



Advisory Guidelines Implementing  
Executive Order 13287, “Preserve America”

Section 3: Reporting Progress on the Identification,  
Protection, and Use of Federal Historic Properties

August 2017

## **2017 Federal Bureau of Prisons Response to Applicable Provisions of EO 13287, Section 3**

The Federal Bureau of Prisons (FBOP) is the largest Department of Justice (DOJ) component with owned real property assets, comprising approximately 98 percent of DOJ's total owned real property inventory. As such, the FBOP has long established programs and the lead on several national requirements including: NHPA; ARPA; EO 13287, EO 13327; EO 13123; and, EO 13148.

The FBOP is the only DOJ component with known, owned real property assets eligible for review under the National Historic Preservation Act (NHPA), the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, and the Archeological Resources Protection Act, or required to undergo the National Environmental Protection Act (NEPA) process, when an undertaking is not covered under a NEPA Categorical Exclusion in 28 CFR. The FBOP submits its annual and triennial reports for ARPA and EO 13287 Section 3 reports (and the others mentioned above) to the DOJ, which are then passed on to the Secretary of the Interior (SOI), National Park Service, the Advisory Council on Historic Preservation (ACHP), or other governing Federal agencies, respectively.

### **Mission of the Federal Bureau of Prisons**

The FBOP mission is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

#### ***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 (3) years. Approximately what percentage or portion of inventory has been surveyed and evaluated for the National Register?***

Due to funding restrictions, no NHPA Section 106 studies were accomplished for our 50+ years old institutions in the past three years. As a result, no Long Range Master Plan (LRMP) renovations are planned for the 50+ institutions.

The FBOP has two known properties with structures that are listed on the National Register of Historic Places. The first is the Federal Prison Camp in Yankton, South Dakota, which was purchased by the FBOP in 1988. The Warden's residence, located at 1201 Douglas Street, was added to the National Register in 1989. Additionally, a portion of the 23 acres occupied by the FBOP property at Yankton is identified as a Historic District and was added to the Register in 1982, prior to the FBOP's acquisition in 1988. There are approximately 15 buildings within the FBOP's property identified as a Historic District and none have been evaluated for inclusion on the National Register of Historic Places.

The second is the Federal Prison Camp (FPC) in Bryan, Texas, which was purchased by the FBOP in 1988. Currently, the National Register of Historic Places includes two building at FPC Bryan, Allen Academy Memorial Hall and Armstrong House. Both were added to the National Register in 1987.

Every year, a number of FBOP facilities are added to the 50 years of age category. Since the last Section 3 Reporting, two (2) FBOP facilities, FMC Devens, Massachusetts, and FCI Morgantown, West Virginia, have been added to the list of now forty (40). To date, the FBOP has successfully completed nine (9) NHPA Section 106 processes with signed MOA's from the respective SHPO's. In the past three years, no heritage assets regarding property, plant and equipment have been identified.

## ***2. Does your agency have policies that promote awareness and identification of historic properties?***

### **FBOP Historic Preservation Policies/Guidelines**

The revised FBOP historic guidelines were issued on July 18, 2017. This is in the form of a program statement under the Facilities Operational Manual, P.S.4200.12 and includes the following requirements:

Historic properties under Bureau's jurisdiction or control, will be identified, evaluated, renovated, managed, and reported on, in accordance with the National Historic Preservation Act (NHPA) of 1966, Executive Order 13006 (May 21, 1996), and Executive Order 13287 (March 2003) Preserve America.

Eligible properties will be managed and maintained by the Bureau to preserve their historic, archaeological, architectural, and cultural values. The FBOP has not identified any of their property as a heritage asset.

The preservation of properties not under the Bureau's jurisdiction, but potentially affected, will be given full consideration in planning.

The Bureau's preservation-related activities will be carried out in consultation with other federal, state and local agencies; Native Americans; Native Hawaiian organizations carrying out historic preservation planning activities; and with the private sector, and will be coordinated by Central Office, Chief of Facilities Programs, with assistance from the Regional Offices.

The Bureau's procedures will comply with Section 106, 110, 111, and 402 of the NHPA of 1966, as amended, the Archaeological Resources Protection Act of 1979, the American Indian Religious Freedom Act of 1972, and the Native American Graves and Repatriations Act of 1993.

The FBOP also has policy related to historic and cultural resources identified in Program Statement 1227.05, Archival and Historical Programs. In addition, FBOP has Program Statement 1415.03, Community Relations Board, which speaks to the FBOP's mutual communication and support between institutions and the respective local communities. These FBOP policies are all available at [www.bop.gov](http://www.bop.gov).

## ***3. Describe reporting mechanisms or programs your agency uses to manage information about historic properties. What information do they contain about your historic properties?***

For new prison construction, the FBOP surveys real property and addresses the National Historic Preservation Act (36 CFR), the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, and the Archeological Resources Protection Act requirements as part of the NEPA process. All findings, if any, are documented on the property documents and reported annually to the appropriate regulatory entity. Any historic properties, and/or cultural resources, are identified by signage (unless signage is restricted to protect the resource location) and records, and the property is marked for appropriate protection and/or restriction. MOAs are established, where necessary, related to historic properties or cultural resources on the acquired property. In rare instances where artifacts have been discovered, they have been donated to the appropriate State repository.

For existing prisons, approximately 33 percent of total FBOP real property assets are 50 or more years in age, triggering NHPA evaluation and documentation of potentially historic properties. The FBOP

considers ARPA for undertakings involving earth disturbance, especially in previously undisturbed locations. The FBOP surveys existing real property and addresses the NHPA, the Native American Graves Protection and Repatriation Act, the American Indian Religious Freedom Act, and the Archeological Resources Protection Act requirements comprehensively during either the regulatory phase of the LRMP Program, or on a case by case basis, as expansion, modernization, or repair projects have the potential to cause adverse effects. Further, the FBOP LRMP Program includes collection and analysis of comprehensive NHPA Section 110 documentation for all buildings and structures 50 or more years old, as well as archaeological and cultural resources related to the Archeological Resources Protection Act. This documentation is then used by the FBOP to initiate the NHPA Section 106 process, as necessary, with the respective SHPOs, THPOs, ACHP (if the ACHP chooses to participate), and the general public, as required by 36 CFR Part 800. Historic properties, and/or cultural resources, identified/known at existing locations are identified by signage and records, and the property is marked for appropriate protection and/or restriction.

As required, reports are submitted to the DOJ, the Department of the Interior, National Park Service (ARPA in March of each year), and the Advisory Council on Historic Preservation per, Executive Order 13287, Preserve America, Section 3. Like all federal agencies, the FBOP developed our Federal Real Property Asset Management Plan (AMP) required by EO 13327, via the DOJ. In this report, per the Federal Real Property Council's (FRPC) guidance for EO 13327, each FBOP owned real property asset is identified in a database inventory coded as: National Register Eligible; Non-contributing element of NHL/NRL district; National Register Listed; or, National Historic Landmark. Environmental restrictions and cultural resources are identified in Sections 5 (historic asset recognition) and 23 (environmental and cultural restrictions) of the FBOP AMP, per the FRPC guidance. It is to be noted, that the EO 13327 inventory database is a summary coding only, and does not include the historic details, historic or cultural significance, or historic status of the owned-asset to the level of documentation required by ARPA or NHPA Section 110. The coded system of owned assets are triggered by the building age of 50 years, or known site cultural resources, and should not be construed as the common misconception that anything 50 or more years of age meets the SOI criteria for register or landmark status. This is a frequent misnomer. It is also to be noted that EO 13327 constitutes a third annual reporting requirement for all federal agencies regarding historic real property and cultural resources.

#### ***4. Has your agency employed partnerships to assist in the identification and evaluation of historic properties?***

The FBOP has a Community Relations Board established at each institution nationwide. Communities surrounding some FBOP older Institutions grew around the Institution over the years as the institution existed prior to the initial community development.

The mission and security implications of FBOP properties preclude access to such property by the general public and the local community. The FBOP does not include public hearings, or town hall meetings, with the local communities related to the Section 106 process. While the ACHP encourages more public involvement early and throughout the Section 106 process, the FBOP has no plans to do so as it is time-consuming, costly, and ultimately offers no funding resources affecting the FBOP final decisions regarding the operation and maintenance of FBOP owned real property. The FBOP does, and will continue to comply with the 30-day public notification process, as required by 36 CFR Part 800.

History has shown that the presence of an FBOP institution is economically beneficial to the local community, bringing in federal jobs, community involvement by federal employees and their families,

and support to the local economy. Local communities are negatively impacted when an FBOP facility closes or is outsourced to commercial prison operators, because commercial contract employee wages are much less than that of Federal employees. This is one of the prime reasons the FBOP is making every effort to modernize and repair all existing institutions, including those over 50 years old, at a level of regulatory compliance, economical efficiency, with the overall mission of the FBOP as the priority governing FBOP real property assets.

As part of past Section 106 processes, we have reached out to various THPOs and SHPOs. We have not had any partnership interest from THPOs, but we have successfully completed nine (9) NHPA Section 106 processes with signed MOA's from the respective SHPO's. In June 2017, a time extension on an MOA for FCI Seagoville, Texas was granted.

As the Section 106 process is completed for each respective institution, the FBOP intends to place copies of the historic and cultural resource Section 110 documentation, including photographs, and related materials, in the respective local public library, to allow the local general public interpretation of the institution. In addition, the FBOP is currently in the process of working with FBOP in-house Records Management staff and the National Archives, to collect, centralize, and store historic documents and photographs, at various National Archive repositories. The FBOP website [www.bop.gov](http://www.bop.gov) is available to the general public and contains maps and summary descriptions of each FBOP institution nationwide.

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

The FBOP has an active database that tracks the age of all our assets. Once an asset reaches the age of 50, we ensure compliance with the FBOP historic guidelines and all applicable federal regulations. We have not experienced any major challenges, successes, and/or opportunities in identifying historic properties over the past three years.

***6. Have your agency's programs and procedures to protect historic properties, including compliance with Sections 106, 110, and 111 of NHPA, changed over the past three years in ways that benefit historic properties?***

The revised FBOP historic guidelines were issued on July 18, 2017. This is in the form of a program statement under the Facilities Operational Manual, P.S.4200.12 and includes the following requirements:

Historic properties under Bureau's jurisdiction or control, will be identified, evaluated, renovated, managed, and reported on, in accordance with the National Historic Preservation Act (NHPA) of 1966, Executive Order 13006 (May 21, 1996), and Executive Order 13287 (March 2003) Preserve America.

The Bureau's procedures will comply with Section 106, 110, 111, and 402 of the NHPA of 1966, as amended, the Archaeological Resources Protection Act of 1979, the American Indian Religious Freedom Act of 1972, and the Native American Graves and Repatriations Act of 1993.

The FBOP also has policy related to historic and cultural resources identified in Program Statement 1227.05, Archival and Historical Programs. In addition, FBOP has Program Statement 1415.03, Community Relations Board, which speaks to the FBOP's mutual communication and support between institutions and the respective local communities. These FBOP policies are all available at [www.bop.gov](http://www.bop.gov).

The FBOP has a Program Manager that oversees all efforts related to Sections 106, 110, and 111 of NHPA. Unfortunately, there is no direct funding for this program. This Program Manager and other FBOP staff have attended Advisory Council for Historic Preservation training.

***7. Has your agency employed partnerships to assist in the protection of historic properties?***

The FBOP and the National Park Service continue a successful relationship related to Alcatraz, California. When Alcatraz was determined to no longer be physically or economically suitable for continued federal correctional use, it was declared excess/surplus to GSA. While in GSA's custody, Alcatraz fell into disrepair and was overtaken during Native American protests, and further damaged during that period of time. After several years of neglect, the National Park Service, with the assistance and support of the FBOP, including the use of inmate labor to repair Alcatraz, opened what is now a successful National Park and popular tourist attraction. Given the critical need for every existing federal correctional property owned by the FBOP, the opportunity for such future partnerships, or local economic development, is not anticipated in the foreseeable future. As previously stated, it is doubtful in the foreseeable future, that existing FBOP owned properties will become available for disposal to GSA or available for local economic development or heritage and tourism.

***8. Does your agency use program alternatives such as Programmatic Agreements, Program Comments, and other tools to better manage and protect your agency's historic properties?***

In the past, we have attempted to reach Programmatic Agreements at the state level, but this was not successful because the state's preferred the FBOP deal directly with the local SHPOs.

***9. Provide specific examples of major challenges, successes, and/or opportunities your agency has encountered in protecting historic properties over the past three (3) years.***

The major challenge the FBOP faces is the lack of funding to address the condition of our 50+ institutions. We have not been able to initiate a LRMP in over nine years. With our current funding level, we barely have enough to cover emergencies, security, life safety and major infrastructure issues.

***10. Do your agency's historic federal properties contribute to local communities and their economies? Is the use of historic properties encouraged and promoted within your agency?***

All of the FBOP historic properties are part of correctional institutions. All FBOP properties contribute to the local economies.

The FBOP and the National Park Service continue a successful relationship related to Alcatraz, California. When Alcatraz was determined to no longer be physically or economically suitable for continued federal correctional use, it was declared excess/surplus to GSA. While in GSA's custody, Alcatraz fell into disrepair and was overtaken during Native American protests, and further damaged during that period of time. After several years of neglect, the National Park Service, with the assistance and support of the FBOP, including the use of inmate labor to repair Alcatraz, opened what is now a successful National Park and popular tourist attraction. Given the critical need for every existing federal correctional property owned by the FBOP, the opportunity for such future partnerships, or local economic development, is not anticipated in the foreseeable future. As previously stated, it is doubtful in the

foreseeable future, that existing FBOP owned properties will become available for disposal to GSA or available for local economic development or heritage and tourism.

***11. Explain how your agency uses historic properties to foster heritage tourism, when consistent with agency missions.***

Due to the nature of the agency, the only property available for tourism is Alcatraz, California. Given the critical need for every existing federal correctional property owned by the FBOP, the opportunity for such future partnerships, or local economic development, is not anticipated in the foreseeable future.

***12. If your agency is subject to the requirements of the Federal Assets Sale and Transfer Act (Property) and the Federal Property Management Reform Act how will their requirements affect your agency's ability to protect and use its historic properties?***

All current FBOP owned real property is fully utilized due to the continued growth in federal inmate population. Funding for new federal prisons has not kept up with past, current, or future inmate population growth. Most existing FBOP correctional institutions house more inmates than the physical plants and infrastructures were originally designed to hold. Due to the rapid and constant growth in inmate population over the last many years, the FBOP rarely has any excess real property related to owned correctional properties. No excess FBOP owned property is anticipated in the foreseeable future. If FBOP real property (land, buildings, or other structures/facilities) is to be disposed of, it will be coordinated with the GSA in accordance with 41 CFR, Federal Property Management Regulations. The FBOP receives no proceeds for release or disposal of leased or owned real property. The FBOP does not have direct leasing authority. The FBOP acquires and releases leased property via the GSA in accordance with 41 CFR, Chapter 101, and Federal Property Management Regulations. The FBOP follows the legislatively mandated process set forth by the Administrative Services Act of 1949, as amended, for the real properties available for owned real property disposal through GSA.

***13. How is your agency meeting the requirements of EO 13693, Planning for Federal Sustainability in the Next Decade?***

The FBOPs historic properties are properly maintained and are in good condition. It is the intent of the FBOP to preserve all of its eligible and non-eligible structures thru regular maintenance. Any time a building renovation or equipment replacement project is conducted, measures are taken or equipment is installed to ensure the agency meets the requirements of EO 13693.

***14. Does your agency use, or has it considered using, Section 111 of the NHPA to lease or exchange historic properties?***

At this time, the FBOP has not utilized Section 111 because the FBOP does not have direct leasing authority, and public access to our property is limited due to security reasons. We have not, and do not plan in the future to transfer or dispose of any of our historic properties. If in the event we do, we will comply with all FBOP polices and federal regulations.

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

The only real partnership the FBOP has had is with the National Park Service as described in our response to question #7. Partnerships are typically not practical for FBOP due to that fact that our historic properties are part of active correctional institutions.

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

The FBOP historic properties are part of active correctional institutions. Operational aspects of the FBOP concerning historic properties over the past three years have had no major impacts regarding major challenges, successes or opportunities.