

# **BUREAU OF INDIAN AFFAIRS**

## **EXECUTIVE ORDER 13287, “PRESERVE AMERICA” SECTION 3 REPORT**



**SEPTEMBER 2014**

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**INTRODUCTION**

The Bureau of Indian Affairs (BIA) is submitting this report to provide the Chairman of the Advisory Council on Historic Preservation (ACHP) and the Secretary of the Interior the progress information the ACHP will need to meet its reporting requirements under Section 3 of Executive Order 13287 *Preserve America*.

The BIA, which is located under the Assistant Secretary of Indian Affairs (IA), is responsible for managing over 55 million acres of Indian land held in trust or restricted status by the United States government. However, it is important to note that these lands are held for the benefit of the Indian landowner and the BIA does not own or control historic properties on these lands. Such properties remain the property of the Indian landowner and management and control of these properties remain with the Indian landowner.

The BIA holds a much smaller amount of federal land for its own use. These are usually lands withdrawn for a specific purpose and are under the ownership and control of the government. For this report, these lands are referred to as BIA-owned lands. The BIA’s real property management responsibility is for buildings and structures constructed on BIA-owned lands that were constructed to help administer BIA programs; they include schools, homes, warehouses, irrigation facilities and a variety of administrative structures. Some BIA-owned lands contain archeological sites, but these represent a minor element of the historic properties under BIA ownership and control.

To help assure the comparability of BIA information with that from other reporting agencies, the following is presented in the manner of responses to the major questions presented in the ACHP’s revised Advisory Guidelines Implementing Executive Order 13287, “Preserve America” Section 3: Reporting Progress on the Identification, Protection, and Use of Federal Historic Properties.

**IDENTIFICATION**

**1. Building upon previous Section 3 reports, please explain how many historic properties have been identified and evaluated by your agency in the past three years? Has your inventory improved? Please explain.**

The BIA structure inventory includes approximately 1700 buildings and structures that are 50 years old or older. The evaluation of these buildings is an on-going process. To date, over 40% of these structures have been evaluated. In the previous reporting period we identified 164 buildings and structures that had been evaluated and formally listed or

determined eligible for inclusion in the National Register. For the current reporting period the total number of historic structures is 259 (Table 1).

Table 1 BIA-owned Historic Buildings and Structures Reported in 2011 and 2014

| <b>Properties Recorded</b>    | <b>FY2011</b> | <b>FY2014</b> |
|-------------------------------|---------------|---------------|
| National Register Landmarks*  | 12            | 15            |
| National Register Listed**    | 17            | 19            |
| National Register Eligible*** | 135           | 225           |
| <b>TOTAL</b>                  | <b>164</b>    | <b>259</b>    |

\***National Landmarks** include Haskell Indian Nations University (12 structures), in Lawrence, Kansas and the Theodore Roosevelt School (3 structures) on the Fort Apache Reservation, Arizona.

\*\***National Register Listed** include individual structures and contributing structures to Historic Districts.

\*\*\***National Register Eligible** include individual structures and contributing structures to proposed Historic Districts that have been determined eligible through formal consultation with SHPOs or THPOs.

**2. Describe your agency policies that promote and/or influence the identification and evaluation of historic properties.**

The Indian Affairs Manual – 59 IAM Chapter 8 – defines the policies and responsibilities of BIA Officials to identify and evaluate historic properties. The identification of historic properties is largely carried out through compliance with Section 106 of the National Historic Preservation Act (NHPA) and its regulations (36 CFR Part 800), as the BIA identifies and assesses undertakings which have the potential to affect historic properties. The BIA’s identification of historic properties also follows requirements in the Chief Financial Officer’s Act of 1990, Section 110 of the NHPA, and Executive Order 13287, Preserve America, of March 3, 2003. In addition, BIA also follows the Department of the Interior’s Strategic Plan, which has goals for the percentages of historic properties in good condition. The BIA shares these goals as reportable items under the Government Performance Reporting Act (GPRA), and reports annually in the Indian Affairs Performance Management System (IA-PMS).

**3. How has your agency established goals for the identification and evaluation of historic properties including whether they have been met?**

The BIA reports GPRA performance goals and measures for historic properties in IA-PMS. The measures are based on assessing and identifying historic properties in “good” condition, as determined by the Facility Condition Index (FCI). The measures for IA-PMS are therefore the ratio of those properties that are considered to be in good condition, over the total number of historic properties owned by the BIA.

**4. Describe any internal reporting requirements your agency may have for the identification and evaluation of historic properties, including collections (museum and archeological).**

As indicated in Question No. 3 above, the BIA reports under GPRA through IA-PMS on historic properties we have identified. Identification includes evaluation as to the National Register eligibility and the FCI. A historic structure inventory is maintained on internal spreadsheets tracked by the BIA Federal Preservation Officer. Historic buildings and structures are also included in the Facilities Management Information System (FMIS) database, which is currently used by the BIA to track the condition and maintenance of its buildings and structures. The Federal Real Property Profile (FRPP) also tracks historic buildings and structures. Historic properties are tracked in FMIS and FRPP by six categories of historic context defined by the Federal Real Property Council: (1) National Historic Landmark, (2) National Register Listed, (3) National Register Eligible; (4) Non-contributing Element National Register District, (5) Not evaluated; (6) Evaluated, Not Historic.

The BIA also submits a number of annual reports regarding the condition of the repositories housing its museum collections. These include measures in IA-PMS on the number of repositories in good, fair, and poor condition, as well as those repositories that have not yet been assessed. The BIA submits an annual report to the Department's Office of Acquisition and Property Management detailing work accomplished in managing and preserving museum collections, the number of repositories and objects in good, fair, and poor condition; as well as progress made in completing inventories and cataloging. The BIA submits quarterly reports to auditors regarding the condition (good, fair, poor, no score) of all repositories housing museum collections as part of the Heritage Asset required reporting, Required Supplementary Information/Required Supplementary Stewardship Information (RSI/RSSI). Finally, BIA reports to the National NAGPRA Program annually regarding items that have been repatriated to tribes.

**5. Explain how your agency has employed the use of partnerships to assist in the identification and evaluation of historic properties.**

Formal partnerships with outside parties have not been a factor in the identification and evaluation of historic properties. We do, of course, have the opportunity to benefit occasionally from expertise or assistance within the Indian tribes we serve, especially those with tribal historic preservation programs. When the expertise is there, and funding is available, we enter into PL 93-638 contracts with tribal programs to assist in the identification and evaluation of historic properties.

**6. Provide specific examples of major challenges, successes, and/or opportunities your agency has experienced in identifying historic properties over the past three years.**

The mission of the BIA is directed to promoting economic opportunity and protecting and improving the trust assets of American Indians, Indian tribes, and Alaska Natives. Funds for BIA programs are directed to achieving this mission. The BIA has no direct funding to identify and evaluate the historic properties it owns. This lack of funding has been a major challenge over the years.

Most inventories and evaluations are conducted as a result of Section 106 reviews that occur when the BIA has an undertaking that may affect a building or structure, or when a building may be identified as surplus and may either be removed or transferred to a tribe. Any additional identification efforts are undertaken on a limited basis as funds are available. The reductions in program funding and the Sequester have further restricted BIA's ability to inventory and evaluate historic structures. In 2013 a single contract was issued to evaluate a group of buildings on the Navajo Reservation; no other contracts were issued in the past three years.

## **PROTECTION**

### **7. Explain how your agency has protected historic properties.**

The primary vehicle through which BIA has protected its historic properties is Section 106 of NHPA. When there are proposed undertakings that might affect such properties, the BIA will consult to identify appropriate measures to preserve and protect historic properties. Otherwise, buildings and structures are subject to normal maintenance which, as they are identified as historic, will take their historic qualities into account.

The historic buildings and structures are largely operational and continue to be used by the BIA as it carries out its mission to provide services to tribes and tribal members. In the current era of self-determination, as tribes increasingly assume more BIA operations, the buildings and structures associated with these operations may also be transferred to the tribes. When BIA historic properties are turned over to tribes, protective measures may be placed on the transfer agreements.

### **8. Describe the programs and procedures your agency has established to ensure the protection of historic properties, including compliance with Sections 106, 110 and 111 of NHPA.**

The primary responsibility for complying with Section 106 of NHPA lies with the twelve Regional Offices of the BIA. Each office is staffed with a Regional Archeologist, who is responsible for ensuring that BIA complies with NHPA and other relevant laws. The bulk of the Regional Archeologists' workloads is focused on reviewing Section 106 undertakings that occur on Indian lands; undertakings on BIA-owned lands are a very small part of the overall work load.

The management of BIA properties was previously the responsibility of the Office of Facilities Management and Construction (OFMC), located under the Assistant Secretary

of Indian Affairs. However, a recent re-alignment of offices and programs has placed greater responsibility for managing and maintaining BIA-owned property back under the BIA Regional Directors. The OFMC continues to provide funding and is responsible for planning and oversight of new construction; both OFMC and BIA share the responsibility for complying with NHPA.

**9. Describe your agency policies that promote and/or influence the protection of historic properties.**

The IA manual chapter - 59 IAM 8 – defines the responsibility of BIA, as well as OFMC, to protect historic properties. The BIA currently maintains a comprehensive building database in FMIS, which is utilized by OFMC and the BIA Regional Offices to carryout BIA’s responsibility for planning, design, construction, operations and maintenance of BIA-owned facilities. FMIS is used to assist OFMC, BIA, Bureau of Indian Education (BIE) and tribal staff in managing the Indian Affairs Facilities Management Program. The data is used to identify, plan, perform and evaluate all Facilities Program-related work. All major facilities management work processes are supported in FMIS. The historic status of these buildings is also tracked in FMIS, and the BIA Federal Preservation Officer has the appropriate permissions to view and edit the historic status in FMIS.

The BIA also follows the *Department of Interior Asset Management Plan* which requires bureaus to incorporate requirements for planning and managing historic properties under their ownership and control.

**10. Explain how your agency has employed the use of partnerships to assist in the protection of historic properties.**

Because BIA historic properties are located on Indian reservations, the BIA is limited in entering into partnerships with entities other than tribes or tribal programs. Many BIA properties are occupied by BIA and tribal programs. Through PL 93-638 contracts, tribes cannot only take over BIA programs, but also the management of buildings and structures. Many excess historic buildings are turned over to tribes for their continued use. Protective measures of historic properties may be included in the building transfers.

**11. Provide specific examples of major challenges, successes, and /or opportunities you agency has encountered in protecting historic properties over the past three years.**

The biggest challenge facing the BIA is dealing with excess properties that are no longer needed or in use. Because they are located within reservations, excess properties cannot be transferred to any other organizations or entities other than tribes. If tribes do not desire the buildings the only option is removal. Even in cases where tribes request transfer of buildings, costs associated with repairs and the remediation of hazardous materials often prohibit tribes from accepting them.

The re-use of excess buildings located on school compounds is also limited by security restrictions. Maintaining protected areas for schoolchildren often prohibits other tribal programs from utilizing excess school properties located on active school campuses.

One success in protecting historic properties was the development of a training session on Section 110 responsibilities. In 2013, OFMC designed and sponsored training that not only focused on the legal responsibilities under Section 110, but also included a review of the proper methods of maintaining historic buildings, as well as on the adaptive re-use of these buildings. This training was directed to OFMC personnel who had direct responsibility for building construction as well as those for management and maintenance of buildings.

## **USE**

### **12. Explain how your agency has used historic properties.**

The BIA historic properties are largely operational structures that include administrative buildings, schools, living quarters and maintenance shops. They also include irrigation facilities that continue to be actively used for agricultural production. In most cases, historic properties continue to be used for their original purposes. Over 75% of BIA historic properties are still occupied or used.

The BIA does not have a heritage tourism program to promote its historic properties. This is largely because the majority of the properties continue to be operational facilities. In addition, because these properties also located within Indian reservations, the promotion of historic properties through heritage tourism is dependent on the values and interests of the respective tribes.

### **13. Explain the overall condition of historic properties within you agency's control.**

The condition of historic properties varies. Generally, the excess and vacant properties tend to be in poorer condition than those that continue to be actively utilized by the BIA. As measured by the FCI, about 36% of all BIA historic buildings and structures are considered to be in "good" condition.

### **14. Describe your agency policies that promote and/or influence the use of its historic properties.**

The BIA has no agency-specific policies that directly address the use of historic properties. We have disseminated the policies in Section 110 of NHPA (see Question No. 9 above), and comply with the provisions as appropriate. BIA has no policy for restoring excess or vacant buildings or structures to usable condition because of their historic status. Excess properties are always made available to tribes for their continued use, but as indicated in the response to Question Nos. 11 and 17, cost and safety factors often limit the re-use of excess properties.

**15. Explain how your agency has used Section 111 (16 U.S.C. § 470h-3) of NHPA in the protection of historic properties.**

The BIA has generally not used Section 111 in protecting historic properties. We do not lease or exchange properties to other entities.

**16. Explain how your agency has employed the use of partnerships to assist in the use of historic properties.**

As noted in Question Nos. 5 and 10 above, BIA historic properties are largely operational structures. Partnerships have not been a factor in the use of these properties. We do have the opportunity to benefit occasionally from expertise or assistance within the Indian tribes with tribal historic preservation programs. Excess properties are always offered to tribes for their continued use.

**17. Provide specific examples of major challenges, successes, and/or opportunities your agency has experienced in using historic properties over the past three years.**

Perhaps the biggest challenge facing the BIA and BIE are the many vacant properties currently located on school campuses, particularly on the Navajo Reservation. Beginning in 2002, a new school construction program was initiated on many reservations in an effort to address deficiencies in the educational facilities. The American Recovery and Reinvestment Act of 2009 also infused additional funds into new school construction. This resulted in the abandonment of many older school buildings and related structures which were no longer needed, many of which are considered historic. As indicated in the response to Question No. 11 above, the re-use of these buildings is limited by the cost of repairs and hazardous materials remediation, as well as security considerations. As a result, many school-related buildings have been identified for demolition, because they are too expensive to reuse and because of safety concerns on school campuses.

**18. Describe your agency's sustainability goals and climate change adaptation planning and how stewardship of historic properties is being considered.**

The BIA follows the Department of Interior (DOI) sustainability performance plan and reports on an annual scorecard on the sustainability goals established by the DOI. To the extent practical the BIA uses its historic buildings, although this not a reportable goal.

The Assistant Secretary of Indian Affairs, under the policy guidance of the DOI directs BIA and BIE consideration of climate adaptation in all project design, including stewardship of historic properties. The BIA is currently identifying the procedures and protocols that need to be addressed in order to fulfill the mandate. The DOI is further developing a facilities guidance document that will assist local historic property managers on vulnerability analysis. With the DOI guidance and follow-up supplemental BIA guidance, IA will have a cohesive strategy that will also guide historic property stewardship in the face of impacts from a changing climate.