

CULTURAL RESOURCE MANAGEMENT PROGRAM

I. Purpose

Subject to the availability of funds, this Directive establishes policies and responsibilities for the appropriate creation and management of cultural resource programs throughout the Department of Homeland Security (DHS or Department), in accordance with applicable federal statutory and regulatory requirements, Executive Orders (EOs), and Presidential Memoranda.

II. Scope

Pursuant to Section 110 of the National Historic Preservation Act (Title 54, U.S.C. § 306102), federal agencies are required to establish a cultural resource program for the consideration and treatment of cultural resources. This Directive provides the basic principles for cultural resource management programs, provides flexibility for compliance with relevant cultural resource laws and EOs, and ensures appropriate integration of cultural resource management into DHS activities. DHS activities within the scope of this Directive include, but are not limited to, the following, as appropriate: mission and operations planning; promulgations of regulations; acquisitions and procurements; asset and facility management; research and development; and issuance of federal grants, or provision of financial assistance to carry out activities or programs.

While this Directive emphasizes the Department's program for cultural resource management, it primarily focuses on the National Historic Preservation Act (NHPA) of 1966 (Title 54, U.S.C. §§ 300101 *et seq.*), specifically the implementing regulations for Section 106 of the Act at 36 Code of Federal Regulations (CFR) Part 800 and Section 110. This Directive applies to DHS headquarters and Components, except where inconsistent with the statutory independence of the Inspector General (Title 5, United States Code (U.S.C.) and the U.S. Coast Guard (DHS Authorization Act Section 888). Instruction Manual 017-01-001, rev. 01 provides the procedures for implementing this Directive.

III. Authorities

- A. Title 16 U.S.C. §§ 470aa-470mm, Archaeological Resources Protection Act of 1979 (ARPA)

- B. Title 25, U.S.C. §§ 3001-3013, Native American Graves Protection and Repatriation Act of 1990 (NAGPRA)
- C. Title 54 U.S.C. §§ 300101 *et seq.*, National Historic Preservation Act of 1966, as amended (NHPA)
- D. Title 54 U.S.C. §§ 320301-320303 and 18 U.S.C. § 1866(b), Antiquities Act of 1906
- E. Executive Order 13007, *Indian Sacred Sites*, May 24, 1996
- F. Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, November 6, 2000
- G. Executive Order 13287, *Preserve America*, March 3, 2003
- H. Title 36 CFR § 800, Protection of Historic Properties
- I. Title 36 CFR § 79, Curation of Federally-Owned and Administered Archeological Collections
- J. DHS Delegation 00500, rev. 01, *Delegation to the Chief Readiness Support Officer*
- K. DHS Delegation 00501, rev. 00, *Delegation for Environmental Management, Energy Management, and Environmental Planning and Historic Preservation*

IV. Responsibilities

- A. **Chief Readiness Support Officer** establishes a cultural resource program to provide coordination, policy, and planning for the appropriate recognition and management of cultural resources during execution of the homeland security mission.
- B. **Sustainability and Environmental Programs, Executive Director (SEP Executive Director)** develops policy, guidance, training, standardized requirements and processes for implementing DHS-wide cultural resource management programs. The SEP Executive Director evaluates and approves Component supplemental instructions for implementing a cultural resource management program.
- C. **DHS Federal Preservation Officer (DHS FPO)** is the Department official responsible for coordinating and providing oversight of cultural resource

management activities to ensure compliance with applicable statutes, implementing regulations, EOs, and DHS policy, among other duties.

D. **Office of the General Counsel (OGC)** provides legal counsel and advice as to the sufficiency of environmental and cultural resource compliance. OGC also coordinates on behalf of DHS with the Department of Justice, as appropriate, in the event of litigation.

E. **Component Heads** ensure that the planning, development, and execution of their missions conform to this Directive. Component Heads may designate an FPO to serve as the Component official responsible for coordinating and providing oversight of cultural resource management activities, including the responsibilities set out in 54 U.S.C. § 306101. Component Heads have the option to develop supplemental instructions for their respective Components, pending evaluation and approval from the SEP.

V. Policy and Requirements

A. **Policy**

1. DHS recognizes the importance of the Nation's rich history and the benefits of cultural resource stewardship for future generations. DHS works to build, grow, and enhance a comprehensive cultural resource management program through partnership building, meaningful consultation, effective planning and project implementation, and identifying and managing cultural resources while maintaining the DHS mission.
2. Cultural resource programs ensure that an activities' potential effects are identified and considered as part of the planning and implementation process prior to decision making.
3. DHS headquarters and Components maintain consistent processes for effective consultation and coordination with federal agencies, recipients and sub-recipients of federal assistance, State Historic Preservation Officers, Tribal Historic Preservation Officers, Indian tribes including Alaska Native Corporations, Native Hawaiian organizations, other stakeholders, and the public to consider the potential effects of proposed activities on cultural resources.
4. DHS headquarters and Components integrate compliance with Section 106 of the NHPA into the National Environmental Policy Act process in accordance with 36 CFR § 800.8 (see DHS Instruction Manual 023-01-001-01, rev 01, *Implementation of the National Environmental Policy Act*).

B. Requirements

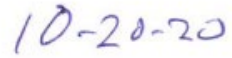
1. When occupying space, land, or other property that is not under DHS's administrative jurisdiction or control, timely coordination with land-managing and facility-managing agencies is needed to ensure compliance with non-DHS specific cultural resource program policy and requirements.
2. DHS is ultimately responsible for complying with cultural resource laws, regulations, and EOs, and cannot fully delegate its authority for cultural resource compliance to any other entity, including when serving as lead federal agency under Section 106 of the NHPA, as defined in 36 CFR § 800.2(a)(2), or while providing federal assistance and other approvals, as discussed in 36 CFR § 800.2(c)(4).
3. Career and contract staff qualified under the Secretary of the Interior's Professional Qualification Standards are appropriately utilized to meet agency needs and cultural resource management program goals. Components may define the use of appropriate professional expertise for specific responsibilities in their supplemental instructions.
4. DHS headquarters and Components consider appropriate avoidance, minimization, and/or mitigation measures, in that order, for undertakings that may adversely affect historic properties.
5. DHS headquarters and Components with land management or real or personal property responsibilities manage and maintain historic properties under their jurisdiction and control in a way that considers the preservation of their historic, archeological, architectural, and cultural values to comply with 54 U.S.C. § 306102(b)(2) of the NHPA.
6. DHS headquarters and Components plan for the housing of collected materials and documents from archeological, historic, and building surveys, agency artifacts, and/or inadvertent discoveries, to include the ownership/responsibility of curation, repatriation, disposition, and cost of curation of artifacts, as appropriate, in accordance with 36 CFR Part 79 and NAGPRA. Public partnerships for the viewing, studying, and loaning of curated materials are encouraged, unless the information would not normally be publicly disclosed for either cultural resource site sensitivity or security purposes (see DHS Directive 262-11, *Freedom of Information Act Compliance*, and 54 U.S.C. § 307103 of the NHPA).
7. DHS headquarters and Components appropriately track historic assets and cultural resource program data for DHS federal reporting.

VI. Questions

Address any questions or concerns regarding this Directive to the Sustainability and Environmental Programs, Executive Director, Office of the Chief Readiness Support Officer.



R. D. Alles
Deputy Under Secretary for Management



Date