHPO in writing, and send a copy of that letter to the CLG.

**V. PROCESS FOR MONITORING, EVALUATION AND DECERTIFICATION OF CERTIFIED LOCAL GOVERNMENTS**

- A. The SHPO shall monitor and conduct periodic evaluations of certified local governments to assure that each local government is fulfilling the requirements for certification.
  - 1. The SHPO shall monitor CLGs on an on-going basis.
  - 2. The SHPO shall review the minutes of local commission meetings. Such minutes shall be provided to the SHPO at the same time they are provided to commission members, on a quarterly basis at a minimum.
  - 3. The SHPO shall conduct a periodic review of products developed or submitted by the CLG, such as survey data, National Register nominations, planning activities, etc., to ensure conformance of any grant-assisted projects with Missouri's statewide comprehensive historic preservation planning process and with pertinent federal standards and criteria for HPF programs.
  - 4. The SHPO shall be responsible for periodic review of the fiscal management of Historic Preservation Fund monies allotted to the CLGs.
  - 5. The SHPO shall conduct an annual assessment of the CLG's performance, by means of review of the annual report which shall be submitted by each certified local government.

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6. The SHPO shall evaluate the performance in program operation and administration of each CLG every four years according to the procedures and standards outlined in the "Certified Local Governments Evaluation Procedures." The SHPO shall maintain written records for all CLG evaluations and shall promptly notify the CLG in writing of the results of the evaluation.
- B. If the SHPO determines that the performance of the CLG does not meet the minimum criteria for continued certification as specified in the Certification Agreement or referenced therein, the SHPO shall document that assessment and recommend in writing to the CLG steps that should be taken to improve performance. The CLG shall have a period of not less than thirty (30) days nor more than one hundred and twenty (120) days in which to implement improvements. If, at the end of the appropriate period, the SHPO determines that sufficient improvement has not occurred to bring the CLG in conformance with the minimum requirements, the SHPO shall notify the CLG in writing that the decertification process has begun and shall recommend decertification of the local government to the NPS, citing the specific reasons for the recommendation, describing the SHPO's technical assistance efforts and affirming that the SHPO will notify the CLG of the NPS concurrence with the decertification.
  - C. A CLG may petition the SHPO for decertification voluntarily. A letter from the chief elected local official shall be the appropriate vehicle for such requests.
  - D. In the event of the decertification of a CLG, the SHPO shall conduct financial assistance closeout procedures in accordance with the Historic Preservation Fund Grants Manual.
  - E. If the local government wishes to become recertified it must reapply for certification.

## **VI. PARTICIPATION OF CERTIFIED LOCAL GOVERNMENTS IN THE NATIONAL REGISTER NOMINATION PROCESS**

The certified local government shall be responsible for review and comment on all proposed nominations for properties within its jurisdiction. However, the authority to nominate Missouri properties directly to the National Register of Historic Places shall rest with the SHPO, pursuant to federal law and regulation. It is the responsibility of the SHPO to work with CLGs to maximize their participation in the National Register nomination process pursuant to federal law and regulation and state procedures in a manner that is not biased against any particular type of resource.

- A. The CLG shall be responsible for review of all National Register nominations within their jurisdiction. Before a property within the jurisdiction of a CLG may be nominated to the National Register by the state, the SHPO will notify the chief elected local official and the commission in accordance with Section 101 (c) 2 (a) of the National Historic Preservation Act, 36 CFR 60, and state procedures and guidelines. The SHPO will notify the chief elected local official and the commission at least 60, but no more than 120 calendar days prior to consideration of the nomination by the Missouri Advisory Council on Historic Preservation.
  1. The local commission shall develop or receive the documentation necessary to nominate a property to the National Register. This documentation shall be submitted by the commission to the Missouri SHPO for subsequent review by the staff and the Missouri Advisory Council on Historic Preservation.
  2. In the event that a completed National Register nomination for a property within the jurisdiction of a CLG should be received by the SHPO without prior review by the CLG, the SHPO shall forward a

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copy of said nomination to the CLG within thirty (30) days. The SHPO simultaneously shall inform the property owner of the transmittal of the nomination to the CLG.

3. CLG notification procedures do not apply where a Federal agency nominates a property under its ownership or control. Federal agencies should, however, be encouraged by the SHPO to coordinate their nominations with CLGs.
- B. The CLG shall be responsible for providing comments on proposed National Register nominations within their jurisdiction to the SHPO. All meetings at which National Register nominations are considered must be open to the public in accordance with applicable state and local laws. After providing a reasonable opportunity for public comment, the commission shall prepare a report as to whether or not, in its opinion, the property meets National Register criteria.
1. Both the local commission and the chief elected official of the CLG shall inform the SHPO and the property owner(s) of their separate opinions regarding the National Register nomination prior to the meeting of the Missouri Advisory Council on Historic Preservation at which the nomination will be considered.
  2. If both the local commission and the chief elected local official support the nomination, and if the nomination form is complete and sufficient, then the SHPO shall notify the property owner(s) prior to the meeting of the Missouri Advisory Council on Historic Preservation at which the nomination will be considered.
  3. Likewise, if either the local commission or the chief elected local official supports the nomination, then the SHPO shall notify the property owner(s) prior to the meeting of the Missouri Advisory Council on Historic Preservation at which the nomination will be considered.
  4. If both the commission and the chief elected local official recommend that the property not be nominated, the SHPO may not nominate the property unless an appeal is filed in accordance with Section 101 (c) (2) of the National Historic Preservation Act and 36 CFR 60.
  5. If the SHPO does not receive the report and recommendations within 60 days, the SHPO shall continue the nomination process.
  6. Consistency with the purposes of the National Historic Preservation Act, and ensuring that National Register decisions take into account local concerns, require that CLGs participate in the National Register nomination process to the maximum extent feasible. If a CLG consistently does not provide nomination reports, the SHPO should seek to determine if appropriate technical assistance would encourage greater participation. When a relevant historic preservation discipline is not represented in the commission membership, the commission shall be encouraged to seek expertise in this area when considering National Register nominations requiring the application of such expertise. Requisite expertise may be provided through consultation with the SHPO or with persons meeting the Secretary of the Interior's Professional Qualifications Standards.
- C. Nominations approved by the SHPO and the Missouri Advisory Council on Historic Preservation shall be forwarded to the Keeper of the National Register in Washington, D.C. Any report and recommendation made by the CLG shall be included with any nominations submitted by the SHPO to the Keeper of the National Register.
- D. Nominations not approved by the SHPO and the Missouri Advisory Council on Historic Preservation

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shall be returned to the CLG, owner, and preparer of the nomination, along with an explanation of the Missouri Advisory Council on Historic Preservation's comments and, where appropriate, suggestions for improvements.

- E. The SHPO may expedite the CLG's participation in the nomination process, including shortening the 60-day commenting period, with the concurrence of the CLG as long as owner notification procedures, 36 CFR 60, have been met.
1. Where the SHPO and the CLG agree to expedite CLG participation with respect to a particular nomination, the SHPO must keep records that contain the following information:
    - Name of the CLG;
    - Name of the property;
    - A statement from the CLG declaring that the CLG agrees with the SHPO to expedite the process;
    - Date of concurrence;
    - Signatures of the chief elected local official and the chairperson of the commission; and
    - Description of the public participation opportunities that have been provided.
  2. Where the SHPO and the CLG agree programmatically to expedite concurrence on all nominations, or on nominations of particular types or groups of properties, the SHPO must obtain and keep records that contain the following information:
    - Name of the CLG;
    - A statement of applicability to all nominations or nominations of specified types or groups of properties;
    - A statement from the CLG declaring that the CLG agrees with the SHPO to expedite the process;
    - Date of agreement;
    - Description of public participation opportunities that will be provided; and
    - Signatures of the chief elected local official, the chairperson of the commission, and the SHPO or designee.
- F. Any appeal procedures promulgated by the National Park Service pertaining to local or state decisions shall be followed.

## VII. TRANSFER OF FUNDS TO CERTIFIED LOCAL GOVERNMENTS

A share of the HPF allocation to Missouri shall be available to CLGs on a 60-40 basis for historic preservation activities and projects, unless otherwise authorized by the SHPO. At present, federal law provides that a minimum of 10% of the HPF allocation to Missouri be set aside for transfer to CLGs. The intent is to use HPF assistance to augment rather than replace existing local commitment to historic preservation activities. CLGs may participate in the review and approval of National Register nominations whether or not they elect to apply for HPF transfer funds.

### A. General Requirements.

1. All local governments certified pursuant to IV. above shall be eligible for funds from the CLG pass-through. However, the SHPO is not required to award funds to all local governments that are eligible to receive funds.
2. Only CLGs within the State are eligible to compete for funds set aside for pass-through. To remain eligible for each year's CLG pass-through, the CLG must continue to comply with the conditions of

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its Certification Agreement and state performance standards.

3. Any CLG receiving HPF monies shall be considered a subgrantee of the state of Missouri.
  4. HPF grants received by a CLG shall not be applied as matching share for any other federal grant.
  5. All CLG activities that are assisted with HPF money or used as matching share must meet the applicable Secretary's Standards for Archeology and Historic Preservation. For example, design review is an HPF allowable cost, provided that the standards used for design review by a CLG meet the Secretary's Standards for the Treatment of Historic Properties (which is the applicable Standard for that activity).
  6. Indirect costs may be charged as CLG grant expenditures only if:
    - a. The CLG meets the requirements of the Historic Preservation Fund Grants Manual, and
    - b. The CLG has a current indirect cost rate approved by the cognizant federal agency.
- B. In order to be eligible to receive a portion of the local share of the Historic Preservation Fund (HPF) allocation to Missouri, the CLG must:
1. Have adequate financial management systems which:
    - a. Meet federal standards of the Office of Management and Budget Circular A-102, Attachment G, "Standards for Grantee Financial Management Systems;"
    - b. Are auditable in accordance with the General Accounting Office's Standards for Audit of Governmental Organizations, Programs, Activities, and Functions; and
    - c. Are available for periodic evaluation by SHPO in accordance with OMB Circular A-102, Attachment P, "Audit Requirements:"
  2. Adhere to all requirements of the Historic Preservation Fund Grants Manual; and
  3. Adhere to any requirements mandated by Congress pertaining to the HPF.
- C. Technical Assistance
- The Missouri SHPO is prepared to assist local governments in developing and implementing financial management systems which meet the requirements listed under A. and B. above.
- D. Criteria for Selection of Applications
1. All proposals shall be evaluated and selected by the SHPO according to the following criteria:
    - a. Clearly stated and specific goals that are realistically attainable with the amount of funds provided and within the funding period;
    - b. Demonstration of an understanding of state and local preservation priorities including efforts to advance the identification, evaluation, and protection of properties significant in Missouri's

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history and prehistory, and efforts to ensure maintenance of these properties; and

- c. Assurance of matching share.
2. In addition, all proposals shall be reviewed in terms of the Funding Priorities below for conformance with state and federal goals and objectives.
3. The rationale for selection of CLG grant proposals and for the amounts awarded shall be made available by the SHPO upon request.

E. Funding Priorities

1. The Missouri SHPO shall award funds on a competitive basis to CLGs based on the following priorities:
  - a. Administration of local preservation programs with emphasis on completion of the identification phase, that is, survey/inventory of cultural resources;
  - b. Administration of local preservation programs with emphasis on completion of the evaluation phase, that is, nominations to the National Register of Historic Places; and
  - c. Administration of local preservation programs with emphasis on the protection phase, that is planning for and implementation of strategies to ensure long-term preservation of cultural resources.
2. The SHPO shall award funds to certified local government programs that are consistent with Missouri's comprehensive resource planning process.
3. The SHPO shall endeavor to distribute CLG funding to the maximum number of qualified local governments throughout the state and to insure a reasonable distribution between urban and rural areas.
4. The SHPO shall consider other priorities or conditions as may be set forth by the National Park Service for HPF administration.

F. Application for Funding

When a CLG elects to apply for HPF funding, the chief elected local official of the CLG shall request funding by means of an annual application to the SHPO. The appropriate application forms shall be made available by the SHPO. The application timetable may be subject to modification due to fluctuations in federal allocation procedures. The distribution of grant applications, deadline for submittal of grant applications, and awarding of grants shall be done on the same schedule as other HPF grants.

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