



Advisory Guidelines Implementing
Executive Order 13287, “Preserve America”

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

August 2014

2014 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 years. Has your inventory improved? Please explain.

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, one (1) FBOP facility, USP Marion, Illinois, has been added to the list of now thirty eight (38). 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. Describe your agency policies that promote and/or influence the identification and evaluation of historic properties.

FBOP Historic Preservation Policies/Guidelines

The revised FBOP historic guidelines were issued on January 24, 2006. This is in the form of a program statement under the Facilities Operational Manual, P.S.4200.10 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 1327 (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 subject to be 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, and Native Hawaiian organizations carrying out historic preservation planning activities and with the private sector and will be coordinated by Central Office, 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.

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

Long Range Master Plan (LRMP) Program

The FBOP established the LRMP Program in 1996. It is a management, budgeting, and asset condition documentation tool for determining physical plant and infrastructure requirements of the Bureau's existing Institutions and corresponding budget requirements that are/will be needed to make them operational, and viable for continued federal correctional use, for another 25-30 years. The LRMP Program objective was to establish a comprehensive long range master plan for each institution, which identifies short and long term efforts needed to modernize and upgrade the entire physical plant and infrastructure to comply with a myriad of current codes and regulations, while meeting the FBOP mission, including possible adverse effects on historic preservation and cultural resources. The LRMP Program provided a logical sequence for funding and accomplishing the renovation work in phases,

while the institution was fully operational, staffed, and secured at all times. This required complex and difficult coordination, and increased overall project schedules and costs related to working within a fully operational prison. Existing institutions built fifty or more years ago fall under the LRMP Program. As our institutions reached the 50 year old threshold, the FBOP tasked professional qualified historic preservation and archaeological with collecting, evaluating, and documenting FBOP owned real property data for ARPA and NHPA Section 110 documentation purposes. The data collected was then intended to be used for subsequent Section 106 process, ultimately leading to MOAs or PAs.

It is to be noted by the ACHP and the SOI, that no special funding or appropriation is provided to the FBOP for historic preservation or cultural resource compliance requirements by the DOJ, the Office of Management and Budget, or the Congress. Funding for historic and cultural resource investigations, studies, documentation, and project implementation must come out of annual appropriated resources provided to the FBOP by Congress, for base Modernization and Repair (M&R), or Repair and Improvement (R&I) allocations. Renovations, modernization, and repair or improvements to historic properties adds approximately 23-48 percent to the overall project costs, as well as limits competition in contracting to vendors required to meet 36 CFR Part 61 or NHPA Section 112 considerations. Contracting actions for historic properties tend to take more time to develop and award due to the special education and/or skill and experience requirements associated with them.

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

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 32 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 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.

5. Explain how your agency has employed the use of 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.

New FBOP construction in recent years, at sites directed in Congressional appropriation language, has been in remote areas of several states where there is little residential housing, community or municipal services, advanced school systems, and/or community or commercial amenities. As was the case in the 1930s and 1940s, it is anticipated that the local economies of these remote areas will develop and grow around the new FBOP locations.

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, include those over 50 years old, at a level 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.

At the completion of the Section 106 process 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 currently is 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 is available to the general public and contains maps and summary descriptions of each FBOP institution nationwide.

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 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 had any major challenges, successes, and or opportunities your agency has experienced in identifying historic properties over the past three years

7. How has your agency protected historic properties?

All proposed improvements or renovations of our institutions are reviewed by the regional offices and approved by the Central Office. At the Central Office, we are very cognizant of the impact proposed work could have on our 50+ institution. As part of our review, we ensure that the work does not negatively affect the historic significance of the property. If we feel it has the potential to do so, we involve the SHPO and/or THPO prior to the approval of the work.

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 FBOP historic guidelines were issued on January 24, 2006. This is in the form of a program statement under the Facilities Operational Manual, P.S.4200.10. See our answer to question #2, for more specifics about this program statement. We are in the process of revising this program statement. As part of this, we will address to compliance with Sections 106, 110, and 111 of NHPA when evaluating regulatory review under EO 13563.

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.

In the past we have attempted to reach a Programmatic Agreement at a state level, but this has not been successful. This reason that this was not successful was that the state's preference was for us to deal with the local SHPOs.

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

The FBOP follows all applicable federal requirements when protecting historic properties as discussed in our response to question #2, and Asset Management Plan in question #4.

The FBOP has not entered into any management contracts with other parties to protect your historic properties, including monitoring, repair, stabilization, and rehabilitation.

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

The FBOP and the National Park Service continue a successful relationship related to Alcatraz. 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 demolition by neglect, the National Park Service, with the assistance and support of the FBOP, including 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 currently 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. Provide specific examples of major challenges, successes, and/or opportunities your agency has encountered in protecting historic properties over the past three 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 six years. With our current funding level, we barely have enough to cover emergencies, and security, life safety and major infrastructure issues.

In 2010, the FBOP renovated a historic smokestack at USP Lewisburg. The project required complex restoration work at a fully operational penitentiary performed 200 feet above mission-critical food service operations. In order to access the work site a platform was constructed just below the balcony level. The platform was supported by temporary beams carefully needed through the towers 20-inch thick walls. The beams had to be precisely located to clear the smokestack which rises through the center of the structure. Six decked levels of scaffolding were erected on the platform to allow full access to the deteriorated masonry.

Restoration work was performed off the decks by hand using craftsmen skilled in the construction of gothic arches and masonry techniques. The project required custom shaped brick and composite stone elements which had to match existing elements in size, color and texture. Reassembly of masonry shapes required an intimate knowledge of early construction techniques and patterns. This project won the "Project of the Year Award" for historic restoration from Masonry Construction Online.

12. Explain how your agency has used historic properties.

All of the FBOP historic properties are part of correctional institutions. Older existing FBOP Institutions have been found to retain little original interior historic fabric. This is due to security, life safety, building operating system, accessibility compliance, and American Correctional Association required changes over many years. Many changes were necessitated by ever increasing inmate population growth, increasing security level changes and the housing of different types of inmates. Original historic interior architectural finishes do remain in some locations such as administrative areas not accessible to inmates. These consist of terrazzo or marble floors, columns, architectural moldings, etc. In these few remaining original interiors, the FBOP takes pride in them and has taken all economic measures to retain them. Due to inmate population growth and security level changes over the years, as well as the need for FBOP to comply with other laws, regulations, and codes, older institution locations have been expanded to include new buildings and services. New building designs are sensitive to existing historic architecture and complement the remaining historic elements and are approved by the SHPO as required by the NHPA. Where original buildings remain, the exteriors retain some original historic elements and are maintained as described elsewhere in this report. Since these are active correctional institutions, we do support heritage tourism for the use of our historic properties.

13. Explain the overall condition of the historic properties within your agency's control.

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. Annually, per FBOP policy, a Buildings and Grounds inspection is performed at each FBOP institution. Institution professional and building trade staff visually inspect all areas of the physical plant to include buildings and structures, roads and grounds, roofs, windows, and operating mechanical, electrical, plumbing, fire protection, and security systems. Scheduled, cyclic inspections of the gas lines, elevators, fire suppression systems, water supply systems, food service, and laundry equipment, are inspected. A summary report of all annual finding is submitted from the institution to their respective Regional Office for documentation. Cost estimates are then developed for each item requiring attention, as identified in the Annual Building and Grounds Inspection. The documented inspection findings and subsequent cost estimates then begin the funding request process. Other cyclic inspections are scheduled based on FBOP best practices, manufacturer's recommendations, or regulatory code schedules. The LRMP Program, described previously, is another FBOP vehicle used to evaluate asset conditions and detail Section 110 documentation of historic properties and cultural resources. In addition, as FBOP reported for EO 13327 purposes, the FBOP has an existing asset recognition database which includes the original value of FBOP assets and the respective total replacement value.

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

As stated in our response to question #2, FBOP historic guidelines are part of the Facilities Operational Manual. These guidelines do not discuss the use of historic properties. All current FBOP owned real property currently is fully utilized due to the continued growth in federal inmate population over many years. 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. Disposing of real property (land, buildings, or other structures/facilities) is 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.

The FBOP does have an Asset Management Plan (AMP). This is discussed in our response to question #4.

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

At this time, the FBOP has not utilized Section 111. This is because the FBOP does not have direct leasing authority, and we limit public access to our property 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 policies and federal regulations.

16. 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 described in our response to question #10. Partnerships are typically not practical for FBOP due to that fact that our historic properties are part of active correctional institutions. The FBOP does construct new prisons in locations as directed in Congressional appropriations language. This includes former Department of Defense (DOD) properties transferred or declared excess through the Base Realignment and Closure Act of 1988 (BRAC). Over the past several years, FBOP has acquired former DOD land and properties at: Fort Dix, New Jersey; Fort Devens, Massachusetts; Victorville, California; Atwater, California; and, Herlong, California; for Federal correctional use. The FBOP did not receive any DOD historic or cultural resource documentation related to these former DOD properties upon transfer. FBOP expended appropriated funds and addressed these issues as part of the NEPA process.

17. 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.

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

The FBOP falls under the DOJ's Strategic Sustainability Performance Plan and Climate Change Adaptation Plan. These plans are in compliance with EO 13514. Even though these plans do not specifically address historic properties, they apply to all FBOP properties. As a result, our goal is to have our historic properties meet or exceed the requirements of these plans. In addition, the FBOP has and will continue to utilize the Advisory Council on Historic Preservation document on Sustainability and Historic Federal Buildings (May 2, 2011).