



## ACHP COMMITTEE MEETINGS SUMMARY

Meetings via Zoom

March 2024

### REGULATIONS AND GOVERNANCE COMMITTEE

Committee Chairman Jordan Tannenbaum welcomed participants on March 18. Jaime Loichinger provided updates on staffing: Dana Daniels, Assistant Historic Preservation Technician, and Lauren Cooper, Army Liaison, have recently joined the office. Hiring is underway for another assistant historic preservation technician, a Bureau of Land Management liaison, a training specialist, and a program analyst in the Federal Permitting, Licensing, and Assistance Section. Also, John Eddins is retiring at the end of March after 18 years in the Office of Federal Agency Programs (OFAP). New Equity Officer Candra Teshome was also introduced.

#### **Chair's Report and Recommendations on the Application and Interpretation of Federal Historic Preservation Standards**

ACHP Chair Sara Bronin reminded members that her report was shared on March 1 and was based on comments received through the comment period conducted last summer. Chair Bronin described its conclusions, noting that her recommendations were intended to generate discussion on this topic. She summarized her conclusions that there appear to be variations in state and local government interpretation of the *Secretary of the Interior's Standards for the Treatment of Historic Properties* and confusion around the application of the *Standards* in comments submitted.

Some members commented on the report's development process, including the decision to make the report public before member review. Others noted Section 106 connections in that sometimes parties downplay adverse effects by arguing that certain treatments meet the *Standards*, where acknowledgement of adverse effects followed by minimization and mitigation strategies could be more successful. Chair Bronin sought comments on the ACHP's role going forward and what next steps should be taken with the report's conclusions, with some members indicating an interest in providing comments to the chair. Chair Bronin remains open to further input.

#### **Analysis of Housing Program Alternatives and Update on Guidance**

The role of historic preservation in meeting housing needs is addressed in the recent ACHP Policy Statement on Housing and Historic Preservation. Following on the policy statement, staff conducted an analysis about needs for a nationwide housing program alternative. Ms. Loichinger reviewed housing efficiencies that have been created in program alternatives for both property managing and assistance agencies. The bulk of housing undertakings are generated by Department of Housing and Urban Development (HUD) responsible entities, and a prototype programmatic agreement, designated by the ACHP chair, would be one way to make efficiencies in widespread use at the local level available nationwide while preserving the ability for states and local governments to tailor the tool to their needs.

HUD and the Department of Homeland Security are interested in working with the ACHP on housing program alternatives. Other program alternatives might also be expanded to offer exempted categories of undertakings, for example, to the housing sector. Staff will provide additional information in May after further discussion with key stakeholders. Related guidance is also in development and may focus on filling in knowledge gaps on adverse effects to illuminate how they depend on an understanding of the

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features that make a property significant and whether the integrity of such features is diminished.

### **Army Pre-1919 Housing Program Comment**

The Army has formally submitted its request for a program comment to address its inventory of pre-1919 historic housing, more than 70 percent of which is designated as or within a National Historic Landmark (NHL). The Army noted that the proposed program comment will make maintenance and upgrades of these homes more viable. Most comments on the proposal have focused on its allowance of substitute building materials and how it addresses requirements for a higher standard of care for NHL properties.

The ACHP is preparing to host consultation meetings with Indian Tribes and State Historic Preservation Officers (SHPOs) and expects to reach a decision on the program comment request by May 17. The Army has responded to and integrated all ACHP staff comments to date. Some members object to aspects of the proposed program comment, including the National Conference of State Historic Preservation Officers (NCSHPO), which perceives the efficiency as removal of any future requirement to consult SHPOs, and the National Trust for Historic Preservation, which is concerned about the higher significance of the historic properties in question. A special members meeting will take place in April where the proposal and these questions can be discussed in more detail.

### **Updates and New Business**

Members heard an update on an amendment to the ACHP's operating procedures on how the chair may respond to legislative proposals of exemptions from Section 106 review. An implementation plan for the recent historic property stewardship report to the President is being prepared by staff, and the focus of the agency's work now turns to implementing its recommendations. Chair Bronin mentioned her interest in pursuing additional GIS resources for Section 106 and asked federal agencies how they would like to access information about properties already identified and determined eligible for the National Register.

## **POLICY AND LEGISLATIVE AFFAIRS COMMITTEE**

Committee Chairman Sonny Ward called the meeting to order on March 18.

### **Climate Policy Statement Implementation**

Chair Bronin briefed the committee on her recommendation regarding creation of a federal Climate Heritage Office, preferably housed at the ACHP. Some members stressed the importance of formally surveying the work that federal agencies already are doing regarding climate change and historic properties. Members were quite positive about the idea with several focusing on the value of an "all-of-government" approach that such an office might encourage in federal policy making on climate change and historic properties.

Interest was also expressed in further exploring the role such an office could play in cross-agency coordination; collaboration with states, Tribes, and local communities; and as a clearinghouse of information. Specific areas of interest that were discussed included state and local adaptation planning; international best practices; historic buildings and decarbonization; disaster planning; managed retreat; and climate-friendly transportation.

Chair Bronin provided an update on the ACHP's planned climate heritage conference, which will be October 4, 2024, in partnership with Georgetown Law Center. The purpose of the conference is to draw from best practices from other countries to inform domestic policy. She also reported that the ACHP is exploring issues regarding preservation and climate-friendly transportation with the Department and Transportation and the Permitting Council. Susan Glimcher reported on public outreach regarding the policy statements on housing, climate, and burial sites, providing data for attendance and views for recent online policy chats.

### **Housing Policy Statement Implementation**

Ms. Loichinger reported on a recent analysis of Section 106 program alternatives for housing projects and housing-related Section 106 guidance from the past five years. Based on that analysis, OFAP staff recommends further work with HUD and the communities receiving HUD funding to build on existing statewide programmatic agreements (PAs) to create a prototype PA that could be used nationally. This would be similar to the approach that has been taken by the Federal Emergency Management Agency. However, HUD noted that the few statewide PAs that HUD has completed have taken a long time to complete and questioned whether creation of a prototype PA is the most viable path forward. Ms. Loichinger noted there also may be opportunities to expand existing program alternatives for land and property managing agencies. For instance, perhaps program alternatives for Army housing could be extended to all of the Department of Defense. OFAP also is exploring options for Section 106 housing-related case studies and other guidance, including in the context of broader guidance on adverse effects to historic properties.

Chair Bronin noted the breadth of concern regarding housing and historic preservation. Many public comments addressed in her report on the *Secretary of the Interior's Standards for Rehabilitation* relate to housing projects. She and Mr. Ward recently participated in a public meeting with California officials in Los Angeles regarding the use of historic buildings for housing. Future such events are being planned in other cities.

### **Data/Digitization Task Force Follow-Up**

Chair Bronin updated the group on discussions regarding possible data collection and mapping regarding historic properties. In a recent informal poll of Federal Preservation Officers, 96 percent of respondents said they would benefit from a repository of information about properties previously found eligible for historic designation through Section 106 processes completed by other federal agencies. If the ACHP hosted such a platform, it also could complement the Section 106 document digitization project that is currently underway. Work to identify potential funding sources is ongoing.

### **Policy-Related Equity Issues Implementation Discussion**

Dru Null introduced Ms. Teshome and drew the committee's attention to questions in the meeting book regarding next steps in addressing equity in the ACHP's preservation policy initiatives. HUD stressed the inequities many communities face regarding climate impacts and welcomed further discussion with the ACHP on that topic. All federal agencies are charged with developing an environmental justice strategic plan, which will provide context for future consideration of preservation issues.

Erik Hein (NCSHPO) noted that SHPOs may not specifically address this as a programmatic topic, but they are looking at their various programs and considering how to reach a broader range of communities. A few state governments have specific equity departments. He said the scope of environmental justice work may not always be evident or consistent, and that we thus need to be clear about what we are trying to achieve. Shasta Gaughen (NATHPO) advised against excluding Tribal members who do not live on trust lands from outreach to non-Tribal underserved communities.

### **Legislation: Operating Procedures Amendment–Feedback Update**

Javier Marques provided an overview of the three comments received on the proposed Operating Procedures amendment regarding responding to legislative exemptions to Section 106. Following a brief discussion, Mr. Ward acknowledged a general consensus and said he would bring the amendment forward for a vote at the ACHP business meeting.

### **Legislation: Recent ACHP Advising on State and Local Legislation**

Ms. Null reminded the committee that the ACHP had been asked—in accordance with the Operating Procedures—to advise the Florida state legislature on the potential impact of the proposed Resiliency and Safe Structures Act on historic properties. The ACHP's comments flagged numerous issues with the bill.

Unfortunately, the bill passed the legislature and was sent to the governor for signature.

As discussed in a recent email from Chair Bronin, the ACHP received a request to look at another bill, this time in Connecticut. It would allow state agencies to appeal SHPO-proposed mitigation under state environmental law and allow recipients of state funding to forgo consultation with the SHPO by paying mitigation costs upfront. Public involvement would be limited or nonexistent. Committee members generally expressed support for weighing in on the bill.

### **Internship Program Discussion**

Ms. Null reported that the current cohort of interns are being paid by a new funding source—the Washington SHPO. The ACHP Foundation is administering the funding and, as in the past, will be fund raising to support upcoming groups of interns.

## **TRIBAL AND INDIGENOUS PEOPLES COMMITTEE**

Committee Vice Chairman Shasta Gaughen called the meeting to order on March 19.

### **Native Hawaiian Interagency Memorandum of Understanding**

Guest speaker Ka‘i‘ini Kaloi, Director of the Department of the Interior (DOI) Office of Native Hawaiian Relations (ONHR), discussed the content and purpose of the interagency Memorandum of Understanding Among Participating Agencies of the Native Hawaiian Federal Interagency Working Group (Native Hawaiian MOU), DOI’s Standard Operating Procedures for Consultation with the Native Hawaiian Community, and the ‘Ōlelo Hawai‘i Policy. Mr. Kaloi provided background on the Native Hawaiian MOU including a recap of federal relations with the Native Hawaiian community. He went on to identify a number of products that were produced by the interagency working group and how those have supported federal agency interactions with the Native Hawaiian community. Mr. Kaloi noted that the updated Native Hawaiian MOU calls on signatories to adopt DOI’s Standard Operating Procedures for Consultation with the Native Hawaiian Community and the ‘Ōlelo Hawai‘i Policy in an effort to generate consistency among federal agencies who interact with the Native Hawaiian community.

Dr. Gaughen shared perspective on the challenges that Native Hawaiians face in the Section 106 process, in acquiring and facilitating grants and other federal funding sources, and with generating consistency in regard to federal agency engagement. Mr. Kaloi noted that the new MOU is open to all federal agencies and departments that wish to join but is particularly dependent on large land managers like the Department of Defense and DOI to ensure it is successful. Dr. Gaughen requested that interested federal agencies contact Mr. Kaloi to express their interest in joining the Native Hawaiian MOU.

### **Executive Order 14112: Reforming Federal Funding and Support for Tribal Nations to Better Embrace our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination**

Guest speaker Morgan Rodman, Executive Director, White House Council on Native American Affairs (WHCNA), joined the committee to discuss Executive Order 14112 (EO). He said the EO’s purpose is to 1) align all aspects of federal funding and related policies broadly with the current federal policy of supporting Tribal self-determination and Tribal sovereignty; 2) engage agencies in a coordinated assessment of funding gaps needed to allow the federal government to better meet its trust responsibility to Tribal Nations; and 3) make federal funding for and accessed by Tribes more flexible, equitable, and accessible by systematically assessing and removing access barriers. The EO also reiterates that Indigenous Knowledge is and should be treated as self-supporting, self-certified information and underscores the need for the respectful treatment of Indigenous Knowledge and sensitive information throughout federal processes, policies, and protocols related to the implementation of federal programs. There is also a recently established subcommittee on the WHCNA meant to advance agency action related to the MOU.

Mr. Rodman also outlined how the Administration intended to ensure the EO was implemented, including through development of new subcommittees and working groups under the guidance of WHCNA, and through reporting requirements identified in the EO. Dr. Gaughen spoke about how this EO could support historic preservation including funding for Tribal Historic Preservation Offices, contracting with Tribal experts to inform Section 106 reviews, and developing additional grant funding opportunities related to cultural preservation. Committee members inquired about opportunities with the funding dashboard associated with the EO and opportunities to include their agency data.

#### **ACHP Policy Statement on Indigenous Knowledge and Historic Preservation**

Dr. Gaughen noted the intent to vote on the draft policy at the next ACHP business meeting. She said staff had been working diligently to update the draft in response to comments received, and she fully supported the policy moving forward to a vote. Ira Matt provided a summary of comments received from a recent consultation event with Tribal and Native Hawaiian leaders. He also summarized comments and meetings from federal agency partners. Overall, the comments from Tribes, Native Hawaiians, and federal agencies were supportive and sought to improve the policy statement. The primary focus for several commentors was looking beyond adoption of the policy and toward implementation. Consulting parties hoped a companion document would be produced to support implementation of the policy.

Mike Martinez (DOI) expressed his support for the policy and noted his appreciation for the extended consultation process that occurred to inform its development. Other committee members expressed similar support noting their appreciation in seeing comments and recommended text included in the final draft of the policy.

#### **Climate Heritage Office**

Chair Bronin updated members on her discussions surrounding the need and intent for a proposed Climate Heritage Office. She recounted proposing the idea at the Strengthening Historic and Cultural Preservation Roundtable; *The Hill* also published an op-ed from Chair Bronin repeating her comments from the Roundtable. Members of Congress and their staff, as well people in the Administration, have expressed interest in understanding a more complete vision for the scope and structure of this office. She noted that this topic would be ongoing and welcomed committee members to share their comments with her at any time.