



VOLUME 1 - ABOUT THE ACHP

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MAIN BUILDING RENOVATION
AT SOUTH BRONX (NY) JOB
CORPS CENTER, KEEPING
HISTORIC INTEGRITY INTACT
(DEPARTMENT OF LABOR)

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The Advisory Council on Historic Preservation (ACHP) is an independent federal agency with the primary mission to encourage historic preservation in the federal government and across the nation.

The National Historic Preservation Act (NHPA), which established the ACHP in 1966, directs federal agencies to act as responsible stewards when their actions affect historic properties. The ACHP is given the legal responsibility to assist federal agencies in their efforts and to ensure they consider preservation during project planning.

The ACHP serves as the federal policy advisor to the President and Congress; recommends administrative and legislative improvements for protecting the nation's diverse heritage; and reviews federal programs and policies to promote effectiveness, coordination, and consistency with national preservation policies. A key ACHP function

is overseeing the federal historic preservation review process established by Section 106 of the NHPA. Section 106 requires federal agencies to consider the effects of projects, carried out by them or subject to their assistance or approval, on historic properties and provide the ACHP an opportunity to comment on these projects prior to a final decision on them.

STRUCTURE OF THE ACHP

The ACHP, served by a professional staff in Washington, D.C., comprises 24 members who meet throughout the year to oversee its work.

Members include the following Presidential appointees and other organizations' leadership:

- Senate-confirmed chairman selected from the general public
- Three members of the general public
- Four expert members

- Member of an Indian Tribe or Native Hawaiian Organization
- Municipal mayor
- State governor
- Departments of the Interior; Agriculture, Defense, Homeland Security, Housing and Urban Development, Transportation, Veterans Affairs
- General Services Administration
- Architect of the Capitol
- Council on Environmental Quality
- National Trust for Historic Preservation
- National Association of Tribal Historic Preservation Officers
- National Conference of State Historic Preservation Officers

The ACHP also has five Observers.

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MISSION STATEMENT: The Advisory Council on Historic Preservation, an independent federal agency, promotes the preservation, enhancement, and sustainable use of the nation's diverse historic resources and advises the President and the Congress on national historic preservation policy.





US COURTHOUSE AND POST OFFICE,
CHARLESTON, SC, A SECTION 106 SUCCESS
STORY (WIKIMEDIA COMMONS)



DESERT VIEW WATCHTOWER
RESTORATION, GRAND CANYON, AZ,
A SECTION 106 SUCCESS STORY (NPS)



MERIDIAN BRIDGE PROJECT, SD AND NE,
A SECTION 106 SUCCESS STORY (NPS)

For more information and
additional guidance, please visit:
www.achp.gov



PROGRAM AREAS

The ACHP's major program areas are reflected in its organizational structure:

The **Federal Agency Programs** office administers the NHPA's Section 106 review process to promote efficient federal project planning that gives due consideration to the historic places that communities value. It works with federal agencies to improve how they incorporate historic preservation considerations into their programs and procedures and their responsibilities under the NHPA. The office manages the ACHP's extensive training program to instruct a diverse range of participants in the Section 106 review process, reaching both federal and nonfederal stakeholders.

The **Policy and Legislative Affairs** office undertakes research and development of policies to promote the benefits of historic preservation for advancing economic development, community revitalization, climate resilience, and other public goals. The office analyzes legislation proposed at the federal/state/local levels and federal executive branch policy initiatives. It also works to coordinate agency equity initiatives and manages the ACHP's intern program.

The **Tribal and Indigenous Peoples** office addresses program and policy matters related to issues of concern to Indian Tribes, Native Hawaiian Organizations, and Indigenous Peoples. It provides a wide range of guidance, information, training, and technical assistance to federal agencies and other participants to promote early and effective consultation and engagement with Indian Tribes and Indigenous Peoples in the Section 106 review process.

The **Communications, Education, and Outreach** office conveys the ACHP's vision and message to constituents and the general public through information and education programs, as well as public recognition programs for historic preservation achievement. The office leads ACHP efforts to expand public appreciation for historic preservation, promote the engagement of youth and diverse communities in the national preservation program, and advance education and training.

SECTION 106

Section 106 of the NHPA requires each federal agency to take into account the effects of its undertakings on historic properties. It applies when there is a federal, federally assisted, or federally licensed activity; and that activity has the potential to affect properties listed in or eligible for listing in the National Register of Historic Places. The responsible federal agency must identify potentially affected historic properties; evaluate effects upon them; and consider alternatives to avoid, minimize, or mitigate any adverse effects. To do so, the agency consults with appropriate State or Tribal Historic Preservation Officers, other state and local officials, Indian Tribes, Native Hawaiian Organizations, and applicants for federal assistance. It considers their views and concerns about historic preservation issues, along with those of the public, when making final project decisions. Each year, more than 120,000 undertakings undergo Section 106 review. While the vast majority of cases are resolved at the state or Tribal level, others present challenging preservation issues that require the ACHP's involvement to ensure an efficient review process that results in reasoned federal agency decisions. While the Section 106 process in the end is advisory, its outcomes most often represent solutions agreed to by the consulting parties.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308, Washington, DC 20001

Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



A One-Stop Shop for Information for ACHP Members

Key Links

Items that members may want to return to frequently as they do their ACHP work

[Latest Meeting Book and Information](#)

ACHP Member Website
www.achp.gov/memberresources

A special Member website contains privileged information accessible only by ACHP members, and includes information regarding upcoming meetings, reference material, and member contact information. It is a valuable and efficient way to access information about your role as a member. Should you have any suggestions for improvements, please do not hesitate to contact Lynne Richmond, ACHP Acting Director, Office of Communications, Education, and Outreach at lrichmond@achp.gov.

**Legislative and Executive Order Authorities
of the Advisory Council on Historic Preservation**

The following is a list of legislative and Executive Order authorities that directly involve the Advisory Council on Historic Preservation (ACHP), with summaries of each.

The authorities listed as “active” are those that are used by the ACHP relatively frequently, or that still include ACHP participation on an ongoing basis. Those listed as “dormant” are those authorities that, while still in effect, are used rarely or have not been used by the ACHP recently. Finally, those listed as “completed” are those that requested a task that has already been accomplished.

I. Active

| Law | Summary |
|---|---|
| <p>National Historic Preservation Act 54 U.S.C. § 300101 et seq.</p> | <ul style="list-style-type: none"> - Established the ACHP as a federal agency. - Sets the following duties of the ACHP: <ul style="list-style-type: none"> (1) advise the President and Congress on matters relating to historic preservation, recommend measures to coordinate activities of federal, State, and local agencies and private institutions and individuals relating to historic preservation, and advise on the dissemination of information pertaining to those activities; (2) encourage, in cooperation with the National Trust for Historic Preservation and appropriate private agencies, public interest and participation in historic preservation; (3) recommend the conduct of studies in such areas as— <ul style="list-style-type: none"> (A) the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments; and (B) the effects of tax policies at all levels of government on historic preservation; (4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation; (5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation; (6) review the policies and programs of federal agencies and recommend to federal agencies methods to improve the effectiveness, coordination, and consistency of those policies and |

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| | <p>programs with the policies and programs carried out under this division;</p> <p>(7) inform and educate federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the ACHP's authorized activities;</p> <p>(8) provide an annual report to the President on ACHP activities; and</p> <p>(9) recommend to the Secretary of State the members of the official U.S. delegation that will participate in the activities of the international Centre for the Study of the Preservation and Restoration of Cultural Property.</p> <p>- Authorizes the ACHP to:</p> <p>(1) issue the regulations implementing Section 106 of the National Historic Preservation Act in its entirety; see 36 CFR Part 800.</p> <p>(2) secure directly from any federal agency information, suggestions, estimates, and statistics regarding historic preservation matters;</p> <p>(3) enter into agreements with Indian tribes whereby Tribal laws substitute Section 106 regulations in their Tribal lands;</p> <p>(4) request from the Secretary of the Interior a report detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects;</p> <p>(5) receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the National Historic Preservation Act; and</p> <p>(6) enter into cooperative agreements with federal agencies that administer a grant or assistance program for the purpose of improving the effectiveness of such program in meeting the purposes and policies of the National Historic Preservation Act.</p> |
| <p>Preserve America Program 54 U.S.C. § 311101 et seq.</p> | <p>Establishes the Preserve America Program, a partnership between the Department of the Interior and the ACHP.</p> <p>It provides competitive grants to States, local governments, Indian Tribes, Preserve America Communities, State and Tribal Historic</p> |

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| | <p>Preservation Officers, to support preservation efforts through heritage tourism, education, and historic preservation planning activities. It also sets up the process for designating communities as Preserve America Communities.</p> <p>The Preserve America program is authorized but not currently funded.</p> |
| <p>Preserve America Executive Order EO 13287</p> | <p>Establishes as federal policy that the federal government will provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the federal government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties.</p> <p>Among other things, it requires the ACHP to submit a report to the President, every three years, on the federal agencies' progress in identifying, protecting, and using historic properties that they own.</p> <p>It also directs the ACHP to use its existing authority to encourage and accept donations of money, equipment, and other resources from public and private parties to assist other agencies in the preservation of historic properties in federal ownership. This authority was used to restore the Apollo Mission Control Center in 2019.</p> |
| <p>Federal Permitting Improvement Steering Council (under FAST-41) 42 U.S.C. § 4370m-1</p> | <p>Includes the ACHP as a member of the Federal Permitting Improvement Steering Council (Permitting Council).</p> <p>Among other things, the Permitting Council manages the Permitting Dashboard (https://www.permits.performance.gov/), which is an online tool for federal agencies, project developers, and interested members of the public to track the federal government's environmental review and authorization processes for large or complex infrastructure projects such as those under the Fixing America's Surface Transportation Act (otherwise known as FAST-41). The ACHP advises other Permitting Council members on steps they can take to improve the efficiency and effectiveness of their Section 106 reviews for covered and other projects and develops best practices for carrying out such reviews.</p> <p>This law was preceded by, and borrowed many of the concepts from, EO 13604. That executive order included the ACHP as a member in the Steering Committee on Federal Infrastructure Permitting and Review Process Improvement. It was an initiative to modernize the Federal permitting and review process to achieve better projects, improved environmental and community outcomes, and shorter decision-making and review timelines for infrastructure projects.</p> |

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| <p>White House Council on Native American Affairs EO 13647</p> | <p>This Executive Order established the mentioned council to improve coordination of federal programs and the use of resources available to Tribal communities. The ACHP is one of its members.</p> |
| <p>Patent office building improvements and the Smithsonian P.L. 108-72 (Aug. 15, 2003)</p> | <p>Required the Smithsonian to provide the ACHP a reasonable opportunity to comment on improvements to the Patent Office Building in Washington, DC. The Smithsonian complied with this requirement in 2005.</p> <p>Among other things, this law also requires the Smithsonian to comply with Section 106 with regard to projects in the District of Columbia which are subject to the review and approval of the National Capital Planning Commission. The Smithsonian is not otherwise considered to be an “agency” subject to Section 106.</p> |
| <p>National Energy Emergency EO 14156</p> | <p>The President declared an energy emergency in regard to the availability of domestic energy resources and domestic energy production, transportation, refining, and generation. The ACHP advised federal agencies of the availability of emergency procedures in the Section 106 implementing regulations (36 CFR 800.12) for undertakings falling under the EO and extended the applicable time period for Section 106 emergency reviews to follow the duration of the proclamation.</p> |
| <p>Section 4(f) of the Department of Transportation Act (“de minimis” finding) 49 U.S.C. § 303 and 23 U.S.C. § 138</p> | <p>Section 4(f) prohibits Department of Transportation (DOT) agencies from using historic properties, unless there is no feasible and prudent alternative to that use and the action includes all possible planning to minimize harm to the property resulting from such a use.</p> <p>A “de minimis” finding by DOT satisfies the requirements of Section 4(f). The law requires the concurrence by the ACHP, if participating in the review, and others on a “de minimis” finding by the DOT.</p> |

II. Dormant

| Law | Summary |
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| <p>Public Buildings Cooperative Use Act 40 U.S.C. § 3303</p> | <p>Requires the General Services Administration (GSA) to acquire and utilize space, for federal agency use, in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives.</p> <p>When GSA undertakes a survey of the public buildings needs of the federal government within a geographical area, GSA must request the ACHP to identify any existing buildings in the geographical area that (1) are of historical, architectural, or cultural significance and (2) would be suitable for acquisition to meet the needs of the federal government, regardless of need for repair, alteration, or addition.</p> |

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| <p>Locating Federal facilities on historic properties in our nation's central cities EO 13006 (consistent with 54 U.S.C. § 306101)</p> | <p>States the policy of the federal government to encourage the location of federal facilities in central cities and reaffirms the government's commitment in the NHPA to provide leadership in the preservation of historic resources.</p> <p>It asks federal agencies to seek the assistance of the ACHP when considering how to streamline processes that impede the federal government's ability to establish or maintain a presence in historic districts or to acquire historic properties to satisfy federal space needs.</p> <p>Finally, it requests the Secretary of the Interior, the ACHP, and other federal agencies, to seek appropriate partnerships with States, local governments, Indian Tribes, and appropriate private organizations with the goal of enhancing their participation in the National Historic Preservation Program.</p> |
| <p>Intermodal Transportation 49 U.S.C. § 5562</p> | <p>Authorizes the Secretary of Transportation to provide financial assistance for the acquisition and use of space in suitable buildings of historic or architectural significance, but only if use of the space is feasible and prudent when compared to available alternatives, and after consultation with the ACHP and the National Endowment for the Arts.</p> |
| <p>Conversion of certain rail passenger terminals 49 U.S.C. § 5563</p> | <p>Authorizes the Secretary of Transportation to provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal when, among other things, the terminal is listed in the National Register of Historic Places, and the architectural integrity of the terminal will be preserved.</p> <p>The statute requires that, to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when those other activities are recommended by the ACHP, the National Endowment for the Arts or the preservation consultants for the project.</p> |
| <p>Interim preservation of certain rail passenger terminals 49 U.S.C. § 5564</p> <p>Encouraging the development of plans for converting certain rail passenger terminals 49 U.S.C. § 5565</p> | <p>These laws authorize the Secretary of Transportation to provide financial assistance for the preservation of rail passenger terminals and to encourage the development of plans for converting a rail passenger terminal, respectively.</p> <p>The financial assistance has to be expended in the way most likely to maximize the preservation, or conversion and continued public use, of rail passenger terminals that are, among other things:</p> <ul style="list-style-type: none"> (a) listed in the National Register of Historic Places; or (b) recommended (on the basis of architectural integrity and quality) by the ACHP or the National Endowment for the Arts. |

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| <p>Mining in the Parks Act 54 U.S.C. § 100734</p> | <p>Among other things, the law requires that when the Department of the Interior becomes aware that a nationally significant natural or historic landmark may be irreparably lost or destroyed by any surface mining activity, it must notify the person conducting the activity and submit to the ACHP a report on its findings, with a request for advice of the ACHP as to alternative measures that may be taken by the United States to mitigate or abate the activity.</p> |
| <p>American Heritage Rivers Initiative EO 13061</p> | <p>In September 1997, EO 13061 established the American Heritage Rivers Initiative. Among other things, this initiative requires federal agencies to support, within their existing authorities, community based efforts to preserve, protect, and restore designated American Heritage Rivers. Such rivers are those designated by the President as being important to the Nation’s history, culture, and natural heritage. Fourteen rivers have been designated as American Heritage Rivers.</p> <p>The EO also created the American Heritage Committee, which included the Chair of the ACHP. The Committee was set to establish formal guidelines for the designation of American Heritage Rivers, periodically review the actions of agencies in support of the American Heritage Rivers, and report to the President on the progress, accomplishments, and effectiveness of the American Heritage Rivers initiative.</p> <p>While EO 13061 is still in effect, the work of the Committee has been dormant since the early 2000s.</p> |
| <p>Metropolitan Washington Airports 49 U.S.C. § 49111</p> | <p>Requires the Metropolitan Washington Airports Authority to consult with the ACHP and the National Capital Planning Commission before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport.</p> |
| <p>Protection and enhancement of the cultural environment EO 11593</p> | <p>This is a 1971 Executive Order that, among other things, directs agencies to inventory and evaluate properties under their jurisdiction or control that could qualify for listing in the National Register and, in the interim, exercise caution to not harm such properties.</p> <p>As originally written, the scope of Section 106 was limited to properties listed in the National Register of Historic Places. This Executive Order was meant to accelerate the completion of the National Register in order to protect those properties that had not been listed yet.</p> <p>However, the reality that the National Register could not be completed, and therefore would leave non-listed, but historically significant, properties without protection, led to the 1976 amendments of the NHPA that added properties “eligible for inclusion” in the National Register to the scope of Section 106.</p> |

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| | Other aspects of EO 11593 were also codified into the NHPA through the 1980 amendments to the Act. |
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III. Completed

| Law | Summary |
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| <p>Accelerating broadband infrastructure deployment EO 13616</p> | <p>Created a working group to facilitate broadband deployment on federal lands, buildings, and rights of way, federally assisted highways, and Tribal and individual Indian trust lands. Its focus was to ensure a coordinated and consistent approach in implementing agency procedures, requirements, and policies related to access to such lands to advance broadband deployment.</p> <p>The ACHP was named a member of the working group.</p> <p>On May 8, 2017, the ACHP issued a Program Comment for Communications Projects on Federal Lands and Property. It can be found here: https://www.achp.gov/digital-library-section-106-landing/program-comment-communications-projects-federal-lands-and</p> |
| <p>Consolidated Appropriations Act of 2014, Explanatory Statement P.L. 113-76</p> | <p>Congress directed the ACHP to provide a report on how the ACHP would ensure Section 106 compliance by the United States Postal Service regarding historic post offices.</p> <p>The report was issued in April 2014, and may be found here: https://www.achp.gov/sites/default/files/documents/2018-06/04002014_Preserving%20Historic%20Post%20Officesreport.pdf</p> |
| <p>Unified Federal Review 42 U.S.C. § 5189g</p> | <p>Passed in 2013, this law required the production of an expedited and unified interagency review process to ensure compliance with environmental and historic preservation requirements relating to disaster recovery projects, in order to expedite the recovery process. The ACHP, the Council on Environmental Quality, and the Federal Emergency Management Agency, took the leading roles in this matter.</p> <p>The process and related guidance has been finalized and can be found at: https://www.fema.gov/emergency-managers/practitioners/environmental-historic/review/library</p> |
| <p>Interstate Exemption P.L. 108-447 (Dec. 8, 2004)</p> | <p>This appropriation for FY 2005 prohibited any of its funds from being used to develop a Section 106 programmatic agreement that would regard the Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate System) as eligible for inclusion in the National Register of Historic Places.</p> |

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| | <p>In March 2005, the ACHP issued a Section 106 exemption that relieved all federal agencies from having to take into account the effects of their undertakings on the Interstate System, except for a limited number of individual elements associated with the system. Rather than deeming the System, as a whole, as eligible for listing in the National Register, the exemption acknowledged that a limited number of elements of the System could be found eligible and fall outside the exemption. The exemption required the Federal Highway Administration to identify such elements by the end of June 2006, which it did.</p> <p>A copy of the exemption can be found here: https://www.achp.gov/digital-library-section-106-landing/exemption-regarding-historic-preservation-review-process</p> |
| <p>Spring Mountains National Recreation Area 16 U.S.C. § 460hhh-4</p> <p>El Malpais National Monument and National Conservation Area 16 U.S.C. § 460uu-41</p> <p>Santa Monica Mountains National Recreation Area 16 U.S.C. § 460kk</p> | <p>These laws, passed in 1993, 1987 and 1978 respectively, required the plans for the management of natural and cultural resources in the mentioned areas to be developed, within three years of enactment, in consultation with the ACHP and the relevant State Historic Preservation Officer.</p> |
| <p>Abandoned Shipwrecks Act 43 U.S.C. § 2104</p> | <p>This Act provides that any wreck that lies embedded in a state's submerged lands is the property of that state and subject to that state's jurisdiction if the wreck is determined as being abandoned.</p> <p>The ACHP took an active role in the development of the Act. Among other things, the Act required the Department of the Interior to consult with various entities, including the ACHP, when drafting guidelines to encourage the development of underwater parks and effective management of shipwrecks.</p> <p>Following such consultation, the Abandoned Shipwreck Act Guidelines were issued in 1990. They can be found here: https://www.nps.gov/articles/abandoned-shipwreck-act-guidelines.htm [Please copy/paste the address in your browser]</p> |
| <p>Railroads rights of way 49 U.S.C. § 24202</p> | <p>Required the ACHP to issue an exemption of railroad rights-of-way from Section 106 review. The exemption had to be consistent with the exemption for the Interstate Highway System, approved by the ACHP in 2005.</p> |

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| | <p>The exemption was issued in 2018 and was amended in 2019. It can be found here: https://www.achp.gov/digital-library-section-106-landing/program-comment-exempt-consideration-effects-rail-properties</p> <p>It remains the subject of legislative interest from Senator Blunt- MO.</p> |
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Last updated March 5, 2025.

Subdivision 3—Advisory Council on Historic Preservation

Chapter 3041—Advisory Council on Historic Preservation

Sec.

304101. Establishment;
vacancies.

304102. Duties of Council.

304103. Cooperation between Council and instrumentalities of executive branch of Federal Government.

304104. Compensation of members of Council.

304105. Administration.

304106. International Centre for the Study of the Preservation and Restoration of Cultural Property.

304107. Transmittal of legislative recommendations, testimony, or comments to any officer or agency of the United States prior to submission to Congress.

304108. Regulations, procedures, and guidelines.

304109. Budget submission.

304110. Report by Secretary to Council.

304111. Reimbursements from State and local agencies.

304112. Effectiveness of Federal grant and assistance programs.

§ 304101. Establishment; vacancies

(a) ESTABLISHMENT.— There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation, which shall be composed of the following members:

- (1) A Chairman appointed by the President selected from the general public.
- (2) The Secretary.
- (3) The Architect of the Capitol.
- (4) The Secretary of Agriculture and the heads of 7 other agencies of the United States (other than the Department of the Interior), the activities of which affect historic preservation, designated by the President.
- (5) One Governor appointed by the President.
- (6) One mayor appointed by the President.
- (7) The President of the National Conference of State Historic Preservation Officers.
- (8) The General Chairman of the National Association of Tribal Historic Preservation Officers.
- (9) The Chairman of the National Trust.
- (10) Four experts in the field of historic preservation appointed by the President from architecture, history, archeology, and other appropriate disciplines.
- (11) Three members from the general public, appointed by the President.
- (12) One member of an Indian tribe or Native Hawaiian organization who represents the interests of the Indian tribe or Native Hawaiian organization of which he or she is a member, appointed by the President.

(b) DESIGNATION OF SUBSTITUTES.—Each member of the Council specified in paragraphs (2) to (5) and (7) through (9) of subsection (a) may designate another officer of the department, agency, or

organization to serve on the Council instead of the member, except that, in the case of paragraphs (2) and (4), no officer other than an Assistant Secretary or an officer having major department wide or agency-wide responsibilities may be designated.

(c) TERM OF OFFICE.—Each member of the Council appointed under paragraphs (10) through (12) of subsection (a) shall serve for a term of 4 years from the expiration of the term of the member's predecessor. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of 4 years. An appointed member, other than the Chairman of the Council, may not serve more than 2 terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.

(d) VACANCIES.—A vacancy in the Council shall not affect its powers, but shall be filled, not later than 60 days after the vacancy commences, in the same manner as the original appointment (and for the balance of the unexpired term).

(e) CHAIRMAN.—

(1) After January 20, 2017, the Chairman shall—

(A) be appointed by the President, by and with the advice and consent of the Senate;

(B) serve at the will of the President;

(C) serve full time; and

(D) be compensated at the rate provided for Level V of the Executive Schedule Pay Rates under section 5316 of title 5.

(2) The Chairman shall serve for a term of 4 years and may be reappointed once, for a total of not more than 8 years of service as Chairman, except that a Chairman whose appointment has expired under this paragraph shall serve until his or her successor has been appointed. The term of a Chairman shall start (regardless of actual appointment date) on January 20 after each general Presidential election. The first Chairman appointed after the date of enactment of this paragraph shall have a first term commencing on January 20, 2017, and ending on January 19, 2021.

(3) The Chairmen before the first appointment of a Chairman in accordance with paragraph (1) of this subsection shall receive \$100 per diem when engaged in the performance of the duties of the Council, and shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

(f) DESIGNATION OF VICE CHAIRMAN.—The President shall designate a Vice Chairman from the members appointed under paragraph (5), (6), (10), or (11) of subsection (a). The Vice Chairman shall perform the functions of the Chairman during the absence or disability of the Chairman or when the office is vacant.

(g) QUORUM.—Thirteen members of the Council shall constitute a quorum.

§ 304102. Duties of Council

(a) DUTIES.—The Council shall—

(1) advise the President and Congress on matters relating to historic preservation, recommend measures to coordinate activities of Federal, State, and local agencies and private institutions and individuals relating to historic preservation, and advise on the dissemination of information pertaining to those activities;

(2) encourage, in cooperation with the National Trust and appropriate private agencies, public interest and participation in historic preservation;

(3) recommend the conduct of studies in such areas as—

(A) the adequacy of legislative and administrative statutes and regulations pertaining to historic preservation activities of State and local governments; and

(B) the effects of tax policies at all levels of government on historic preservation;

(4) advise as to guidelines for the assistance of State and local governments in drafting legislation relating to historic preservation;

(5) encourage, in cooperation with appropriate public and private agencies and institutions, training and education in the field of historic preservation;

(6) review the policies and programs of Federal agencies and recommend to Federal agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this division; and

(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.

(b) ANNUAL REPORT.—The Council annually shall submit to the President a comprehensive report of its activities and the results of its studies and shall from time to time submit additional and special reports as it deems advisable. Each report shall propose legislative enactments and other actions as, in the judgment of the Council, are necessary and appropriate to carry out its recommendations and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out this division.

§ 304103. Cooperation between Council and instrumentalities of executive branch of Federal Government

The Council may secure directly from any Federal agency information, suggestions, estimates, and statistics for the purpose of this chapter. Each Federal agency may furnish information, suggestions, estimates, and statistics to the extent permitted by law and within available funds.

§ 304104. Compensation of members of Council

The members of the Council specified in paragraphs (2), (3), and (4) of section 304101(a) of this title shall serve without additional compensation. The Chairman of the Council shall be compensated as provided in subsection (e) of section 304101. The other members of the Council shall receive \$100 per diem when engaged in the performance of the duties of the Council. All members of the Council shall receive reimbursement for necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Council.

§ 304105. Administration

(a) EXECUTIVE DIRECTOR.—There shall be an Executive Director of the Council who shall be appointed by the Chairman with the concurrence of the Council in the competitive service at a rate within the General Schedule, in the competitive service at a rate that may exceed the rate prescribed for the highest rate established for grade 15 of the General Schedule under section 5332 of title 5, or in the

Senior Executive Service under section 3393 of title 5. The Executive Director shall report directly to the Chairman and perform such functions and duties as the Chairman may prescribe.

(b) GENERAL COUNSEL AND APPOINTMENT OF OTHER ATTORNEYS.—

(1) GENERAL COUNSEL.—The Council shall have a General Counsel, who shall be appointed by the Executive Director. The General Counsel shall report directly to the Executive Director and serve as the Council's legal advisor.

(2) APPOINTMENT OF OTHER ATTORNEYS.—The Executive Director shall appoint other attorneys as may be necessary to—

(A) assist the General Counsel;

(B) represent the Council in court when appropriate, including enforcement of agreements with Federal agencies to which the Council is a party;

(C) assist the Department of Justice in handling litigation concerning the Council in court; and

(D) perform such other legal duties and functions as the Executive Director and the Council may direct.

(c) APPOINTMENT AND COMPENSATION OF OFFICERS AND EMPLOYEES.—The Executive Director of the Council may appoint and fix the compensation of officers and employees in the competitive service who are necessary to perform the functions of the Council at rates not to exceed that prescribed for the highest rate for grade 15 of the General Schedule under section 5332 of title 5. The Executive Director, with the concurrence of the Chairman, may appoint and fix the compensation of not to exceed 5 employees in the competitive service at rates that exceed that prescribed for the highest rate established for grade 15 of the General Schedule under section 5332 of title 5 or in the Senior Executive Service under section 3393 of title 5.

(d) APPOINTMENT AND COMPENSATION OF ADDITIONAL PERSONNEL.— The Executive Director may appoint and fix the compensation of such additional personnel as may be necessary to carry out the Council's duties, without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5.

(e) EXPERT AND CONSULTANT SERVICES.—The Executive Director may procure expert and consultant services in accordance with section 3109 of title 5.

(f) FINANCIAL AND ADMINISTRATIVE SERVICES.—

(1) SERVICES TO BE PROVIDED BY SECRETARY, AGENCY, OR PRIVATE ENTITY.—Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Secretary or, at the discretion of the Council, another agency or private entity that reaches an agreement with the Council, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed on by the Chairman of the Council and the head of the agency or the authorized representative of the private entity that will provide the services.

(2) FEDERAL AGENCY REGULATIONS RELATING TO COLLECTION APPLY.—When a Federal agency affords those services, the regulations of that agency under section 5514(b) of title 5 for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of

that agency under sections 1513(d) and 1514 of title 31 for the administrative control of funds shall apply to appropriations of the Council. The Council shall not be required to prescribe those regulations.

(g) FUNDS, PERSONNEL, FACILITIES, AND SERVICES.—

(1) PROVIDED BY FEDERAL AGENCY.—Any Federal agency may provide the Council, with or without reimbursement as may be agreed on by the Chairman and the agency, with such funds, personnel, facilities, and services under its jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that the funds, personnel, facilities, and services are requested by the Council and are otherwise available for that purpose. Any funds provided to the Council pursuant to this subsection shall be obligated by the end of the fiscal year following the fiscal year in which the funds are received by the Council.

(2) OBTAINING ADDITIONAL PROPERTY, FACILITIES, AND SERVICES AND RECEIVING DONATIONS OF MONEY.—To the extent of available appropriations, the Council may obtain by purchase, rental, donation, or otherwise additional property, facilities, and services as may be needed to carry out its duties and may receive donations of money for that purpose. The Executive Director may accept, hold, use, expend, and administer the property, facilities, services, and money for the purposes of this division.

(h) RIGHTS, BENEFITS, AND PRIVILEGES OF TRANSFERRED EMPLOYEES.—Any employee in the competitive service of the United States transferred to the Council under section 207 of the National Historic Preservation Act (Public Law 89–665) retains all the rights, benefits, and privileges pertaining to the competitive service held prior to the transfer.

(i) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Council is exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(j) PROVISIONS THAT GOVERN OPERATIONS OF COUNCIL.—Subchapter II of chapter 5 and chapter 7 of title 5 shall govern the operations of the Council.

§ 304106. International Centre for the Study of the Preservation and Restoration of Cultural Property

(a) AUTHORIZATION OF PARTICIPATION.—The participation of the United States as a member in the International Centre for the Study of the Preservation and Restoration of Cultural Property is authorized.

(b) OFFICIAL DELEGATION.—The Council shall recommend to the Secretary of State, after consultation with the Smithsonian Institution and other public and private organizations concerned with the technical problems of preservation, the members of the official delegation that will participate in the activities of the international Centre for the Study of the Preservation and Restoration of Cultural Property on behalf of the United States. The Secretary of State shall appoint the members of the official delegation from the persons recommended to the Secretary of State by the Council.

§ 304107. Transmittal of legislative recommendations, testimony, or comments to any officer or agency of the United States prior to submission to Congress

No officer or agency of the United States shall have any authority to require the Council to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of the recommendations, testimony, or comments to Congress. When the Council voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Council shall include a description of the actions in its legislative recommendations, testimony, or comments on legislation that it transmits to Congress.

§ 304108. Regulations, procedures, and guidelines

(a) IN GENERAL.—The Council may promulgate regulations as it considers necessary to govern the implementation of section 306108 of this title in its entirety.

(b) PARTICIPATION BY LOCAL GOVERNMENTS.—The Council shall by regulation establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 306108 of this title that affect the local governments.

(c) EXEMPTION FOR FEDERAL PROGRAMS OR UNDERTAKINGS.—The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this division when the exemption is determined to be consistent with the purposes of this division, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic property.

§ 304109. Budget submission

(a) TIME AND MANNER OF SUBMISSION.—The Council shall submit its budget annually as a related agency of the Department of the Interior.

(b) TRANSMITTAL OF COPIES TO CONGRESSIONAL COMMITTEES.— Whenever the Council submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the Committee on Natural Resources and Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and Committee on Appropriations of the Senate.

§ 304110. Report by Secretary to Council

To assist the Council in discharging its responsibilities under this division, the Secretary at the request of the Chairman shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

§ 304111. Reimbursements from State and local agencies

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of this division.

§ 304112. Effectiveness of Federal grant and assistance programs

(a) COOPERATIVE AGREEMENTS.—The Council may enter into a cooperative agreement with any Federal agency that administers a grant or assistance program for the purpose of improving the effectiveness of the administration of the program in meeting the purposes and policies of this division. The cooperative agreement may include provisions that modify the selection criteria for a grant or assistance program to further the purposes of this division or that allow the Council to participate in the selection of recipients, if those provisions are not inconsistent with the grant or assistance program's statutory authorization and purpose.

(b) REVIEW OF GRANT AND ASSISTANCE PROGRAMS.—The Council may—

- (1) review the operation of any Federal grant or assistance program to evaluate the effectiveness of the program in meeting the purposes and policies of this division;

(2) make recommendations to the head of any Federal agency that administers the program to further the consistency of the program with the purposes and policies of this division and to improve its effectiveness in carrying out those purposes and policies; and

(3) make recommendations to the President and Congress regarding the effectiveness of Federal grant and assistance programs in meeting the purposes and policies of this division, including recommendations with regard to appropriate funding levels.

Subdivision 4—Other Organizations and Programs

Chapter 3051—Historic Light Station Preservation

Sec.

305101. Definitions.

305102. Duties of Secretary in providing a national historic light station program.

305103. Selection of eligible entity and conveyance of historic light stations.

305104. Terms of conveyance.

305105. Description of property.

305106. Historic light station sales.

§ 305101. Definitions

In this chapter:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of General Services.

(2) ELIGIBLE ENTITY.—The term “eligible entity” means—

(A) any department or agency of the Federal Government; or

(B) any department or agency of the State in which a historic light station is located, the local government of the community in which a historic light station is located, a nonprofit corporation, an educational agency, or a community development organization that—

(i) has agreed to comply with the conditions set forth in section 305104 of this title and to have the conditions recorded with the deed of title to the historic light station; and

(ii) is financially able to maintain the historic light station in accordance with the conditions set forth in section 305104 of this title.

(3) FEDERAL AID TO NAVIGATION.—

(A) IN GENERAL.—The term “Federal aid to navigation” means any device, operated and maintained by the United States, external to a vessel or aircraft, intended to assist a navigator to determine position or safe course, or to warn of dangers or obstructions to navigation.

(B) INCLUSIONS.—The term “Federal aid to navigation” includes a light, lens, lantern, antenna, sound signal, camera, sensor, piece of electronic navigation equipment, power source, or other piece of equipment associated with a device described in subparagraph (A).

Omnibus Public Land Management Act of 2009

Public Law No: 111-11

(Excerpt)

SEC. 7302. PRESERVE AMERICA PROGRAM.

(a) Purpose- The purpose of this section is to authorize the Preserve America Program, including--

- (1) the Preserve America grant program within the Department of the Interior;
- (2) the recognition programs administered by the Advisory Council on Historic Preservation; and
- (3) the related efforts of Federal agencies, working in partnership with State, tribal, and local governments and the private sector, to support and promote the preservation of historic resources.

(b) Definitions- In this section:

- (1) COUNCIL- The term 'Council' means the Advisory Council on Historic Preservation.
- (2) HERITAGE TOURISM- The term 'heritage tourism' means the conduct of activities to attract and accommodate visitors to a site or area based on the unique or special aspects of the history, landscape (including trail systems), and culture of the site or area.
- (3) PROGRAM- The term 'program' means the Preserve America Program established under subsection (c)(1).
- (4) SECRETARY- The term 'Secretary' means the Secretary of the Interior.

(c) Establishment-

(1) IN GENERAL- There is established in the Department of the Interior the Preserve America Program, under which the Secretary, in partnership with the Council, may provide competitive grants to States, local governments (including local governments in the process of applying for designation as Preserve America Communities under subsection (d)), Indian tribes, communities designated as Preserve America Communities under subsection (d), State historic preservation offices, and tribal historic preservation offices to support preservation efforts through heritage tourism, education, and historic preservation planning activities.

(2) ELIGIBLE PROJECTS-

(A) IN GENERAL- The following projects shall be eligible for a grant under this section:

(i) A project for the conduct of--

(I) research on, and documentation of, the history of a community;

and

(II) surveys of the historic resources of a community.

(ii) An education and interpretation project that conveys the history of a community or site.

(iii) A planning project (other than building rehabilitation) that advances economic development using heritage tourism and historic preservation.

(iv) A training project that provides opportunities for professional development in areas that would aid a community in using and promoting its historic resources.

(v) A project to support heritage tourism in a Preserve America Community designated under subsection (d).

(vi) Other nonconstruction projects that identify or promote historic properties or provide for the education of the public about historic properties that are consistent with the purposes of this section.

(B) LIMITATION- In providing grants under this section, the Secretary shall only provide 1 grant to each eligible project selected for a grant.

(3) PREFERENCE- In providing grants under this section, the Secretary may give preference to projects that carry out the purposes of both the program and the Save America's Treasures Program.

(4) CONSULTATION AND NOTIFICATION-

(A) CONSULTATION- The Secretary shall consult with the Council in preparing the list of projects to be provided grants for a fiscal year under the program.

(B) NOTIFICATION- Not later than 30 days before the date on which the Secretary provides grants for a fiscal year under the program, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Appropriations of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on Appropriations of the House of Representatives a list of any eligible projects that are to be provided grants under the program for the fiscal year.

(5) COST-SHARING REQUIREMENT-

(A) IN GENERAL- The non-Federal share of the cost of carrying out a project provided a grant under this section shall be not less than 50 percent of the total cost of the project.

(B) FORM OF NON-FEDERAL SHARE- The non-Federal share required under subparagraph (A) shall be in the form of--

(i) cash; or

(ii) donated supplies and related services, the value of which shall be determined by the Secretary.

(C) REQUIREMENT- The Secretary shall ensure that each applicant for a grant has the capacity to secure, and a feasible plan for securing, the non-Federal share for an eligible project required under subparagraph (A) before a grant is provided to the eligible project under the program.

(d) Designation of Preserve America Communities-

(1) APPLICATION- To be considered for designation as a Preserve America Community, a community, tribal area, or neighborhood shall submit to the Council an application containing such information as the Council may require.

(2) CRITERIA- To be designated as a Preserve America Community under the program, a community, tribal area, or neighborhood that submits an application under paragraph (1) shall, as determined by the Council, in consultation with the Secretary, meet criteria required by the Council and, in addition, consider--

(A) protection and celebration of the heritage of the community, tribal area, or neighborhood;

(B) use of the historic assets of the community, tribal area, or neighborhood for economic development and community revitalization; and

(C) encouragement of people to experience and appreciate local historic resources through education and heritage tourism programs.

(3) LOCAL GOVERNMENTS PREVIOUSLY CERTIFIED FOR HISTORIC PRESERVATION ACTIVITIES- The Council shall establish an expedited process for Preserve America Community designation for local governments previously certified for historic preservation activities under section 101(c)(1) of the National Historic Preservation Act (16 U.S.C. 470a(c)(1)).

(4) GUIDELINES- The Council, in consultation with the Secretary, shall establish any guidelines that are necessary to carry out this subsection.

(e) Regulations- The Secretary shall develop any guidelines and issue any regulations that the Secretary determines to be necessary to carry out this section.

(f) Authorization of Appropriations- There is authorized to be appropriated to carry out this section \$25,000,000 for each fiscal year, to remain available until expended.

Presidential Documents

Title 3—

Executive Order 13287 of March 3, 2003

The President

Preserve America

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) (NHPA) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), it is hereby ordered:

Section 1. *Statement of Policy.* It is the policy of the Federal Government to provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties. The Federal Government shall recognize and manage the historic properties in its ownership as assets that can support department and agency missions while contributing to the vitality and economic well-being of the Nation's communities and fostering a broader appreciation for the development of the United States and its underlying values. Where consistent with executive branch department and agency missions, governing law, applicable preservation standards, and where appropriate, executive branch departments and agencies ("agency" or "agencies") shall advance this policy through the protection and continued use of the historic properties owned by the Federal Government, and by pursuing partnerships with State and local governments, Indian tribes, and the private sector to promote the preservation of the unique cultural heritage of communities and of the Nation and to realize the economic benefit that these properties can provide. Agencies shall maximize efforts to integrate the policies, procedures, and practices of the NHPA and this order into their program activities in order to efficiently and effectively advance historic preservation objectives in the pursuit of their missions.

Sec. 2. *Building Preservation Partnerships.* When carrying out its mission activities, each agency, where consistent with its mission and governing authorities, and where appropriate, shall seek partnerships with State and local governments, Indian tribes, and the private sector to promote local economic development and vitality through the use of historic properties in a manner that contributes to the long-term preservation and productive use of those properties. Each agency shall examine its policies, procedures, and capabilities to ensure that its actions encourage, support, and foster public-private initiatives and investment in the use, reuse, and rehabilitation of historic properties, to the extent such support is not inconsistent with other provisions of law, the Secretary of the Interior's Standards for Archeology and Historic Preservation, and essential national department and agency mission requirements.

Sec. 3. *Improving Federal Agency Planning and Accountability.* (a) 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. Each agency with real property management responsibilities shall prepare an assessment of the current status of its inventory of historic properties required by section 110(a)(2) of the NHPA (16 U.S.C. 470h-2(a)(2)), the general condition and management needs of such properties, and the steps underway or planned to meet those management needs. The assessment shall also include an evaluation of the suitability of the agency's types of historic properties to contribute to community economic development initiatives, including heritage tourism, taking into

account agency mission needs, public access considerations, and the long-term preservation of the historic properties. No later than September 30, 2004, each covered agency shall complete a report of the assessment and make it available to the Chairman of the Advisory Council on Historic Preservation (Council) and the Secretary of the Interior (Secretary).

(b) No later than September 30, 2004, each agency with real property management responsibilities shall review its regulations, management policies, and operating procedures for compliance with sections 110 and 111 of the NHPA (16 U.S.C. 470h-2 & 470-3) and make the results of its review available to the Council and the Secretary. If the agency determines that its regulations, management policies, and operating procedures are not in compliance with those authorities, the agency shall make amendments or revisions to bring them into compliance.

(c) Each agency with real property management responsibilities shall, by September 30, 2005, and every third year thereafter, prepare a report on its progress in identifying, protecting, and using historic properties in its ownership and make the report available to the Council and the Secretary. The Council shall incorporate this data into a report on the state of the Federal Government's historic properties and their contribution to local economic development and submit this report to the President by February 15, 2006, and every third year thereafter.

(d) Agencies may use existing information gathering and reporting systems to fulfill the assessment and reporting requirements of subsections 3(a)-(c) of this order. To assist agencies, the Council, in consultation with the Secretary, shall, by September 30, 2003, prepare advisory guidelines for agencies to use at their discretion.

(e) No later than June 30, 2003, the head of each agency shall designate a senior policy level official to have policy oversight responsibility for the agency's historic preservation program and notify the Council and the Secretary of the designation. This senior official shall be an assistant secretary, deputy assistant secretary, or the equivalent, as appropriate to the agency organization. This official, or a subordinate employee reporting directly to the official, shall serve as the agency's Federal Preservation Officer in accordance with section 110(c) of the NHPA. The senior official shall ensure that the Federal Preservation Officer is qualified consistent with guidelines established by the Secretary for that position and has access to adequate expertise and support to carry out the duties of the position.

Sec. 4. *Improving Federal Stewardship of Historic Properties.* (a) Each agency shall ensure that the management of historic properties in its ownership is conducted in a manner that promotes the long-term preservation and use of those properties as Federal assets and, where consistent with agency missions, governing law, and the nature of the properties, contributes to the local community and its economy.

(b) Where consistent with agency missions and the Secretary of the Interior's Standards for Archeology and Historic Preservation, and where appropriate, agencies shall cooperate with communities to increase opportunities for public benefit from, and access to, Federally owned historic properties.

(c) The Council is directed to use its existing authority to encourage and accept donations of money, equipment, and other resources from public and private parties to assist other agencies in the preservation of historic properties in Federal ownership to fulfill the goals of the NHPA and this order.

(d) The National Park Service, working with the Council and in consultation with other agencies, shall make available existing materials and information for education, training, and awareness of historic property stewardship to ensure that all Federal personnel have access to information and can develop the skills necessary to continue the productive use of Federally owned historic properties while meeting their stewardship responsibilities.

(e) The Council, in consultation with the National Park Service and other agencies, shall encourage and recognize exceptional achievement by such agencies in meeting the goals of the NHPA and this order. By March 31, 2004, the Council shall submit to the President and the heads of agencies recommendations to further stimulate initiative, creativity, and efficiency in the Federal stewardship of historic properties.

Sec. 5. *Promoting Preservation Through Heritage Tourism.*

(a) To the extent permitted by law and within existing resources, the Secretary of Commerce, working with the Council and other agencies, shall assist States, Indian tribes, and local communities in promoting the use of historic properties for heritage tourism and related economic development in a manner that contributes to the long-term preservation and productive use of those properties. Such assistance shall include efforts to strengthen and improve heritage tourism activities throughout the country as they relate to Federally owned historic properties and significant natural assets on Federal lands.

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

Sec. 6. *National and Homeland Security Considerations.*

Nothing in this order shall be construed to require any agency to take any action or disclose any information that would conflict with or compromise national and homeland security goals, policies, programs, or activities.

Sec. 7. *Definitions.* For the purposes of this order, the term "historic property" means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA (16 U.S.C. 470w(5)). The term "heritage tourism" means the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale's history, landscape (including trail systems), and culture. The terms "Federally owned" and "in Federal ownership," and similar terms, as used in this order, do not include properties acquired by agencies as a result of foreclosure or similar actions and that are held for a period of less than 5 years.

Sec. 8. *Judicial Review.* This order is intended only to improve the internal management of the Federal Government and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments,

agencies, instrumentalities or entities, its officers or employees, or any other person.

A handwritten signature in black ink, appearing to read "George W. Bush", written in a cursive style.

THE WHITE HOUSE,
March 3, 2003.

[FR Doc. 03-05344
Filed 3-4-03; 8:45 am]
Billing code 3195-01-P



ACHP BUDGET DOCUMENTS

Every year, the ACHP submits budget documentation to the Office of Management and Budget to be included in the President's yearly budget request. The agency prepares a budget estimate and a budget justification for each upcoming fiscal year.

[Budget Justifications FY 21-25](#)

MEMBERS
Advisory Council on Historic Preservation
(March 5, 2025)

(more information about the members can be found at <https://www.achp.gov/about/council-members>)

Chairman

Vacant

Secretary of Veterans Affairs

Hon. Doug Collins

Vice Chairman

Vacant

Chairman, Council on Environmental Quality

Vacant

Expert Members

Charles L. Ward III (California)

Administrator, General Services Administration

Stephen Ehikian, (Acting)

General Public Members

Jane D. Woodfin (Virginia)

Chair, National Trust for Historic Preservation

Phoebe Tudor (Texas)

Indian Tribe/Native Hawaiian Organization Member

Amelia AM Marchand (Confederated Tribes of the Colville Reservation, Hawaii)

President, National Conference of State Historic Preservation Officers

Anne Raines (Maryland)

Governor

Hon. John C. Carney
(former governor of Delaware)

Board Chair, National Association of Tribal Historic Preservation Officers

Lakota Hobia (Gun Lake Tribe, Michigan)

Mayor

Vacant

Architect of the Capitol

Thomas E. Austin

Observers:

Secretary of Agriculture

Hon. Brooke Rollins

Chairman, ACHP Foundation

John Fowler (Washington, D.C.)

Secretary of Defense

Hon. Pete Hegseth

Chair, National Alliance of Preservation Commissions

Abigail Christman (Colorado)

Secretary of Homeland Security

Hon. Kristi Lynn Noem

Executive Director, Permitting Council

Manisha Patel (Washington, D.C.)

Secretary of Housing and Urban Development

Hon. Scott Turner

Preserve America Youth Summit Director

Ann Walker (Colorado)

Secretary of the Interior

Hon. Doug Burgum

RePurpose Capital

Patrice Frey (Washington)

Secretary of Transportation

Hon. Sean Duffy



ACHP Member Contacts

May 2025

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Please contact Patricia Knoll at pknoll@achp.gov with any updates.

ACHP Member Contacts, May 2025

Chairman

- ★ Vacant

Vice Chairman

- ★ **Travis Voyles**
tvoyles@achp.gov

General Public Members

- ★ Vacant

- ★ **Jane D. Woodfin (2028)**
1291 Beresford Court
McLean, VA 22101
703-524-0216
janewoodfin@gmail.com

Expert Members

- ★ **Charles "Sonny" L. Ward III (2027)**
418 S. June Street
Los Angeles, CA 90020
323-304-8558
SonnyWard@junestreetarchitecture.com

Indian Tribe Member

- ★ **Amelia AM Marchand, MELP (2028)**
84-664 Ala Mahiku Street, #189C
Waianae, HI 96792
509-800-7765
amelia.m@thepnwlf.org

Governor

- ★ **Hon. John C. Carney (2025)**
Mayor of Wilmington, Delaware
Javier Horstmann
jhorstmann@wilmingtonde.gov

Mayor

- ★ Vacant

Architect of the Capitol

- ★ **Thomas E. Austin, PE, CCM, PMP**
Architect of the Capitol
U.S. Capitol, Room SB-16
Washington, DC 20515
202-228-1793 (office)
Staff Assistant: Kourtney Andrews
202-228-4785 (office)
kourtney.andrews@aoc.gov

- **Joseph S. Imamura, PhD, AIA, FASLA, FAICP**
Special Delegate of the
Architect of the Capitol
Office of the Architect
Washington, DC 20515
202-795-0763 (office)
joseph.imamura@aoc.gov

- **J. Douglas Lipscomb, RA**
Director, Planning and Design Division
Office of the Chief Engineer
Architect of the Capitol
Ford House Office Building
Washington, DC 20515
202-226-2529 (office)
202-549-2056 (cell)
james.lipscomb@aoc.gov

Department of Agriculture

- ★ **Hon. Brooke Leslie Rollins**
Secretary of Agriculture
1400 Independence Avenue, SW
Room 200-A
Washington, DC 20250
(202) 720-3631 (office)
brooke.rollins@usda.gov

- **Kristin Sleeper**
Deputy Under Secretary
Natural Resources and Environment
U.S. Department of Agriculture
Jamie L. Whitten Building
1400 Independence Avenue, SW
Washington, DC 20250
202-720-7173 (office)
kristin.sleeper@usda.gov
Amanda Lockwood
Executive Assistant to the
Under Secretary
202-720-3076 (office)
202-868-0299 (Cell)

- **Thomas Schultz**
Chief of Staff
Office of the Under Secretary
Natural Resources and Environment
U.S. Department of Agriculture
Jamie L. Whitten Building
1400 Independence Avenue, SW
Room 200-A
Washington, DC 20250
202-720-3631 (office)
tom.schultz2@usda.gov

Department of Defense

- ★ **Hon. Peter "Pete" Hegseth**
Secretary of Defense
1000 Defense Pentagon, Room 3E880
Washington, DC 20301
703-692-7100 (office)
703-571-8951 (fax)

- **Ronald Tickle**
Deputy Assistant Secretary of Defense for
Environmental Management and Restoration
U.S. Department of Defense
3400 Defense Pentagon, Room 5C646
Washington, DC 20301
703-693-6707 (office)
ronald.e.tickle4.civ@mail.mil

Department of Homeland Security

- ★ **Hon. Kristi Lynn Noem**
Secretary of Homeland Security
245 Murray Lane, SW, MS 0360
Washington, DC 20528-0360
202-282-8000 (office)
202-282-9188 (fax)

- **Trae Watkins**
Chief Readiness Support Officer
U.S. Department of Homeland Security
245 Murray Lane, SW, MS 0075
Washington, DC 20528-0075
202-343-4046 (office)
trae.watkins@hq.dhs.gov

- **Jeff Rezmovic**
Executive Director, Sustainability &
Environmental Programs
Office of the Chief Readiness Support Officer
U.S. Department of Homeland Security
245 Murray Lane, SW, MS 0075
Washington, DC 20528-0075
(202) 447-3400 (office)
Jeffrey.Rezmovic@hq.dhs.gov

- **Jennifer DeHart Hass**
Director, Environmental Planning &
Historic Preservation Program
Office of the Chief Readiness Support Officer
U.S. Department of Homeland Security
245 Murray Lane, SW, MS 0075
Washington, DC 20528-0075
202-834-4346
jennifer.hass@hq.dhs.gov

Department of Housing & Urban Development

- ★ **Hon. Eric Scott "Scott" Turner**
Secretary of Housing &
Urban Development
Robert C. Weaver Federal Building
451 Seventh Street, SW, Room 10000, Mail Stop S
Washington, DC 20410
202-708-0417 (office)

Department of the Interior

- ★ **Hon. Douglas J. "Doug" Burgum**
Secretary of the Interior
1849 C Street, NW, Room 6612
Washington, DC 20240
202-208-3100 (office)
202-208-6956 (fax)

- **Maureen Foster**
Acting Assistant Secretary for
Fish and Wildlife and Parks
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240
202-208-4416
maureen_foster@ios.doi.gov

- **Kristen Martine**
Acting U.S. Department of the Interior
Federal Preservation Officer
NPS Bureau Archeologist and
Departmental Consulting Archeologist
National Park Service
1849 C Street NW, Mail Stop 2013
Washington, DC 20240
202-738-0182
kristen_martine@nps.gov

ACHP Member Contacts, May 2025

Department of Transportation

★ **Hon. Sean P. Duffy**
Secretary of Transportation
1200 New Jersey Avenue, SE, 9th Floor
Washington, DC 20590-9898
202-366-1111 (office)
202-366-7202 (fax)

• **Colleen Vaughn**
Federal Preservation Officer
Office of Policy Development,
Strategic Planning, and Performance
Office of the Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE, 9th Floor
Washington, DC 20590
202-366-4000 (office)
colleen.vaughn@dot.gov

Department of Veterans Affairs

★ **Hon. Douglas “Doug” Collins**
Secretary of Veterans Affairs
810 Vermont Avenue, NW, Room 1000
Washington, DC 20420
202-461-4809 (office)
202-495-5463 (fax)
Executive Assistant:
Jackie Colli
202-461-4809 (office)
jacqueline.colli@va.gov

• **Michael D. Brennan, PhD, AIA, NCARB**
Executive Director
Office of Construction and Facilities
Management
U. S. Department of Veterans Affairs
425 I Street, NW, Suite 2E.250E
Washington, DC 20001
202-632-6937 (office)
michael.brennan@va.gov

• **Sherene Dorazio**
Deputy Executive Director
Office of Construction and Facilities
Management
Department of Veterans Affairs
425 I Street NW, Suite 2E.250K6W102
Washington, DC 20001
202-632-6937 (office)
202-714-1090 (cell)
sherene.dorazio@va.gov

Council on Environmental Quality

★ Vacant

General Services Administration

★ **Stephen Ehikian**
Acting Administrator
U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0001
202-501-0800 (office)

• **Michael “Mike” Peters**
Commissioner
Public Buildings Service
General Services Administration
1800 F Street, NW, Suite 1344
Washington, DC 20405
202-501-0800 (office)
mike.peters@gsa.gov

• **Kristi Tunstall Williams, NCIDQ**
Acting Federal Preservation Officer
Director, Office of Planning and
Design Quality
Public Buildings Service
General Services Administration
1800 F Street, NW, Suite 3400
Washington, DC 20405
202-236-2964 (office)
kristi.tunstall@gsa.gov

National Conference of State Historic Preservation Officers

★ **Anne Raines**
NCSHPO President and
Deputy SHPO
Maryland Historical Trust
100 Community Place, 3rd Floor
Crownsville, MD 21032
410-697-9584 (office)
anne.raines@maryland.gov

• **Erik Hein**
Executive Director
National Conference of State Historic
Preservation Officers
Hall of the States
444 North Capitol Street, NW, Suite 342
Washington, DC 20001-1512
202-624-5465 (office)
202-624-5419 (fax)
hein@ncshpo.org

National Association of Tribal Historic Preservation Officers

★ **Lakota Hobia**
NATHPO Chair and THPO
Gun Lake Tribe - Tribal Historic
Preservation Office
2872 Mission Drive
Shelbyville, MI 49344
269-397-1780, ext. 1255 (office)
269-525-8125 (cell)
Lakota.Hobia@glt-nsn.gov

• **Valerie Grussing, PhD**
Executive Director
National Association of Tribal Historic
Preservation Officers
PO Box 19189
Washington, DC 20036-9189
202-628-8476 (office)
252-531-7540 (cell)
valerie@nathpo.org

National Trust for Historic Preservation

★ **Phoebe Tudor**
Chair
National Trust for Historic Preservation
600 14th Street, NW, Suite 500
Washington, DC 20005

• **Carol Quillen, PhD**
President/CEO
National Trust for Historic Preservation
600 14th Street, NW, Suite 500
Washington, DC 20005
202-588-6000 (office)
cquillen@savingplaces.org

• **Shaw Sprague**
Director
Government Relations and Policy
National Trust for Historic Preservation
600 14th Street, NW, Suite 500
Washington, DC 20005
202-588-6000 (office)
202-588-6038 (fax)
ssprague@savingplaces.org

• **Elizabeth Merritt**
Deputy General Counsel
National Trust for Historic Preservation
600 14th Street, NW, Suite 500
Washington, DC 20005
202-588-6026 (office)
202-588-6272 (fax)
emerritt@savingplaces.org

• **Tom Mayes**
Chief Legal Officer and General Counsel
National Trust for Historic Preservation
600 14th Street, NW, Suite 500
Washington, DC 20005
202-588-6182 (office)
tmayes@savingplaces.org

Observers

ACHP Foundation

John Fowler
Chair
ACHP Foundation
4561 Cathedral Avenue, NW
Washington, DC 20016
202-258-2614
jmfowler@erols.com

Manuel Ochoa
Vice Chair
ACHP Foundation
c/o Manuel T. Ochoa, AICP
We Work
1701 Rhode Island Avenue, NW
Washington, DC 20036
202-413-6910
mochoa@ochoaurbancollaborative.com

Katherine Slick
President
ACHP Foundation
1710 W Alameda, #4
Santa Fe, NM 87501
kakslick@gmail.com

ACHP Member Contacts, May 2025

Federal Permitting Improvement Steering Council (Permitting Council)

Manisha Patel
Deputy Executive Director and
Interim Executive Director
Permitting Council
1800 M Street, NW, Suite 6006
Washington, DC 20006
202-322-6856 (office)
202-215-2456
manisha.patel@fpisc.gov

National Alliance of Preservation Commissions

Abigail Christman
NAPC Board Chair
c/o Landmark Preservation
4650 E Amherst Avenue
Denver, CO 80222
303-547-8554
720-865-2908 (office)
abigail.christman@denvergov.org

Stephanie Paul
Executive Director
National Alliance of Preservation
Commissions
PO Box 1011
Virginia Beach, VA 23451
757-802-4141 (office)
stephanie@napcommissions.org

Preserve America Youth Summit

Ann Alexander Walker
Program Director
Preserve America Youth Summit
701 Camino del Rio, Suite 101
Durango, CO 81301
970-403-1149 (office)
aaawalker5280@gmail.com

RePurpose Capital

Patrice Frey
President & CEO
RePurpose Capital
c/o The National Trust for Historic
Preservation
600 14th Street, NW, Suite 500
Washington, DC 20005
202-701-4963
pfrey@savingplaces.org

ACHP Staff

Reid Nelson
Executive Director
202-517-0206
rnelson@achp.gov

Jaime Loichinger
Director
Office of Federal Agency Programs
202-517-0219
jloichinger@achp.gov

Blythe Semmer, PhD
Assistant Director for Special
Initiatives
Office of Federal Agency Programs
202-517-0226
bsemmer@achp.gov

Christopher Koeppel
Assistant Director
Federal Property Management Section
202-517-0222
ckoeppel@achp.gov

Rachael Mangum
Assistant Director
Federal Permitting, Licensing, and
Assistance Section
202-517-0214
rmangum@achp.gov

Javier Marqués
General Counsel
Office of General Counsel
202-517-0192
jmarques@achp.gov

Kelly Yasaitis Fanizzo
Deputy General Counsel
Office of General Counsel
202-517-0193
kfanizzo@achp.gov

Ismail Ahmed
Director
Office of Administration
202-517-0204
iahmed@achp.gov

Kiani Morris
Executive Assistant
Office of Administration
202-517-0203
kmorris@achp.gov

Tanya DeVonish
Meeting and Event Manager
Office of Administration
202-517-0202
tdevonish@achp.gov

Ashley Fry
Director
Office of Tribal and Indigenous Peoples
202-517-1481
afry@achp.gov

Vacant
Director
Office of Communications,
Education, and Outreach
202-517-1480

Lynne Richmond
Assistant Director and
Communications and
Public Affairs Specialist
202-517-1484
lrichmond@achp.gov

Drucilla J. Null
Director
Office of Policy and Legislative Affairs
202-517-1487
dnull@achp.gov



ACHP MEMBER BIOS

The ACHP's 24 statutorily designated members, including the chairman who heads the agency, address policy issues, direct program initiatives, and make recommendations regarding historic preservation to the President, Congress, and heads of other federal agencies. Members meet several times per year to conduct business. ACHP members are from various federal agencies, local and state government, the public, and historic preservation organizations.

[Council Members | Advisory Council on Historic Preservation](#)



Advisory Council on Historic Preservation Committee Rosters March 5, 2025

Policy and Legislative Affairs Committee

The Policy and Legislative Affairs Committee is tasked with advising on the development of public-facing agency policies; and advising on and evaluating external policy matters, including legislation proposed at the local/state/federal levels, and federal agency and Executive Branch policy initiatives; as such advising may be consistent with the ACHP's statutory scope.

| | |
|--------------------------|--|
| Chairman: | Vacant |
| Vice Chairman: | Anne Raines, President, National Conference of State Historic Preservation Officers |
| Member Participants: | Charles "Sonny" Ward Jane Woodfin Council on Environmental Quality Department of Agriculture Department of Defense Department of Housing and Urban Development Department of the Interior Department of Veterans Affairs Lakota Hobia, Chair, National Association of Tribal Historic Preservation Officers Phoebe Tudor, Chair, National Trust for Historic Preservation |
| Non-Member Participants: | Abigail Christman, Chair, National Alliance of Preservation Commissions Patrice Frey, President and CEO, RePurpose Capital Ann Walker, Program Director, Preserve America Youth Summit |

Regulations and Governance Committee

The Regulations and Governance Committee is tasked with advising on the ACHP's oversight of the Section 106 regulations; reviewing and identifying areas for improvement in Section 106 processes, guidance, and (periodically) regulations; advising on program alternatives proposals, at appropriate points; and reviewing internal agency processes and procedures.

| | |
|----------------------|---|
| Chairman: | Vacant |
| Vice Chairman: | Phoebe Tudor, Chair, National Trust for Historic Preservation |
| Member Participants: | Mayor John Carney (Governor Member) Architect of the Capitol Council on Environmental Quality |

Department of Agriculture
 Department of Defense
 Department of Homeland Security
 Department of Housing and Urban Development
 Department of the Interior
 Department of Transportation
 Department of Veterans Affairs
 General Services Administration
 Lakota Hobia, Chair, National Association of Tribal Historic Preservation
 Officers
 Anne Raines, President, National Conference of State Historic Preservation
 Officers

Non-Member

Participant:

Patrice Frey, President and CEO, RePurpose Capital
 Manisha Patel, Incoming Acting Executive Director, Permitting Council

Tribal and Indigenous Peoples Committee

The Tribal and Indigenous Peoples Committee is tasked with advising on the generation, development, and publicity for policy, research, and administrative initiatives involving issues relevant to Indian Tribes, Native Hawaiians, and Indigenous Peoples; identifying issues of concern to Indian Tribes, Native Hawaiians, and Indigenous Peoples; advising on the rights and roles that Indian Tribes, Native Hawaiians, and Indigenous Peoples have in the Section 106 process; advising on appropriate Tribal consultation, in accordance with the requirements of the National Historic Preservation Act and other applicable statutes and Executive Orders, with the chair playing a lead role in facilitating government-to-government consultation; ensuring the ACHP meets its trust responsibility to Indian Tribes; and advising on strategies to integrate issues relevant to Indian Tribes, Native Hawaiians, and Indigenous Peoples into internal agency processes and decision making.

Chairman: Amelia AM Marchand
 Vice Chairman: Lakota Hobia, Chair, National Association of Tribal Historic Preservation
 Officers
 Member Participants: Council on Environmental Quality
 Department of Agriculture
 Department of Defense
 Department of Homeland Security
 Department of the Interior
 Anne Raines, President, National Conference of State Historic Preservation
 Officers



ACHP Organizational Structure | April 2025

COUNCIL **CHAIRMAN**
Policy direction and program leadership *Chair of Council, program oversight*

Chairman (V) | Vice Chairman (V) | Members (22/4V) | Observers (5)

General Counsel
Provision of legal services

General Counsel (1)
 Deputy General Counsel (1)
 Government Information Specialist (1)
 FPISC Permitting Attorney (1)

EXECUTIVE DIRECTOR
Senior management responsibility for all staff organizational units. Executive director reports directly to the chairman.

Executive Director (1)

Equal Employment Opportunity (EEO)

Director (not an FTE)

Communications, Education, and Outreach
Public information, websites, publications, and awards

Director (V)
 Public Affairs Manager (1)
 Senior Writer-Editor (1)
 Program Assistant (1)

Administration
Administrative, member relations, fiscal services

Director (1)
 Executive Assistant (1)
 Administrative Assistant (V)
 Meeting & Event Manager (1)
 Budget Analyst (1)

Information Technology
Information technology services

Chief Information Officer & Chief Information Security Officer (1)
 IT Specialists (2/1V)
 FPISC Permitting Information Technology Specialist (1)

Federal Agency Programs
Project review, program improvement, policy development, and training

Director (1)

Tribal and Indigenous Peoples
Liaison with Indian Tribes, Native Alaskans, and Native Hawaiians

Director (1)
 Senior Program Analyst (V)
 Program Analyst (1)
 FPISC Permitting Tribal Liaison (V)

Policy and Legislative Affairs
Policy analysis, research, congressional relations, special partnership programs and initiatives

Director (1)
 Senior Program Analyst (V)
 Preservation Program Specialist (1)
 FPISC Permitting Program Analyst (1)

Special Initiatives Section

Assistant Director (1)
 Assistant Historic Preservation Technicians (2)
 Training Specialist (1)
 Digital Operations Coordinator (1)
 FPISC Program Analyst and Permitting Analyst (1)
 FPISC Program Analyst and SHPO Liaison (1)
 FPISC Assistant Training Specialist for Permitting (1)

Federal Permitting, Licensing, and Assistance Section

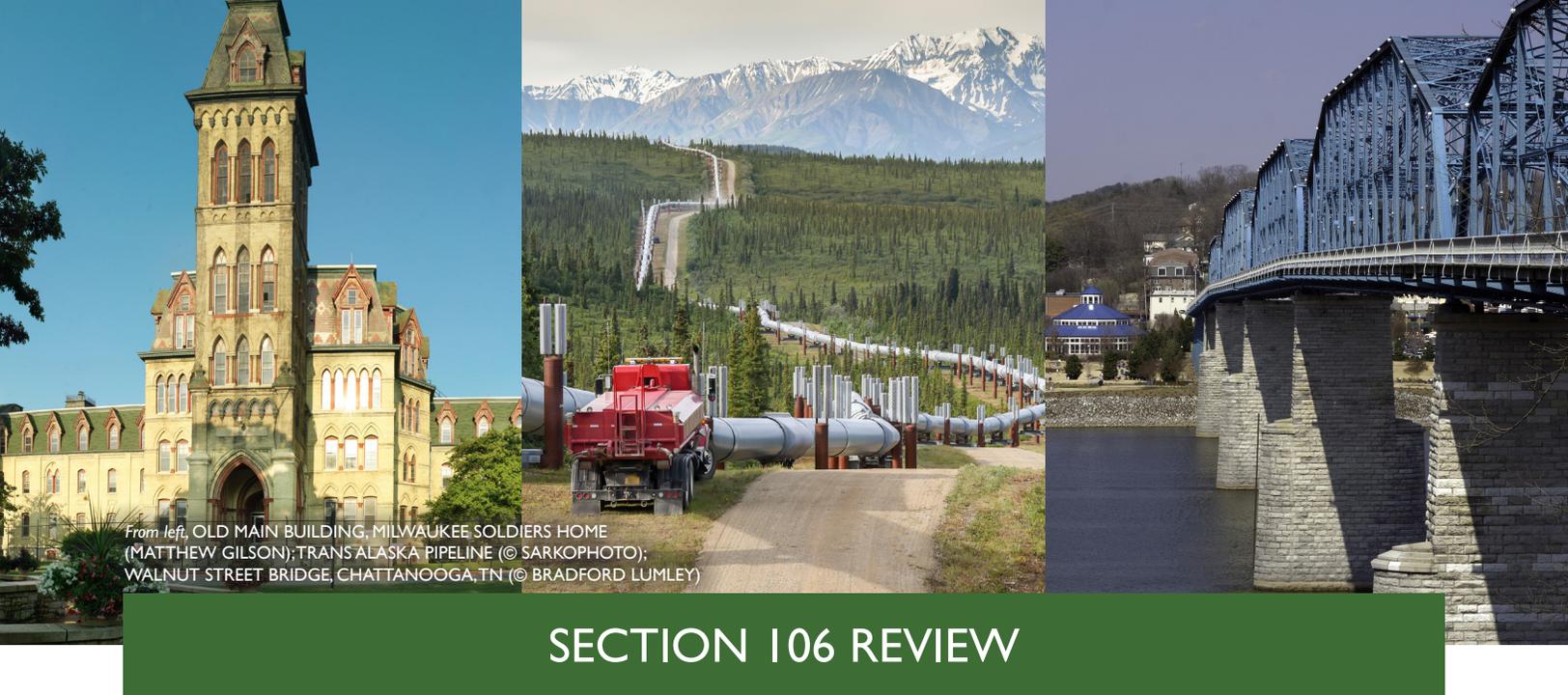
Assistant Director (1)
 Program Analysts (2)
 Assistant Program Analyst (1)
 Assistant Historic Preservation Specialist (1)
 FHWA Liaison (1)

Federal Property Management Section

Assistant Director (1)
 Program Analysts (2)
 Assistant Program Analyst (1)
 Historic Preservation Specialist (1)
 Army Liaison (1)
 BLM Liaison (1)
 VA Liaison (1)
 NPS Liaison (1)
 Forest Service Liaison (1)

Key

- BLM=Bureau of Land Management
- FHWA=Federal Highway Administration
- FPISC=Federal Permitting Improvement Steering Council
- NPS=National Park Service
- SHPO=State Historic Preservation Office
- V=Vacant
- VA=Department of Veterans Affairs



From left, OLD MAIN BUILDING, MILWAUKEE SOLDIERS HOME (MATTHEW GILSON); TRANS-ALASKA PIPELINE (© SARKOPHOTO); WALNUT STREET BRIDGE, CHATTANOOGA, TN (© BRADFORD LUMLEY)

SECTION 106 REVIEW

A key responsibility of the Advisory Council on Historic Preservation (ACHP) is to administer the requirements of Section 106 of the National Historic Preservation Act (NHPA), a review process that ensures historic properties are considered during the development of any federal or federally assisted project. The ACHP's Office of Federal Agency Programs manages the ACHP's participation in Section 106 consultation and provides guidance, advice, training, and technical assistance to diverse audiences on using the Section 106 process. The ACHP strives to ensure all Section 106 reviews proceed as efficiently and effectively as possible.

SECTION 106 REVIEW AND CONSULTATION

Section 106 plays an important central role in the federal historic preservation program. Federal agencies must consider the effects on historic properties of any project they carry out or which receives federal financial assistance, permits, or approvals, and provide the ACHP an opportunity to comment on these projects prior to making a final decision.

Agencies meet their Section 106 responsibilities through a process set forth in regulations issued by the ACHP. These regulations are published in the Code of Federal Regulations at [36 CFR Part 800](#), "Protection of Historic Properties."

A wide variety of federal projects that might affect historic properties, ranging from the construction, rehabilitation, or demolition of roads, buildings, and dams to projects which require federal licenses and permits, or receive federal loans and

grants are subject to Section 106 review. Properties listed in or eligible for listing in the National Register of Historic Places, a list maintained by the National Park Service, must be considered under the requirements of Section 106. Historic properties can be buildings; structures; objects; sites; and districts of national, state, or local importance.

Section 106 encourages, but does not mandate, preservation outcomes. The process provides for the consideration of alternatives that promote preservation and offers the public and stakeholders the opportunity to influence federal decision making.

The federal agency implementing the project or providing assistance, licenses, permits, or approvals for a proposed project is responsible for consulting with stakeholders and completing Section 106 prior to making a final decision. Consultation is the cornerstone of the Section 106 process and should be initiated in the early stages of project planning. Agencies work closely with state and Tribal officials in Section 106 reviews. Appointed by each state governor, the State Historic Preservation Officer (SHPO) coordinates the state's historic preservation program and consults with agencies during Section 106 review. Agencies also consult with federally recognized Indian Tribes and Native Hawaiian Organizations (NHOs) when historic properties of religious and cultural significance to them are involved.

Federal agencies are required to include local governments and applicants for federal assistance, permits, licenses, and other

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MISSION STATEMENT: The Advisory Council on Historic Preservation, an independent federal agency, promotes the preservation, enhancement, and sustainable use of the nation's diverse historic resources and advises the President and the Congress on national historic preservation policy.





HISTORIC MISSILE ROW AT CAPE CANAVERAL AIR FORCE STATION © EVERETT HISTORICAL



MUD PLASTERING WORKSHOP,
OWE'NEH BUPINGEH PRESERVATION
PROJECT, NM (TANIA HAMMIDI)

The ACHP's website includes a wide range of information about Section 106 and federal agency preservation programs:
www.achp.gov



approvals in the Section 106 review process. Other consulting parties, such as individuals or groups interested in historic preservation, should be invited to consult, too. Federal agencies follow these four steps to carry out a review, which may conclude after any of the steps depending on the agency's findings:

- ▶ **INITIATE** Section 106 and determine if it applies to a given project;
- ▶ **IDENTIFY** any historic properties in the area where the project could have effects;
- ▶ **ASSESS** the effect of the project on identified historic properties; and
- ▶ **RESOLVE** adverse effects by exploring alternatives to avoid, minimize, or mitigate the effects.

When the project may have substantial effects, if important policy or procedural questions are raised, or if there are issues of concern to Indian Tribes or NHOs, the ACHP may elect to participate in consultation.

When historic properties will be adversely affected by a federal undertaking, the review usually concludes with the execution of a legally binding agreement that outlines how the federal agency will resolve those effects. In rare circumstances where agreement cannot be reached, the ACHP issues advisory comments to the head of the federal agency who must then consider them in making a final decision about whether the project will proceed.

The Section 106 process is highly effective in informing project planning and protecting historic properties. About 120,000 projects nationwide are subject to review each year, and of these, only about 2,000 reviews result in a finding that "adverse effects," or potential harm to a historic property, might result. That means roughly 98 percent of projects are designed in ways that avoid adverse effects to historic properties.

ADAPTING SECTION 106 TO SPECIFIC PROGRAMS AND NEEDS

So long as key determinations are made about the presence of historic properties, their significance, whether an activity will affect them, and how to resolve those effects, the Section 106 review process can be tailored to meet many program needs or challenges. Five program alternatives in the regulations give agencies a wide range of ways to adapt the process to specific program or project needs.

Through direct and active involvement in negotiations and interagency groups like the Permitting Council, the ACHP urges stakeholders to use those flexibilities while being faithful to the NHPA and the agency's mission to promote the preservation, enhancement, and sustainable use of the nation's diverse historic resources.

SECTION 106 TRAINING

The ACHP provides training to federal, state, and local agencies; Indian Tribes and NHOs; and the public on the requirements of Section 106. Courses are offered for practitioners with different levels of knowledge and experience about Section 106 and take place at locations around the country each year and online.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308, Washington, DC 20001

Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



HISTORIC ANNAPOLIS, MD,
AFTER EXTREME RAIN EVENT
(CHESAPEAKE BAY PROGRAM)

POLICY AND LEGISLATIVE AFFAIRS

An important part of the Advisory Council on Historic Preservation’s (ACHP) mission statement is to advise the President and Congress on historic preservation matters. The ACHP also provides evaluations and recommendations on how federal programs can make better use of historic preservation tools and techniques as federal agencies carry out their missions. These efforts focus on strategies to effectively combine the stewardship of the nation’s heritage with other national goals.

POLICY STATEMENTS

The ACHP has adopted a number of policy statements that are designed to help federal agencies, states, Tribes, and other parties maximize the preservation of historic resources and meet their responsibilities under the National Historic Preservation Act (NHPA). The most recent policy statements address the following important preservation-related issues.

- **Policy Statement on Housing and Historic Preservation:** To help address the nation’s housing shortage, the ACHP adopted this policy statement to encourage rehabilitation of historic buildings for housing. The policy addresses incentivizing and removing barriers to reusing historic buildings for housing, including conversion of historic nonresidential buildings, and accelerating project permitting and environmental review.
- **Policy Statement on Climate Change and Historic Preservation:** Historic properties are experiencing escalating

climate impacts that are increasingly leading to their damage and destruction. The policy addresses the importance of making historic properties more resilient, considering such properties during disaster preparedness and response, and reusing historic buildings to help contribute to decarbonization.

- **Policy Statement on Burial Sites, Human Remains, and Funerary Objects:** Human remains, burial sites, and funerary objects are significant to all peoples, and this ACHP policy addresses concerns related to their treatment and the need for appropriate consideration in federal decision making. The policy recognizes that the burial sites most often disturbed are those associated with Indian Tribes, Native Hawaiians, Indigenous Peoples, racial and ethnic minorities, and low-income communities.
- **Policy Statement on Indigenous Knowledge and Historic Preservation:** This policy establishes standards, guidelines, and interpretations as to how Indigenous Knowledge should be accounted for in federal decision making regarding historic properties. This policy advises federal agencies on ways to effectively incorporate Indigenous Knowledge into their historic preservation activities, including actions addressing sacred sites.

For more information, visit www.achp.gov/preservation-policy.

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AT THE U.S. GENERAL SERVICES ADMINISTRATION BUILDING IN WASHINGTON, DC, A SEGMENT OF THE GROUND FLOOR IS OUTLEASUED AS PUBLIC RETAIL PAVILIONS. (TAYLOR J. LEDNUM/GSA)



INDIGENOUS KNOWLEDGE SHAPES FISHPOND PRESERVATION AT KALOKO-HONOKŌHAU NATIONAL HISTORICAL PARK, HI. (NATIONAL PARK SERVICE)



ACHP MEMBERS PARTICIPATE IN A CONGRESSIONAL ROUNDTABLE ON STRENGTHENING HISTORIC PRESERVATION.



For more information and additional guidance, please visit: www.achp.gov



MANAGING HISTORIC FEDERAL PROPERTIES

Executive Order 13287 requires the ACHP to deliver a report to the President every three years on federal historic property management. *In a Spirit of Stewardship* describes federal agency progress in identifying, using, and protecting historic properties, and offers findings and recommendations for further enhancing preservation of historic properties owned or managed by the federal government. The 2024 report emphasizes the themes of infrastructure, job creation, equity, and climate change. The next report will be developed in FY 2026 for submittal to the President in February 2027.

For more information, visit www.achp.gov/ofap/section%203.

In 2021, the ACHP published the report *Leveraging Federal Historic Buildings*. Focusing on the leasing of under-utilized and unused historic federal buildings, the report makes recommendations for administrative and policy improvements to facilitate the leasing of such properties for nonfederal use. Under-utilization of federal buildings remains a challenge, and the situation has been further complicated by increased agency use of telework and remote work.

For more information, visit www.achp.gov/initiatives/leveraging-federal-historic-buildings.

ADVISING CONGRESS

In keeping with its responsibility under the NHPA to advise Congress, the ACHP comments on legislation with the potential to impact the preservation and productive use of historic properties. Frequently addressed issues include the following:

- Funding and reauthorization of the Historic Preservation Fund, which provides funding for State and Tribal Historic Preservation Offices and preservation grant programs;
- Enhancements for the federal Historic Tax Credit for rehabilitation of historic properties and supporting other tax incentives for reusing existing buildings;
- Balancing regulatory/permitting reform and streamlining with protection of historic properties; and
- Designation or protection of historic properties that reflect the full American story.

For more information, visit www.achp.gov/preservation-legislation.

STATE AND LOCAL LEGISLATION

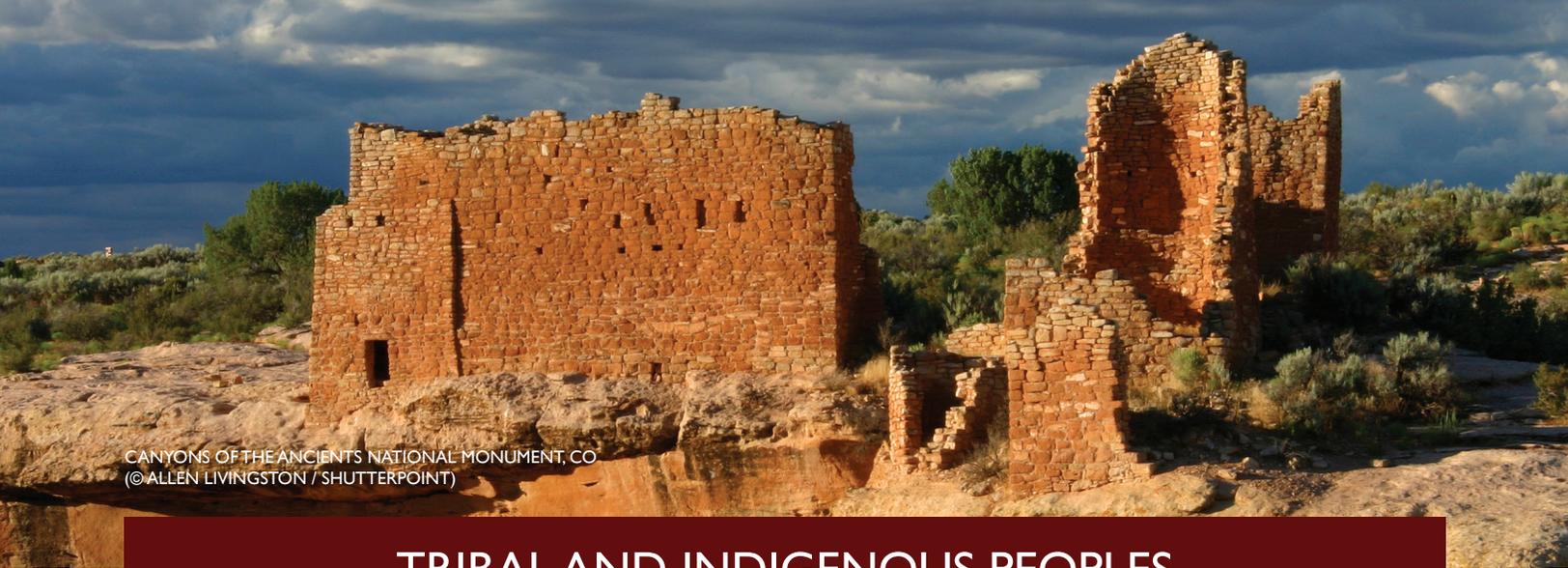
In addition, the ACHP can advise on state and local legislation affecting historic properties. Such advice is offered only upon request and in situations where there would be substantial or precedent-setting impacts to historic properties or issues of concern related to federal preservation law and policy.

For more information, visit www.achp.gov/State_and_Local_Legislation.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308, Washington, DC 20001

Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



CANYONS OF THE ANCIENTS NATIONAL MONUMENT, CO
(© ALLEN LIVINGSTON / SHUTTERPOINT)

TRIBAL AND INDIGENOUS PEOPLES

The Advisory Council on Historic Preservation (ACHP) recognizes that Indian Tribes, Native Hawaiian Organizations (NHOs), and Indigenous Peoples play a vital role in the protection of historic properties across the nation and works to ensure their full and effective engagement in the historic preservation program. The ACHP pursues this goal through the development of policy and program improvements, the provision of technical support in Section 106 of the National Historic Preservation Act reviews, and training and guidance for all practitioners regarding the participation of these key partners in federal decision making about historic properties.

The Office of Tribal and Indigenous Peoples (OTIP) oversees the agency's Tribal and Indigenous Peoples initiatives and works closely with the ACHP members to address critical issues relating to Indian Tribes, NHOs, and intertribal organizations. OTIP supports these broad goals through the following actions:

- Advising the ACHP chairman, members, executive director, and staff on policy matters and historic preservation issues affecting Indian Tribes and NHOs;
- Ensuring the ACHP meets its government-to-government consultation and trust responsibilities to Indian Tribes;
- Providing technical assistance and outreach regarding Tribal and NHO consultation in the Section 106 review process; and,
- Participating in interagency initiatives focused on Native American issues.

MAJOR INITIATIVES

Policy Adoption

The ACHP achieves many of its objectives through the development and issuance of policy statements that establish ACHP policy on issues pertaining to the role of Indian Tribes, NHOs, and others in federal decision making. The ACHP also advises federal agencies and other stakeholders on steps they can take to support and implement these policies. Major policy statements include the Policy Statement Regarding the ACHP's Relationships with Indian Tribes; Policy Statement Regarding the ACHP's Interaction with Native Hawaiian Organizations; Policy Statement on Indigenous Knowledge and Historic Preservation; and Policy Statement on Burial Sites, Human Remains, and Funerary Objects. This last policy statement was adopted with a unanimous vote in March 2023 and establishes a set of standards and guidelines that federal and state agencies, contractors, and other relevant entities should seek to implement in order to provide burial sites, human remains, and funerary objects the consideration and protection they deserve. More information is available here: <https://www.achp.gov/treatment-burial-sites>.

Indigenous Knowledge

The ACHP has provided government-wide leadership on recognizing the importance of Indigenous Knowledge (IK) in the Section 106 review process and the long-term protection of historic properties of religious and cultural significance to those who hold such knowledge. The ACHP is also committed

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MISSION STATEMENT: The Advisory Council on Historic Preservation, an independent federal agency, promotes the preservation, enhancement, and sustainable use of the nation's diverse historic resources and advises the President and the Congress on national historic preservation policy.





BIGHORN MEDICINE WHEEL, WY



CAVE ROCK, NV



ACHP STAFF MEMBERS TEACH A SECTION 106 COURSE TO TRIBAL REPRESENTATIVES.

to working with Indian Tribes, *kanaka maoli* (Indigenous people of the Hawaiian Islands), and NHOs to develop appropriate means to explain the importance and role of IK in all four steps of the Section 106 process. More information is available here: <https://www.achp.gov/indian-tribes-and-native-hawaiians/traditional-knowledge>.

Protection of Indian Sacred Sites

In December 2021, the Departments of the Interior, Agriculture, and Energy and the ACHP (signatories), among others, entered into a Memorandum of Understanding regarding interagency coordination and collaboration for the protection of Indian sacred sites. The signatories have adopted a policy on the confidentiality of sensitive information, published a general information paper on Indian sacred sites, developed an online course on the federal government and sacred sites, and conducted an extensive study on the federal legal protections for Indian sacred sites.

Plan to Support the United Nations Declaration on the Rights of Indigenous Peoples (UN DRIP)

In 2013, the ACHP adopted a plan to support the UN DRIP and issued two guidance documents on the intersection of the UN DRIP and the Section 106 process. OTIP staff also assists the State Department in its interactions with United Nations bodies regarding Indigenous issues.

Training and Guidance

OTIP develops and delivers in-person training and webinars on Section 106 for Indian Tribes, NHOs, federal agencies, and other stakeholders. OTIP has also begun offering online/on-demand training including courses on Early Coordination with Indian Tribes for Infrastructure Projects, Native Hawaiian Organizations in the Section 106 Process, and Section 106 Training for Indian Tribes.

OTIP has developed an extensive body of guidance on a wide range of topics including handbooks on both Tribal and NHO consultation, addressing traditional cultural landscapes in the Section 106 process, recommendations for improving Tribal-federal consultations, and the role of the Tribal Historic Preservation Officer in the Section 106 process.

There are also several information papers that introduce Section 106 participants to topics such as the challenges facing Indian Tribes that were removed from their ancestral homelands, identifying and considering the role of Indigenous places and landscapes, and Tribal treaty rights in the Section 106 process.

For more information on training, please see <https://www.achp.gov/indian-tribes-and-native-hawaiians/training-guidance>.

For more information and additional guidance, please visit: www.achp.gov/indian-tribes-and-native-hawaiians



ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308, Washington, DC 20001

Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



ACHP STAFF

ACHP staff carries out the day-to-day work of the ACHP and provides all support services for ACHP members. In addition to its permanent staff, the ACHP maintains interagency liaison positions that are term appointments funded by the Army, Bureau of Land Management, Federal Highway Administration, Forest Service, National Park Service, and Department of Veterans Affairs. Also, in addition to permanent staff, eight two-year term positions were funded by the Permitting Council. The executive director supervises all staff components.

[Staff Directory | Advisory Council on Historic Preservation](#)



ACHP LEADERSHIP BIOGRAPHIES

Executive Director

Reid J. Nelson is the executive director of the ACHP. He oversees the operations of the agency in Washington, D.C. Reid reports to the ACHP chairman and provides executive oversight and budget control for the entire agency. Leading up to this position, Reid worked at the ACHP for 13 years as the director of the Office of Federal Agency Programs (OFAP), and two years prior to that as an assistant director in charge of OFAP's Federal Property Management Section (FPMS). Prior to coming to the ACHP, he worked with the Navajo Nation in its Archaeology and Historic Preservation Departments for 18 years, the last nine of which were as a program manager for the Navajo Nation Historic Preservation Department. Reid also has carried out additional archaeological and ethnographic research across the western United States.

Office of General Counsel

Javier Marqués is the general counsel. He joined the ACHP staff in December 1998. He was formerly employed as an associate at the law firm of Negroni & Winston (now merged with Goodwin Procter). Prior to law school graduation, Javier worked as the law clerk for the National Trust for Historic Preservation. He received a BA with honors from the University of Notre Dame and a JD from the George Washington University. Javier has been a member of the Maryland Bar since 1996 and is fluent in Spanish.

Kelly Fanizzo is the deputy general counsel of the ACHP. Kelly initially joined the ACHP in February 2006 and was a program analyst in OFAP. In that role, she coordinated Section 106 project reviews for both federal property management and assistance agencies. Kelly moved to the Office of General Counsel in 2013. As the deputy general counsel, she provides legal advice on the ACHP's responsibilities in historic preservation law and environmental law, and she advises the agency regarding other aspects of federal law and regulation. Kelly has a law degree from American University, Washington College of Law, and an LL.M. in legal education from Temple University, Beasley School of Law. She received her BA from Franklin and Marshall College and also holds a Graduate Certificate in Museum Studies from the George Washington University. Prior to her current position with the ACHP, Kelly taught legal research and writing and land use planning at the Beasley School of Law, and practiced environmental law for the Navy's Office of General Counsel in Washington, D.C.

Office of Federal Agency Programs

Jaime Loichinger is the director of OFAP. The office consists of 24 positions focused on overseeing and participating in the Section 106 review process, providing assistance and training to stakeholders on meeting its requirements, and coordinating with others in the Administration on efforts to align the Section 106 review process with other environmental reviews. Jaime has been with the ACHP since 2010, as both a program analyst and the assistant director for the Federal Permitting, Licensing, and Assistance Section (FPLAS). Prior to joining the ACHP, she worked at the U.S. Environmental Protection Agency (EPA) as an environmental protection specialist for five years. In that role, Jaime served as the technical

specialist in historic preservation and performed a variety of activities, including coordinating the agency's Section 106 and National Environmental Policy Act (NEPA) environmental reviews. Jaime holds a Master's degree in Applied Anthropology and a Certificate in Historic Preservation from the University of Maryland-College Park.

Federal Permitting, Licensing, and Assistance Section

Rachael Mangum is the assistant director of FPLAS within OFAP. She joined the ACHP in June 2020 and served for a year and a half in the re-established Department of the Army liaison role to facilitate the Army's development of a new program comment for historic housing. She moved to FPLAS as a program analyst, reviewing Section 106 compliance for the Federal Aviation Administration, Federal Railroad Administration, EPA, and U.S. Department of Housing and Urban Development before becoming assistant director in November 2023. Rachael joined the ACHP with 20 years of experience in cultural resources management supporting federal agencies and state Departments of Transportation in their National Historic Preservation Act (NHPA) and NEPA compliance. She has conducted archaeological and architectural resource investigations to identify and evaluate historic properties, managed archaeological and archival collections and their curation, and assisted agencies in the resolution of adverse effects on complex projects. She received her MA in Anthropology from the George Washington University and BA in Anthropology from Wake Forest University. She is on the Register of Professional Archaeologists.

Federal Property Management Section

Christopher Koepfel is the assistant director of FPMS in OFAP. Before joining the ACHP in 2021, Chris served as the assistant director of the Forest Service's Office of Tribal Relations, in Washington D.C., providing technical leadership, guidance, and administration in the planning and coordination of the national Forest Service Tribal relations program. Prior to joining the Forest Service, Chris served as division archaeologist and Tribal liaison for the U.S. Army Corps of Engineers' Mississippi Valley Division (MVD). At MVD, Chris also worked as the program manager for the construction of Hurricane and Storm Damage Risk Reduction System program in the City of New Orleans and ecosystem restoration projects in the Gulf of Mississippi. Chris previously worked at the Indiana Department of Transportation as the administrator of the Cultural Resources Section and as a cultural resources specialist with the Indiana State Historic Preservation Office.

Special Initiatives Section

Blythe Semmer, PhD, is the assistant director for Special Initiatives, and has been with the ACHP since 2006. Her position focuses on improving federal preservation planning and interagency review coordination through guidance development and by expanding educational outreach to Section 106 review participants. Blythe previously coordinated the Section 106 training program and has assisted a range of federal agencies with NHPA compliance during her time with the agency. Prior to joining the ACHP, she worked as a preservation planner for Nashville's Metropolitan Historical Commission and in the Alabama State Historic Preservation Office. She holds an MA in Public History from Middle Tennessee State University and a doctorate in Urban and Regional Planning and Design from the University of Maryland.

Office of Administration

Ismail Ahmed is the director of the Office of Administration. He joined the ACHP in 2012. Ismail manages a professional staff of three who are responsible for a wide range of functions: executive secretariat and ACHP member support, meeting and event planning, budget/finance, procurement, and

general administrative support. He was previously employed as director of Contracts, Grants & Administration at the Hilltop Institute of University of Maryland-Baltimore County.

Office of Information Technology

Rezaur Rahman serves as the chief information officer and chief information security officer for the ACHP. Having been with the ACHP since 2005, he previously served as the enterprise architect and web services manager for the agency. As the CIO/CISO for the agency, he is responsible for planning and directing information technology and cybersecurity operations. Rezaur promotes innovative uses of technology and providing the best possible IT services to the agency. He prioritizes the acquisition of information resources in a way that maximizes the value of the investments. Having 20 years of experience in the IT industry in the private sector, he is leading the efforts to modernize the agency's IT infrastructure to provide capability that is typically ahead of what is available to other agencies. Rezaur has been invited to speak at conferences on Cloud Computing, Enterprise Architecture, and has also been interviewed on Federal News Radio. Rezaur was detailed as a subject matter expert for the development of Recovery.gov under the Recovery Act. He was also a member of the Federal Web Managers Council where he served as chairman of the Technology and Innovations sub-council. He received a BS in Information Technology from George Mason University.

Office of Tribal and Indigenous Peoples

Ashley Fry is the director of the Office of Tribal and Indigenous Peoples of the ACHP where she oversees the agency's Indigenous initiatives and works with Indian Tribes and Native Hawaiian Organizations on historic preservation efforts. Prior to this position, Ashley was with the U.S. Department of State's Cultural Heritage Center where she was the executive director of the Cultural Heritage Coordinating Committee. Her previous experience includes extensive work with Native American communities on the international repatriation of ancestors and significant cultural heritage, the promotion and protection of Native American art and craftwork, and the development of legal frameworks.

Office of Communications, Education, and Outreach

Lynne Richmond is the acting director for the Office of Communications, Education, and Outreach and the communications and public affairs specialist for the ACHP. She is the main spokesperson for the agency and communicates regularly with the media. She manages the ACHP's social media channels, produces audio visual products, plans awards ceremonies and press events, and writes press releases, articles, op/eds, letters, and other written pieces. Lynne came to the ACHP in 2018 from New Jersey, previously serving as a deputy press secretary in the New Jersey Governor's Office, and long-time public information officer at the New Jersey Department of Agriculture. Prior to that, she was a communications specialist with the New Jersey General Assembly. After earning a journalism degree from Rutgers University, she spent 17 years as a radio reporter covering New Jersey news.

Office of Policy and Legislative Affairs

Druscilla J. Null is director of the Office of Policy and Legislative Affairs (OPLA). In that role, Dru is responsible for overseeing OPLA's work to develop preservation policy recommendations, to analyze proposed legislation as it pertains to preservation of historic properties, and to undertake programs and research related to major national preservation issues. She served as lead on developing and drafting the ACHP's *Policy Statement on Housing and Historic Preservation* (2023), *Policy Statement on Climate Change and Historic Preservation* (2023), and *Policy Statement on Promotion and Value of Traditional Trades Training* (2020). Dru also coordinates agency development of program content for annual ACHP budget documents and serves as the principal coordinator for periodic revisions of the ACHP strategic

plan. Dru previously served as a senior program analyst in OPLA and also worked for many years at the ACHP reviewing federal projects and programs for compliance with Section 106. Before coming to the ACHP, she worked as a self-employed historic preservation consultant and with the National Park Service's Historic American Buildings Survey. Dru has degrees in history and historic preservation from Goucher College and the George Washington University.



OFFICE OF FEDERAL AGENCY PROGRAMS AGENCY STAFF ASSIGNMENT

Jaime Loichinger, director: (202) 517-0219, jloichinger@achp.gov
 Rachael Mangum, assistant director for permitting, licensing, and assistance: (202) 517-0214, rmangum@achp.gov
 Christopher Koeppel, assistant director for federal property management: (202) 517-0222, ckoeppel@achp.gov
 Blythe Semmer, assistant director for special initiatives: (202) 517-0226, bsemmer@achp.gov
 Katharine Kerr, digital operations coordinator: (202) 517-0216, kkerr@achp.gov
 Dana Daniels, assistant historic preservation technician: (202) 517-0215; ddaniels@achp.gov
 Lucrecia Brooks, assistant historic preservation technician: (202) 517-0218; lbrooks@achp.gov

Updated: February 27, 2025

| AGENCY | CONTACT NAME | EMAIL ADDRESS | PHONE |
|---|--------------------|--|----------------|
| Agricultural Research Service | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| Air Force, Department of the | Katharine Cline | kcline@achp.gov | (202) 517-0225 |
| Air National Guard | Katharine Cline | kcline@achp.gov | (202) 517-0225 |
| Army Corps of Engineers, United States (Civil Works) | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| Army Corps of Engineers, United States (Regulatory) | Emma Diehl | ediehl@achp.gov | (202) 517-0212 |
| Army National Guard | Lauren Cooper | lcooper@achp.gov | (202) 517-0213 |
| Army Reserve, United States | | | |
| Army, Department of the | | | |
| Bonneville Power Administration | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| Bureau of Indian Affairs | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |
| Bureau of Land Management | Rodney Parker | rparker@achp.gov | (202) 517-0198 |
| Bureau of Ocean Energy Management | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| Bureau of Reclamation | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| Community Development Block Grants | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Economic Development Administration | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Energy, Department of (Property Management) | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| Energy, Department of (Grants, Loans, Approvals) | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| Environmental Protection Agency | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Farm Service Agency | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Federal Aviation Administration | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Federal Communications Commission | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Federal Emergency Management Agency | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Federal Energy Regulatory Commission | Emma Diehl | ediehl@achp.gov | (202) 517-0212 |
| Federal Highway Administration (AL-AR-CO-CT-DC-DE-GA-GU-HI-ID-IA-IL-IN-KS-KY-LA-MA-MD-ME-MI-MN-MO-MS-MT-NY-NC-ND-NH-NJ-NM-NY-NV-OK-OR-PA-RI-SC-SD-TN-VA-VT-WA-WI-WV-WY) | Kasey Miller | kmiller@achp.gov | (202) 517-6389 |
| Federal Highway Administration (AK-AZ-CA-FL-NE-OH-TX-UT) | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Federal Railroad Administration | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |



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Jaime Loichinger, director: (202) 517-0219, jloichinger@achp.gov
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 Christopher Koeppel, assistant director for federal property management: (202) 517-0222, ckoeppel@achp.gov
 Blythe Semmer, assistant director for special initiatives: (202) 517-0226, bsemmer@achp.gov
 Katharine Kerr, digital operations coordinator: (202) 517-0216, kkerr@achp.gov
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| AGENCY | CONTACT NAME | EMAIL ADDRESS | PHONE |
|---|---------------------|--|----------------|
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Federal Reserve System | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Federal Transit Administration | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Fish and Wildlife Service, United States | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |
| Forest Service, United States | Ana Perez | aperez@achp.gov | (202) 517-0210 |
| General Services Administration | Christopher Koeppel | ckoeppel@achp.gov | (202) 517-0222 |
| Homeland Security, Department of (except for Federal Emergency Management Agency) | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |
| Housing and Urban Development, Department of | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Indian Health Service | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Interior, Department of the | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Labor, Department of | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| Marine Corps, United States | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| Maritime Administration | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| National Aeronautics and Space Administration | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| National Capital Planning Commission | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| National Endowment for the Arts | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| National Endowment for the Humanities | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| National Oceanic & Atmospheric Administration | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| National Park Service (Nationwide Program Alternatives for Property Management) | Kirsten Kulis | kkulis@achp.gov | (202) 517-0217 |
| National Park Service (Property Management) | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |
| National Science Foundation | Emma Diehl | ediehl@achp.gov | (202) 517-0212 |
| National Telecommunications and Information Administration | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Natural Resources Conservation Service | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Navy, Department of the | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| Nuclear Regulatory Commission | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| Postal Service, United States | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |



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Jaime Loichinger, director: (202) 517-0219, jloichinger@achp.gov
 Rachael Mangum, assistant director for permitting, licensing, and assistance: (202) 517-0214, rmangum@achp.gov
 Christopher Koepfel, assistant director for federal property management: (202) 517-0222, ckoepfel@achp.gov
 Blythe Semmer, assistant director for special initiatives: (202) 517-0226, bsemmer@achp.gov
 Katharine Kerr, digital operations coordinator: (202) 517-0216, kkerr@achp.gov
 Dana Daniels, assistant historic preservation technician: (202) 517-0215; ddaniels@achp.gov
 Lucrecia Brooks, assistant historic preservation technician: (202) 517-0218; lbrooks@achp.gov

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| AGENCY | CONTACT NAME | EMAIL ADDRESS | PHONE |
|---|--------------------|--|----------------|
| Presidio Trust | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| Rural Business-Cooperative Service | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Rural Housing Service | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Rural Utilities Service | Alexis Clark | aclark@achp.gov | (202) 517-0208 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Small Business Administration | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Smithsonian Institution | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |
| Southeastern Area Power Administration | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| Southwestern Area Power Administration | | | |
| State, Department of | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Surface Mining Reclamation and Enforcement, Office of | Bill Marzella | bmarzella@achp.gov | (202) 517-0209 |
| | Maxwell Sickler | msickler@achp.gov | (202) 517-0220 |
| Surface Transportation Board | Emily Choi | echoi@achp.gov | (202) 517-0207 |
| Tennessee Valley Authority | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |
| Treasury, Department of the | Chris Wilson | cwilson@achp.gov | (202) 517-0229 |
| Veterans Affairs, Department of | Vanessa Hanvey | vhanvey@achp.gov | (202) 517-0224 |
| Western Area Power Administration | Christopher Daniel | cdaniel@achp.gov | (202) 517-0223 |

OPERATING PROCEDURES OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

INTRODUCTION

These procedures provide guidance for the operation of the Advisory Council on Historic Preservation (“Council”). They supplement and clarify more general requirements appearing in the National Historic Preservation Act (“Act”), the Administrative Procedure Act, and the Council’s regulations. In addition, the Council follows administrative procedures of the Department of the Interior relating to finance, personnel, budget, and travel in lieu of developing its own procedures. The Council has 24 members (collectively referred to as the “Membership”), headed by a Chairman, and a staff which is overseen by an Executive Director.

I. STATEMENT OF POLICY

The law entrusts the authorities of the Council to the Membership. To carry out these authorities in an efficient and prompt manner, the Membership recognizes that the Chairman and the Executive Director, under the supervision of the Chairman, must possess the authority to act on behalf of the Membership on a daily basis, conforming to general policies and specific directives established by the Membership. Frequent and open communication among the Executive Director, the Chairman, and the Membership is necessary for proper coordination with, and conformance to, these policies and directives.

The Membership sets general policy for programs and activities, initiates or approves programs and activities, and exercises long term oversight of the Council’s policies, programs and activities. Members participate in specific programs and activities individually, in groups, and as the full Membership.

The Chairman undertakes the pursuit and oversight of the implementation of such policies, programs and activities. The Chairman ensures that the Executive Director is carrying out approved policies and conforming to them. The Chairman makes policy decisions on behalf of the Membership as needed when the Membership is unavailable to act, consulting with the Membership as appropriate. In the absence or unavailability of the Chairman, the Vice Chairman performs the functions of the Chairman.

The Executive Director undertakes the daily implementation of programs and activities, subject to the policy guidance of the Chairman and the Membership. The Executive Director oversees the staff of the Council and ensures that their individual actions and objectives are consistent with the policies established by the Membership.

II. COUNCIL ORGANIZATION

A. Council Membership

The National Historic Preservation Act specifies that the Membership shall consist of 24 members. Six members (the Secretary of the Interior, the Secretary of Agriculture, the Architect of the Capitol, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, and the General Chairman of the National Association of Tribal Historic Preservation Officers) serve *ex officio*. The President appoints the remaining 18 members (four general public members, four experts, a governor, a mayor, a member of an Indian tribe or a Native Hawaiian organization, and the heads of seven Federal agencies).

B. Designees

Federal members, the Chairman of the National Trust, the President of the National Conference of State Historic Preservation Officers, the General Chairman of the National Association of Tribal Historic Preservation Officers, and the Governor may designate another officer of their department, agency, or organization to serve on the Council in their stead. In accordance with 54 U.S.C. § 304101(b), Federal agencies may only designate an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities. Appendix A to these Operating Procedures, entitled “Membership Credentials,” sets forth guidance for naming designees. A designee must provide the Chairman with a letter of designation, setting forth the basis for the designation, prior to participating in activities of the ACHP as a designee. Members should update ACHP staff in a timely fashion regarding a change of incumbents in their designated positions by sending information about such changes to designeeupdates@achp.gov. Failure to do so can result in ACHP communications, including notifications and requests for action, not reaching the relevant designees.

C. Membership Credentials

- 1. Qualifications.** 54 U.S.C. § 304101 sets forth the criteria for members of the Council and their designees. Individual members or their designees should meet the qualifications set forth in Appendix A to these Operating Procedures, entitled “Membership Credentials.”
- 2. Credentials review.** The Chairman will review the credentials of any designee named by an agency or organization pursuant to the Act. If the Chairman determines that a designation may be deficient, the Chairman shall consult with the member making the designation to resolve the issue. The Chairman may take such other actions as appropriate to ensure that the intent of the statute is carried out.

D. Observers

1. **Member-designated observers.** Any member, including one not authorized by statute to designate an alternate representative, may, after submitting a written request (including electronic mail) to the Chairman and with the written approval of the Chairman, designate an observer who may actively participate in any or all activities of the Membership on behalf of the specified member in the absence of the Member or such member's designee pursuant to Section II.B. of these Operating Procedures, but may not make or second any motion and may not vote. These observers shall have a fixed term not to exceed four (4) years commencing from the date of the Chairman's written approval. A Member may reappoint Member-designated observers.

2. **Chairman-designated observers.** The Chairman may invite the head of a Federal, State, Tribal, or local public agency or non-profit organization to become an observer when the Chairman determines that the participation of such agency or organization will benefit the Council. The head of such an observer's entity may designate someone else within the entity to participate with the ACHP in his or her stead so long as that designee is an official with major entity-wide responsibilities. The status of Chairman-designated observers differs from the status of individuals invited by the Chairman to participate in a specific matter before the Council. These observers shall have a fixed term not to exceed two (2) years commencing from the date of the written invitation by the Chairman to the observer. The Chairman may reappoint Chairman-designated observers. The Chairman may appoint up to five (5) observers without the concurrence of a majority of the Membership, and may appoint more than five (5) observers with the concurrence of a majority of the Membership.

3. **Participation of observers.** Observers may attend all meetings and may speak when recognized by the Chairman or the subgroup chairman, as applicable, but may not make or second any motion and may not vote. Challenges to the credentials or participation of an observer shall be resolved in accordance with Section II.C.2 of these Operating Procedures.

4. **Termination.** The Chairman, or the Membership by majority vote of those present and voting, may terminate the observer status of a Chairman-designated observer at any time. The appointing Member, or the Chairman in consultation with the appointing Member, may terminate the status of Member-designated observer at any time.

E. Council Subgroups

1. **Establishment.** The Chairman may establish standing and ad hoc subgroups to carry out the Council's business. The Chairman shall appoint to such subgroups a chairman and subgroup participants who may be chosen from the Membership or may be others, and shall notify the Membership in writing of such appointment or appointments.

2. **Non-Member Subgroup Participants.** A subgroup participant who is not selected from the Membership and is not an official designee shall be subject to the restrictions under Section II.D.3 of these Operating Procedures.

3. **Changes and Termination.** At his or her discretion, the Chairman may substitute any subgroup participant or chairman and may terminate the subgroup.

4. **Powers.** Unless given a specific delegation of authority by majority vote of the Membership, the powers of subgroups shall be limited to advising the Chairman and the Membership on the exercise of their legal authorities. When a subgroup carries out advisory functions, it is not expected to entertain motions or hold votes but, rather, have its chairman report to the Chair or Council, as appropriate, about the subgroup's discussions and advice.

5. **Alternate Participation in Subgroup.** Where a federal agency Member, the Architect of the Capitol, the Governor, the Mayor, the Chairman of the National Trust for Historic Preservation, the President of the National Conference of State Historic Preservation Officers, or the General Chairman of the National Association of Tribal Historic Preservation Officers has been appointed to a subgroup, such entity or individual may name one alternate participant to participate in subgroup functions, and this alternate participant may make motions, second motions, and vote, when the subgroup is carrying out those limited advisory functions. The appointed participant should notify the chairman of the subgroup and the Executive Director in writing when naming such an alternate participant.

6. **Rules of Order.** Subgroups established under this section shall generally adhere to these Operating Procedures and to Robert's Rules of Order.

III. COUNCIL MEETINGS

This section of these Operating Procedures establishes general procedures that pertain to meetings of the Membership or of subgroups established under Section II.E of these Operating Procedures. Procedures governing meetings held in the course of the Section 106 process set forth in the Council's regulations are contained in Section V.

A. Types of meetings

The Membership may take formal actions at meetings of the Membership or subgroups may take formal actions in accordance with Section II.E. Meetings of the Membership or of subgroups may be held in regular session, in special session, or unassembled.

1. **Regular session.** Normally, the Membership shall conduct its business at meetings held in regular session with full adherence to these Operating Procedures. The Chairman shall schedule the regular meetings of the Membership, which will generally be held three to four times per year.

2. **Special session.** When the Chairman determines that circumstances warrant a departure from normal procedures, such as to discuss a time-sensitive proposed program alternative or to discuss legal matters outside the public view, the Chairman may call a meeting in special session.

3. **Unassembled meeting.** When the Chairman determines that the Membership or a subgroup should act on a single or limited number of issues and a regular or special meeting is not warranted, the Chairman may convene an unassembled meeting. In an unassembled meeting, business will be conducted by mail, telephone, electronic mail, facsimile, or other such methods of communications. Reasonable notice of unassembled meetings shall be given by the Executive Director. No business shall be transacted at unassembled meetings that will violate the principles of public participation adopted by the Membership.

B. Public participation and disclosure

The public may attend, either in-person or virtually as circumstances allow or require, regular and special session meetings of the Membership. However, the Council will not provide public attendance for the following: 1) unassembled meetings and 2) meetings or portions of meetings dealing with subjects properly withheld from public disclosure in accordance with 5 U.S.C. §552(b). The public shall have access to materials transmitted to and from members in the conduct of an unassembled meeting, with the exception of materials properly withheld from public disclosure in accordance with 5 U.S.C. §552(b). When the Chairman determines that business before the Council requires exclusion of the public, the Chairman shall limit the closing of the meeting to the time necessary to transact the confidential business.

C. Meeting place

The Council shall hold in-person regular and special session meetings of the Membership in places generally accessible to the public and to people with disabilities. However, normal Federal office building security requirements that restrict access to individuals who have made their desire to attend known beforehand shall not be considered to make a meeting place unacceptable. The Council shall broadcast virtual and hybrid regular and special session meetings of the Membership via online simulcast, webinar, or virtual meeting format.

D. Notice

The Executive Director shall notify the Membership of regular and special session meetings of the Membership at least 7 days before the meeting date. If 7 days notice of special session meetings is not possible under the circumstances, the Executive Director shall make a good faith effort to provide notice to the Membership and to the public as early as possible. The Executive Director may provide other means of notice as the Executive Director determines to be necessary. In providing such additional notice, the Executive Director shall make a good faith effort to provide actual notice to local governments, Indian tribes, the public and other interested

persons where such notice is not precluded by excessive cost or burdens on staff time. Notice of meetings of subgroups shall be given as determined appropriate by the Executive Director.

E. Quorum

Thirteen voting members shall constitute a quorum necessary for the transaction of business at a meeting of the Membership. Subgroups will only need a quorum when carrying out non-advisory authorities formally delegated by the Membership. Such a quorum shall be a simple majority of the voting members in the subgroup, namely, Members or their official designees under Sections II.A. and II.B. of these Operating Procedures.

F. Call to Order

Meetings of the Membership may be called to order by the Chairman or, in the Chairman's absence, by the Vice-Chairman. Should both be absent, a non-Federal member previously designated by the Chairman shall call the meeting to order.

Meetings of subgroups may be called to order by their respective chairmen or any subgroup participant previously designated by the subgroup's chairman.

G. Order of business

Regular meetings of the Membership shall generally adhere to the following order:

1. Adoption of the agenda.
2. Consideration of the minutes.
3. Reports of subgroups.
4. Staff reports.
5. Special or priority business.
6. Unfinished business.
7. New business.

The Chairman may make adjustments in the order of business to facilitate the purpose of such meeting and to meet other special scheduling needs.

The Chairman shall establish the order of business for special session meetings and unassembled meetings in a manner that facilitates the purpose of such meetings.

H. Agenda

Regular meetings of the Membership shall be conducted in accordance with an agenda adopted by the Membership at the beginning of each meeting. A provisional agenda shall be sent to the Membership prior to the regular meeting.

I. Recorder

The Chairman shall appoint a recorder who shall be responsible for keeping the minutes of any regular or special session meeting. The chairman of any subgroup shall appoint a person responsible for providing a summary of any subgroup meeting.

J. Minutes

The recorder of any regular or special session meeting shall keep full and accurate minutes of the meeting. Except as directed by the Chairman, transcripts shall not be required. The recorder shall prepare minutes promptly after a meeting and the Membership shall review and approve such minutes at the subsequent meeting.

K. Motions and Resolutions

Motions and resolutions made and considered in any meeting of the Membership or subgroup shall generally conform to Robert's Rules of Order. The recorder of such meeting shall accurately record all motions and resolutions in the minutes along with a record of the action taken on each at the meeting.

L. Procedural questions

The Chairman or subgroup chairman shall resolve questions of meeting procedure in accordance with Robert's Rules of Order. In the event of conflict between Robert's Rules and these procedures, the specific terms of these procedures shall take precedence.

M. Voting

Only members or duly authorized designees may vote at meetings of the Membership or subgroups. In regular or special session meetings, voting may be voice or show of hands, as determined by the Chairman or subgroup chairman, unless a roll call vote is required. Voting in unassembled meetings may be by mail, telephone, electronic mail, facsimile, or other such methods of communications, as determined by the Chairman or subgroup chairman. In any event, all votes cast in an unassembled meeting shall be recorded as a roll call vote.

Roll call votes shall be required whenever the Membership or a subgroup takes a final action on any recommendation, advice, or comment; on the adoption of any rule, procedure, or policy; or any question pertaining to budget or administration; or any other matter which the Chairman or subgroup chairman determines requires a record of how each member voted. Unless a voting member objects, the Chairman or subgroup chairman may waive the roll call requirement.

Matters voted on by the Membership or subgroups shall require a simple majority of those present and voting. Exceptions are: comments rendered under Section 106 (including program comments pursuant to 36 C.F.R. § 800.14(e)), exemptions granted under 54 U.S.C. § 304108(c), evaluations of Federal agency activities under 54 U.S.C. § 304102, specific delegations of

authority to subgroups authorizing subgroups to act on behalf of the Membership, and recommendations to the President or the Congress. These exceptions require the vote of a majority of the Membership. However, the adoption of positions on legislation, regardless of whether such positions are intended to be communicated to the President or Congress, only require a simple majority of those present and voting.

No member shall be permitted to vote on a matter in which the member or the member's agency or organization has a direct interest not common to other members, such as comments rendered under Section 106 that will be addressed to the member's agency or an action that may present a personal conflict of interest. Members abstaining from voting shall so indicate during a roll call vote or at the close of a vote by voice or by show of hands.

N. Proxies

A member or his/her duly authorized designee may give a proxy to another voting member to be cast on any number of specific issues on a meeting agenda. Voting by proxy is permitted at meetings of the Membership and subgroups unless expressly prohibited by the Chairman when the subgroup is established. No member may hold more than two proxies. Valid proxies shall be counted as members present and qualified to vote whenever a point of order is raised about the presence of a quorum.

O. Business Meeting Participation

Participation at the table in ACHP business meetings shall be limited to Members (or, in the absence of a Member, the designee for such a Member under Section II.B. of these Operating Procedures), and Chairman-designated observers duly named in accordance with the Act and these Operating Procedures. With the prior approval of the Chairman, a member-designated observer may, in the absence of the relevant Member or such member's designee under Section II.B. of these Operating Procedures, participate at the table, subject the restrictions set forth at Section II.D.1. of these Operating Procedures.

IV. COUNCIL ADMINISTRATION

A. Financial Administration

1. **Budget Formulation.** The Chairman shall establish the budget request level for the Council each fiscal year. The budget request shall reflect the established programs and priorities of the Council. The Executive Director, under the supervision of the Chairman, shall prepare the budget request and supporting documentation. When the budget request is formally submitted to the Office of Management and Budget (OMB) and the Congress in accordance with statute, it shall be made available to individual members on request. All members shall conform to applicable OMB directives regarding the confidentiality of budget information and materials. The Chairman or the Executive Director shall regularly report to the Membership on the progress of the budget review and appropriations process.

2. Detailed Budget. The Executive Director shall prepare the annual detailed budget in accordance with established Council programs and priorities, applicable OMB directives, and Congressional funding. The Executive Director shall submit the detailed budget to the Chairman for review to ensure conformance with Council policies. The Executive Director shall develop any necessary reprogramming of funds or personnel levels in consultation with the Chairman.

3. Donations. In accordance with 54 U.S.C. § 304105(g) (donations authority), the Executive Director shall accept and administer donations received by the Council. The Executive Director shall consult with the Chairman regarding the collection and disbursement of donations and shall report on the status of donations at each regular session meeting.

In accordance with the donations authority, the Council may use any donations in ways consistent with the Council's duties and the purposes of the Act. Such use includes, but is not limited to, funding internships in the Council, research on historic preservation issues, events encouraging public involvement in or education about historic preservation, and Council visits to historic sites.

In order to avoid any questioning of Council operations, and consistent with the federal ethics recommendations about otherwise permissible gifts at 5 C.F.R. § 2635.201(b), the Executive Director will consider declining donations that the Executive Director believes might lead a reasonable person with knowledge of the relevant factors to question his or her integrity. Factors in making this determination include whether:

- (i) The gift has a high market value;
- (ii) The timing of the gift creates the appearance that the donor is seeking to influence an official action;
- (iii) The gift was provided by a person who has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; and
- (iv) Acceptance of the gift would provide the donor with significantly disproportionate access.

Accordingly, the Executive Director may consider declining donations from entities that the Executive Director knows are consulting parties in Section 106 reviews where the Council is formally involved, or from entities having or seeking contracts with the Council.

B. Personnel Management

1. **Applicable Regulations and Procedures.** Except in those areas where the Membership or staff has adopted its own specific regulations or procedures for the conduct of personnel management matters, the Council shall follow applicable provisions of the Department of the Interior.

2. **Interim Regulations and Procedures.** If a particular situation arises in which the Chairman determines that following the Department of the Interior provision is inconsistent with the policies of the Council, the Chairman, in consultation with the Membership or the Executive Director, may establish an interim procedure to supersede the Department of the Interior provision. The Chairman shall provide notice of such interim procedure to all potentially affected parties. The Chairman shall propose, within 180 days after the development of an interim procedure, for action by the Membership, an amendment to the Operating Procedures or to applicable Council regulations that would make such final.

3. Appointment and Compensation

a. Council members. The Chairman, in consultation with the Membership or an appropriate subgroup, shall establish necessary policies governing the payment of compensation and reimbursement of travel and subsistence expenses in accordance with 54 U.S.C. § 304104.

b. Council staff. The Executive Director shall appoint and fix the compensation of staff in accordance with the provisions of 54 U.S.C. § 304105(b) through (d).

c. Senior Executive Service. The selection and management of Council employees in the Senior Executive Service shall conform to the appropriate regulations and procedures established by the Department of the Interior, provided that the provisions of 54 U.S.C. § 304105(a) and (c) regarding employees in the competitive service above the highest rate for the grade GS-15 shall also govern the appointment and fixing of compensation of employees in the Senior Executive Service. The Chairman shall appoint individuals to serve on the necessary appraisal and resource boards. At least one member of each such board shall be chosen from the Membership.

4. **Performance Appraisal Plans for Non-SES Employees.** In accordance with applicable regulations of the Department of the Interior, the Executive Director shall establish and administer the necessary performance appraisal plans for staff that are non-SES.

5. **Grievance Procedures.** The Council shall follow the applicable regulations and procedures of the Department of the Interior regarding grievance proceedings.

C. Information Management

1. **Notification of Council Activities.** The Executive Director shall regularly provide the Membership with written or verbal reports, generally on a monthly or bi-monthly basis, which shall include information on staff activities, budget matters, pending litigation and legislation, recently concluded Section 106 cases, and other matters of general interest. Additional materials will be included as appropriate.

2. **Distribution of other Council materials to members.** The Executive Director shall ensure that all members are provided with copies of Council documents and publications.

3. **Distribution of Council materials to the public.**

a. Policy of availability. It is the policy of the Membership to make Council materials available to the public and other interested parties. Accordingly, under normal circumstances, the Executive Director shall provide documents reflecting final action on the website of the Council. When the Executive Director determines that a formal Freedom of Information Act request is necessary, the requester of Council materials shall be so informed. The Executive Director shall respond to Freedom of Information Act requests in accordance with 5 U.S.C. § 552 and the Council's Freedom of Information Act regulations.

b. Withholding documents from disclosure. The Council may withhold information and documents from public disclosure only in accordance with 5 U.S.C. § 552 and the Council's Freedom of Information Act regulations at 36 C.F.R. Part 810.

V. SECTION 106 ADMINISTRATION

This section of these Operating Procedures applies to the conduct of business under the Section 106 process set forth in the Council's regulations at 36 C.F.R. Part 800.

A. Delegation of Authority

The regulations implementing Section 106 of the Act provide for the Council to participate in the Section 106 process in various ways. The delegation of responsibilities to the Chairman and the Executive Director is set forth in the document entitled "Delegation of Authority" incorporated into these Operating Procedures as Appendix B.

B. Meeting Procedures

1. **Public Meetings.** In the course of Section 106 review of any particular case, the Membership, a subgroup, or the Executive Director, in consultation with the Chairman, may conduct a public meeting for the purpose of gathering and disseminating information on the undertaking under consideration. Such meetings shall be open to the public and be held near the site of the undertaking at a place accessible to the public. The Executive Director shall provide appropriate notice of such meetings at least 15 days in advance of the meeting. Notice shall be designed to reach the Membership and relevant representatives of national, State, or local governments, public applicants for Federal assistance, permits or licenses, Indian tribes, Native Hawaiian organizations and other interested persons.

2. **Council Comment.** When the Membership is called upon to provide comments on an undertaking when no Memorandum of Agreement is submitted or when the parties to the Section 106 consultation fail to reach agreement, the Chairman shall schedule the matter for hearing at a regular session meeting, establish a subgroup to hear the matter at a meeting of such subgroup, or provide comments without convening a meeting.

a. Meetings of the Membership. Meetings of the Membership to consider an undertaking shall be conducted in accordance with Section III of these Operating Procedures.

b. Meetings of Subgroups. Meetings of subgroups designated to consider and provide comments on a particular undertaking shall conform to the procedures set forth in the document entitled “Panel Meeting Procedures,” incorporated into these Operating Procedures as Appendix C.

c. Comment Without a Meeting. The Chairman may determine that comments on a particular undertaking shall be given without convening a meeting to consider the undertaking. In such cases, the Chairman may provide comments in one of two ways:

(i) The Chairman may conduct the review of the undertaking in an unassembled meeting in accordance with Section III.A.3 of these Operating Procedures. The Chairman shall forward to the Membership the documentation submitted by the agency under Sections 800.7(c)(1) and 800.11(g) of the regulations, a report on the case from the Executive Director, and other pertinent information. The Chairman shall specify the date by which members must return their comments. The Chairman shall prepare a final comment document, taking into account the views of the Membership, and transmit that comment to the agency official; or

(ii) The Chairman may develop comments on the undertaking and then circulate these comments to the Membership for consideration. The Chairman shall consider any comments received from the Membership in preparing the final comment document, which the Chairman shall then transmit to the agency official and to the Membership.

VI. MEMBER INVOLVEMENT IN SECTION 106 CASES

A. Cases Pending at the Staff Level

It is the policy of the Council to encourage member participation wherever appropriate and in accordance with the applicable federal rules of ethics, with the understanding that the Membership will need to maintain impartiality should there be a termination of the Section 106 process, leading to a formal Council comment. Participation of a Member shall not supersede the specific authorities for Section 106 case management delegated to the Chairman or the Executive Director under these Operating Procedures.

B. Cases Pending Before the Chairman

When a Section 106 case is being reviewed by the Chairman for the determination on the method of rendering comment in the event of a termination of consultation or a request for comments without submission of a Memorandum of Agreement, the Chairman shall notify the Membership of the case at the beginning of the Chairman's review period.

VII. LEGISLATIVE MATTERS

A. Formulation of Policy and Positions

Policy and positions on federal, state, and local legislative proposals shall be established by action of the Membership. In those situations where the need for timely action precludes formal approval by the Membership, the Chairman and the Executive Director may establish and convey as appropriate an interim position by consulting with the Membership or an appropriate subgroup. The Chairman or the Executive Director shall notify the Membership when such action is to be taken, invite the views of members on the issue, and report to the Membership on any legislative positions taken or testimony delivered in a timely manner. The Membership shall be provided an opportunity to ratify or revise that interim position at the next meeting of the Membership. In the event a Member questions the consistency of a proposed interim legislative position with Administration policy, the Chairman will convene an unassembled meeting and take a vote of the full Membership on the proposed position or defer consideration of the position to the next meeting of the Membership.

B. Authority to Testify

The Chairman, or another member or staff designated by the Chairman, is authorized to testify on federal, state, or local legislative matters on behalf of the Membership. Where time permits, testimony should be developed in consultation with the Membership or an appropriate subgroup. The Chairman may provide other testimony as may be consistent with policy and positions on legislative proposals established by the Council in accordance with Section VII.A. of these Operating Procedures. Absent extraordinary circumstances, the Council and its Chairman may provide testimony and advice on state or local draft legislation only if requested to do so by a legislator, senior executive branch staff, state historic preservation office, tribal historic preservation office, representative of a municipality or local agency, or representative of a nonprofit organization.

C. Conduct of Legislative Liaison Activities

The Executive Director is responsible for the monitoring of legislative matters affecting the Council, overseeing liaison with members and committees of Congress, and representing the Membership in legislative activities conducted at the professional staff level in the Congress and within the Administration. The Executive Director shall discharge these duties in consultation with the Chairman and the Membership or an appropriate subgroup.

VIII. AMENDMENTS

These procedures may be amended, revised, or repealed by vote of a two-thirds majority of the Membership (16).

Adopted August 1987

Amended July 2001, May 2012, July 2015, March 2017, and July 12, 2023.

APPENDIX A: MEMBERSHIP CREDENTIALS

INTRODUCTION

The National Historic Preservation Act Amendments of 1980 reconstituted the Membership of the Council with the objective of providing “a more balanced forum where representatives of various interests can deliberate on policy questions and reach true ‘public interest’ decisions on historic preservation matters” (House Report, p. 40). The legislation, as further amended in 1992, 2006, and 2016, goes on to name the representation to the Council leaving some discretion to the President in the appointment of agency heads, expert members, general public members, a governor, a mayor, and a member of an Indian tribe or Native Hawaiian organization. The amendments also permit certain institutional members of the Council to designate representatives to the Council. In the President’s exercise of the appointments authority and in the selection of designees for institutional members, care must be taken to ensure that the intent of the statute is fulfilled. The purpose of this document is to provide the decision makers with guidance from the Council on these matters. Furthermore, this document establishes a process of review for credentials questions and decisions.

STATEMENT OF POLICY

The National Historic Preservation Act, as amended, clearly indicates the intent of Congress to establish a Council comprised of individuals who possess the authority and expertise that is inherent in the top-level policymaking positions of Government and the private sector. It is the objective of the Council, through this document on credentials, to carry out this Congressional intent. Each member who participates in the activities of the Council should possess the level of authority or expertise that the Congress envisioned for the respective Membership category which that member represents. The objective of this policy is to ensure that members of the Council are peers, occupying comparable positions within their organizations or fields.

1. Federal members. The statute specifies that the Secretary of the Interior, the Secretary of Agriculture, and the heads of seven other agencies whose activities affect historic preservation appointed by the President shall sit on the Council. The Architect of the Capitol also is named as an *ex officio* member. The statute further allows each agency head to designate another officer of the agency to sit in his/her stead. A limitation on this authority for executive branch members was added in the 1980 amendments: no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated. (54 U.S.C. § 304101(b)).

A designee need not be an Assistant Secretary *per se*. In agencies where the title of Assistant Secretary does not exist, the level at which the approximate equivalent of assistant secretarial powers are exercised is appropriate. In all cases, the alternative designation may be used when

the officer to be designated has responsibilities that are agency-wide in that they extend to the full scope of activities of the member agency and not just one subdivision, office, division, or bureau within the member agency. For example, an officer that has been appointed the Senior Policy Official of the member department or agency (not a bureau or other component of the member's department or agency) under Section 3(e) of Executive Order 13287 meets the statutory standard for a designee by the inherent definition of the officer's duties under the Executive Order. Factors for the agency head to consider for other officials include the scope of their responsibilities, the level at which they sit in the department or agency, the official to whom they report, and the nature of their duties and authorities as they relate to the department or agency's historic preservation responsibilities.

The Architect of the Capitol is not subject to the specific limitations that 54 U.S.C. § 304101(b) places on designees. However, the principles articulated in this document for Executive Branch agencies should guide any designations made by the Architect.

2. Non-Federal *ex officio* members. The statute names the President of the National Conference of State Historic Preservation Officers, the General Chairman of the National Association of Tribal Historic Preservation Officers, and the Chairman of the National Trust for Historic Preservation as *ex officio* Council members. The authority of 54 U.S.C. § 304101(b) to name designees is extended to these three members, but the restrictions applied to Federal members do not pertain. The policies inherent in the provisions relating to Federal designees should guide designations in these cases. Designees should be in a policymaking position within the organization and have major, organization-wide responsibilities. Recognizing the corporate nature of these organizations, designations should generally be restricted to officers of the board or corporation and the chief executive officer.

3. Expert members. The statute directs the President to appoint four experts in the field of historic preservation to be selected from the disciplines of architecture, history, archeology, and other appropriate disciplines. These are specified in the legislative history to include, but not be limited to, urban planning, engineering, recreation, landscape architecture, anthropology, economics, human geography, or law, when the practice of the discipline "directly or primarily" involves historic preservation (House Report, p. 41).

Professional criteria for historians, architects, and archeologists have been established by the Secretary of the Interior to set standards for professional representation on State Review Boards (36 C.F.R. 61.5). These standards may serve as guidance for threshold qualifications for expert Council members. However, noting the level of other Council members as well as the Council's role in setting Government-wide and national policies, an added dimension of national recognition or accomplishment within a member's discipline might well be considered when these appointments to the Council are made. This could be evidenced by a demonstrated record of professional achievement, through research, publication, practice, or academic activity, that reflects a recognized national stature within the discipline.

The statute does not permit an expert member to designate an alternate representative.

4. Governor and Mayor. The statute requires the President to appoint a governor and a mayor to the Council. The purpose is “to better represent the concerns of State and local government in the Council’s deliberations” (House Report, p. 44). The statute permits the governor to have a designee. While the Act does not provide restrictions for the appointment of a governor designee other than needing to be “another officer of his department, agency, or organization,” it would be appropriate for such a designee to meet standards comparable to those set forth for federal Member Designees. The Council believes the elected nature of these officials precludes recommending further criteria for this class of member. The statute does not permit a mayor to designate an alternate representative.

5. General public members. The statute requires the President to appoint three at-large members from the general public. In addition, the Chairman is appointed from the general public. This class of member is intended “to provide a voice for the citizens whose daily lives are affected by historic preservation activities.” They may be appointed as representatives of a group “such as civic associations or labor unions or as individual citizens” (House Report, p. 41). Because of the broad range of suitable representatives of the public, the Council believes that any specific criteria on individual members’ credentials would be inappropriate. However, due consideration should be given to the contribution a general public member can make to the Council’s activities, either in a representational or individual capacity. The statute does not permit a general public member to designate an alternate representative.

6. Indian Tribe or Native Hawaiian organization member. The statute requires the President to appoint “one member of an Indian tribe or Native Hawaiian organization who represents the interests of the Indian tribe or Native Hawaiian organization of which he or she is a member.” (54 U.S.C. § 304101(a)(12)). Due to the broad range of suitable representatives of Indian tribes or Native Hawaiian organizations, the Council believes that any specific criteria on individual members’ credentials would be inappropriate. The statute does not permit the Indian tribe or Native Hawaiian organization member to designate an alternate representative.

APPENDIX B: DELEGATION OF COUNCIL FUNCTIONS UNDER 36 C.F.R. PART 800

BACKGROUND

The regulations implementing Section 106 of the Act are codified at 36 C.F.R. part 800.

These regulations give the Membership the responsibility to carry out its purposes.

However, the Membership delegates some of its responsibilities under the regulations to the Chairman and to the Executive Director, as set forth in this Appendix.

In some cases, the Council intends to delegate a responsibility to both the Chairman and the Executive Director. When that is the case, this document will either describe those circumstances in which each party shall take responsibility or authorize the Chairman to redelegate responsibility to the Executive Director for a particular matter or situation.

This delegation will go into effect immediately upon adoption by the Membership.

POLICY

This document allocates the Council's responsibilities under the regulations between the policymaking parts of the agency, represented by the Chairman and the members, and the professional staff of the agency, represented by the Executive Director. Generally, the Council, in the form of the Chairman and the members, retains final decision-making authority in those areas where there are conflicts between historic preservation values and Federal project needs requiring a resolution that reflects the public interest. Delegation to the professional staff is made for the areas of routine administration and resolution of cases that do not present significant controversy or questions of policy.

Nothing in this delegation of authority shall prohibit the Executive Director from seeking advice or guidance from the Chairman or prohibit the Chairman from seeking advice or guidance from the members when carrying out the responsibilities duly delegated to them.

DEFINITIONS

Chairman. The term “Chairman” refers to the Chairman of the Council appointed by the President, or another individual member of the Council designated by the Chairman to act on behalf of the Chairman in a particular matter or for a particular time.

Executive Director. The term “Executive Director” means the Executive Director of the Council, or an individual Council employee designated by the Executive Director to act in the Executive Director’s behalf on a particular matter or for a particular time.

Members. The term “Members” refers to the members of the Council and their official designees.

NHPA. The term “NHPA” means the National Historic Preservation Act as amended. (54 U.S.C. §§ 300101 et seq.)

Unless otherwise noted, the term “Section” refers to sections within 36 C.F.R. part 800.

SECTION BY SECTION DELEGATIONS

Section 800.2(b)(1). The general responsibilities of the Council, mentioned by Section 800.2(b), in deciding whether to enter the Section 106 process, as well as the documentation and notification requirements under this decision, is delegated as detailed below on the specific portions of the regulations concerning such determinations and decisions.

Section 800.2(c)(2)(ii)(E). The Council hereby delegates to the Executive Director its responsibility under Section 800.2(c)(2)(ii)(E) to receive copies of agreements whereby an Agency Official grants Indian tribes or Native Hawaiian organizations additional rights to participate or concur in agency decisions in the Section 106 process beyond those specified in subpart B of the revised regulations.

Section 800.3(c)(4). The Council hereby delegates to the Executive Director its responsibility under Section 800.3(c)(4) to consult with the Agency Official when the SHPO/THPO fails to respond within 30 days of receipt of a request for review of a finding or determination and the Agency Official decides to consult with the Council, in lieu of the SHPO/THPO, instead of proceeding to the next step in the process based on the finding or determination.

Section 800.3(d). The Council hereby delegates to the Executive Director its responsibility under Section 800.3(d), regarding consultation on tribal land, to complete the Section 106 process with the Agency Official and Indian tribe when the SHPO has withdrawn from the process and as appropriate.

Section 800.4(c)(2). The Council hereby delegates to the Executive Director its responsibility under the third sentence of Section 800.4(c)(2) to request the Agency Official to obtain a determination of eligibility pursuant to 36 C.F.R. Part 63.

The Council hereby delegates to the Executive Director its responsibility under the last sentence of Section 800.4(c)(2) to receive and, where appropriate, to grant a petition asking that the Council request the Agency Official to obtain a determination of eligibility of a property off tribal lands, where the petition is received from an Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to the property and that does not agree with an Agency Official's determination of its eligibility.

Section 800.4(d)(1). The Council hereby delegates to the Executive Director its responsibility under Section 800.4(d)(1) to object within 30 days of receipt of an adequately documented finding of "no historic properties affected."

Section 800.5(c)(2)(i). The Council hereby delegates to the Executive Director its responsibilities under Section 800.5(c)(2)(i) to receive, and respond to, a request from an Agency Official to review a finding of no adverse effect pursuant to Section 800.5(c)(3) (see below), where the SHPO/THPO or any consulting party disagree with the Agency Official's finding within the 30-day review period.

Section 800.5(c)(2)(ii). The Council hereby delegates to the Executive Director its responsibilities under Section 800.5(c)(2)(ii) to: (1) receive, from an Indian tribe or Native Hawaiian organization that has made known to an Agency Official that it attaches religious and cultural significance to a historic property subject to the finding of no adverse effect and that disagrees with such finding by the Agency Official, a request to review such finding pursuant to Section 800.5(c)(3) (see below), and (2) respond to such a request.

Section 800.5(c)(2)(iii). The Council hereby delegates to the Executive Director its responsibilities under Section 800.5(c)(2)(iii) to decide and request, guided by Appendix A, the Agency Official to submit to it the no adverse effect finding along with the required documentation, for the Council's review pursuant to Section 800.5(c)(3) (see below).

Section 800.5(c)(3). The Council hereby delegates to the Executive Director its responsibilities under Section 800.5(c)(3) to review findings of adverse effects and to notify the Agency Official as to the determination on whether the adverse effect criteria have been correctly applied.

Section 800.6(a)(1). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(a)(1) to receive notifications of adverse effect findings.

The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(a)(1) to: (1) receive any invitations or requests, from an Agency Official, the SHPO/THPO, an Indian tribe or Native Hawaiian organization, or any other consulting party, to participate in the consultation for the resolution of adverse effects, (2) notify in writing to the Agency Official and all consulting parties as to whether the Council will participate in such consultation and, if it does decide to participate, that its decision to participate meets the criteria under Appendix A, (3) advise the head of the agency of its decision to enter the process, and (4) actually participate in such consultation.

Section 800.6(a)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(a)(2) to invite other individuals or organizations to become consulting parties when the Council is participating in the consultation to resolve adverse effects.

Section 800.6(b)(1)(iv). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(b)(1)(iv) to receive copies of executed Memoranda of Agreement, along with the required documentation.

Section 800.6(b)(1)(v). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(b)(1)(v) to: (1) receive a request to join consultation where the Agency Official and SHPO/THPO fail to agree on terms of a Memorandum of Agreement, (2) decide whether to accept such a request, and (3) notify the agency when such a request is declined.

Section 800.6(b)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(b)(2) to participate in consultation regarding ways to avoid, minimize or mitigate adverse effects and its responsibilities under Section 800.6(b)(2) to execute Memoranda of Agreement. The Executive Director is hereby authorized to redelegate this responsibility to execute a Memorandum of Agreement to the Chairman where the Executive Director so recommends due to the specific nature of the case.

Section 800.6(c)(1). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(c)(1) to execute, amend, or terminate a Memorandum of Agreement to which the Council is a signatory. The Executive Director is hereby authorized to redelegate this responsibility to execute, amend or terminate a Memorandum of Agreement to the Chairman when the Executive Director so recommends due to the specific nature of the case.

Section 800.6(c)(7). The Council hereby delegates to the Executive Director its responsibilities under Section 800.6(c)(7) to receive amended Memoranda of Agreement to which the Council is not a signatory.

Section 800.7(a). The Council hereby delegates to the Executive Director its responsibilities under Section 800.7(a) to determine that further consultation will not be productive and terminate consultation, and to notify other consulting parties, providing them the reasons for terminating in writing.

Section 800.7(a)(1). The Council hereby delegates to the Chairman its responsibilities under Section 800.7(a)(1) to receive a request for Council comment, pursuant to Section 800.7(c), from the head of the agency or an Assistant Secretary or other officer with major department-wide or agency-wide responsibilities, when the Agency Official terminates consultation.

Section 800.7(a)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.7(a)(2) to execute a Memorandum of Agreement with the Agency Official when the SHPO terminates consultation. The Executive Director is hereby authorized to

redelegate this responsibility to execute such a Memorandum of Agreement to the Chairman where the Executive Director so recommends due to the specific nature of the case.

Section 800.7(a)(4). The Council hereby delegates to the Executive Director its responsibilities under Section 800.7(a)(4) to notify the Agency Official, the agency's Federal Preservation Officer and all consulting parties of a termination, when the Council has terminated consultation (see Section 800.7(a) above), and to consult with the agency's Federal Preservation Officer prior to terminating consultation to seek to resolve issues concerning the undertaking and its effects on historic properties.

Section 800.7(b). The Council hereby delegates to the Chairman its responsibilities under Section 800.7(b) to determine whether it is appropriate for the Council to provide additional advisory comments upon an undertaking for which a Memorandum of Agreement will be executed.

Section 800.7(c)(1). The Council hereby delegates to the Executive Director its responsibilities under Section 800.7(c)(1) to request the Agency Official to provide additional information on an undertaking and provide assistance to the Council in arranging an onsite inspection and an opportunity for public participation (this subsection relates to occasions where the Council is to provide comment without a memorandum of agreement).

Section 800.7(c)(2). The Council hereby delegates to the Chairman its responsibilities under Section 800.7(c)(2) to transmit the Council's comments in accordance with Section 800.7(c)(3).

Section 800.7(c)(4)(i). The Council hereby delegates to the Chairman its responsibilities under Section 800.7(c)(4)(i) to receive the summary of a decision from an agency head that has taken Council comments into account.

Section 800.8(c). The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c) to receive advance notification from an Agency Official that it intends to use the NEPA process and documentation to comply with Section 106 in lieu of the procedures under Sections 800.3 through 800.6.

Section 800.8(c)(1)(iii). The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c)(1)(iii) to engage in consultation regarding effects, where appropriate, during NEPA scoping, environmental analysis, and the preparation of NEPA documents.

Section 800.8(c)(2)(i). The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c)(2)(i) to receive the DEIS or EIS, when such documents are being prepared, from the Agency Official.

Section 800.8(c)(2)(ii). The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c)(2)(ii) to object to the Agency Official that preparation of the EA, DEIS or EIS has not met the standards set forth in Section 800.8(c)(1) or that the

substantive resolution of the effects on historic properties proposed in an EA, DEIS or EIS is inadequate.

The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c)(2)(ii) to receive, and resolve, objection referrals from the Agency Official.

Section 800.8(c)(3). The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c)(3) to review objections, and to notify the Agency Official as to whether it agrees or disagrees with the objection.

Section 800.8(c)(5). The Council hereby delegates to the Executive Director its responsibilities under Section 800.8(c)(5) to receive notification from the Agency Official that supplemental environmental documents will be prepared in compliance with NEPA or that the procedures in Sections 800.3 through 800.6 will be followed as necessary.

Section 800.9(a). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(a) to receive, and respond to, requests for the Council's advisory opinion regarding the substance of any finding, determination or decision or regarding the adequacy of the Agency Official's compliance with the Council's regulations, provided that the Executive Director may refer specific matters to the Chairman and Council for action.

Section 800.9(c)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(c)(2) to receive notification and documentation from an Agency Official that it (the Agency Official) has determined that 54 U.S.C. § 306113 is applicable and that circumstances may justify granting the assistance at issue.

Section 800.9(c)(2)(i). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(c)(2)(i) to formulate its opinion, and provide it to the Agency Official, as to whether circumstances justify granting assistance to the applicant and any possible mitigation of the adverse effects (see Section 800.9(c)(2) above).

Section 800.9(c)(2)(ii). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(c)(2)(ii) to receive notification from the Agency Official as to its consideration of the Council's opinion on whether to grant assistance to the applicant (see Section 800.9(c)(2) above).

Section 800.9(d). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(d) to evaluate the operation of the Section 106 process by periodic reviews of how participants have fulfilled their legal responsibilities and how effectively the outcomes reached advance the purposes of the NHPA.

Section 800.9(d)(1). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(d)(1) to request, and receive, from Agency Officials documentation of agency policies, operating procedures and actions taken to comply with Section 106, and to request and receive from other participants in the Section 106 process available information and documentation.

Section 800.9(d)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.9(d)(2) to make recommendations to participants, the heads of Federal agencies, and the Secretary of the Interior on actions to improve the efficiency and effectiveness of the Section 106 process, provided that the Executive Director may refer specific matters to the Chairman and Council for action.

Section 800.10(b). The Council hereby delegates to the Executive Director its responsibilities under Section 800.10(b) to receive requests from Agency Officials to participate in any consultation to resolve adverse effects on National Historic Landmarks conducted under Section 800.6.

Section 800.10(c). The Council hereby delegates to the Executive Director its responsibilities under Section 800.10(c) to request a report from the Secretary of the Interior under 54 U.S.C. § 304110 to assist in a consultation involving a National Historic Landmark.

Section 800.10(d). The Council hereby delegates to the Executive Director its responsibilities under Section 800.10(d) to report the outcome of the Section 106 process (regarding National Historic Landmarks under Section 800.10) to the Secretary of the Interior and the head of the agency responsible for the undertaking.

Section 800.11(a). The Council hereby delegates to the Executive Director its responsibilities under Section 800.11(a) to: (1) determine whether applicable documentation standards are not met, (2) notify the Agency Official as to such determination and specify the information needed to meet the standard, (3) receive requests to review, and actually review, disputes regarding whether documentation standards are met, and (4) provide its views to the Agency Official and the consulting parties as to such disputes.

Section 800.11(c)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.11(c)(2) to: (1) consult with the Secretary of the Interior in reaching determinations on the withholding and release of information due to confidentiality issues under 54 U.S.C. § 307103, (2) receive from the relevant Federal agency, available information related to the confidentiality concern, and (3) advise the Secretary of the Interior and the relevant Federal agency as to the confidentiality issue.

Section 800.12(a). The Council hereby delegates to the Executive Director its responsibilities under Section 800.12(a) to engage in consultation regarding the development of emergency procedures.

Section 800.12(b)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.12(b)(2) to receive notification from an Agency Official whose agency has not developed emergency procedures, that it proposes an emergency undertaking as an essential and immediate response to a disaster or emergency.

The Council hereby delegates to the Executive Director its responsibilities under Section 800.12(b)(2) to comment on such emergency undertakings within the timeframe available.

Section 800.12(c). The Council hereby delegates to the Executive Director its responsibilities under Section 800.12(c) to object to a proposed emergency action by a local government (acting as Agency Official) regarding an imminent threat to public health or safety declared by the local government.

Section 800.12(d). The Council hereby delegates to the Executive Director its responsibilities under Section 800.12(d) to receive, decide, and respond to, a request for an extension of the 30-day period within which emergency undertakings must be implemented in order for the emergency procedures under Section 800.12 to apply.

Section 800.13(b)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.13(b)(2) to receive a report from the Agency Official on its actions to mitigate effects on subsequently discovered historic properties or unanticipated effects.

Section 800.13(b)(3). The Council hereby delegates to the Executive Director its responsibilities under Section 800.13(b)(3) to receive, and respond to, notifications from the Agency Official as to actions taken to resolve adverse effects after subsequent discoveries, and to receive reports of the actions when they are completed.

Section 800.14(a)(1). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(a)(1) to consult with the Agency Official and others during the development of alternate procedures.

Nevertheless, the Council retains for the members its responsibility under Section 800.14(a)(2) to review proposed alternate procedures, determine whether they are consistent with the Council's regulations and, if so, notify the Agency Official of this determination.

Section 800.14(a)(4). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(a)(4) to provide Federal agencies notice and opportunity to comment on proposed alternate procedures under 54 U.S.C. § 302705.

Section 800.14(b). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(b) to negotiate a Programmatic Agreement with an Agency Official.

Section 800.14(b)(2)(iii). The Council hereby delegates to the Chairman its responsibilities under Section 800.14(b)(2)(iii) to execute and terminate program Programmatic Agreements. The Chairman has the discretion to further delegate, in writing, these responsibilities to the Executive Director.

Section 800.14(b)(2)(v). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(b)(2)(v) to determine whether the terms of a Programmatic Agreement are not being carried out.

Section 800.14(b)(4). The Council hereby delegates to the Chairman its responsibilities under Section 800.14(b)(4) to designate an agreement document as a prototype programmatic agreement.

Section 800.14(c)(5). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(c)(5) to receive requests for exempted categories.

Nevertheless, the Council retains for the members its responsibilities under Section 800.14(c)(5) to review such requests and decide whether to approve or reject the proposed exemption based on the consistency of the exemption with the purposes of the NHPA, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties in accordance with 54 U.S.C. § 304108(c).

Section 800.14(c)(6). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(c)(6) to determine that there are circumstances under which the normally excluded undertaking should be reviewed under subpart B of the Council's regulations.

The Council retains for its members its responsibilities under Section 800.14(c)(7) to terminate an exemption and to notify the Agency Official 30 days before the termination becomes effective.

Section 800.14(d). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(d) to: (1) establish standard treatments, (2) publish notice of standard treatments in the Federal Register, (3) arrange for public participation in the development of standard treatments, (4) request an Agency Official to arrange for public involvement when the Agency Official has proposed the standard treatment, (5) notify and consider the views of SHPO/THPOs on the proposed standard treatment, (6) follow the consultation requirements under Section 800.14(f) with regard to proposed standard treatments that may affect historic properties on tribal lands or those of religious and cultural significance to tribes, and (7) terminate standard treatments by publication of a notice in the Federal Register 30 days before the termination takes effect.

Section 800.14(e). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(e) to receive requests for program comments.

Nevertheless, the Council retains for the members its responsibilities under Section 800.14(e)(3) through (5) to: (1) notify and consider the views of SHPO/THPOs on the proposed program comments, (2) follow the consultation requirements under Section 800.14(f) as required, (3) request additional information, (4) seek the consent of the Agency Official to extend the period for providing comment, (5) provide, or decline to provide, program comments, (6) notify the Agency Official when it decides to decline to comment, and (7) determine to withdraw a program comment.

Section 800.14(f)(2). The Council hereby delegates to the Executive Director its responsibilities under Section 800.14(f)(2) to receive from Agency Officials summaries of the views, along with copies of any written comments, provided by affected Indian tribes and Native Hawaiian organizations as part of the documentation for the proposed program alternative.

APPENDIX C: PANEL MEETING PROCEDURES

INTRODUCTION

The Council membership is called upon to issue formal comments in the rare instances where an adverse effect to a historic property is not resolved pursuant to the Section 106 regulations. The Council's Operating Procedures, at Section V.B.2.b., provide for subgroups of Council members ('panels') to meet with the purpose of considering and providing such formal comments. This Appendix sets forth the procedures for conducting such panel meetings.

A. ORGANIZATION

1. **Chairman.** The Chairman of the Council shall designate the panel chairman from the non-Federal membership of Council. The panel chairman may designate a member of the panel to sit in his/her stead during temporary absence from a panel meeting or other panel functions. Should the designated panel chairman be unable to complete his/her assignment as panel chairman, the Chairman of the Council shall designate a successor from those non-Federal members already serving on the panel.

2. **Panel Membership.** The Chairman of the Council shall designate panel members. A panel shall consist of three non-Federal members and two Federal members, neither of whom shall represent the Federal agency involved in the undertaking at issue. The Chairman of the Council may designate substitute members at any time. Consistent with the federal rules of ethics, panel members will not include those with a conflict of interest or an impartiality issue regarding the undertaking at issue.

B. CONDUCT OF PUBLIC PANEL MEETINGS

1. **Notice.** Generally, the Executive Director shall provide 10 days notice of all public meetings involving Council review of undertakings by publication in media reasonably determined to reach interested members of the public. In exceptional cases, no less than 7 days notice shall be given by such publication. The Executive Director will make reasonable efforts to directly provide such notification to known consulting parties through electronic mail.

2. **Agenda.** The public panel meeting shall be conducted in accordance with a provisional agenda that is adopted by the panel. Copies of the agenda shall be made available to the public prior to the meeting.

3. **Order of Business.** Unless the panel chairman determines otherwise, the agenda shall provide for the taking of public testimony, a site visit, reports from the consulting parties and any others deemed necessary by the panel chairman, and a commenting session.

4. **Public Testimony and Reports.** Unless otherwise specified by the panel chairman, public testimony and reports shall conform to general guidelines established by the Council for presentations at meetings.

5. **Written Statements.** Written statements may be submitted to the panel. The panel chairman may extend the period for submission of written statements beyond the meeting, provided such extension is consistent with the comment period under 36 CFR Section 800.7(c)(2). The panel will fully consider written statements only if statements are received by the deadline established by the panel chairman.

6. **Required Reports.** Unless the panel chairman determines otherwise, reports to the panel shall conform to general guidelines established by the Council for presentations at meetings.

7. **Onsite Inspections.** The panel chairman may schedule an onsite inspection as part of the panel meeting or incidental to the meeting. The Agency Official, the State Historic Preservation Officer / Tribal Historic Preservation Officer, and the Executive Director, or their designated representatives, shall be invited to attend. Other parties may attend as the panel Chairman deems appropriate.

8. **Open Meetings.** The Council will provide reasonable facilities for attendance of interested members of the public to the public panel meeting.

9. **Minutes.** A recorder designated by the panel chairman will keep minutes of public panel meetings and make such minutes readily available to the public within a reasonable time after the public panel meeting. The Executive Director shall send any such minutes to all members of the Council as soon as they are available.

C. PANEL COMMENTS

1. **Deliberations.** The Council will maintain records of the deliberations of the panel in formulating its comments and will make such available to the public upon request, subject to exceptions permissible only by the Freedom of Information Act.

2. **Voting.** All members of the panel must vote on the panel's final comments. Panel members may vote by proxy given to the panel chairman. All final votes on panel comments shall be on record. All actions relating to panel comments shall require a simple majority for passage.

3. **Form of Comments.** Once adopted, and within the timeframe established by 36 C.F.R. § 800.7, the Executive Director shall transmit written comments to the head of the

Federal agency requesting comment or having responsibility for the undertaking and to all members of the Council. The comments shall have three parts: an introduction; a finding of facts; and conclusion and recommendations.

4. Distribution of Comments. The Council shall not release written comments of the panel until they have been received by the relevant head of the Federal agency. Comments transmitted via electronic mail are considered to be received at the moment they are sent by the Council. As soon as reasonably possible after the comments are received by the relevant Federal agency, the Executive Director will make available the comments of the Council to the State Historic Preservation Officer / Tribal Historic Preservation Officer and other consulting parties, and posted on the website and/or social media of the Council. The Council recommends that comments of the Council should be included in the final environmental impact statement (FEIS) or Record of Decision (ROD) prepared pursuant to the National Environmental Policy Act, if such an FEIS or ROD was prepared.

5. Report to Full Council. The panel chairman, the Chairman, or the Executive Director shall report the actions taken by the panel to the Membership via electronic mail. The Council may issue a final report to the President and Congress under authority of 54 U.S.C. § 304102(b) describing the actions taken by the agency in response to the Council's comments including recommendations for changes in Federal policy and programs, as appropriate.

APPENDIX D: POLICY GUIDANCE REGARDING ACHP ADVISING ON STATE AND LOCAL LEGISLATION

Policy Guidance Regarding Advisory Council on Historic Preservation Advising on State and Local Legislation

A. Background

The National Historic Preservation Act tasks the Advisory Council on Historic Preservation (ACHP) with several duties. Among them is that the ACHP must “advise” as to state and local legislation related to historic preservation. *See* 54 U.S.C. § 304102(a)(4). Both state and local governments have specified roles in the federal historic preservation framework, including through State Historic Preservation Offices and the Certified Local Government program, which tie these smaller political subdivisions more closely to the federal government than may be the case in other areas of federal influence. For the purposes of this policy, “local government” is deemed to include any political subdivision of a state, as articulated in that state’s general statutes or other relevant law.

B. General Policy

The ACHP may choose to exercise its authority under the National Historic Preservation Act to advise on state and local legislation, though it will not always choose to do so. This policy sets forth the criteria that will be used by the ACHP to determine whether to advise on state or local legislation.

C. Determinations Regarding Advising

1. Reasons the ACHP May Not Advise

The ACHP has no obligation to advise on each and every state or local legislation, and it will not always elect to do so, even though one or more of the criteria may be met. This is due both to the sheer volume of preservation-related state and local legislation and concern that lack of localized knowledge and insight could result in inadvertently overlooking controversial situations or relying on faulty second-hand information. Moreover, it will most often be the case that those representing views consistent with the ACHP’s views on any particular state or local legislation will capably and effectively communicate those views whether or not the ACHP participates.

Despite these issues, and as further described in Section C.2. below, there are scenarios where the ACHP advice to state and local governments may be warranted and desirable.

2. Factors to Consider in Deciding Whether to Advise

The ACHP may choose to advise on state or local legislation when one or more of the following criteria is met:

- a. *The legislation has substantial positive or adverse effects on historic properties.* These impacts may include effects on: properties that possess a national level of significance or on properties that are of noteworthy importance or are a rare property type; large numbers of historic properties, such as impacts to historic properties throughout the state or local jurisdiction or to multiple properties within a historic district; or properties associated with marginalized or underserved communities. *The legislation could advance or hinder an established ACHP policy or guidance goal.* These goals may be stated in the ACHP strategic plan, guidance documents, legislative priorities, or policy statements and have included topics such as workforce development, heritage tourism, climate change, building a more inclusive preservation program, and supporting the participation of Indian Tribes in the national preservation program.
- b. *The legislation may set a precedent for the treatment of historic properties that may be adopted by other states.* Precedents may include proposals for innovative strategies that promote the preservation of historic properties, or, conversely, novel legislation inconsistent with the National Historic Preservation Act. Precedents may also include changes to established components of state or local preservation programs, such as designation, design review, demolition review, and economic hardship provisions, among others.
- c. *The legislation attempts to interpret or change legal frameworks related to the National Historic Preservation Act or its implementing regulations.* These frameworks may include the relationships between State or Tribal Historic Preservation Offices and the federal government, the duties of State or Tribal Historic Preservation Offices or Certified Local Governments, the process under Section 106 of the National Historic Preservation Act (Section 106), or state-delegated authority related to Section 106.
- d. *The legislation presents issues of concern to Indian Tribes or Native Hawaiian organizations, where such issues are related to federal preservation law or policy.* These issues of concern may include the identification or evaluation of, or assessment of effects on, historic properties to which an Indian Tribe or Native Hawaiian organization attaches religious and cultural significance; or the interpretation of Section 106 or preservation-related authorities, such as the Native American Graves Protection and Repatriation Act.

3. Issues Likely Deserving of Favorable ACHP Advising

In establishing this guidance, the ACHP recognizes that some state or local legislation will not require review on a case-by-case basis by the entire ACHP membership because its subject matter is clearly consistent with long-established ACHP positions. With that in mind, the ACHP hereby authorizes the chair to advise favorably on draft state and local legislation that proposes to:

- a. Expand or create a rehabilitation tax credit program;
- b. Increase or provide funding to State or Tribal Historic Preservation Office(s), and/or programs affiliated with such office(s);
- c. Increase or provide funding to preserve or rehabilitate a building, structure, object, site, or district, listed or eligible for listing on a register of historic places;
- d. Increase or provide funding for a public or publicly supported conservation or preservation easement program; and/or
- e. Increase or provide funding for an existing education program focused on historic preservation or cultural heritage or authorize the creation of such a program.

4. Issues Likely Deserving of Unfavorable ACHP Advising

In establishing this policy, the ACHP recognizes that some state or local legislation will not require review on a case-by-case basis by the entire ACHP membership because its subject matter is clearly inconsistent with long-established ACHP positions. With that in mind, the ACHP hereby authorizes the chair to advise negatively on draft state and local legislation that proposes to:

- a. Diminish or eliminate a rehabilitation tax credit program;
- b. Reduce or eliminate funding to State or Tribal Historic Preservation Office(s), and/or programs affiliated with such office(s);
- c. Reduce or eliminate funding to preserve or rehabilitate a building, structure, object, site, or district, listed or eligible for listing on a register of historic places;
- d. Reduce or eliminate funding for a public or publicly supported conservation or preservation easement program; and/or
- e. Reduce or eliminate funding for an existing education program focused on historic preservation or cultural heritage or authorize the creation of such a program.

D. Process Regarding Advising

1. Reference to Operating Procedures

The formulation of positions on state or local legislative matters and any testimony related thereto shall be formulated in accordance with Section VII of the Operating Procedures of the ACHP.

2. Third Party Requests

Absent extraordinary circumstances, the ACHP will provide testimony and advice on state or local draft legislation only if requested to do so by any of the following individuals:

- a. A member of the ACHP or that member's designee;
- b. A Member of Congress;
- c. A state legislator;
- d. Senior state executive branch staff;
- e. State Historic Preservation Officer or appropriate deputy;
- f. Tribal Historic Preservation Officer or appropriate Tribal representative;
- g. Representative of a local government (such as a mayor or other local elected official) or a local agency (such as a historic commission chair); or
- h. Representative of a nonprofit organization with expertise in historic preservation and based in the geographic area in question.

3. Reporting to the ACHP

The chair will report to the ACHP members on any actions taken pursuant to Sections C.3. or C.4. at the next ACHP business meeting.

Adopted July 28, 2023

APPENDIX E: POLICY GUIDANCE FOR ACHP COMMENTS TO CONGRESS ON SITE-SPECIFIC LEGISLATION

Policy Guidance for ACHP Comments to Congress on Site-Specific Legislation

Background. When tracking pending legislation and providing advice to Congress on selected bills, the ACHP generally avoids addressing site-specific legislation. This is due both to the sheer volume of such bills and concern that lack of localized knowledge and insight could result in inadvertently overlooking controversial situations or relying on faulty second-hand information. Despite these problematic issues, however, there are scenarios where ACHP advice to Congress on site-specific legislation may be warranted.

Factors to Consider in Decision Making. The ACHP may choose to offer comments on site-specific legislation when one or more of the following criteria is met:

- **The legislation addresses a highly significant historic property.** The exceptional significance of the property may already be recognized, for example, through its designation as a National Historic Landmark, as part of a National Park Service unit, or as a World Heritage Site. This criterion could also apply in cases involving a newly discovered or newly evaluated property that is of great significance.
- **The legislation is site-specific but also addresses a broader range of historic properties or advances an innovative preservation strategy.** Site-specific bills occasionally address the preservation or protection of multiple historic properties, often thematically related, making the impact of the legislation significantly broader than a single site. Likewise, the treatment of a specific historic property in a bill may provide an innovative model of a preservation approach that has broader applicability.
- **The legislation could advance an established ACHP policy goal.** Consistent with its strategic plan, the ACHP adopts various preservation policy goals, addressing issues such as heritage tourism, sustainability, building a more inclusive preservation program, and supporting the participation of Indian Tribes in the national preservation program. Site-specific bills often can promote such goals.
- **The legislation would set a damaging precedent for treatment of historic properties.** Occasionally legislation is introduced that could negatively impact the preservation of specific historic properties or establish legal principles that are inconsistent with the policies of the National Historic Preservation Act.

Adopted November 26, 2018



ACHP MEETING SUMMARIES

Summaries of ACHP business meeting materials are available for viewing at <https://www.achp.gov/meetingsummaries>. These include the meeting agendas, minutes, and committee reports from 2018-2021. Please note, the last few years have had some inconsistencies with the meeting schedule due to COVID-19 and ACHP member transitions.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637
Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov



ACHP FOUNDATION

The ACHP Foundation is a nonprofit organization with an IRS designation of 509(a)(3), and donations are considered tax exempt. It operates for charitable, educational, and scientific purposes and supports the mission of the Advisory Council on Historic Preservation (ACHP) by funding projects and conducting activities to benefit and to carry out the work of the ACHP. Since its inception in 2004, the Foundation has been an Observer on the ACHP. Unlike other Observers, the Foundation is the only Observer established to support the ACHP. To that end, the Foundation's board of directors consists of both former ACHP members and current ACHP members. This provides it with a sound understanding of ACHP goals, processes, and programs, enabling close coordination as required by IRS regulations.

The mission of the ACHP Foundation is to support the ACHP as a partner by providing philanthropy for its program initiatives, offering professional expertise, and raising awareness of the ACHP's mission to promote the preservation, enhancement, and sustainable use of the nation's diverse historic resources. The Foundation has supported and participated in activities that expand the reach and capacity of the ACHP membership and staff. Abiding by the supporting/supported organization relationship, the Foundation has been instrumental in developing and carrying out programs with the ACHP that advance the ACHP's strategic plan. Examples of the Foundation's efforts include the following:

Program Partnerships

The Foundation partners with the ACHP and others to advance ACHP goals. Examples include the following:

The ACHP, the National Park Service, the National Trust for Historic Preservation, and the Foundation created the Preservation in Practice program that introduced students at Historically Black Colleges and Universities to the historic preservation field and career opportunities. The Foundation developed and managed the overall budget; handled logistics for program participants; helped craft program activities and assisted in identifying and engaging preservation professionals, including ACHP alumni; and supported program and curriculum description and evaluation.

A partnership of the ACHP, Salish Kootenai College, and the Foundation promoted career development for Tribal students interested in careers in preservation. The Foundation assisted in finding funding for scholarships and supported summer internships.

The ACHP/Forest Service Cultural Heritage in the Forest program with Land Grant institutions focused on minority students with an interest in preservation careers. The Foundation financed and contributed to development of the proposal that became the basis for the program.

The Foundation annually supports the ACHP intern program by soliciting funds for intern stipends, assisting with intern experiences, and managing agreements and payments for interns.

The Foundation partnered with the ACHP for a pilot program for the 21st Century Preservation Leaders Fellowship, an experiential fellowship for an early-to-mid-career professional that would immerse the Fellow in the processes of national preservation policy development and implementation. The Foundation

ADVISORY COUNCIL ON HISTORIC PRESERVATION

401 F Street NW, Suite 308 • Washington, DC 20001-2637

Phone: 202-517-0200 • Fax: 202-517-6381 • achp@achp.gov • www.achp.gov

supported development of the concept; obtained funding; created and managed the marketing and recruitment process; developed program and partnerships; and actively managed first Fellow.

The Foundation supported the ACHP's engagement of an ACHP Native American Scholar by soliciting funds and financially sponsoring the scholar; aiding with scholar selection process; and coordinating scholar travel arrangements.

The Foundation partnered with the ACHP and the Smithsonian to establish a joint fellowship in museum and historic preservation practice. The Foundation supported the Fellow financially; aided in selection process; and advised Fellow throughout the research process.

Providing Professional Expertise

The Foundation regularly participates in ACHP business and committee meetings and interaction with the ACHP on specific projects and issues, drawing on the experience and expertise of ACHP alumni. The Foundation has collaborated with the ACHP over the years by convening policy roundtables addressing ACHP priority issues, using its expertise, alumni network, and relations with other organizations.

Examples include the following:

Organized and convened representatives from the energy transfer industry, Tribal and State Historic Preservation Officers, and cultural resources consultants to bring together the perspectives and experience of industry and key preservation stakeholders in Section 106 reviews. The goal was to develop strategies to make Section 106 reviews produce better outcomes in a more efficient and timely manner.

Organized and convened stakeholders representing the tourism industry; U.S. World Heritage Sites; National Park Service; Department of Commerce; United Nations Educational, Scientific and Cultural Organization; and the ACHP to examine ways U.S. World Heritage Sites could contribute to regional heritage tourism.

Organized and convened a listening tour for ACHP members with Latino and Hispanic community members as part of the ACHP's "Building a More Inclusive Preservation Program" initiative.

Convened ACHP alumni and stakeholders to discuss next-generation U.S. preservation policy agenda.

Introduced ACHP leadership to a Tribal digitization expert for the ACHP's Digitization Task Force and an expert window craftsman for the Trades Training Task Force.

Advocacy

Being a nonprofit foundation with access to prior ACHP members, the Foundation has played an important role in advocating for the ACHP and its programs. Examples include successful advocacy for the ACHP's annual appropriation in the Congress and amendments to the National Historic Preservation Act (NHPA) to make the ACHP chairman a full-time position and to add the chairman of the National Association of Tribal Historic Preservation Officers as a voting member on the ACHP.

Outreach

As a nonprofit organization with extensive connections in the preservation movement, the Foundation can extend the reach of the ACHP and raise its visibility as a national preservation leader. Examples include the Foundation's work at the 50th anniversary of the NHPA ("P50"): originated the idea for Section 106 Success Stories and actively participated in their development; worked with preservation partners as a member of the P50 steering committee; contracted outreach through a social media campaign to raise awareness of P50 and other ACHP initiatives; produced an interactive web platform for disseminating information about the future of the ACHP and historic preservation.

The Foundation participates regularly in meetings of the Preservation Partners, the group of national preservation organizations that coordinates on policy development and advocacy. The Foundation also hosts and pays for ACHP receptions to honor ACHP awardees and special occasions.

Link to ACHP Alumni

The Foundation provides an important link for the ACHP to its alumni, a unique source of expertise and political connections. The Foundation issues a regular newsletter for alumni containing news of the Foundation and the ACHP. Alumni are also invited to participate in Foundation-supported ACHP events and, where appropriate, ACHP-Foundation partnership activities.

ACRONYMS & ABBREVIATIONS

| | | | |
|--------------|--|---------------|---|
| 4(f) | Section 4(f) of the Department of Transportation Act | NAE | No Adverse Effect |
| AHP | Advisory Council on Historic Preservation | NAGPRA | Native American Graves Protection & Repatriation Act (1990) |
| AHPA | Archeological & Historic Preservation Act (1974) | NAPC | National Alliance of Preservation Commissions |
| AIRFA | America Indian Religious Freedom Act (1978) | NASA | National Aeronautics & Space Administration |
| APE | Area of Potential Effects | NATHPO | National Association of Tribal Historic Preservation Officers |
| ARPA | Archeological Resources Protection Act (1979) | NCPC | National Capital Planning Commission |
| ARS | Agricultural Research Service (USDA) | NCSHPO | National Conference of State Historic Preservation Officers |
| BAMIPP | Building a More Inclusive Preservation Program | NEA | National Endowment for the Arts |
| BIA | Bureau of Indian Affairs (DOI) | NEH | National Endowment for the Humanities |
| BLM | Bureau of Land Management (DOI) | NEPA | National Environmental Policy Act (1969) |
| BOEM | Bureau of Ocean Energy Management (DOI) | NHL | National Historic Landmark |
| BSEE | Bureau of Safety & Environmental Enforcement (DOI) | NHO | Native Hawaiian Organization |
| CatEx | Categorical Exclusion; also CE, CX, CatX | NHPA | National Historic Preservation Act (1966) |
| CDBG | Community Development Block Grant | NOAA | National Oceanic & Atmospheric Administration (DOC) |
| CEQ | Council on Environmental Quality | NPA | Nationwide Programmatic Agreement |
| CFR | Code of Federal Regulations | NPS | National Park Service (DOI) |
| CLG | Certified Local Government | NRCS | Natural Resource Conservation Service (USDA) |
| COE or Corps | United States Army Corps of Engineers | NRHP or NR | National Register of Historic Places |
| CRM | Cultural Resource Management | NSF | National Science Foundation |
| CRMP | Cultural Resources Management Plan | NTHP | National Trust for Historic Preservation |
| DEIS | Draft Environmental Impact Statement | NTIA | National Telecommunications & Information Administration (DOC) |
| DHS | Department of Homeland Security | OCC | Office of the Comptroller of the Currency (Treasury) |
| DOC | Department of Commerce | OSM | Office of Surface Mining Reclamation & Enforcement (DOI) |
| DoD | Department of Defense | PA | Programmatic Agreement/Preserve America/ Preservation Action |
| DOE | Determination of Eligibility/Department of Energy | PC | Program Comment |
| DOI | Department of the Interior | Reclamation | Bureau of Reclamation- <i>formerly BOR</i> (DOI) |
| DOJ | Department of Justice | RD | Office of Rural Development (USDA) |
| DOL | Department of Labor | The Register | National Register of Historic Places |
| DOT | Department of Transportation | The Regs | 36 CFR Part 800, Section 106 regulations |
| EO | Executive Order | ROD | Record of Decision |
| EA | Environmental Assessment | RUS | Rural Utilities Service (USDA) |
| ED | Executive Director (AHP) | SBA | Small Business Administration |
| DEd | Department of Education | Section 3 | Section 3 of E.O. 13287, "Preserve America" |
| EDA | Economic Development Administration (DOC) | SHPO | State Historic Preservation Officer |
| EIS | Environmental Impact Statement | SOI | Secretary of the Interior |
| EPA | Environmental Protection Agency | SPO | Senior Policy Official |
| FAA | Federal Aviation Administration (DOT) | State | Department of State |
| FCC | Federal Communications Commission | STB | Surface Transportation Board |
| FDIC | Federal Deposit Insurance Corporation | TCP | Traditional Cultural Property |
| FEIS | Final Environmental Impact Statement | THPO | Tribal Historic Preservation Officer |
| FEMA | Federal Emergency Management Agency (DHS) | The Standards | Secretary of the Interior's Standards (for the Treatment of Historic Properties, for Archaeology, for Rehabilitation, etc.) |
| FERC | Federal Energy Regulatory Commission | The Trust | National Trust for Historic Preservation |
| FHWA | Federal Highway Administration (DOT) | TVA | Tennessee Valley Authority |
| FONSI | Finding of No Significant Impact | USACE | United States Army Corps of Engineers |
| FPISC | Federal Permitting Improvement Steering Council | USDA | Department of Agriculture |
| FPO | Federal Preservation Officer | USFS | United States Forest Service (USDA) |
| FRA | Federal Railroad Administration (DOT) | USGS | United States Geological Survey (DOI) |
| FSA | Farm Service Agency (USDA) | US/ICOMOS | United States National Committee for ICOMOS |
| FTA | Federal Transit Administration (DOT) | USPS | United States Postal Service |
| FWS | Fish & Wildlife Service (DOI) | VA | Department of Veterans Affairs |
| GSA | General Services Administration | WAPA | Western Area Power Administration (DOE) |
| HABS | Historic American Buildings Survey | WHS | World Heritage Site |
| HAER | Historic American Engineering Record | | |
| HALS | Historic American Landscapes Survey | | |
| HHS | Department of Health & Human Services | | |
| HUD | Department of Housing & Urban Development | | |
| ICCROM | International Centre for Conservation in Rome | | |
| ICOMOS | International Council of Monuments & Sites | | |
| IHS | Indian Health Service (DOI) | | |
| Keeper | Keeper of the National Register of Historic Places | | |
| MOA | Memorandum of Agreement | | |



DEFINITIONS

adverse effect Project effects that may alter, directly or indirectly, characteristics of a historic property that qualify it [the property] for inclusion in the National Register [of Historic Places] in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. May include reasonably foreseeable effects that may occur later in time, be farther removed in distance, or be cumulative. [36 CFR §800.5(a)(1)]

AHPA Archeological and Historic Preservation Act (P.L. 86-523, 16 U.S.C. 469, 1974) Provides for recovery of historic and archaeological data (including relics and specimens) which might be lost or destroyed by a federal or federally licensed construction project, and authorizes expenditure of project funds for such recovery.

AIRFA American Indian Religious Freedom Act (P.L. 95-341, 1978) Establishes policy to protect and preserve traditional religious beliefs and practices of Native Americans, including Native Hawaiians.

alternate procedure(s) Procedure to tailor the standard Section 106 process to agency programs and decision making processes, and substitute in whole or in part for the ACHP's Section 106 regulations. May include formal agency regulations, but would also include departmental or agency policy/procedures that do not go through a formal rulemaking process. [36 CFR §800.14(a)]

anticipatory demolition/destruction Destroying or irreparably harming a historic property with the express purpose of circumventing or preordaining the outcome of Section 106 review. [NHPA Section 110(k)/54 U.S.C. 306113]

APE Area of Potential Effects; the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if any such properties exist. [36 CFR § 800.16(d)]

applicants Persons or groups applying for federal assistance or for a federal permit, license, or other approval. [36 CFR § 800.2(c)(4)]

archaeological site The place or places where the remnants of a past culture or historical period survive in a physical context that allows for the study and interpretation of these remains, usually but not always requiring excavation or other systematic investigation. [National Register Bulletin No. 36, "Guidelines for Evaluating and Registering Historical Archaeological Sites and Districts," 1993, p. 2]

ARPA Archaeological Resources Protection Act (P.L. 96-95, 1979) Establishes permit process for archaeology on public and Indian lands, along with criminal penalties for unauthorized removal or looting of remains.

building A structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. [36 CFR § 60.3(a)]

BAMIPP Building a More Inclusive Preservation Program; multi-year ACHP initiative to highlight the breadth and diversity of cultural heritage in the United States and encourage wider involvement and representation in public preservation activities and programs by historically under-represented groups.

CLG Certified Local Government; local government whose historic preservation program has been recognized and certified by the state and the National Park Service pursuant to Section 101(c) of the National Historic Preservation Act. [NHPA, 54 U.S.C. § 3025]

climate impacts and resilience Impacts to historic properties that may include storm damage, flooding, coastal erosion, drought and associated wildfires, melting permafrost, and changing temperature patterns exacerbated by long-term climate change; resilience refers to artificial counter-measures or natural resistance to such impacts.

comment The findings and recommendations of the ACHP on an undertaking, either through a signed agreement or through a formal letter expressing the ACHP's views to the head of a federal agency under Section 106. [36 CFR § 800.6, 800.16(e)]

concurring parties Those invited to concur in the terms of a Memorandum of Agreement. Refusal of any party invited to concur does not invalidate the Memorandum of Agreement. [36 CFR § 800.6(c)(3)]

consensus determination Agreement between the agency and the State Historic Preservation Officer/Tribal Historic Preservation Officer that a property is or is not eligible for the National Register of Historic Places.

consultation The process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the Section 106 review process. [36 CFR § 800.16(f)]

consulting parties Persons or groups the federal agency consults with during the Section 106 process. They may include the State Historic Preservation Officer; the Tribal Historic Preservation Officer; Indian tribes and Native Hawaiian organizations; representatives of local governments; applicants for federal assistance, permits, licenses, and other approvals; and/or any additional consulting parties. [36 CFR § 800.2(c)]

Council [Now referred to as the ACHP] The Advisory Council on Historic Preservation or an ACHP member or employee designated to act for the ACHP. [36 CFR § 800.16(g)]

CRMP/HRMP Cultural Resources Management Plan / Historic Resource Management Plan; a guide used by agencies and organizations to plan for, preserve, and manage cultural resources and/or historic resources under their stewardship.

cultural items Native American human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony under NAGPRA [See below; 25 USC § 3001.2(3)]

cultural landscape A geographic area, including both cultural and natural resources and any wildlife or domestic animals, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values. May include a historic designed landscape (e.g., a park or campus), a vernacular landscape that has evolved with distinct cultural features (e.g., a historic farm valley), or a traditional cultural landscape containing natural and cultural features with special meaning for a group (e.g., sacred sites on and around a mountain peak). [PRESERVATION BRIEF 36: Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes, by Charles A. Birnbaum, ASLA, NPS Technical Preservation Services, September 1994]

cultural resources Formally undefined term often used interchangeably with “historic property/resource”(see below), but originally intended to refer more broadly to archaeological sites and collections, traditional cultural places, cultural landscapes, sacred sites, and other physical evidence of past human activity. “Cultural resource management” as a field of study and professional practice has largely developed with a primary focus on archaeology and ethnographic resources.

curation Responsibility for the care of something held in trust for other people. Curatorial services are “managing and preserving a collection according to professional museum and archival practices,” for historic preservation purposes most often referring to archaeological collections, other cultural artifacts, and associated records. [36 CFR § 79.4(b), “Curation of Federally Owned and Administered Archaeological Collections”]

data recovery plan A plan for the retrieval of significant archaeological information through controlled excavation and other scientific recording methods. [Advisory Council on Historic Preservation guidance, “Recommended Approach for Consultation on Recovery of Significant Information from Archaeological Sites”]

determination of eligibility A decision that a district, site, building, structure, or object meets or does not meet the National Register of Historic Places criteria for evaluation. [36 CFR § 60.3(c), “National Register of Historic Places”]

determinations Formal resolutions of questions, such as National Register of Historic Places eligibility or adverse effects. [ACHP, “Section-by-Section Questions and Answers,” www.achp.gov/106q&a.html]

district A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development. [36 CFR § 60.3(d)]

documentation A detailed record, in the form of a report or other written document, including photographs, maps, and drawings. [See 36 CFR § 800.11]

EA Environmental Assessment; a (usually) simplified analysis and evaluation under NEPA (see below) to determine whether a proposed federal action will or will not result in a significant impact on the quality of the human environment. [NEPA regulations, 40 CFR Part 1500; NEPA and NHPA: A Handbook for Integrating NEPA and Section 106, CEQ and ACHP, March 2013]

EIS Environmental Impact Statement; detailed analysis and evaluation under NEPA (see below) of major federal actions significantly affecting the quality of the human environment, including consideration of alternatives to the proposed action. Historic properties, as a subset of cultural and social resources, are one aspect of the human environment to be analyzed [NEPA regulations, 40 CFR Part 1500; NEPA and NHPA: A Handbook for Integrating NEPA and Section 106, CEQ and ACHP, March 2013]

effect Alteration to the characteristics of a historic property that qualifies it for inclusion in or eligibility for inclusion in the National Register of Historic Places. [36 CFR § 800.16(i)]

EO Executive Order; formal signed, written, numbered, and published directive from the President directing actions of the executive branch. Executive orders may be referenced by number, title, or topic. Other presidential documents include presidential memoranda and proclamations. Both EOs and proclamations are published in the *Federal Register*, and with memoranda on the White House website. Executive orders and proclamations have the force of law, much like regulations issued by federal

agencies, and are codified under Title 3 of the Code of Federal Regulations. However, they are not legislation and may be rescinded or modified by another executive order. An executive order takes precedence over a presidential memorandum.

EO 13287 “Preserve America,” issued by President Bush on March 3, 2003. The order stated federal policy to provide leadership in preserving America’s heritage by actively advancing the protection, enhancement, and contemporary use of federally owned historic properties, and promoting intergovernmental cooperation and partnerships for historic property preservation and use. The EO encouraged agencies to manage these historic properties as valuable assets that can support agency missions and also stimulate local economic development. It calls for progress reports by agencies on their identification, protection, and use of historic properties, and a consolidated report to the President by the ACHP, every three years.

exemptions Procedure for formally removing from Section 106 review those undertakings that have foreseeable effects on historic properties which are likely to be minimal. Section 214 of the National Historic Preservation Act sets forth criteria for exemptions and the process for obtaining them. [36 CFR § 800.11]

FPISC Federal Permitting Improvements Steering Council (Permitting Council); created by the Fixing America’s Surface Transportation (FAST) Act of 2015. The Permitting Council helps implement provisions of the FAST Act that apply to certain types of large-scale infrastructure projects in order to improve the timeliness, predictability, and transparency of the federal environmental review and authorization process for certain infrastructure projects. The Permitting Council also promotes best practices to improve reviews of all infrastructure projects. The ACHP is a member ¹ of the Permitting Council.

FPO Federal Preservation Officer; the official designated by the head of each federal agency who is responsible for coordinating that agency’s activities under Section 110 of the National Historic Preservation Act of 1966, as amended. [NHPA, 54 U.S.C. § 306104]

findings Factual assessments by a party, usually an agency, that are subject to review by other parties to the Section 106 process. [ACHP, “Section-by-Section Questions & Answers,” www.achp.gov/106q&a.html]

foreclosure An action taken by an agency official that effectively precludes the ACHP from providing comments which the agency official can meaningfully consider prior to the approval of the undertaking. [36 CFR § 800.16(j)]

heritage tourism The business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale’s history, landscape, and culture. (EO 13287, “Preserve America”)

¹ Members include: Department of Agriculture (Rural Development, Forest Service); U.S. Army Corps of Engineers (Directorate of Civil Works); Department of Commerce (National Telecommunications & Information Administration, National Oceanic and Atmospheric Administration, National Marine Fisheries Service); Department of the Interior (U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, National Park Service, Bureau of Ocean Energy Management); Department of Energy; Department of Transportation; Department of Defense; Environmental Protection Agency; Federal Energy Regulatory Commission; Nuclear Regulatory Commission; Department of Homeland Security (Coast Guard); Department of Housing and Urban Development; Advisory Council on Historic Preservation; Office of Management and Budget; Council on Environmental Quality

historic context An organizing structure for interpreting history that groups information about historic properties which share a common theme, common geographical location, and common time period. [National Register Bulletin No. 16A, “How to Complete the National Register Registration Form,” appendix IV, p. 2]

historic property Any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure or object. Also includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization that meet the National Register of Historic Places criteria. [NHPA, 54 U.S.C. § 300308, 302706]

Indian tribe An Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in Section 3 of the Alaska Native Claims Settlement Act (43 USC § 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. [NHPA, 54 U.S.C. § 300309]

integrity The ability of a historic property to convey its significance through its location, design, setting, materials, workmanship, feeling, and association, as appropriate to the particular property. [National Register Bulletin No. 15, “How to Apply the National Register Criteria for Evaluation,” p. 44]. A related factor is the authenticity of a property’s historic identity, evidenced by the survival of physical features or characteristics that existed during the property’s historic or prehistoric period. [National Register Bulletin No. 16A, “How to Complete the National Register Registration Form,” appendix IV, p.2]

invited signatories Persons or groups invited by the agency official to also sign a Memorandum of Agreement (which may include an Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to historic properties off tribal lands). Especially refers to those who assume a particular responsibility under an Agreement. [36 CFR § 800.6(c)(2)]

Keeper of the National Register The federal official who has been delegated the authority by the National Park Service to represent the Secretary of the Interior in listing properties and formally determining their eligibility for the National Register of Historic Places. [36 CFR § 60.3(f)]

legacy cities Defined as those communities developed at the height of the industrial revolution as centers of industry, commerce, business, and employment throughout the New England, Mid-Atlantic, and Midwest regions. Legacy cities can also include communities located in the West and Southwest regions that emerged for similar reasons at a later period. (See “rightsizing”)

local government A city, county, parish, township, municipality, borough, or other general purpose political subdivision of a state. [36 CFR § 800.16(n)]

MOA Memorandum of Agreement; document that records the terms and conditions agreed upon to resolve the adverse effects of an undertaking upon historic properties. [36 CFR § 800.16(o)]

NAGPRA Native American Graves Protection and Repatriation Act (P.L. 101-601, 1990) Requires federal agencies and federally funded institutions to return Native American “cultural items” (human remains, funerary and sacred objects, and objects of cultural patrimony) to lineal descendants and culturally affiliated Indian tribes and Native Hawaiian organizations. Establishes federal grants and procedures to assist in the repatriation process, discoveries on federal or tribal lands, and provides for assessment of civil penalties by the Secretary of the Interior.

NHL National Historic Landmark; a historic property evaluated and found to have significance at the national level and designated as such by the Secretary of the Interior. [National Register Bulletin No. 16A, “How to Complete the National Register Registration Form,” appendix IV, p. 3]

NHPA National Historic Preservation Act (P.L. 89-665, 1966) Articulated overall federal policy encouraging and promoting historic preservation, and established the national historic preservation program to implement that policy. The program includes a National Register of Historic Places, the Advisory Council on Historic Preservation, State and Tribal Historic Preservation Officers, funding through the Historic Preservation Fund, Certified Local Governments, federal agency preservation programs, and the federal historic preservation planning and review process known as Section 106 review.

NPS National Park Service; a bureau of the U.S. Department of the Interior that manages national parks, monuments, and historic sites; acts as a steward for historic areas in the National Park System; administers preservation programs, including grant funding through the Historic Preservation Fund and other accounts; maintains the National Register of Historic Places; sets standards for preservation-related activities; and provides technical preservation information and guidance.

National Register criteria The criteria established by the Secretary of the Interior for use in evaluating the eligibility of properties for the National Register of Historic Places. [36 CFR Part 60, 36 CFR § 800.16(r)]

National Register of Historic Places Established by the National Historic Preservation Act of 1966 as the official federal list of districts, sites, buildings, structures, and objects of significance in American history, architecture, archaeology, engineering, and culture. [NHPA, 54 U.S.C. § 3021, 300311]

National Register Nomination Form A legal document and reference for historical, architectural, and archaeological data upon which protections for listed and eligible properties are founded. [36 CFR § 60.3(i)]

Native Hawaiian Any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii. [NHPA, 54 U.S.C. § 300313; 36 CFR § 800.16(s)(2)]

NHO Native Hawaiian organization; any organization which serves and represents the interests of Native Hawaiians; has as a primary and stated purpose the provision of services to Native Hawaiians; and has demonstrated expertise in aspects of historic preservation that are significant to Native Hawaiians. The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai’i Nei, an organization incorporated under the laws of the State of Hawaii. [NHPA, 54 U.S.C. § 300314; 36 CFR § 800.16(s)(1)]

NEPA National Environmental Policy Act (P.L. 91-190, 1970) Establishes national policy to encourage harmony between people and the environment, directs federal agencies to assess the environmental effects of their proposed actions prior to making decisions, and establishes a Council on Environmental Quality within the Executive Office of the President.

object A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment. [36 CFR § 60.3(j)]

preservation partners An informal group of preservation non-governmental organizations and agencies (some of which are represented on the ACHP) with which the ACHP staff shares information and consults on federal preservation policy, legislation, and related issues of mutual concern.²

Preserve America program Federal initiative that encourages and supports community efforts to preserve and enjoy the nation's priceless cultural and natural heritage. The goals of the program include a greater shared knowledge about the nation's past, strengthened regional identities and local pride, increased local participation in preserving the country's cultural and natural heritage assets, and support for the economic vitality of the nation's communities. Administered by the ACHP and the Departments of the Interior and Agriculture in partnership with the White House (Congress permanently authorized the program in the Omnibus Public Land Management Act of 2009, P.L. 111-11.)

Preserve America Communities Communities (including municipalities, counties, neighborhoods in large cities, U.S. territorial jurisdictions, and Indian tribes) that have been formally designated under the Preserve America program in recognition of their efforts to preserve their historic and cultural properties and use them to foster community revitalization, particularly through heritage tourism.

Preserve America Stewards Organizations and agencies that have been formally designated under the Preserve America program in recognition of their use of volunteers to care for, preserve, and interpret historic properties.

Preserve America Grants Administered by the National Park Service in partnership with the ACHP, this grant program provides funding to designated Preserve America Communities, State Historic Preservation Offices, and Tribal Historic Preservation Offices to support preservation efforts through heritage tourism, education, and historic preservation planning. (While the program remains authorized, Congress has not appropriated funding for the program since FY 2010.)

preservation Includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities or any combination of the foregoing activities. [NHPA, Section 301 (8)]

program alternative(s) Strategies included in the ACHP's regulations which allow federal agencies to tailor the Section 106 process to the needs of specific programs or types of undertakings, and provide the ACHP the flexibility to use comments on a federal program or class of undertakings rather than reviewing and commenting on such undertakings on a case-by-case basis. Program alternatives include Program Comments, Exemptions, Nationwide and Prototype Programmatic Agreements, Standard Treatments, and alternate procedures. [36 CFR § 800.14]

Programmatic Agreement (PA) Agreement document that covers specific agency programs or complex or multiple undertakings. Programmatic Agreements may be developed to guide preservation measures for programs administered on a nationwide, regional, statewide, or categorical basis. A Prototype Programmatic Agreement is a type of PA that may be developed as a template or model agreement to address repetitive undertakings that could be addressed by a consistent approach. [36 CFR § 800.14(b), 800.16(t)]

² Current members of the Preservation Partners group include: ACHP; ACHP Foundation; American Cultural Resources Association (ACRA); American Institute of Architects (AIA); Civil War Trust; Cultural Heritage Partners (CHP); National Association of Tribal Historic Preservation Officers (NATHPO); National Conference of State Historic Preservation Officers (NCSHPO); National Park Service (NPS); National Parks Conservation Association (NPCA); National Trust for Historic Preservation; Preservation Action (PA); Society for American Archaeology (SAA); Society for Historical Archaeology (SHA); and U.S. National Committee of the International Council on Monuments and Sites (US/ICOMOS).

research design A statement of proposed identification, documentation, investigation, or other treatment of a historic property that identifies the project’s goals, methods and techniques, expected results, and the relationship of the expected results to other proposed activities or treatments. [National Register Bulletin No. 15, “How to Apply the National Register Criteria for Evaluation,” appendix x, p. 53]

rightsizing Preservationists and planners have defined “rightsizing” as the process through which legacy cities address significant physical and social changes to undergo a reduction to an optimal size. The term applies to demographic, land use, business activity, and other socioeconomic changes.

Section 3 Report to the President Report required by Section 3 of EO 13287 to assess the status of federally owned historic properties, the condition and management needs of those properties, and evaluations of the suitability of those properties to contribute to community economic development initiatives including heritage tourism. Assessments by real property managing agencies are made available to the ACHP and the Secretary of the Interior; based on those, the ACHP then prepares a report for the President every three years.

Section 106 The section of the National Historic Preservation Act that requires federal agencies to take into account the effects of undertakings on historic properties and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to the undertaking. [NHPA, 54 U.S.C. § 306108, 36 CFR Part 800]

Section 110 The section of the National Historic Preservation Act that sets out the broad historic preservation responsibilities of federal agencies and is intended to ensure that historic preservation is fully integrated into the ongoing programs of all federal agencies. [NHPA, 54 U.S.C. Chapter 3061; The Secretary of the Interior’s Standards and Guidelines for Federal Agency Historic Preservation Programs, Introduction]

SHPO State Historic Preservation Officer; the official appointed or designated pursuant to Section 101(b)(1) of the National Historic Preservation Act to administer the state historic preservation program, or a representative to act for the State Historic Preservation Officer. [NHPA, 54 U.S.C. Chapter 3023]

significance The importance of a historic property as defined by the National Register of Historic Places criteria in one or more areas, such as the history, architecture, archaeology, engineering, or culture of an area. [National Register Bulletin No. 16A, “How to Complete the National Register Registration Form,” appendix IV, p. 3; also based on NRB 15, “How to Apply the National Register Criteria for Evaluation,” p. 7]

signatories Those who sign a Memorandum of Agreement or Programmatic Agreement, usually the agency and the SHPO/THPO, and under some circumstances, the ACHP. They have the sole authority to execute, amend, or terminate the agreement. [Based on 36 CFR § 800.6(c)(1)]

site The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. [National Register Bulletin No. 16A, “How to Complete the National Register Registration Form,” appendix IV, p. 3]

Senior Policy Official (SPO) Senior policy level official that has policy oversight responsibility for an agency’s historic preservation program [EO 13287, “Preserve America,” § 3(e)]

standard treatment(s) Mechanism by which the ACHP can agree to a streamlined process for addressing a category of undertakings, effects, historic properties, or treatment options. This option may modify the application of the normal Section 106 process under certain circumstances or simplify the steps or requirements of the regulations. [See “program alternatives;” 36 CFR § 800.14(d)]

state Any state of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. [NHPA, 54 U.S.C. § 300317]

structure A construction made for purposes other than creating shelter, such as a bridge. [National Register Bulletin No. 16A, “How to Complete the National Register Registration Form,” appendix IV, p. 4]

sustainability The ACHP supports the work of communities to create sustainable and resilient communities where historic properties are used as assets for promoting energy efficiency and community livability. Preserving historic buildings almost always offers environmental and energy savings over demolition and new construction. Reinvestment in historic districts and communities also promotes reuse of existing infrastructure and supports areas that generally are walkable and have good transit access options.

termination of consultation When the Advisory Council on Historic Preservation, the federal agency, the State Historic Preservation Officer/Tribal Historic Preservation Officer, or the officially designated tribal representative determines that further consultation will not be productive and ends consultation by notifying the other consulting parties and providing, in writing, the reasons for ending consultation. [36 CFR § 800.7(a)]

termination of an MOA/PA When a signatory to the agreement ends the agreement after determining that its terms cannot be carried out and consulting unsuccessfully with other signatories to amend the agreement. [36 CFR § 800.6(c)(8)]

THPO Tribal Historic Preservation Officer; the tribal official, designated by a tribal ordinance or preservation program, who has assumed the responsibilities of the SHPO for purposes of Section 106 compliance on tribal lands in accordance with the National Historic Preservation Act. [NHPA, 54 U.S.C. Chapter 3027]

tribal lands All lands within the exterior boundaries of any Indian reservation and all dependent Indian communities. [NHPA, 54 U.S.C. § 300319]

undertaking A project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a federal agency, including those carried out by or on behalf of a federal agency; those carried out with federal financial assistance; and those requiring a federal permit, license, or approval. Undertakings that may affect historic properties trigger Section 106 review. [36 CFR § 800.16(y)]