

**REPORT TO THE
ADVISORY COUNCIL ON
HISTORIC PRESERVATION AND
THE SECRETARY OF THE INTERIOR**

*In Accordance With Section 3 of
EXECUTIVE ORDER 13287, PRESERVE AMERICA*



SEPTEMBER 2020

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Introduction

Executive Order (EO) 13287, *Preserve America*, includes several actions that are intended to encourage better accountability for the use of federally owned historic properties. Section 3, Improving Federal Agency Planning and Accountability, states “accurate information on the state of federally-owned historic properties is essential to achieving the goals of this order and to promoting community economic development through local partnerships.” Under Section 3(c), each federal agency with real property management responsibilities is required to submit reports on its progress in identifying, protecting, and using historic properties in its ownership beginning on September 30, 2005, and every third year thereafter. Section 3(c) further requires that the ACHP incorporates this data into a report on the state of the federal government’s historic properties and their contribution to local economic development. The ACHP also uses the information to continue its dialogue with federal agencies on how to assist them in meeting stewardship responsibilities for historic properties while maintaining agency missions.

In March 2020, the ACHP released its *Advisory Guidelines Implementing Executive Order 13287, ‘Preserve America’ Section 3: Reporting Progress on the Identification, Protection, and Use of Federal Historic Properties* (“Advisory Guidelines”). The Advisory Guidelines provide a list of recommended questions for federal agencies with real property management responsibilities to answer for Section 3 progress reports. The ACHP plans to use agency feedback to measure the effectiveness of historic preservation programs across the Federal Government. The questions posed by the ACHP in the Advisory Guidelines cover three broad areas: identification, protection, and use. For clarity and ease of presentation, this report is divided into these three broad categories to mirror the Advisory Guidelines.

Established in 2002 in response to the September 11, 2001 terrorist attacks, the Department of Homeland Security (Department or DHS) is headed by the Secretary of Homeland Security. DHS is comprised of fourteen Operational and Headquarter (HQ) Support Components with more than 240,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity to infrastructure protection. DHS Components include: Cybersecurity and Infrastructure Security Agency (CISA); U.S. Citizenship and Immigration Services (USCIS); U.S. Customs and Border Protection (CBP); U.S. Coast Guard (USCG); Federal Emergency Management Agency (FEMA); Federal Law Enforcement Training Centers (FLETC); U.S. Immigration and Customs Enforcement (ICE); Transportation Security Administration (TSA); U.S. Secret Service (USSS); Science and Technology Directorate (S&T); Countering Weapons of Mass Destruction Office (CWMD); Management Directorate (MGMT); Office of Intelligence and Analysis (I&A); and Office of Operations Coordination (OPS).

This report was compiled by the DHS Management Directorate, Office of the Chief Readiness Support Officer (OCRSO), Sustainability and Environmental Programs (SEP), Environmental Planning and Historic Preservation Program (EHP). The EHP program has been delegated Department-wide oversight of environmental planning and historic preservation compliance. The creation of a centralized EHP program in conjunction with Component programs has resulted in a more consistent approach to historic preservation throughout the Department while still recognizing the individuality of the Components’ missions and the variety of historic properties within their respective real property inventories. The majority of DHS Components

have a limited real property portfolio as business is conducted from property leased from, or managed by, other federal entities, such as the General Services Administration (GSA).

The nature of the DHS mission directly impacts the way DHS manages its historic properties. Security considerations require that nearly all DHS historic real property be closed to public access, with only a small number allowing public access by special appointment. DHS's real property management responsibilities include historic properties utilized by the FEMA, FLETC, ICE, USCG, CBP, and S&T. Within the following sections, highlights of successful historic preservation policy and practices throughout the Department will be identified such as CBP negotiating a MOA with GSA, ICE continuing to provide historic preservation coverage for their historic facility in Honolulu, USCG successfully complying with the National Historic Lighthouse Preservation Act, and FEMA continuing to meet emergency response and preparedness missions at their historic facility in Maryland. This report updates the Fiscal Year (FY) 2004, 2005, 2008, 2011, 2014, and 2017 Section 3 reports to the Advisory Council on Historic Preservation (ACHP) and the Secretary of the Interior.

I. Identifying Historic Properties

DHS has continued to build upon its existing processes and procedures for the identification and evaluation of historic properties.

Identification Practices

When identifying and evaluating historic properties, subject matter experts utilize a variety of digital resources to gather information for NHPA compliance. Digital resources used include:

- National Park Service's National Register of Historic Places (NRHP);
- Information provided by Tribal Historic Preservation Offices (THPOs), Federally recognized tribes (tribes), or Native Hawaiian organizations (NHOs);
- State Historic Preservation Office (SHPO) databases;
- local and county tax and property ownership records;
- historic maps, aerials, and photos; and
- topographic maps and satellite images.

In addition to the standard methods for identifying and evaluating historic properties, CBP has developed a Desktop Survey Program to quickly and easily provide survey information for portions of the portfolio that either clearly do not meet the NRHP criteria or for facilities that have previous determinations of which CBP has not been aware. This allows CBP to focus its survey efforts on the portion of the portfolio that has no information and is more likely to be NRHP eligible. All properties are evaluated without consideration of construction date to ensure that there is an accurate picture of the agency's portfolio and to assist with any future Section 106 compliance needs at that facility. Buildings and structures are assessed for architectural or historical significance and the entire property is evaluated for its probability to contain intact archeological resources. The facility is also reviewed to determine if it is in any known historic districts, including archeological districts.

USCG is examining the use of its internal geographical information system (GIS) to compile an internal digital database of documented historic properties, archaeological sites, and other cultural resources on USCG real property. Unfortunately, the recent COVID-19 pandemic has delayed arranging staff training related to the use of GIS, but efforts will be made in the future to explore the feasibility of restarting this project.

Real Property

DHS HQ and Components utilize trained staff to make appropriate NRHP determinations for real property assets and to make concerted efforts to review respective Component real property inventories in accordance with general asset management activities for operational and mission needs, consistent with the following requirement of the DHS historic preservation policy:

Components must locate and inventory all assets under DHS management and evaluate them against National Register eligibility criteria for possible nomination to the National Register and periodically reassess this inventory, in accordance with their general asset management activities. For specific asset management activities, Proponents must use and update this inventory.

The Department does not currently have GIS capabilities for specifically tracking Department-owned historic properties. However, DHS HQ utilizes a real property database with GIS capabilities to capture personal property and sustainability data for the Department, including the Federal Real Property Council (FRPC) data element, Historic Status. This DHS HQ real property database, Consolidated Asset Portfolio & Sustainability Information System (CAPSIS), includes descriptive information and tracks facility management and operations activities. Real property includes all land, buildings, and structures, as specified by the FRPC provisions under the Federal Property Management Reform Act of 2016, P.L. 114-318 and outlined in the DHS Directive 119-02, *Real Property Management Program*.

Component data from real property asset management systems is uploaded quarterly into the CAPSIS. Components provide listings and descriptions of real property assets, as required, to the OCRSO for submission to the Federal Real Property Profile (FRPP). In addition, the Office of Management and Budget (OMB) or the GSA may request additional information which is also included in the government-wide listing of real property assets. DHS-owned real property by historic status from Fy17 to-date (September 1, 2020) is displayed in Table 1.

| Historical Status (Code) | FY17 | FY20 |
|---------------------------------|---------------|---------------|
| Evaluated, Not Historic | 5,372 | 4,954 |
| National Historic Landmark | 10 | 13 |
| National Register, Eligible | 55 | 60 |
| National Register, Listed | 365 | 381 |
| Non Contributing | 144 | 149 |
| Not Evaluated | 40,989 | 41,221 |
| TOTAL | 46,935 | 46,778 |

Table 1: DHS Federal Real Property – Historic Status

Historic property identification methods have improved Department-wide. This improvement is due to the continued integration of EPHP practices with other lines of business, such as

contracting, facilities, and acquisition offices. In addition, Components have implemented data support systems for historical property evaluations.

Heritage Assets

A heritage asset is any personal property that is retained by DHS because of its historic, cultural, educational, or artistic value as opposed to its current usefulness to carrying out the mission of the Department. The Department's heritage assets are maintained by DHS HQ, USCG, CBP, USCIS, TSA, ICE, FEMA, S&T, USSS, and FLETC. These heritage assets primarily consist of documents, historical artifacts, immigration and naturalization files, artwork, buildings, and structures and are used to preserve and provide an education on the Department's history and tradition.

| Category | FY16 | FY19 |
|-----------------------------------|-------------|-------------|
| Collection-Type Assets | 30 | 30 |
| Non Collection-type Assets | 75 | 71 |
| Multi-use Heritage Assets | 118 | 102 |
| Total | 223 | 203 |

Table 2: DHS Heritage Assets, FY16 vs. FY19

DHS classifies items maintained for exhibition or display as collection-type heritage assets. Components define collection-type assets as either individual items, or an aggregate of items grouped by location or category, depending on mission, types of assets, materiality considerations, and how the Component manages the assets. The Department also maintains non collection-type heritage assets that are unique for historical or natural significance, as well cultural, educational, or artistic importance.

When heritage assets are functioning in operational status, the Department classifies these as multi-use heritage assets in accordance with Federal Accounting Standards Advisory Board Supplemental Federal Financial Accounting Standards (SFFAS) No. 6, *Accounting for Property, Plant and Equipment* and SFFAS No. 29, *Heritage Assets and Stewardship Land*. Compliance with SFFAS No. 6 and 29 are requirements of the DHS HP Instruction.

Policy

National Environmental Policy Act

DHS complies with the National Environmental Policy Act (NEPA) through DHS Directive 023-01, rev. 01 *Implementation of the National Environmental Policy Act*, and DHS Instruction 023-01-001-01, rev. 01, *Instruction Manual on Implementation of the National Environmental Policy Act*¹. The policies and procedures outlined in the NEPA Directive and the Instruction Manual ensure that decisions are made in accordance with CEQ NEPA implementing regulations and relevant historic preservation laws. When appropriate, DHS integrates the NEPA process with other planning efforts, including Sections 106 and 110 of the National Historic Preservation Act (NHPA), at the earliest possible stage so environmental factors are considered with sufficient time to have a practical influence on the decision-making process before decisions are made.

¹ DHS Directives can be reviewed online at: <https://www.dhs.gov/department-homeland-security-management-directives>.

Components are encouraged to create their own supplemental procedures in accordance with the DHS Instruction Manual, which requires compliance with historic preservation laws. To date, the TSA, CBP, FEMA, FLETC, ICE, and USCG have supplemental instructions for NEPA implementation approved by the SEP Executive Director. Component supplemental procedures address the consideration and management of historic properties and other cultural resources in the context of compliance with NEPA. The Council on Environmental Quality (CEQ) issued a final rulemaking to update its NEPA implementing regulations on July 16, 2020, which take effect September 14, 2020, barring any legal injunctions. By no later than September 14, 2021, Federal agencies must revise their existing NEPA procedures, as necessary, to conform with the new CEQ implementing regulations. DHS is in the process of updating both its categorical exclusions (CATEXs) and NEPA Instruction.

Historic Preservation Policy

Department-wide historic preservation policy is captured in DHS Directive 017-01, *Historic Preservation in Asset Management and Operations* (HP Directive), and DHS Instruction 017-01-001, *Instruction Guide on the Historic Preservation in Asset Management and Operations* (HP Instruction). Signed in 2008, the HP Directive and Instruction establish policy and procedures for the consideration of historic properties and sacred sites in the management and operation of the full accountability of DHS activities. All Components are required to follow the DHS HP Directive and Instruction but may develop their own guidance or policy consistent with the Directive in order to meet their specific needs and missions. For example, CBP maintains operations under an existing historic preservation supplemental policy and FEMA has integrated historic preservation compliance into their NEPA policy. DHS finalized revisions to its HP Directive and HP Instruction in FY20. The documents are currently in the final review process.

EPHP Metric

Since 2015, DHS Components have been required to complete an EPHP Scorecard to evaluate conformance with various environmental laws and policies. The scorecard, which is for internal use only, informs DHS HQ on ways to improve Component EPHP programs and compliance. The metric captures Components' efforts in the identification and tracking of historic properties for Section 106 and Section 110 compliance. The metric also captures the number of executed Programmatic Agreements and Memoranda of Agreement under Section 106. Scorecard metrics are reported annually to the OCRSO and presented annually to the SEP Executive Director during Program Management Reviews (PMR).

EPHP Decision Support System (DSS)

The EPHP DSS, operated by OCRSO for Department-wide utilization, is an automated system designed to standardize and improve the efficiency and effectiveness of DHS environmental reviews of proposed CATEX-level actions for compliance with applicable environmental and cultural resource management laws and regulations. The EPHP DSS enables knowledge sharing across DHS regarding EPHP activities and requirements, is a repository for DHS NEPA documents, and is used to gather information necessary for meeting internal and external EPHP reporting requirements. From October 1, 2017 to August 20, 2020, 3,688 CATEXs, 94 environmental assessments, and 13 environmental impact statements have been recorded in the EPHP DSS. For cultural resources, questions in the system primarily focus on compliance with Section 106 of NHPA, the Native American Graves and Repatriation Act, and EO 13007, *Indian*

Sacred Sites. Users are prompted to make an effect determination for proposed undertakings and upload required consultation and concurrence letters from SHPOs, THPOs, tribes, NHOs, and the ACHP, as appropriate. DHS HQ and Components use of the EPHP DSS is mandated by Departmental NEPA and cultural resource policies.

Partnerships

The nature of the DHS mission directly impacts how the Department identifies, manages, and uses historic properties. Security and access constraints severely limit the extent and ability of DHS HQ and Component facilities to establish partnership opportunities beyond Section 106 consultation with the SHPO/THPO and other consulting parties for specific undertakings with the potential to affect historic properties. DHS does not currently have a geospatial data sharing partnership with any other federal, state, or local agencies, Tribes, or members of the public. Despite these constraints, relationships with stakeholders and consulting parties on the identification of historic properties are being fostered and strengthened. The consulting parties partner with DHS HQ and Components to review proposed undertakings in the planning phase to identify historic properties that may be affected. Plans and undertakings may then be modified to the extent practicable to minimize or avoid adverse effects. Through these efforts with federal, state, and tribal partners, site identification, evaluation, and protection of historic properties throughout the Department is improved. Some examples of partnerships include the following.

CBP has several properties in its database that are owned or managed by another agency. For those properties, CBP defers to the other agency and coordinates with them to obtain information and make determinations regarding property eligibility. As an example, CBP is working with GSA to increase and improve partnerships to identify and evaluate historic properties. During the past two years, GSA has begun submitting draft determinations of eligibility to CBP for review and comment. The agencies are also sharing copies of reports and documentation to assist each other in the identification and evaluation of historic properties.

ICE has been proactive in developing relationships with SHPOs and THPOs to streamline the evaluation and identification of historic components of existing and potential facilities ICE is interested in acquiring to support its mission. For example, at its Honolulu, Hawaii facility, ICE has been actively involved in meeting with and discussing potential security upgrades, renovations, and construction projects at the facility with the Hawaii SHPO and a nonprofit organization in order to build relationships and form a better partnership moving forward.

The USCG maintains an ongoing partnership with the GSA and the National Park Service (NPS) for administration of the National Historic Lighthouse Preservation Act (NHLPA) process to transfer historic lighthouse properties from USCG ownership to qualified recipients. The NHLPA process includes NRHP evaluations by the USCG to determine eligibility and nominate historic properties for NRHP inclusion. The USCG also continues to exercise an on-going historic lighthouse out-grant authority.

S&T has contracted with the U.S. Army Corps of Engineers (USACE) Center for Expertise for Historic Structures and Buildings to assist in stabilization efforts of the NRHP-listed Plum Island Lighthouse, on Plum Island, New York. The work is expected to be completed in the next two

years. The stabilization of the 1896 lighthouse has been a concern of residents and historical societies for several years. While the public cannot easily access the lighthouse from land due to security protocols, many tours of Long Island Sound lighthouses take place each year which includes a viewing of the Plum Island Lighthouse from the water.

II. Protecting Historic Properties

Programs and Procedures

The methods utilized to protect historic properties in the DHS inventory varies based on mission needs. DHS compliance with Sections 106, 110, and 111 of NHPA continues to evolve and improve. During this reporting cycle, OCRSO designated the first DHS Deputy Federal Preservation Officer (FPO), provided Section 106 training opportunities for Components, and finalized draft revisions to the DHS HP Directive and Instruction. In general, DHS relies on the law and implementing regulations for Section 106, the HP Directive and Instruction, the EPHP DSS, and the EPHP Scorecard to aid in the identification, use, and protection of historic properties. DHS also utilizes the knowledge of subject matter experts in the EPHP Community of Practice, which is comprised of cultural and natural resource staff from each DHS Component.

Not all Components have a designated FPO or federal subject matter expert at every HQ, region, field office, campus, or sector. For example, FEMA has an active FPO and maintains a cadre of historic preservation specialists throughout the nation. CBP relies on contract support and the robust training of field law enforcement. USCG has just two individuals meeting the Secretary of Interior Professional Qualification Standards but has 121 NEPA Warrant holders who must attend NHPA trainings. Other Components have very few projects or mission needs that require NHPA compliance. For example, USCIS has a purely administrative function and is completely located in GSA-leased space. If subject matter experts are not available, historic preservation compliance activities may be performed through contract support or prepared by the project proponent or applicant. Components may also engage the DHS FPO or Deputy FPO for assistance. Regardless of staff and funding resources, DHS EPHP programs are required to comply with historic preservation statutory, regulatory, and Department requirements.

NHPA Section 106

DHS Components continue to comply with Section 106, and many have instituted or improved training programs for HQ and field staff. For example, SEP hosted a week-long EPHP training for Components in 2019 and Component-specific classroom and online trainings are available to new and seasoned employees at USCG, CBP, and FEMA.

The USCG has made important advances in the management of underwater shipwreck historic properties. It conducted Section 106 consultation with the New York SHPO and tribes for a 2019 oil cargo recovery project at the British Tanker COIMBRA Shipwreck south of Long Island, NY, sunk by a German submarine in 1942. This project recovered 476,000 gallons of oil from the sunken vessel.

NHPA Section 110

As mentioned previously, DHS's NEPA and HP Directives and Instructions provide policy and procedures for complying with historic preservation statutory requirements. DHS promotes and protects its historic properties through the development and use of guidance documents and policies, training of staff and contractors, establishment of Component-level preservation programs and offices, NRHP nominations, direct use, and lease agreements. Additionally, given the need for secure facilities, fencing and other security measures on most facilities keep Department assets and personnel safe with the added benefit of protecting Department historic properties from trespassing, vandalism, and looting.

In 2018, CBP updated its *Historic Preservation Identification and Evaluation Plan* (HPIE). The HPIE provides best management practices and guidelines for conducting the appropriate identification, evaluation and nomination of CBP properties to the NRHP, maintaining data within the current agency electronic system of record, and meeting the specific obligations for heritage assets and stewardship land. The document was updated to reflect the current business practices and organization structure of CBP.

DHS HQ and S&T have begun drafting plans to manage the historic properties located on Plum Island, NY, which has been Congressionally-mandated to close and be sold through GSA. The island contains a NRHP-listed lighthouse, the NRHP-eligible Fort Terry historic district, and the NRHP-eligible Plum Island Animal Disease Center (PIADC). As mentioned previously, S&T has contracted with the USACE to assist in stabilization efforts for the Plum Island Lighthouse. The Fort Terry historic district has been nominated to the NRHP and is currently in review by the NY SHPO. PIADC is still operational as a Level III lab with definitive health and safety requirements that may result in complex Section 106 and Section 110 compliance. S&T works closely with the DHS FPO, DHS Deputy FPO, and NY SHPO to ensure NHPA compliance while not impacting PIADC's important mission.

NHPA Section 111

Section 111 requires that federal agencies establish and implement alternatives for historic properties, including adaptive use and leases that are not needed for current or projected agency purposes. Except for the USCG lighthouse program, security issues and a lack of Department-wide real property authority preclude the use of Section 111 for most DHS Components. DHS HQ, CBP, FEMA, FLETC, and ICE continue to adaptively reuse historic properties for operational needs, when applicable. USCG continues its long-term program of out-granting lighthouse historic properties to qualified non-profit or state/local government organizations for rehabilitation and public visitation.

Partnerships

Many DHS HQ and Component operations take place in GSA-leased space and both agencies maintain a good working relationship. DHS HQ continues to work with GSA as the Department vacates the NRHP-listed Nebraska Avenue Complex and moves to the St. Elizabeths campus, which is a National Historic Landmark. In 2019, DHS HQ joined USCG on the campus and GSA plans to continue a building program on the campus to execute the DHS National Capital Regional Real Property Strategy. DHS anticipates moving more employees and Component

HQs to St. Elizabeths in the future and will remain active in participating in the master planning process.

The USCG cooperates with the National Oceanic and Atmosphere Administration (NOAA) to protect USCG-owned underwater historic properties. USCG is coordinating with NOAA's Office of Coast Survey to develop protocols for protecting historic USCG shipwreck locations from publication on NOAA public nautical charts. The USCG used underwater investigation assets of the NOAA Office of National Marine Sanctuaries to compile information on the USCG Cutter MCCULLOCH Shipwreck, which was used to prepare the property's NRHP nomination.

The USCG's long-term Bridge Permitting Program works in partnership with various state transportation authorities for Section 106 compliance relating to construction of bridges over navigable waterways. This program normally provides for the state agency partner to take the lead in Section 106 compliance for a bridge project.

The FLETC has partnered with the Glynn County Historic Preservation Society to provide historical displays and exhibits that are displayed by the Society at local historic properties. At present, one exhibit depicting law enforcement historic items is on permanent display at the Glynco Jetport (local airport) and another series of items is being displayed on a rotating basis at the historic St. Simons Island Lighthouse.

Due to security restrictions, FEMA's National Emergency Training Center (NETC) located in Maryland is not normally open to the public. However, once a year in October, NETC hosts thousands of visitors who attend the National Fallen Firefighters Memorial Weekend, a tribute to all firefighters who died in the line of duty during the previous year.

Program Alternatives

Program alternatives help DHS HQ and Components reduce overall historic preservation consultation costs and efforts allowing for increased focus on the management and protection of historic properties rather than on projects with little to no potential to affect historic properties. USCG and FEMA continue to utilize existing Memorandum of Understanding (MOU), Programmatic Agreements (PAs), and Prototype PAs for various mission needs and compliance efforts. In the last three years, CBP has executed two new PAs, has one PA in the signature process and a MOU regarding historic preservation in the signature process as of the date of this report.

In 2017, a PA was executed by CBP, New Mexico SHPO, New Mexico Bureau of Land Management (BLM), and the New Mexico State Land Office (NMSLO) regarding Tactical Infrastructure Maintenance and Repair (TIMR) Project, located in Hidalgo and Luna Counties, New Mexico. That PA addresses potential CBP maintenance activities along 51 miles of existing roads located on land managed by the BLM and 27.38 miles of existing roads located on land managed by the NMSLO. CBP determined that these activities do not meet Stipulation VI.C. of the Southwest Border Programmatic Agreement due to the presence of undetermined and NRHP eligible historic properties within the project Area of Potential Effects (APE). The road maintenance activities have the potential to affect historic properties, and in some cases,

those effects could be adverse due to their locations; however, the degree of potential effects to these sites varies greatly and cannot be fully determined until final design decisions are made. This PA is in effect until 2024.

In 2018, a PA was executed by CBP, the West Virginia SHPO, and the NPS Harpers Ferry National Historical Park (HAFE) Regarding CBP Undertakings at the Advanced Training Center, Harpers Ferry, West Virginia. This PA is intended to address CBP's maintenance responsibilities at the Advanced Training Center. While the facility has been extensively surveyed with no historic properties identified, NRHP listed landscape and properties under the management of HAFE are located along its eastern boundary. The terms of this PA include a list of CBP activities exempted from further review, processes for resolving conflicts and disagreements in a timely manner, protocols for addressing any inadvertent discoveries, and protocols for conducting emergency reviews. The items on this list focus on the maintenance and repair of various aspects of the facility. The 2018 PA also allows for after the fact consultation on actions taken by CBP in response to credible threats. This PA is in effect until 2025.

Programmatic Agreements have several benefits for CBP. The biggest benefit for the agency has been seen in the project review process. The environmental review process for approximately 75% of agency projects has been reduced from an average of 45 days, which includes the regulatory 30-day review period by the SHPOs and other appropriate stakeholders, to approximately one week. While the number of projects varies each year, CBP estimates that it saves approximately 1,000 staff hours (25 weeks) per year through use of its PAs. The majority of these saved staff hours are used by CBP to focus on projects with potential effects or that are more complex, as well as the development and maintenance of historic preservation programs and guidance documents.

Additional time and cost savings that cannot be quantified have been realized through use of the various PAs as planning tools. Across CBP, there has been an increase in the number of projects which have been designed or modified in the early planning stages to ensure the project meets the requirements of the negotiated exempted activities. This has reduced impacts on historic properties project timelines and agency costs.

An additional benefit of PAs are terms that establish field survey requirements and specify when CBP will conduct surveys. This is beneficial for project planning, provides time and cost savings for CBP, and improves agency relationships with stakeholders. Prior to the execution of each PA, there were often disagreements between the parties over survey requirements and the level of effort. During the past five years, these disagreements have been rare and were easily resolved. As a result, CBP has a better relationship and dialogue with the various stakeholders of the historic preservation process.

Program Comments have been rarely used at CBP as they have generally not applied to agency funded activities. CBP believes a national Program Comment regarding the routine maintenance and repair of properties that have been determined to be ineligible for listing in the NRHP would be beneficial. This area of Section 106 compliance accounts for the majority of CBP's consultation responsibilities nationally and requires a substantial amount of time and effort from the agency, SHPOs, THPOs, and tribes to prepare, review, and respond to correspondence for

routine projects with little or no potential to affect historic properties. It is not feasible for CBP to enter into a PA for every state or territory, which is what would be required without a Program Comment. Such a Program Comment would benefit not only CBP, but all federal agencies.

As of the writing of this report, CBP is in the process of executing a MOU with GSA regarding protocols for NHPA compliance at CBP facilities. CBP and GSA's Central Office have been working to develop an agreement on NHPA compliance since 2015 to address areas of disagreement between the agencies. The MOU seeks to address this by providing consistent goals, principles, and guidance where there is a GSA and CBP shared interest as real property owner, manager, lessee, occupant, or service provider. The MOU is intended to: clarify roles and responsibilities for both agencies; establish the Lead Agency for Section 106 and under what circumstances; provide CBP with a consistent methodology that applies to all GSA regions; avoid duplications of efforts for consultations and surveys, reducing project timelines and costs; reduce the risk of law enforcement sensitive data (i.e., photographs or building plans) becoming part of GSA public records; establish the Lead Agency for inadvertent discoveries and under what circumstances; and to address the curation of archeological collections. The MOU would have no expiration date; however, it includes a requirement for CBP and GSA to meet annually to review the MOU to ensure it reflects the current needs of both agencies.

III. Using Historic Properties

DHS Use of Historic Properties

The preservation ethic at DHS has produced historic property management programs that combine historic property stewardship with mission needs. Department real property is located throughout the U.S. and U.S. territories, in urban and rural areas, in predominately older buildings, stations, campuses, or ports of entry. While DHS has made measurable strides in its management of historic properties, challenges still remain for a variety of reasons. Physical and operational security requirements impact the management of all DHS owned historic properties. In all cases, these considerations limit the opportunities for DHS to provide public access to its facilities, as previously stated. Security considerations also generally limit the opportunities for DHS owned historic properties to contribute to community economic development; although certain lighthouse properties do provide such contributions.

Asset planning is based on Component and operational needs. Local economic development is not a primary factor in the planning process, though it is a consideration under NEPA scoping, and to enable legitimate trade and travel across borders. The Department does not create undue obstacles to the inclusion of its historic properties in state, tribal, and local tourism programs, such as walking tours and thematic studies, though it rarely funds those types of programs and has not funded such an activity during the past three years.

Considerations of space needs in urban areas are made by DHS HQ and Components pursuant to EO 13006, *Locating Federal Facilities on Historic Properties in Our Nation's Central Cities*. Many DHS Components are in GSA space within historic buildings or districts, both federal and commercial. However, most of these historic properties were specifically built for legacy agencies prior to 1960. These older properties are substantially smaller in size with less space

for expansion than newer facilities. As the agency mission, law enforcement standards, security requirements, and methodologies have changed over time, so have space requirements and preferred facility layout. Some facilities have also become surrounded by urban development over time, further hampering the ability to expand or modify some properties. While DHS makes every effort to retain and adapt its historic facilities to new uses and reside in GSA historic properties or districts when necessary, meeting operational and security needs remain the agency's priority.

Historic Federal Property Contributions

The USCG has used Section 110 of the NHPA to out-grant historic properties, as previously discussed. The out-grant process and consideration of local economic development in USCG asset planning remains the same as during the reporting period that ended in 2017. Protocols for out-granting are contained in the USCG *Real Property Management Manual*, Commandant Instruction M11011.11. The criteria considered include whether the out-grant will promote the local economy and serve the public interest, if the out-grant is for caring and protecting USCG real property when the property must be retained for USCG use, and whether there will be savings on the costs of operating and maintaining the property. The USCG usually uses out-granting for historic lighthouses and fosters heritage tourism by people visiting these properties.

The Coast Guard Cutter (CGC) EAGLE is the Coast Guard Academy (CGA) sail-training ship. The USCG determined the EAGLE as eligible for inclusion in the NRHP. In addition to providing at-sea training for CGA cadets, it participates in tall ship maritime heritage events and arranges for scheduled free public visitation. The CGC EAGLE has a Facebook page that publishes dates and locations for when it is available for visitation. People who visit aboard CGC EAGLE when docked at a community may contribute to the local economy by purchasing goods and services nearby, such as patronizing restaurants and shops.

Other Historic Preservation Requirements

Other laws besides the NHPA that directly affect the USCG's strategy for the protection and use of historic properties include the National Historic Lighthouse Preservation Act (NHLPA), Sunken Military Craft Act (SMCA), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). NHLPA provides for a partnership including the USCG, GSA, and NPS to arrange the transfer of historic lighthouses to appropriate recipients who must maintain their historic character. The SMCA ensures continuing USCG ownership of the service's substantial number of historic vessels lost at sea since its establishment in 1790 and provides management authority for appropriate investigation and protection from unauthorized disturbance.

An important factor influencing USCG decision making on the continued use or reuse of historic properties over the last three years has been funding for environmental cleanup pursuant to CERCLA. Limited funding available each fiscal year in relation to the number of properties subject to CERCLA compliance work requires project prioritization. The need to address pressing threats to human health and safety can result in non-historic properties taking

precedence for cleanup funding over other properties identified as historic. This can result in reduced opportunities for continued use or re-use of contaminated historic properties.

On January 25, 2017 President Trump signed Executive Order 13767: *Border Security and Immigration Enforcement Improvements* (EO 13767) focused on border security along the southern border. EO 13767 directs CBP to immediately plan, design, and construct a physical wall using the most appropriate materials and technology to effectively achieve complete operational control of the southern border. It also requires that all legally available resources be used to immediately construct, operate, control, or establish contracts to construct, operate, or control facilities to detain cross border violators at or near the land border with Mexico. EO 13767 also directs CBP to hire an additional 5,000 Border Patrol agents. While CBP has been updating its Border Patrol facilities across the southwest in the last decade and the newer facilities have been able to accommodate the hiring surge; older facilities have been identified as requiring modifications, additions, or replacement.

In 2018, CBP began actions to address an unprecedented surge in migrant caravan activity. Measures were undertaken to control or stop the flow of migrants, as necessary, in response to disruptions and challenges that the migrant caravans posed to border security and operational impacts at Ports of Entry. At each Port of Entry on the southern border, temporary port hardening measures such as additional lighting, bollards, shipping containers, jersey barriers, fencing, and concertina wire were installed. This provided additional hardening of the facilities without physical alteration of the structures and allowed CBP to more rapidly respond to changing situations on the ground by limiting or closing traffic at a Port of Entry. At each Port of Entry, concertina and razor wire was installed on the existing wall or barrier structure. The installation of the temporary fencing did not require ground disturbance.

In 2019 and at the direction of the President, DHS, Department of Justice, Health and Human Services, and GSA took emergency measures to deploy and operate temporary remote immigration hearing facilities at multiple locations on the southwest border. These measures were undertaken due to the unusually high volume of migrant activity at the southern border, which presents an ongoing border security and humanitarian crisis. On July 3, 2019, DHS notified the ACHP of the Migrant Protection Protocol program and that consultations would be conducted by CBP under the ACHP's provisions for emergency situations at 36 CFR § 800.12(b) due to the nature of the emergency. CBP made every effort to select sites without known undetermined, NRHP eligible, or NRHP listed historic properties in previously disturbed areas to the extent practicable within operational needs.

Sections 230-232 of the Consolidated Appropriations Act, 2019 (Public Law 116-6) contains legislative directions on how CBP's annual appropriation can and cannot be spent. CBP was directed to spend a portion of appropriated funds on the acquisition and deployment of border security technologies along with trade and travel assets and infrastructure, with most of this funding going towards non-intrusive inspection equipment at ports of entry. Such activities generally have low potential to impact historic properties as CBP is currently focused on designing and utilizing technologies that do not require facility modification or ground disturbance. CBP was also directed to spend a portion of the funds on construction and facility improvements including humanitarian needs, Office of Field Operations facilities, and Border

Patrol Station facility improvements. Those requirements have the potential to affect historic properties, though to date CBP has had only no effect and no adverse effect determinations.

Public Law 116-6 also required that primary pedestrian fencing, including levee pedestrian Fencing be constructed in the Rio Grande Valley Sector of Texas only. The amount of fencing under Public Law 116-6 was limited to approximately 55 miles, with construction prohibited in specific areas. The fencing designs used by CBP must be designs that prioritize agent safety and have been in use as of the date of the Consolidated Appropriations Act, 2017 (Public Law 115-31). Construction of new fencing in the Rio Grande Valley Sector is within or in proximity to historical buildings and districts; however, CBP has implemented an extensive outreach and consultation process to obtain information from landowners and other local, state, and federal stakeholders to identify historic properties that may be affected by the construction of the border wall system. Through this consultation process, CBP identified measures that avoid or minimize effects on these historic resources to the greatest extent possible.

Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, the Secretary of Homeland Security may waive certain environmental and other laws and regulations that the Secretary deems necessary to ensure the expeditious construction of border infrastructure. Although the Secretary's waivers mean that CBP has no legal obligation to comply with the laws included therein, including the NHPA, the Secretary has committed DHS to responsible stewardship of natural and historic resources. For those projects covered by a waiver, CBP has and will continue to utilize existing data and conduct pre-construction historic property surveys to identify any historic resources within the project area. In addition, CBP continues to coordinate and consult with stakeholders such as SHPOs and Tribes on historic properties that have the potential to be affected by a project, data analyses, and potential effects and, to the extent possible, offset or mitigate potential impacts on resources.

Section 111 and Other Authorities

Section 111 is not often used Department-wide as many Components do not have the legal authority to lease excess properties to other parties. For example, when CBP properties are no longer needed, the means of property disposition depends on property ownership. If the property is leased, CBP terminates the lease and returns the property to its owner in accordance with the terms of the lease agreement. If the property is in federal ownership, the property is transferred to GSA for reuse by another federal agency or disposal by GSA.

The USCG routinely uses NHPA Section 111 authority to out-grant historic properties. This is exercised through the 1996 *Programmatic Memorandum of Agreement among the U.S. Coast Guard, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers regarding out-granting of historic lighthouse properties*. The USCG uses this PA when a local non-profit or state/local government entity expresses interest in maintaining a historic USCG lighthouse and making it available for public visitation. The USCG uses the proceeds from Section 111 leases for maintaining other lighthouse properties. There have been no new lighthouse out-grants in the past three years and available proceeds have not increased. The presence of an appropriate steward maintaining a historic lighthouse may allow the USCG to slate the property for NHLPA divestiture, which can provide the out-grant

party an opportunity to apply for ownership through a competitive process. The USCG has not used the NHPA Section 111 authority to engage in the exchange of historic properties.

IV. Successes, Opportunities, and Challenges

CBP

Memorandum of Understanding between General Services Administration and U.S. Customs and Border Protection Regarding Protocols for National Historic Preservation Act Compliance at Customs and Border Protection Facilities.

CBP and GSA worked for several years to develop an agreement to address areas of disagreement and duplication of effort between the agencies for NHPA compliance at CBP facilities. In 2020, the agencies reached an agreement memorialized in a MOU. The MOU has nationwide applicability at all GSA facilities where CBP is a tenant and at CBP facilities where GSA conducts Reimbursable Work Authorization activities for CBP.

Among the issues encountered by the agencies which led to discussions about an MOU were the inclusion of law enforcement sensitive information in public documents, lead agency conflicts, and designating which agency will make determinations of eligibility under certain circumstances. The MOU provides consistent goals, principles, and guidance on NHPA requirements when there is a shared interest in a property or project.

Furthermore, the MOU clarifies the roles and responsibilities of each party and establishes processes for reciprocal communication, review, and record sharing including the following:

- Responsibilities for the Lead Federal Agency;
- Protocols regarding activities at Federal Facilities and on Federal Lands Under GSA
- Jurisdiction;
- Protocols regarding the installation by CBP of Technologies and Technology Upgrades at Federal Facilities and on Federal Lands under GSA Jurisdiction;
- Protocols regarding GSA Reimbursable Work Authorization Activities at Federal
- Facilities and on Federal Lands Under CBP Jurisdiction;
- Protocols regarding GSA Survey of Federal Facilities and Federal Lands Under GSA
- Jurisdiction;
- Protocols regarding Inadvertent Discoveries;
- Protocols regarding the Curation of Artifacts, including the transfer of any existing CBP
- collections from GSA facilities to GSA; and
- Responsibilities and protocols regarding disasters and emergencies.

The MOU has no expiration date, but it does institute an annual meeting between GSA and CBP to discuss the status of the relationship between the two agencies and any issues that have arisen during the year. The annual meetings also provide both agencies with the opportunity to propose revisions or amendments. In addition to the annual meeting, there will be an annual reconciliation of the GSA and CBP historic property databases and the exchange of supporting

documentation. This will ensure both agencies have the same data on the NRHP status of the federal facilities under GSA jurisdiction.

As of July 2020, the signature process for the MOU is complete with execution anticipated in August 2020.

Fajardo Custom House Renovation Project

500 Calle Unión, Fajardo, Puerto Rico

In order to balance agency needs and historic preservation requirements at the Fajardo Customs House and other facilities in Puerto Rico, CBP has developed a Section 106 process with the SHPO to work together before project details are designed, which has minimized effects to historic properties while also meeting agency requirements.

The 1930 building (Figure 1) was designed by American architect Albert Nichols. Designed in the Spanish Colonial Revival-style to reflect its location, the building retains significant character defining features after multiple renovations in its 90-year history including a terra cotta tile roof, roof brackets, copper gutters, a terracotta cartouche on the exterior, the original U.S. Custom House signage, exterior grille work, plaster shields and faience tile on the interior, and grillwork over the cashier's window.



Figure 1: Fajardo Customs House in 1930 (facing northwest).

To preserve these elements, CBP created a design team whose direction included the preservation of as much original fabric as possible (Figure 2). Much of the team's work involved cleaning and appropriate repair, such as for the cartouche, shields, and tile. The biggest challenge for CBP was installing new bullet resistant windows that mimicked the original windows, which are no longer extant. The final design, developed in consultation with the SHPO, uses simulated divided lights to echo the historic window design. CBP was also able to design a way to install the required bullet-resistant protection at the historic cashiers' windows behind the historic grillwork without damaging the historic fabric. As part of the project, CBP was also able to remove past unsympathetic renovations. The drop ceiling was removed, and the original ceilings were restored. The newly exposed ductwork,



Figure 2: Fajardo Customs House in February 2017. Note altered fenestration and coloring of replacement windows.

wiring, and plumbing were updated as part of this effort as well. The exposed utilities allow easier access for repairs and prevented new damage to the historic interior surfaces.

Throughout the design process, CBP worked closely with the SHPO. Consultation was initiated early in order to address the various challenges when changes had minimal cost and time implications for CBP. Through close coordination with the SHPO architectural team, the project ultimately received concurrence with a conditional no adverse effect determination.

The Fajardo Customs House renovation project will be completed later in 2020.

FEMA

The PA for FEMA's NETC continues to demonstrate the effectiveness of a tailored site-specific approach to integrating Section 106 compliance into the management of a prominent FEMA facility and avoiding adverse effects to its historic campus and is a model for other FEMA facilities to consider. Across all its facilities since 2017, FEMA has ensured that proposed scopes of work for repair, restoration replacement, and new construction activities have avoided any adverse effects to historic properties.

A major challenge for FEMA continues to be building the internal capacities of its facilities to provide appropriate historic preservation technical expertise to conduct Section 106 compliance review. While staff meeting SOI Professional Qualification Standards reside within OEHP and its regional offices and is currently utilized for Section 106 review for undertakings at FEMA facilities, the primary focus of this staff is working with FEMA assistance programs to satisfy their compliance with Federal environmental and historic preservation requirements. The ability of FEMA facilities, particularly NETC, MWEOC, and CDP, to procure technical expertise will be critical to FEMA continuing to successfully fulfill its NHPA compliance responsibilities.

FLETC

Security concerns forced the removal of a historic display at the Glynco campus, Building 1. However, the display was greatly improved and relocated with a series of displays now located in Building 912. In addition, several other monuments/displays were added to building 912 (Figure 3) which is accessible to all students and approved visitors. Additionally, FLETC senior management has committed to support the display of historical policing artifacts in buildings throughout FLETC's campus in the agency's strategic plan.



Figure 3: Portion of an I-Beam from the Twin Towers in New York City.

ICE

ICE continues to use and maintain the Honolulu Facility, a well-preserved historic immigration facility that was a processing and Japanese American internment site during World War II, now listed on the NRHP. Challenges associated with the facility include implementing security upgrades and building renovations while not impacting the historical integrity or character of the facility. ICE has been successful in working through these challenges through use of formal and informal consultations, which have led to the development of a draft Memorandum of Agreement and a PA to allow ICE to better manage and maintain the property and its historic character.

USCG

During the 2017-2019 timeframe, the USCG completed eleven in-person eight-hour trainings on basic Section 106 compliance at nine Districts, at Headquarters, and at the training center in Yorktown, VA. In addition, the USCG will have a contract in place by the end of this fiscal year to develop USCG -specific basic Section 106 on-line training. This contract will also have an option that the USCG can exercise in the future to create a USCG -specific advanced Section 106 on-line training, which will cover how to write Memoranda of Agreement and how to utilize Section 106 program alternatives. Given the current pandemic, restrictions on travel, and the possible dangers of group training due to COVID 19, on-line training opportunities are even more important for USCG now than in the past. The online training will also provide a means for USCG staff to receive NHPA training that does not require travel or tuition funds.

Over the last three years, the USCG's Bridge Program has had several projects with significant NHPA considerations and requirements, including PAs, Memoranda of Agreement, and government-to-government consultation meetings with tribal entities. One example is the "All Aboard Florida Intercity Passenger Rail Project," which required new and modified railroad bridges between Orlando and West Palm Beach, Florida. The USCG executed a PA with the USACE, Florida SHPO, ACHP and the applicant to determine roles and responsibilities for each entity in order to ensure the preservation of the historic interests for the six bridge projects along the route of the railroad. This project included the discovery of archaeological and cultural resources, Native American sites, and historic bridges. Specifically, the PA established requirements for new bridge designs to be consistent with their associated historic districts, proper documentation of historic bridges in accordance with the Historic American Engineering Record Standards, requirements for archaeological monitoring and an unanticipated discoveries process, and the creation of a historic interpretation website. The signatory parties signed the PA in August 2017, and the USCG successfully utilized the PA for each of the bridge projects.

There are limitations on the USCG's ability to carry out NHPA obligations efficiently and effectively. These include lack of adequate professionally qualified staff, inadequate funding to hire qualified staff, inadequate funding to clean contaminated historic property sites, and delays in receiving responses from certain SHPOs due to the on-going pandemic. Another challenge is the large number of USCG facilities and vessels potentially eligible for inclusion on the NRHP due to being 50 years or more in age. The number of such facilities and vessels increases with each year's passing.

Conclusion

DHS continues to evaluate the efficiency and strength of historic preservation programs across its many Component agencies, and the methods used to identify, protect, and use historic properties. Created from 22 federal agencies in 2002, DHS Component historic programs are at varying levels of maturity. Current initiatives that will be reported in FY2023 include additional OCRSO Scorecard historic metrics, a robust training program, and a revised HP Directive and Instruction to create a more consistent approach to historic preservation planning and compliance throughout the Department while still recognizing individual Component missions, needs, and abilities.