

**NATIONWIDE PROGRAMMATIC AGREEMENT
AMONG THE DEPARTMENT OF HOMELAND SECURITY,
THE NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION
OFFICERS,
AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING CLIMATE RESILIENCY AND SUSTAINABILITY UNDERTAKINGS
ON
DEPARTMENT OF HOMELAND SECURITY OWNED FACILITIES**

June 2024

WHEREAS, the Department of Homeland Security (“DHS” or “Department”) is the third largest agency in the federal government, comprised of new and legacy sub-agencies, or Components, and more than 260,000 employees. DHS-owned federal facilities are very diverse, consisting of a variety of use types, including office, warehouse, family housing, operation centers, detention centers, laboratories, shore facilities, and training campuses, in addition to structures such as navigational aids and communication towers, and land; and

WHEREAS, DHS intends to enhance facility climate resiliency, foster sustainability, improve building performance by reducing energy and water use, increase the use of renewable energy, and decrease greenhouse gas emissions at DHS Headquarters (“HQ”) and Component owned buildings, structures, or other land management units (“DHS facilities”) in response to growing risks from sea level rise, extreme weather events, floods, higher ambient temperatures, utility disruptions, wildfires, and other impacts arising from global climate change; and

WHEREAS, DHS has established a framework and tools to support strategic prioritization and identification of sustainability and climate resiliency actions based on the DHS Climate Action Plan, the DHS Resilience Framework, the DHS Sustainability Plan, and Council on Environmental Quality’s December 2020 *Guiding Principles for Sustainable Federal Buildings and Associated Instructions* (“CEQ Guiding Principles”), in addition to other federal laws, regulations, and Executive Orders, to mitigate the impacts of climate change on DHS-owned facilities and address contributions to climate change from these facilities; and

WHEREAS, DHS acknowledges historic preservation, climate resiliency, and sustainability measures can function together collaboratively to support Departmental goals; and

WHEREAS, Section 106 of the National Historic Preservation Act (“NHPA”), 54 United States Code (U.S.C.) 306108 and its implementing regulations codified in 36 Code of Federal Regulations (C.F.R.) Part 800, requires federal agencies to take into account the effects of undertakings they carry out, license, or assist on resources (“historic properties”) eligible for, or listed in, the National Register of Historic Places (“National Register”) and afford the Advisory Council on Historic Preservation (“ACHP”) a reasonable opportunity to comment; and

WHEREAS, DHS has determined climate resiliency and sustainability measures constitute undertakings pursuant to 36 C.F.R. 800.16(y); and

WHEREAS, DHS consulted with the ACHP and the National Conference of State Historic Preservation Officers (“NCSHPO”) pursuant to 36 C.F.R. Part 800 and determined that Section 106 requirements can be more effectively and efficiently implemented for climate resiliency and sustainability undertakings if a programmatic approach is used to stipulate roles and responsibilities, exempt certain undertakings from Section 106 review, and streamline the resolution of adverse effects; and

WHEREAS, this Nationwide Programmatic Agreement (“Agreement”) is to be used per 36 C.F.R. 800.14(b)(1), where activities for the purposes of climate resiliency and sustainability are undertaken at DHS facilities; and

WHEREAS, this Agreement may be applied when DHS HQ or a Component is the sole or lead agency for an undertaking, but may not be applied on Tribal lands; and

WHEREAS, this Agreement does not invalidate existing program alternatives or any other Section 106 agreements, and such existing program alternatives and agreements will be followed, instead of this Agreement, when applicable; and

WHEREAS, DHS invited federally recognized Indian Tribes (“Tribes”), Native Hawaiian Organizations (“NHO”), and Indigenous peoples to consult on September 13, 2023 and January 17, 2024, pursuant to 36 C.F.R. Part 800, through the DHS Tribal listserv and quarterly meeting, National Association of Tribal Historic Preservation Officers (“NATHPO”), National Park Service list of Tribal Historic Preservation Officers (“THPOs”), Bureau of Indian Affairs’ Tribal Leader Directory, and Department of Interior’s NHO List, and held two (2) tribal informational and listening sessions on October 18, 2023, with the ACHP, 46 Tribes, NATHPO, the United South and Eastern Tribes (USET), and the Association on American Indian Affairs represented, and two tribal consultation sessions on February 15 & 16, 2024, with the ACHP, 10 Tribes, NATHPO, USET, and the Historic Hawaii Foundation represented; and

WHEREAS, DHS invited the NCSHPO, State Historic Preservation Officers (“SHPOs”), and the National Trust for Historic Preservation (“National Trust”) on September 13, 2023 and January 17, 2024, to two (2) informational and listening sessions held on October 11, 2023, with the ACHP, 9 SHPOs, the NCSHPO, and the National Trust represented, and one (1) meeting to discuss revisions to the draft Agreement on February 1, 2024, with the ACHP, five (5) SHPOs, NCSHPO, and the Madison Trust for Historic Preservation represented; and

WHEREAS, DHS provided the ACHP, NCSHPO, NATHPO, National Trust, THPOs, Tribes, and NHOs an opportunity to provide comments from September 13, 2023 to December 1, 2023 and received comments from 13 SHPOs, five (5) Tribes, two (2) NGOs, the ACHP, and one DHS Component, and January 4, 2024 to February 27, 2024, and received comments from five (5) SHPOs, two (2) Tribes, the ACHP, and USET; and

WHEREAS, DHS provided opportunities for public review and comment by publishing online information about this Agreement on the Department’s webpage from September 13, 2023 to December 1, 2023, and received no public comments; and

WHEREAS, upon execution of this Agreement, and as detailed in this Agreement, the ACHP may still provide advisory comments to DHS regarding the coordination of Section 106 reviews, notify DHS of concerns raised by the NCSHPO, Tribes, SHPOs, THPOs, NHOs, NATHPO, the National Trust, other interested parties and the public regarding an undertaking, and participate in the resolution of adverse effects for complex, controversial, or other non-routine undertakings in accordance with Appendix A of 36 C.F.R. Part 800;

NOW THEREFORE, DHS, ACHP, and NCSHPO (hereinafter, “Signatories”) agree that implementation of this Agreement in accordance with the following stipulations will allow DHS to meet its responsibilities under Section 106 of the NHPA for undertakings subject to this Agreement.

STIPULATIONS

DHS will implement the undertakings under its scope in accordance with the following stipulations.

I. Definitions

- a. The definitions in 36 C.F.R. 800.16 apply to the terms used in this Agreement and are incorporated herein by reference.
- b. The following definition for “previously disturbed ground” will be used in this Agreement:
 - i. soils not likely to possess intact and distinct soil horizons and have the reduced likelihood of possessing historic properties within their original depositional contexts in the area and to the depth to be excavated. Previously disturbed soils shall not be taken to mean plowed soils or historic urban deposits.
- c. The following definitions from DHS Directive 023-03, rev. 00, *Climate Resilience*, will be used in this Agreement:
 - i. Adaptation: Adjustment of natural or human systems to a new or changing environment.
 - ii. Climate Resilience: The ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from climate related disruptions, challenges, and risks through adaptability, innovation, and preparedness.
- d. The following definition from DHS Instruction Manual 023-02-002-01, *Environmental Management Manual*, will be used in this Agreement:

- i. Sustainability: Of or pertaining to creating and maintaining conditions under which humans and nature can exist in productive harmony that permit fulfillment of the social, economic, and other requirements of present and future generations of Americans. Sustainability practices for Federal agencies, including goals to be achieved, have been defined in EO 13423 (including future editions of this EO). Federal agencies may add to these practices but may only eliminate those that are not relevant and applicable to their operations.
- e. The following definition from DHS Directive 252-01, rev. 01, *Organization of the Department of Homeland Security*, will be used in this Agreement:
 - i. Component: Any organization, which reports directly to the Office of the Secretary (the Secretary, the Deputy Secretary, the Chief of Staff, the Counselors, and their respective staff) when approved as such by the Secretary. Examples of DHS Components, or sub-agencies, include U.S. Customs and Border Protection, the Federal Emergency Management Agency, and U.S. Coast Guard.
- f. The following definition will be used in this Agreement, as it applies only to DHS-owned federal facilities:
 - i. Federal Facilities: Any building, installation, structure, or other property (including any applicable fixtures) owned or operated by, or constructed or manufactured and leased to, the Federal Government. The term “facility” includes a group of facilities at a single location or multiple locations managed as an integrated operation and contractor-operated facilities owned by the Federal Government.

II. Roles and Qualifications

- a. Federal Preservation Officer (“FPO”): The DHS official responsible for coordinating and providing oversight of cultural resource management activities and ensuring compliance with applicable statutes, regulations, Executive Orders, and DHS policy.
 - i. This Agreement shall be managed by the DHS FPO and Deputy FPO (“DFPO”).
 - ii. The DHS FPO shall provide annual training sessions to Component project teams and personnel involved in CRS Undertakings on the requirements of this Agreement.
 - iii. An annual data call to Component environmental planning and historic preservation offices shall be issued by the DHS FPO for oversight and reporting purposes.

- iv. The DHS FPO shall perform an annual audit on no less than 10 percent of undertakings from the previous fiscal year to be included in annual reporting.
- v. The DHS FPO shall ensure all DHS records regarding use of this Agreement are maintained for each CRS Undertaking. Records to be maintained will include the following information at a minimum:
 - 1. A description of the undertaking, including the specific location of the work; and
 - 2. The name(s) of the Qualified Professional that carried out or supervised the use of this Agreement; and
 - 3. A summary of the undertaking's implementation, indicating how it was carried out, any problems that arose, photographs, and the outcome. DHS will provide copies of these records, within a reasonable timeframe, when requested in writing by the ACHP or the relevant SHPO/THPO, Tribe, NHO, or the public, as appropriate.
- b. DHS Qualified Professional: A DHS Qualified Professional is a HQ or Component federal employee, or contractor overseen by a DHS federal employee, who provides specialized cultural resource management services, including conducting the appropriate archeological, historical, or architectural analysis and preparing compliance documentation. The DHS Qualified Professional performs historic property inventories, evaluations, assessment of effects, and resolution of adverse effects, among other duties, and meets the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation* ("Professional Qualification Standards") in the discipline relevant to the project activities. The DHS Qualified Professional reviews proposed CRS Undertakings utilizing the *Nationwide Programmatic Agreement for Sustainability and Resilience Undertakings Review Form* in Appendix C ("Appendix C; review form") and determines applicability of this Agreement. When providing notification to the appropriate SHPO or THPO of a CRS Undertaking that may potentially adversely affect a historic property, the DHS Qualified Professional ensures the following information is approved at the appropriate level within DHS. Submission packages for no adverse effect or adverse effect should conform with 36 C.F.R. 800.11, consider SHPO-specific submittal requirements, and contain, at a minimum:
 - i. Justification of the undertaking being classified as a resilience or sustainability project and subject to the terms of this Agreement;

- ii. Description of the proposed undertaking including maps, drawings, and photographs, subject to security considerations and protocol;
 - iii. Identification of historic properties in the area of potential effect with brief details on the characteristics that qualify them for the National Register;
 - iv. Discussion of previous surveys, agreement documents, or consultations;
 - v. Explanation of the no adverse effect or adverse effect determination; and
 - vi. Recommended avoidance, minimization, or mitigation measures.
- c. DHS HQ and Component facility managers and environmental planning and historic preservation staff ensure operational staff, tenants, and contractors involved in the implementation of CRS Undertakings are provided information regarding the terms of this Agreement prior to project execution to ensure compliance.

III. Applicability

a. Scope

This agreement applies to the following activities (collectively referred to as “CRS Undertakings”):

- i. all activities on DHS-owned facilities with the purpose of climate resiliency or sustainability; and
 - ii. activities listed in Appendix A, *List of Climate Resiliency and Sustainability Undertakings at DHS Owned Facilities Covered by the DHS Nationwide Programmatic Agreement* (“Appendix A”), if carried out in accordance with the identified preservation measures to ensure no adverse effect to historic properties.
- b. This Agreement does not amend, replace, or invalidate any existing program alternatives or other Section 106 agreements.
- c. Area of Potential Effects
- i. The term “Area of Potential Effects” or “APE” is defined in 36 C.F.R. 800.16(d). For the purposes of this Agreement, the APE for direct effects is limited to the interior of the DHS-owned facility and its physical footprint and immediate area of potential ground disturbance. Further:
 - 1. Visual effect considerations for CRS Undertakings occurring on the exterior of a DHS federal facility, are defined as the viewshed

in which the CRS Undertaking has the potential to introduce visual elements that diminish or alter the setting, including the landscape where the setting is a character-defining feature of a historic property, including those with traditional religious and cultural significance or a Tribal identified sacred site.

IV. Undertakings That Do Not Require Further Section 106 Review

CRS Undertakings that have been reviewed by a DHS Qualified Professional in the appropriate discipline do not require further Section 106 review if the process outlined in Appendix B, *DHS Nationwide Programmatic Agreement Flow Chart ("Appendix B")* is followed and the review form in Appendix C is completed to confirm the following conditions are met. The Department will keep records of all CRS Undertakings subject to this Agreement for compliance, auditing, and annual reporting purposes.

- a. CRS Undertakings at a DHS-owned facility(ies) less than or equal to 45 years of age where:
 - i. the CRS Undertaking is listed in Appendix A, Category 1 or 2, of this Agreement; and
 - ii. a DHS Qualified Professional has determined the facility is not eligible for listing on the National Register under 36 C.F.R. 60.4(g); and
 - iii. a DHS Qualified Professional has determined there would be no historic properties or Historic Districts affected within the visual APE; and
 - iv. if required, ground disturbance is limited to previously disturbed ground where the probability of finding intact archaeological resources is low as determined by a DHS Qualified Professional based on professional expertise, familiarity with the area, and similar geomorphology elsewhere, or previous assessments or Section 106 consultation within the preceding 10 years concluded no archaeological resources were present or expected. DHS will notify the relevant SHPO/THPO, Tribe, and/or NHO utilizing the template *Notification of Use of the DHS Nationwide Programmatic Agreement for Climate Resiliency and Sustainability Undertakings* in Appendix D ("Appendix D") of application of this Agreement no later than thirty (30) calendar days prior to work commencing and will provide specific facility locations barring any national security or law enforcement concerns or exclusions.
- b. CRS Undertakings at a DHS-owned facility(ies) greater than 45 years of age where:
 - i. the CRS Undertaking is listed in Appendix A of this Agreement. If the proposed activity is listed in Category 2, the *Secretary of the Interior's*

Standards for the Treatment of Historic Properties, Secretary of the Interior's Standards for Rehabilitation and Guidelines on Flood Adaptation for Rehabilitating Historic Buildings, and the Secretary of Interior's Standards for Rehabilitation and Guidelines on Sustainability for Rehabilitating Historic Buildings, and associated Preservation Briefs, as necessary, are followed; or

- ii. a DHS Qualified Professional has determined the facility is not eligible for listing on the National Register under 36 C.F.R. 60.4(g) for facilities 45-49 years of age; and
- iii. the facility is 50 years of age or greater and has been previously surveyed or evaluated within the preceding 10 years and no sites eligible for listing on the National Register were identified by a DHS Qualified Professional, the relevant SHPO/THPO, Tribe, and/or NHO concurred with this finding, and re-evaluation or additional survey is not deemed necessary, DHS will notify the relevant SHPO/THPO, Tribe, and/or NHO utilizing the template in Appendix D of application of this Agreement no later than thirty (30) calendar days prior to work commencing and will provide specific facility locations barring any national security or law enforcement concerns or exclusions; and
- iv. if required, ground disturbance is limited to previously disturbed ground where the probability of finding intact archaeological resources is low as determined by a DHS Qualified Professional based on professional expertise, familiarity with the area, and similar geomorphology elsewhere, or previous assessments or Section 106 consultation within the preceding 10 years concluded no archaeological resources were present or expected. DHS will notify the relevant SHPO/THPO, Tribe, and/or NHO utilizing the template in Appendix D of application of this Agreement no later than thirty (30) calendar days prior to work commencing and will provide specific facility locations barring any national security or law enforcement concerns or exclusions; and
- v. a DHS Qualified Professional has determined there would be no historic properties or Historic Districts affected within the visual APE.

V. Consultation with Tribes and Native Hawaiian organizations on CRS Undertakings Off Tribal Lands

- a. The United States Government has a unique legal and political relationship with Tribal Governments as set forth in the Constitution of the United States, treaties, statutes, court decisions, and Executive Orders. The United States recognizes the right of Tribes to self-government. Tribes exercise inherent sovereign powers over their members and territories. DHS is committed to

strengthening the government-to-government relationship between the United States and Tribes.

- b. DHS recognizes that CRS Undertakings could directly or indirectly impact sacred sites, burials, plants, or seeds that have sacred and cultural significance, or historic properties with traditional religious and cultural significance to a Tribe or NHO and is committed to regularly and meaningfully collaborating, communicating, and cooperating with Tribes through consultation.
- c. DHS will make a good faith effort to identify any resources that may have traditional religious and cultural significance through tribal consultation and during the identification phase of each CRS Undertaking where ground disturbing activities are proposed. Based on the location of the asset, DHS will utilize historic maps, information gathered from previous consultations pursuant to Section 106 of the NHPA, SHPO or Tribal databases, the Bureau of Indian Affairs Tribal Leader list, U.S. Department of Interior Native Hawaiian Organization list, National Association of Tribal Historic Preservation Officers, and the U.S. Housing and Urban Development's Tribal Directory Assistance Tool to identify the appropriate Tribes and NHOs to be engaged for further consultation.
 - i. For CRS Undertakings identified in Stipulation IV or Appendix A resulting in ground disturbance, DHS will notify relevant Tribes and NHOs about the proposed action no later than thirty (30) calendar days prior to work commencing.
 - ii. Should it be determined through tribal consultation that the proposed CRS Undertaking could potentially result in an adverse effect on a historic property with traditional religious and cultural significance or a Tribal identified sacred site, the process set forth in 36 C.F.R. 800.5 will be followed.
- d. DHS will consider information regarding historic properties with traditional religious or cultural significance, sacred sites, or Indigenous Knowledge shared with DHS by Tribes or NHOs as sensitive, unless otherwise indicated by the Tribe or NHO. DHS will keep sensitive information provided by Tribes or NHOs confidential consistent with applicable federal laws such as Section 304 of the NHPA. Should DHS receive a Freedom of Information Act request that may include sensitive information, DHS will provide written and/or verbal notification to the Tribe(s) or NHO(s) whose information is subject to the request to determine what information should be redacted.

VI. Section 106 Review Process

For all CRS Undertakings a DHS Qualified Professional will complete the review form in Appendix C and maintain a copy for annual reporting, compliance, and auditing purposes.

DHS will use best efforts to avoid and minimize adverse effects on historic properties and will appropriately consult and mitigate those effects as necessary. For any CRS Undertaking that would result in either no adverse effect or an adverse effect on historic properties, DHS will follow 36 C.F.R. Parts 800.1-800.6, with the following differences, as applicable.

a. Process for No Adverse Effect

The process for a finding of no adverse effect follows 36 C.F.R. 800.5 with the following additions:

- i. DHS will provide a submission package for CRS Undertakings not identified in Appendix A of this Agreement consistent with requirements identified in Stipulation II.b to the appropriate SHPO/THPO, Tribe, or NHO, or other parties as identified pursuant to 36 C.F.R. 800.3(f), of the no adverse effect determination as made by a DHS Qualified Professional.
- ii. If there is no response from the parties within thirty (30) calendar days from submission, DHS will follow 36 C.F.R. 800.5(d)(1) to document the fulfillment of Section 106 responsibilities and proceed accordingly.
- iii. If there is a disagreement with the federal finding and DHS determines the CRS Undertaking would result in an adverse effect determination, Section VI.b of this Agreement is followed.
- iv. If DHS maintains a no adverse effect determination and a disagreement persists, the process provided in 36 C.F.R. 800.5(c)(2) is followed.

b. Adverse Effect Consultation and Resolution

The process for a finding of adverse effect follows 36 C.F.R. 800.6 with the following additions:

- i. DHS will provide a submission package consistent with requirements identified in Stipulation II.b to the appropriate SHPO/THPO, Tribe, or NHO, or other parties as identified pursuant to 36 C.F.R. 800.3(f), of the adverse effect determination as made by a DHS Qualified Professional and propose avoidance, minimization, or mitigative measures to resolve the adverse effect.
- ii. DHS will make publicly available on its website for forty-five (45) calendar days, unclassified documentation as specified in 36 C.F.R.

800.11(e) of the CRS Undertaking to have a potential adverse effect on a historic property subject to confidentiality provisions of 36 C.F.R. 800.11(c), Section 304 of the NHPA, and in consultation with Tribes and NHOs, as early as possible in the planning process to solicit public comment on proposed avoidance, minimization, or mitigative measures.

- iii. If the parties as identified in 36 C.F.R. 800.3(f) do not respond in writing within thirty (30) calendar days of DHS's adverse effect determination and proposed resolution, the proposed CRS Undertaking would proceed in accordance with DHS's resolution proposal. Once the CRS Undertaking has been completed and avoidance, minimization, or mitigation implemented, DHS shall provide the appropriate SHPO/THPO, Tribe, or NHO and the ACHP with an overview of activities for the administrative record.
- iv. If the parties as identified in 36 C.F.R. 800.3(f) respond in writing within thirty (30) calendar days of DHS's adverse effect determination and proposed resolution, DHS shall convene a virtual or in-person meeting within fifteen (15) calendar days of receiving the response to discuss resolution of adverse effects, if needed.
- v. If any adverse effects will not be avoided, DHS will draft a Memorandum of Agreement ("MOA") memorializing proposed terms DHS and the Signatories identified pursuant to 36 C.F.R. 800.6(c) have agreed upon to resolve the adverse effect within thirty (30) calendar days following the first meeting. Signatories shall have thirty (30) calendar days to review and provide comments on the draft MOA.
- vi. Within fifteen (15) calendar days following receipt of any Signatory's comments on the draft MOA, DHS shall convene a second virtual or in-person meeting, if needed. This 30/15 day cadence of preparation, dissemination, review, and meeting shall continue until finalization of the MOA draft which shall take no longer than 180 calendar days after the first meeting described in subparagraph iv above.
- vii. Pending no disagreement or reasonable requests for additional review time, DHS will provide the final MOA and signature pages to Signatories, which shall be signed and returned within thirty (30) calendar days.
- viii. If the final MOA has not been signed by the Signatories within thirty (30) calendar days per subparagraph vii above, and there is no disagreement with respect to the terms of the MOA or requests for additional review time or meetings, the DHS FPO or DFPO will request in writing the ACHP's participation in the resolution of adverse effects and execution of the MOA.

- ix. If no response is received from the Signatories after thirty (30) calendar days of the ACHP's efforts to progress the MOA to finalization, the ACHP will notify all Signatories and sign a two-party MOA without SHPO involvement.
- x. If the ACHP has not signed the MOA within thirty (30) calendar days of receiving the notification in subparagraph ix above, DHS can proceed in accordance with 36 C.F.R. 800.7 to conclude its Section 106 responsibilities for the CRS Undertaking.

VII. Emergencies

- a. An emergency includes:
 - i. natural disasters such as hurricanes, wildfires, flooding, or excessive heat;
 - ii. man-made disasters, including acts of terrorism;
 - iii. an emergency as declared by the President pursuant to the National Emergencies Act;
 - iv. a state of emergency as declared by the Governor or Leader of a Tribe, State, or Territory; or
 - v. an urgent, sudden, and serious event or an unforeseen change in circumstances resulting in risks to national security as determined by DHS which necessitates immediate action to remedy harm or avert imminent danger to life, health, or property.
- b. DHS shall notify the ACHP and appropriate SHPO, THPO(s), Tribes, and NHO(s) in response to an emergency as early as possible by providing the location of the DHS-owned facility, as appropriate based on security protocols, and the CRS Undertaking, unless an immediate rescue, salvage, or response operation is necessary to preserve life and property, in which DHS has no Section 106 consultation responsibilities in accordance with 36 C.F.R. 800.12(d).
- c. If the emergency CRS undertaking meets one of more of the exemptions in Stipulation IV or Appendix A, DHS will not notify the ACHP and appropriate SHPO, THPO(s), Tribes, and NHO(s).
- d. Pursuant to 36 C.F.R. 800.12(d), DHS may conduct expedited review of emergency undertakings within thirty (30) calendar days from the beginning of the incident period. Upon request by ACHP and appropriate SHPO(s)/THPO(s), Tribes, and NHO(s), DHS may consider extending the expedited review period for emergency CRS Undertakings beyond the initial thirty (30) calendar days.

- e. If DHS determines the CRS Undertaking would adversely affect a historic property, DHS will request an expedited review by:
 - i. to the extent practicable, proposing treatment or mitigation measures that would address adverse effects to historic properties during implementation, and request the comments of the appropriate SHPO(s)/THPO(s), Tribes, and NHOs within three (3) business days of receipt of this information unless DHS determines the nature of the emergency warrants a shorter time period.
 - ii. providing this information through written requests, telephone conversations, meetings, or electronic media. In all cases, DHS will clarify that an "expedited review" is being requested.
 - iii. taking into account any timely comments provided by the appropriate SHPO(s)/THPO(s), Tribes, and NHOs in making a decision on how to proceed.
 - iv. completing Section 106 for the CRS Undertaking based on the available information should the SHPO(s)/THPO(s), Tribes, and NHOs not comment within three (3) business days.
 - v. notifying the SHPO(s)/THPO(s), Tribes, or NHOs of the final decision, indicating how any comments received were considered in reaching that decision.

VIII. Unanticipated or Post-Review Discoveries

In the event of an unanticipated discovery of historic or cultural resources during a CRS Undertaking, a DHS Qualified Professional is contacted within 48 hours to ensure the Native American Graves and Repatriation Act (NAGPRA), the Section 106 implementing regulations, and all applicable State law(s) and procedures, are appropriately applied. Further, DHS will consult the ACHP's *Policy Statement on Burial Sites, Human Remains, and Funerary Objects* to provide appropriate consideration and respect.

- a. DHS notifies local law enforcement and the county coroner to determine if the remains constitute a crime scene or modern burial.
- b. DHS follows the post-review discoveries process identified in 36 C.F.R. 800.13, with the following streamlined processes for timeliness:
 - i. If previously unidentified historic resources, human remains, funerary objects, sacred objects, or items of cultural patrimony, or unanticipated effects, including audible, atmospheric, and cumulative effects to historic properties are discovered during project implementation, work immediately halts within a 100-foot radius of the discovery and interim

nondestructive measures are implemented to protect the discovery from damage, looting, and vandalism. Within 48 hours of the discovery, DHS notifies the relevant SHPO/THPO, Tribe, or NHO, as appropriate, of the inadvertent discovery. Written documentation of the condition of the items from visual inspection, and any detailed information that may benefit the recovery plan and decision-making process is provided of the discovery.

1. Photographs, videos, or social media posts identifying or discussing human remains or material objects associated with burial contexts are not permitted by DHS unless consent is granted by the consulting parties and/or descendants. Special care will be taken to ensure that details, location and photographs of artifacts, funerary objects, and human remains associated with burial contexts are not provided to the public.
 - ii. DHS acknowledges Tribes and NHOs possess special expertise in assessing resources that may possess religious and cultural significance to them and as such a DHS Qualified Professional in the discipline relevant to the project activities will coordinate with the relevant Tribe or NHO to inspect the site and determine the area and nature of the affected find. Construction work may continue in the area outside the find as defined by the DHS Qualified Professional.
 - iii. DHS determines within five (5) business days of the original notification, DHS in consultation with the SHPO, THPO, Tribes, and NHOs, as appropriate, whether the unanticipated or post-review discovery is eligible for the National Register, or has been identified by a Tribe as a Sacred Site, and will work collaboratively with the relevant SHPO/THPO, Tribe, or NHO, as appropriate, to determine the contents of a Discovery Plan, including ways to minimize, avoid, or mitigate adverse effects and appropriate methods of identification, transport, and storage of materials.
 - iv. Any disputes over effects or National Register eligibility of unanticipated or post-review discoveries are resolved in accordance with the requirements of 36 C.F.R. 800.4(c)(2), as appropriate.
- c. DHS ensures Native American human remains, funerary objects, sacred objects, or items of cultural patrimony found on DHS land will be managed in accordance with Section 3 of NAGPRA and its implementing regulations (43 C.F.R. Part 10) and are consistent with the Discovery Plan.

IX. Training

- a. The DHS FPO or DFPO will develop training materials for Component project teams and personnel involved in CRS Undertakings on the requirements of this

Agreement in coordination with NCSHPO and the ACHP. The training materials will be reviewed and revised, as necessary, on an annual basis.

- b. DHS will provide annual trainings using these materials for Component project teams and personnel involved in CRS Undertakings on the requirements of this Agreement.

X. Annual Report and Meeting

- a. Beginning December 1, 2024, and on each anniversary thereafter, DHS will submit to the ACHP and NCSHPO an annual report summarizing all undertakings reviewed under this Agreement during the prior fiscal year (October 1 – September 30). The first report will cover the period from the effective date of this Agreement through September 30, 2024. Each report will be organized by state or territory and will identify changes in DHS points of contact, examples of successful implementation, examples of failures or problems with implementation, annual review of Appendices A and B, auditing and compliance results, recommended amendments, if any, and training activities with dates.
- b. Within thirty (30) calendar days of submitting the first annual report, DHS will convene a meeting with the ACHP and NCSHPO to examine this Agreement's effectiveness based on the information provided in the report. At this first report meeting, DHS and the ACHP and NCSHPO will determine the necessity, frequency, and timing of future annual meetings and reporting and agree on amendments to this Agreement, if proposed.
- c. Within thirty (30) calendar days of the Signatories meeting, DHS will provide the report and summary of the annual meeting to ACHP, NCSHPO, Tribes, and NHOs.

XI. Amendments

- a. If any Signatory determines that an amendment to the terms of this Agreement must be made, the Signatories shall consult for no more than sixty (60) calendar days to seek amendment of the Agreement.
- b. An amendment to this Agreement, exclusive of the appendices, shall be effective only when it has been signed by all the Signatories.
- c. Appendix A (CRS Undertakings), Appendix B (Flow Chart), Appendix C (Review Form), and Appendix D (Notification Template), Appendix E (Points of Contact) may be amended at the request of DHS or another Signatory in the following manner:
 - i. DHS, on its own behalf or on behalf of another Signatory, shall notify the Signatories of the intent to modify the current Appendix or Appendices

and shall provide a draft of the updated Appendix or Appendices to all Signatory parties.

- ii. If no other Signatory objects in writing within sixty (60) calendar days of receipt of the proposed modification, DHS shall date and sign the amended Appendix and provide a copy of the amended Appendix to the other Signatories. Such an amendment shall go into effect on the date DHS transmits the amendment to the other Signatories.

XII. Dispute Resolution

- a. If a Signatory to this Agreement objects to any actions carried out or proposed by DHS pursuant to this Agreement, it will notify DHS in writing of such objection.
- b. Within thirty (30) calendar days following receipt of the written objection from a Signatory, DHS shall convene a meeting of the Signatories to discuss the objection and work toward a resolution.
- c. If after thirty (30) calendar days from meeting, a Signatory determines that a resolution cannot be found and the objection remains, DHS shall distribute documentation relevant to the objection and attempts at resolution to all Signatories, including the ACHP. Signatories to this Agreement and the ACHP will be given thirty (30) calendar days to submit to DHS a written statement regarding the dispute and whether it concurs or disagrees with any proposed resolution, which may include termination pursuant to 36 C.F.R. 800.7 should the dispute include a failure to resolve an adverse effect after following Section VI(b) of this Agreement.
- d. If none of the Signatories submit a written statement to DHS within the thirty (30) calendar day period of meeting per subparagraph b above, DHS will notify Signatories of its final decision and proceed accordingly.
- e. DHS's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

XIII. Agreement Effective Date and Termination

- a. The effective date of this Agreement is the last date of signature from the ACHP, NCSHPO, and DHS.
- b. Any Signatory to this agreement may terminate it by providing ninety (90) calendar days notice to the other Signatories, provided that the Signatory will consult among all Signatories during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

XIV. Expiration Clause

This Agreement will expire ten (10) years from the effective date, unless extended by written agreement of all Signatories. The Signatories will meet no later than six (6) months prior to the expiration of this Agreement to determine if renewal and/or revision is warranted.

XV. No Commitment or Obligation of Funds

Nothing in this Agreement shall constitute funds commitment or obligation by any Party. Nothing in this Agreement shall constitute an agreement by any Party to obligate or transfer funds in advance of any appropriation of those funds. Specific activities or projects that involve the transfer of funds, services, or property between or among any of the Parties will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This Agreement does not provide such authority.

IN WITNESS WHEREOF, the Signatories have caused this Agreement to be executed by their respective authorized officers on the dates below.

Trae Watkins
Chief Readiness Support Officer
U.S. Department of Homeland Security

DATE

Sara Bronin
Chair
Advisory Council on Historic Preservation

DATE

Ramona Bartos
President
National Conference of State Historic Preservation Officers

DATE

Appendix A

List of Climate Resiliency and Sustainability Undertakings at DHS Owned Federal Facilities Covered by the DHS Nationwide Programmatic Agreement

The climate resiliency and sustainability undertakings (“CRS Undertakings”) covered by this Agreement are associated with the Department of Homeland Security’s efforts to meet several Administration, Executive, Legislative, and Departmental priorities associated with reducing greenhouse gas emission, reducing energy and water usage, increasing the number of high-performance buildings in its portfolio, and increasing facility climate resilience and sustainability. The sustainable design and operational principles identified in the Council on Environmental Quality’s December 2020 *Guiding Principles for Sustainable Federal Buildings and Associated Instructions* (“CEQ Guiding Principles”) were heavily influential in identifying CRS Undertakings for the Department’s climate resiliency and sustainability measures. The CEQ Guiding Principles are intended to ensure new and existing federal buildings will accomplish the following:

- Employ integrated design principles.
- Optimize energy performance.
- Protect and conserve water.
- Enhance the indoor environmental quality.
- Reduce the environmental impact of materials.
- Assess and consider building resilience.

CATEGORY 1 – In accordance with 36 C.F.R. 800.3(a)(1), the following CRS Undertakings, identified as Category 1, have been determined to have no potential to affect historic properties even if historic properties may be present and do not require Section 106 consultation. A DHS Qualified Professional in the appropriate discipline will keep records of all CRS Undertakings subject to this Agreement by completing the *DHS Nationwide Programmatic Agreement for Climate Resiliency and Sustainability Undertakings Review Form* in Appendix C for annual reporting, compliance, and auditing purposes.

For this category of undertakings, “public right-of-way” means any character defining feature(s) of a historic property(ies) visible from the public street or sidewalk immediately adjacent to the property. For this category, ground disturbance is permitted if it occurs in areas previously subjected to mechanized construction excavation and fill to the full depth of the proposed CRS Undertaking, and/or has been previously surveyed and a no effect determination made by a DHS Qualified Professional following the standard Section 106 process. For this category, clean fill material is used when additional dirt or soil is required.

- 1. Energy Efficiency and Conservation Measures**
 - a. Duct sealing, repair, or replacement in unoccupied areas such as basements, attics, and crawl spaces.
 - b. Repair or in-kind replacement of existing heating, ventilation, and air conditioning (HVAC) equipment including pumps, motors, boilers, chillers, cooling towers, air handling units, package units, condensers, compressors, heat exchangers, grills, radiators, thermostats, and other visible fixtures that are non-

character defining that are within the facility or on the rear of the structure or not visible from any public right-of way.

- c. Replacement or installation of removable, clear, non-reflective, low-emissivity interior window film.
- d. Installation or replacement of rigid or flexible dryer venting to the outside if the building's historic fabric is not altered.
- e. Maintenance, retrofit, or replacement of interior non-historic light fixtures or lighted signs, including ballasts with the addition of dimmable light switches and day lighting controls.
- f. Installation of occupancy/proximity sensors to automatically turn off/on lights if the building's historic fabric is not altered.
- g. Exterior lighting repairs, upgrades, and in-kind replacement, including ballasts, sensors, and energy storage devices not visible from public rights of way.
- h. Maintenance, upgrade, and new installation of non-hard wired devices including photo-controls, occupancy sensors, thermostats, humidity, light meters, and other building control sensors.
- i. Replacement of existing appliance (upgrade to EnergyStar appliances).
- j. In-kind replacement of flat or shallow pitch roof (shallow pitch is defined as a pitch with a rise-to-run ratio equal to or less than 3" to 12") with no part of the surface of the roof visible from the ground.
- k. Repairing or replacing existing driveways, parking areas, and walkways with sustainable or permeable materials of similar appearance, including cool pavement, that are non-historic and non-character defining.
- l. Conducting energy audits, utility condition assessment, and feasibility studies (conducted either by personnel or noninvasive advanced technology, including small, unmanned aircraft systems, i.e., drones, LIDAR/SONAR scans, etc.).
- m. Installation of materials and systems that provide moisture and mold control that do not alter the building's historic fabric.
- n. Use of non-permanent systems and materials for sanitization, green cleaning, and integrated pest management.
- o. Geolocation, maintenance, repair, upgrade, or replacement of existing below-grade utilities when activities conform to the original footprint of ground disturbance in both size and depth.
- p. Maintenance, repair, upgrade, or replacement of existing above-grade utilities and related features when activities conform to the original footprint and general size and volume and would not damage, alter, or otherwise impact character defining features.
- q. Addition of native shade trees within 20 feet of the federal facility to reduce cooling loads that do not permanently change the appearance of the exterior of the building or alter the characteristics and integrity of historical or cultural landscapes and viewsheds.
- r. Removal of non-character-defining existing natural features, such as trees, bushes, and invasive plant species within 20 feet of the federal facility, causing encroachment or damage where removal activities would not impact the foundation of a historic property or alter the characteristics and integrity of historical or cultural landscapes and viewsheds.

2. Water Efficiency and Conservation Measures

- a. Repair or replacement of water heater tank and pipe insulation.
- b. Installation of water metering.
- c. Installation of interior laboratory systems and equipment, such as water conservation, recycling, or purification systems, steam sterilizers, and energy efficient fume hood filtration/washdown systems that do not alter the building's historic fabric and prioritize using existing openings such as ductwork.
- d. In-kind repair or replacement, or new water efficient landscaping such as drought tolerant plants or irrigation systems (e.g., gutter replacement and redirection, rainwater gardens, etc.) in previously disturbed ground that do not alter the characteristics and integrity of a historic property or of historical or cultural landscapes and viewsheds.

3. Climate Resiliency

- a. Elevation of existing mechanical equipment located within flood prone areas not visible from public rights of way and do not obscure exterior character defining features.
- b. Installation of backup generator equipment that does not permanently change the appearance of the interior or exterior of the building and is out of view of public rights of way.
- c. In-kind replacement of generators, transformers, and condensers.
- d. Removal of water by temporary physical or mechanical means without ground disturbance, through utilization of pumps, emergency generators, fans, and dehumidifiers.
- e. Temporary utilization of plastic sheeting attached at mortar joints, sandbags, and a water-filled bladder/dam.
- f. Repair and in-kind replacement of floors and stairs, replacement of carpets, and installation or repair of concrete basement floor in an existing basement.

CATEGORY 2 – The following CRS Undertakings do not have the potential to affect historic properties even if historic properties may be present pursuant to 36 C.F.R. 800.3(a)(1), identified as Category 2. These CRS Undertakings do not require Section 106 consultation if designed and planned in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*, *Secretary of the Interior's Standards for Rehabilitation and Guidelines on Flood Adaptation for Rehabilitating Historic Buildings*, and the *Secretary of Interior's Standards for Rehabilitation and Guidelines on Sustainability for Rehabilitating Historic Buildings*, and associated Preservation Briefs, and verified by a DHS Qualified Professional in the appropriate discipline. The DHS Qualified Professional will keep records of all CRS Undertakings subject to this Agreement by completing the *DHS Nationwide Programmatic Agreement for Climate Resiliency and Sustainability Undertakings Review Form* in Appendix C for annual reporting, compliance, and auditing purposes.

For this category of undertakings, “public right-of-way” means any character defining features of a historic property(ies) visible from the public street or sidewalk immediately adjacent to the property. For this category, ground disturbance is permitted if it occurs in areas previously

subjected to mechanized construction excavation and fill to the full depth of the proposed CRS Undertaking, and/or has been previously surveyed and a no effect determination made by a DHS Qualified Professional. For this category, clean fill material is used when additional dirt or soil is required.

1. Energy Efficiency and Conservation Measures

- a. Duct insulation in unoccupied areas such as basements, attics, and crawl spaces.
- b. Replacement or addition of loose-fill or rolled batt/board insulation in walls, floors, ceilings, attics, basements, crawl spaces, ducts, and foundations if the insulation is not adhered directly onto or damaging to, the historic fabric. If spray foam is proposed in an historic property, this Agreement is not applicable, and the standard Section 106 process is followed.
- c. Temporary installation of new above-ground utilities or utility systems (e.g., water storage tanks, mobile telecommunication towers/antennas, mobile photovoltaic panels or wind turbines, energy efficient or solar parking lot lighting, emergency response equipment and control centers, generators, etc.) not to exceed one year where activities are located on existing foundations or paved areas, support on-going existing operations, and are no more than 50 sq. ft. in area, provided such alteration, if in a historic district or adjacent to a historic property, does not detract from the qualities that contribute to the significance of that historic property.
- d. Painting over previously painted exterior surfaces, provided destructive surface preparation treatments are not used such as water-blasting, sandblasting, and chemical removal, and the action does not alter the historic fabric of the facility or any character defining features (such as a mural or historic painting).
- e. Repairing or upgrading electrical or plumbing systems and installing mechanical equipment, in a manner that does not permanently change significant historic elements and no significant historic fabric will be damaged, altered, or removed.
- f. Installation of new HVAC equipment (such as pumps, motors, boilers, chillers, cooling towers, air handling units, package units, grates, grills, condensers, compressors, or heat exchangers) in a manner that does not permanently change significant historic elements and no significant historic fabric will be damaged, altered, or removed.
- g. Installation and maintenance of solar systems (including photovoltaic and solar thermal) not visible from the public right-of-way. If ground-mounted, the equipment is installed without ground disturbance. If roof-mounted, the equipment is installed on non-penetrating mounts and will not alter significant historic fabric.
- h. Installation of integrated shingle-style or thin film solar systems on the rear roof of the facility, behind the parapet, or not visible from the public right-of-way.
- i. Replacement of non-historic and non-character defining exterior lighting.
- j. Utilization of white Roofs, Cool Roofs, Green Roofs, Sod or Grass Roofs not visible from the public right-of-way.
- k. In-kind replacement or repair of existing exterior siding, trim, rails, joints, stucco, or veneer; existing decking, porches, landings, stairs, railings, guardrails, or handrails; existing canopies or awnings; or existing building numbers and signs. If

material is damaged beyond repair, considering first, in-kind material, and second compatible substitute material that closely resembles the existing design, dimension, profile, color, and texture that will not alter significant historic fabric.

- l. Replacement of existing roofing, cladding and sheathing, underlayment sheathing, flashing, gutters, soffits, downspouts, and catch basin if material is damaged beyond repair considering first, in-kind material, and second compatible substitute material that closely resemble the existing design, dimension, profile, color, and texture in a manner that does not alter the roofline that will not alter significant historic fabric.
- m. Installation of solar screens on exterior windows not visible from the public right-of-way and will not alter significant historic fabric.
- n. Sealing air leaks around windows and doors using weather stripping, door sweeps, and caulk that closely resembles the surrounding color and texture and does not involve removal or alteration of significant historic elements, and does not damage, alter, or remove significant historic fabric.
- o. Installation of storm windows, storm doors, or wood screen doors in a manner that does not harm or obscure historic windows, doors, or trim.
- p. Replacement of non-historic, non-contributing doors with energy efficient or insulated doors where the door openings are not altered.
- q. In-kind replacement of windowpanes. Clear plate, double, laminated, or triple insulating glazing can be used, provided it does not result in altering the existing window material, tint, form, muntin profiles, or number of divided lights. This does not apply to the replacement of intact decorative glass.
- r. In-kind repair or replacement, if deteriorated beyond repair, of windows that duplicate the material, dimension, design, detailing, and operation of the historic window to include repairing, scraping, and repainting of existing windows; in-kind replacement of window sash, glass, and hardware if deteriorated beyond repair; and in-kind replacement of damaged and non-operable transoms if deteriorated beyond repair.
- s. Repair, new installation, or in-kind replacement, if deteriorated beyond repair, of awnings and canopies. Materials consistent with the historic context that do not change the historic design drastically, permanently change the appearance of the facility or damage the historic fabric or character defining features or appear or reduce evidence of workmanship are used.
- t. Installation of vents (such as continuous ridge vents covered with ridge shingles or boards, roof vents, bath and kitchen vents, soffit, and frieze board vents or combustion appliance flues) on noncharacter defining features if not located on a primary roof elevation or not visible from the public right-of-way.
- u. Installation of foundation vents, if painted or finished to match the existing foundation material.
- v. Installation of floor materials over non-character-defining flooring in a reversible manner, provided such alteration does not detract from the qualities that contribute to the significance of a historic property, does not involve removal or alteration of significant historic elements, and does not damage, alter, or remove significant historic fabric.

- w. Repair or in-kind replacement of interior non-character defining floors, walls, and ceilings. This applies to the repair of interior finishes, including plaster and wallboard, provided the repair is restricted to the damaged area and does not affect adjacent materials. *This does not apply to historic architectural finishes such as decorative plaster or plaster substrates for decorative materials such as wainscoting, murals, gold leaf, etc.*
- x. Addition or replacement of existing smart building automation and building automated control management systems including HVAC control systems and the replacement of building-wide pneumatic controls with digital controls, thermostats, dampers, and other individual sensors like smoke detectors and carbon monoxide detectors (wired or non-wired).
- y. Repair, removal, or in-kind replacement of window unit air conditioners and heat pumps.
- z. Replacement or installation of electrical systems, including conduit and wiring, provided such alteration does not detract from the qualities that contribute to the significance of the historic property, if present, does not involve removal or alteration of significant historic elements, and does not damage, alter, or remove significant historic fabric.
- aa. Installation of new energy metering, monitoring, and telemetry devices that do not permanently change the appearance of the interior or exterior of the building, or if the addition is on the exterior of the structure, is not visible from the public right of way.

2. Water Efficiency and Conservation Measures

- a. Replacement of non-character defining, or installation of, water conserving products (e.g., low flow drinking fountains, toilets, urinals, sinks/faucets, water tanks, plumbing fixtures, etc.) that do not permanently change the appearance of the interior or exterior of the building.
- b. Installation or replacement of downspout extensions, provided that the color of the extensions is historically appropriate for the period and style of the property or is a similar color to surrounding areas.
- c. Installation of rainwater catchments and harvesting systems (not to include retention ponds) and/or gray water systems when performed in previously disturbed ground and not viewable from the public right-of-way.

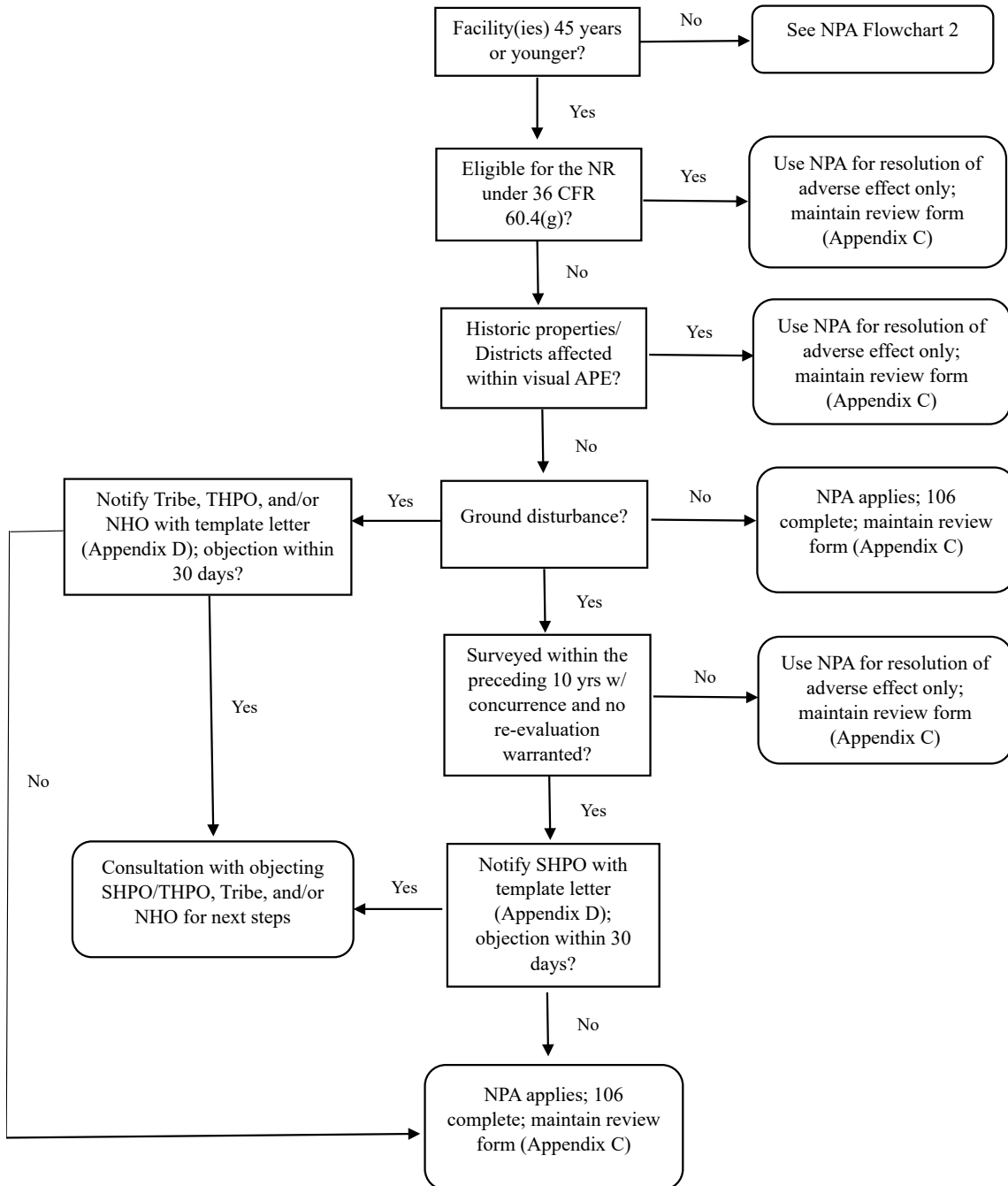
3. Climate Resiliency

- a. Temporary installation of a removeable, waterproof membrane or repellants to the facility's exterior foundation at or below the established flood risk level. If the facility is a historic property, coating and covering materials consistent with the historic context that do not permanently change the appearance of the facility or damage character defining features of the historic property or appear or reduce evidence of workmanship will be prioritized.
- b. Installation of stanchions, fasteners, or tracks for flood shields in concealed or secondary locations, and in a manner that does not damage, alter, or otherwise impact the historic character of the facility.
- c. Installation of interior storm windows.

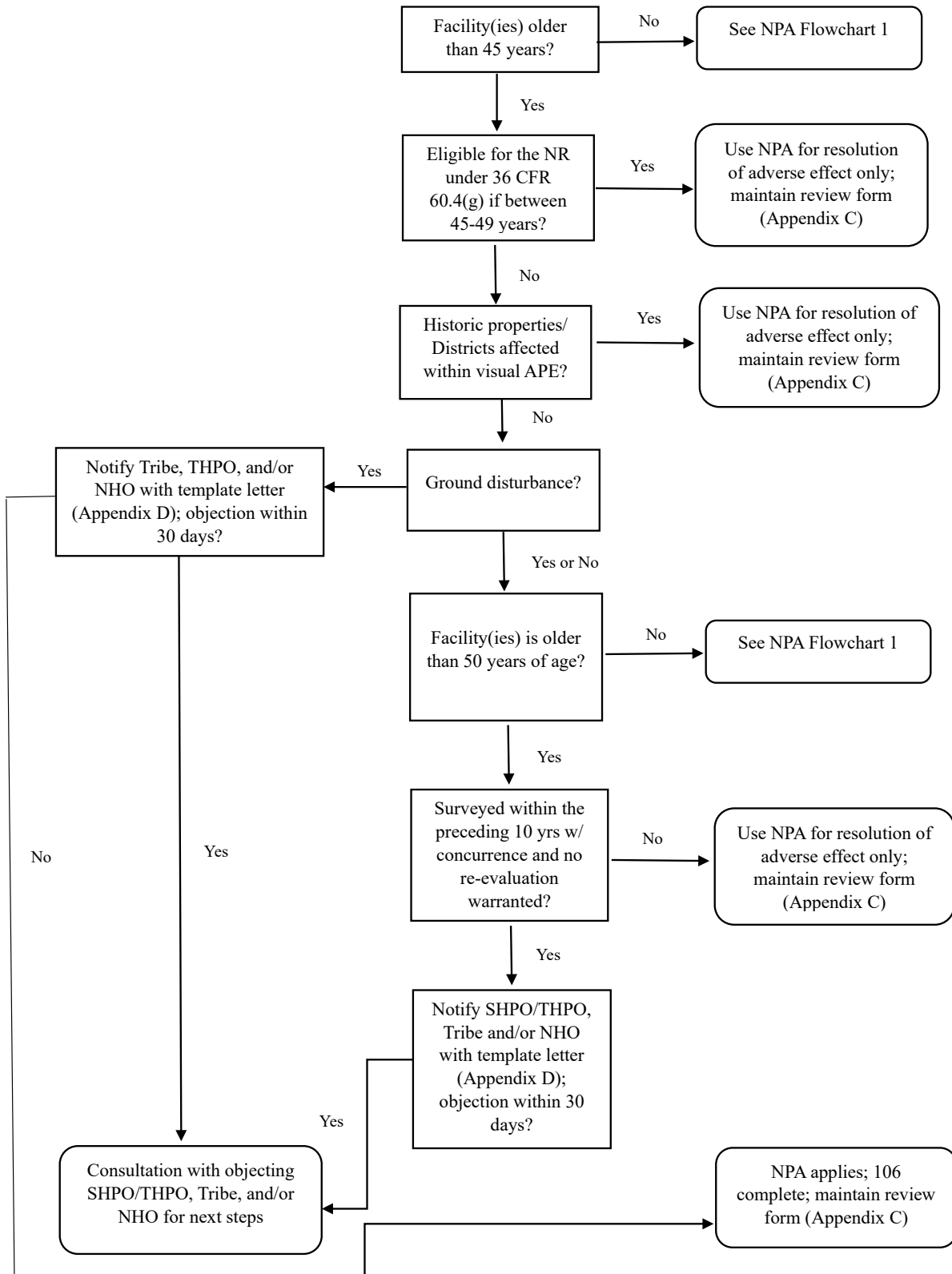
- d. In-kind stabilization and elevation of at least two feet above base flood elevation for federal facility parking areas or ingress/egress roads if the facility is in a floodplain or coastal zone which does not include widening or deepening of the existing parking area or road footprint.
- e. Anchoring of walls to floor systems, provided the anchors are embedded and concealed from exterior view.
- f. Strengthening of foundations and the addition of foundation bolts, provided that visible new work is in-kind, including mortar that matches the color, content, strength, rake, and joint width where occurring.
- g. Re-introduction of green spaces through the removal of concrete pads or parking areas that do not expand beyond the facility's original footprint or depth of previous ground disturbance.
- h. Creation of bioswales within pre-existing curbs and parking lots that do not permanently change the appearance of historic landscapes and remain within previously disturbed ground.
- i. Improvement, restoration, sediment removal, or protection of existing wetland, stream channel, wet or dry catch basin, erosion ditch, and stormwater systems in previously disturbed ground.
- j. Installation or repair of detachable water-level sensors on facility foundations that do not permanently change the appearance of historic landscapes or damage, alter, or otherwise impact historic material.
- k. Utilization of erosion control measures (e.g., gravel or riprap placement, addition of topsoil or native grasses, repairing retaining walls, etc.) where activities are performed in a reversible manner and are located at or adjacent to existing paved areas that do not damage, alter, or otherwise impact the historic relationship between facilities and their surroundings, important site features, archaeological resources, or other cultural or religious features.
- l. Installation of foundation sump pumps within previously disturbed ground in areas not visible from the public right-of-way.
- m. Installation of perimeter drainage (e.g., French drains) when performed in previously disturbed ground.
- n. Repair and restriping of existing concrete or asphalt surfaces and parking areas provided that no changes are made in width, surface, vertical alignment, or drainage.
- o. Repair of existing concrete or asphalt surfaces or in-kind replacement of brick, rock, or stone materials for curbs, gutters, sidewalks, and retaining walls.

Appendix B DHS Nationwide Programmatic Agreement Flow Chart

Flow Chart 1 – Stipulation IV.a



Flow Chart 2 – Stipulation IV.b



Appendix C

DHS Nationwide Programmatic Agreement for Climate Resiliency and Sustainability Undertakings Review Form

The following checklist is to be utilized for confirming CRS Undertaking(s) on DHS owned facilities adhere to the conditions identified within the *Nationwide Programmatic Agreement Among the Department of Homeland Security, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation Regarding Climate Resiliency and Sustainability Undertakings on Department of Homeland Security Owned Facilities Stipulation IV* (“Agreement”) and/or the *List of Climate Resiliency and Sustainability Undertakings at DHS Owned Facilities Covered by the DHS Nationwide Programmatic Agreement* (“Appendix A”). Through the utilization of this review form, DHS continues to ensure no adverse effects to historic properties would result from the undertaking(s), even if present. Should the proposed CRS Undertaking(s) occur on tribal lands, or if the proposed CRS Undertaking(s) is not covered by this Agreement, the process in 36 C.F.R. Parts 800.1-800.5 is followed. Should a DHS Qualified Professional determine the proposed CRS Undertaking would result in a no adverse effect or adverse effect determination, Stipulation VI of this Agreement is followed. This review form should be saved for tracking and reporting purposes and additionally becomes part of the administrative record for National Environmental Policy Act compliance.

This section of the review form is to be completed by facility or project management staff prior to a CRS Undertaking(s) commencement and should be submitted to a DHS Qualified Professional as early as possible in the project planning stage, but no later than 45 calendar days prior to the commencement of work.

I. General

Review Date:

Project Start Date:

Address (include labeled map, pictures, and/or floorplan of facility):

City, State:

Facility Construction Date, if known:

Project Title:

Project Tracking Number (optional):

Form Completed By:

Program Comment Undertaking Category from Appendix A (1 or 2):

--For Category 2 undertakings, the Secretary of the Interior’s *Standards for the Treatment of Historic Properties*, Secretary of the Interior’s *Standards for Rehabilitation and Guidelines on Flood Adaptation for Rehabilitating Historic Buildings*, and the Secretary of Interior’s *Standards for Rehabilitation and Guidelines on Sustainability for Rehabilitating Historic Buildings*, and associated Preservation Briefs, as appropriate, must be consulted and followed.

II. Project Description

Provide specific information on: the proposed CRS Undertaking purpose; location within, on, or around the federal facility (e.g., lobby, elevator, office space, hallway, roof, parking lot, etc.); materials to be used and/or replaced (e.g., brick, glass,

woodwork, plaster, roofing, concrete, etc.); permanent or temporary nature of the undertaking; discussion and scope of ground-disturbing activities associated with the undertaking; and if the area has been previously evaluated or surveyed for historic or cultural resources.

This section of the review form is to be completed either by a DHS Qualified Professional who is an individual supervised by or who themselves meets the qualifications consistent with the Secretary of the Interior's *Professional Qualification Standards*.

III. Identification of Historic Properties

The facility is:

- Younger than 45 years of age (provide construction date)
 - Unevaluated, no additional survey/investigation needed
 - Unevaluated, additional survey/investigation needed
- Older than 45 years of age (provide construction date)
 - Unevaluated, no additional survey/investigation needed
 - Unevaluated, additional survey/investigation needed
- Not eligible for the National Register of Historic Places (NRHP)
 - Provide determination date, previous surveys/investigations, brief justification, and any SHPO/THPO or Tribal comments
- Eligible for listing on the NRHP
 - Provide determination date, previous surveys/investigations, SHPO concurrence information, NRHP criteria/criterion, and brief integrity statement
- Listed in the NRHP
 - Provide listing date, NRHP criteria/criterion and brief integrity statement
- Listed as a National Historic Landmark
 - Provide listing date and brief integrity statement
- Known historic properties within the defined visual APE
 - Provide list and distance from facility
- Known archeological site within the defined APE
 - Provide list
- Known properties of traditional religious and cultural significance, including seeds or plants of cultural significance, to a Tribe within the defined direct and visual APE
 - Provide name, distance from facility, and Tribal consultation history/efforts

IV. Effect Determination

The proposed CRS Undertaking(s) would result in:

- No Potential to Cause Effect (Section 106 concluded)
 - Supporting information/documentation
- No Effect (Section 106 concluded)
 - Supporting information/documentation
- No Adverse Effect (follow Stipulation VI of the Agreement)
 - Supporting information/documentation

- Adverse Effect (follow Stipulation VI of the Agreement)
- Supporting information/documentation and description of the adverse effect

V. Nationwide Programmatic Agreement

The proposed CRS Undertaking(s) would/would not be covered under the Agreement.

-Stipulation IV.a of the Agreement applies. Maintain this form for the administrative record and annual reporting.

-Stipulation IV.b of the Agreement applies. Maintain this form for the administrative record and annual reporting.

-Category 1 is/is not applicable

--The proposed undertaking(s) is listed in Category 1 of Appendix A and will have no potential to affect or no effect on historic properties. Section 106 requirements have been fulfilled and no further consultation is necessary. Maintain this form for the administrative record and annual reporting.

-Category 2 is/is not applicable

--The proposed CRS Undertaking(s) is listed in Category 2 of Appendix A, will have no potential to affect or no effect on historic properties with adherence to the Secretary of the Interior's *Standards for the Treatment of Historic Properties*, Secretary of the Interior's *Standards for Rehabilitation and Guidelines on Flood Adaptation for Rehabilitating Historic Buildings*, and the Secretary of Interior's *Standards for Rehabilitation and Guidelines on Sustainability for Rehabilitating Historic Buildings*, and associated Preservation Briefs, as appropriate. Section 106 requirements have been fulfilled and no further consultation is necessary. Maintain this form for the administrative record and annual reporting.

- The Agreement Stipulations and CRS Undertakings identified in Appendix A do not apply and the standard Section 106 process as identified in 36 C.F.R. Parts 800.1-800.5 will be followed. Stipulation VI of this Agreement may be followed for all CRS Undertakings to comply with 36 C.F.R. 800.5 and 800.6. Maintain this form for the administrative record and annual reporting.

VI. Conditions:

Discuss any special considerations or conditions for the undertaking(s) to proceed under the Agreement (e.g., not visible from public right-of-way, similar color or texture of facility, non-historic features, etc.):

VII. Additional Comments:

DHS Qualified Professional Verification Signature and Date:

Appendix D
Notification of Use of the DHS Nationwide Programmatic Agreement for Climate Resiliency and Sustainability Undertakings

[Name]

State Historic Preservation Officer/Tribal Historic Preservation Officer/Tribal Leader

[Agency Name]

[Address Line 1]

[Address Line 2]

Subject: Notification of Use of the DHS Nationwide Programmatic Agreement for Climate Resiliency and Sustainability Undertakings - [Name of Project], [City and/or County, as appropriate], ([Address] or [Latitude], [Longitude] if security allows for disclosure).

Dear [Title] [Last Name]:

Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations at 36 Code of Federal Regulations (C.F.R.) Part 800, and the 2024 *Nationwide Programmatic Agreement Among the Department of Homeland Security, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation Regarding Climate Resiliency and Sustainability Undertakings on Department of Homeland Security Owned Facilities* (Agreement) [dhs.gov link], [Component] is notifying your office of the application of the Agreement for the subject referenced undertaking. The undertaking would occur at:

- a DHS-owned facility(ies) less than or equal to 45 years of age and would require ground disturbance limited to previously disturbed ground where the probability of finding intact archaeological resources is low as determined by a DHS Qualified Professional based on professional expertise, familiarity with the area, and similar geomorphology elsewhere, or previous assessments or Section 106 consultation within the preceding 10 years and concluded no archaeological resources were present or expected (Stipulation IV.a.iv); or
- a DHS-owned facility(ies) greater than 45 years of age that has been previously surveyed or evaluated within the preceding 10 years and no sites eligible for listing on the National Register have been identified by a DHS Qualified Professional, and re-evaluation or additional survey is not deemed necessary (Stipulation IV.b.iii); or
- a DHS-owned facility(ies) greater than 45 years of age and would require ground disturbance limited to previously disturbed ground where the probability of finding intact archaeological resources is low as determined by a DHS Qualified Professional based on professional expertise, familiarity with the area, and similar geomorphology elsewhere, or previous assessments or Section 106 consultation within the preceding 10 years and concluded no archaeological resources were present or expected (Stipulation IV.b.iv); or
- a DHS-owned facility(ies) with ground disturbance in previously disturbed areas (Stipulation V.c.i); or

- a DHS owned facility(ies) and the proposed action is identified on the *List of Climate Resiliency and Sustainability Undertakings at DHS Owned Facilities Covered by the DHS Nationwide Programmatic Agreement* located in Appendix A of the Agreement.

[Brief description and location of the facility and undertaking.]

A DHS Qualified Professional in the appropriate discipline has completed the *Nationwide Programmatic Agreement for Sustainability and Resilience Undertakings Review Form* located in Appendix C of the Agreement and has determined:

- Stipulation IV.a of the Nationwide Programmatic Agreement applies.
- Stipulation IV.b of the Nationwide Programmatic Agreement applies.
- The proposed CRS Undertaking(s) is listed in Category 1 of Appendix A.
- The proposed CRS Undertaking(s) is listed in Category 2 of Appendix A.

As there is no potential to affect historic properties even if historic properties may be present, and the terms of the Agreement have been met through this notification no less than thirty (30) calendar days prior to project commencement, [Component] has fulfilled its Section 106 responsibilities. In the event of an unanticipated discovery of historic or cultural resources during the undertaking, Stipulation VIII of the Agreement would be followed.

If you require additional information or have any questions or concerns, please contact [Name of Individual with Signature Authority for Section 106 consultations], [Title], [Office], [Component] at [Email address] or [Phone number].

Sincerely,

[Name of Individual with Signature Authority for Section 106 Consultations]
[Title], [Office]
[Component]
Department of Homeland Security

Appendix E

Historic Preservation Points of Contact

Department of Homeland Security Operational and Support Components

1. Countering Weapons of Mass Destruction Office (CWMD)
2. Cybersecurity and Infrastructure Security Agency (CISA)
3. Federal Emergency Management Agency (FEMA)
4. Federal Law Enforcement Training Centers (FLETC)
5. Management Directorate
6. Office of Homeland Security Situational Awareness
7. Office of Intelligence and Analysis
8. Ombudsman Offices
9. Science and Technology Directorate (S&T)
10. Transportation Security Administration (TSA)
11. U.S. Citizenship and Immigration Services (USCIS)
12. U.S. Customs and Border Protection (CBP)
13. U.S. Coast Guard (USCG)
14. U.S. Immigration and Customs Enforcement (ICE)
15. U.S. Secret Service (USSS)

Environmental Planning and Historic Preservation, Sustainability and Environmental Programs,
Office of the Chief Readiness Support Officer - <https://www.dhs.gov/SEP>

Advisory Council on Historic Preservation

Federal Agency Programs - <https://www.achp.gov/about/offices/ofap>

Federal Preservation Officer List - <https://www.achp.gov/protecting-historic-properties/fpo-list>

National Conference of State Historic Preservation Officers

Directory of State Historic Preservation Officers - <https://ncshpo.org/directory/>

When contacting a State Historic Preservation Office (SHPO), ensure the proper Section 106 correspondence process is followed by visiting each state, the District of Columbia, and U.S. territory webpage. NCSHPO also maintains a list of SHPO webpages at <https://ncshpo.org/directory/>.

National Association of Tribal Historic Preservation Officers

Tribal Historic Preservation Officer List - <https://members.nathpo.org/thpodirectory/>

Tribal Historic Preservation Officers (THPOs) have the responsibilities of SHPOs on Tribal land. While it is expected that the THPO would be copied on tribal correspondence related to this Agreement, if a THPO has been appointed, consultation invitations must be addressed to Tribal Leadership. See the Department of Interior's Tribal Leader Directory link below.

Department of Interior

1. National Historic Landmarks Contact - <https://www.nps.gov/subjects/nationalhistoriclandmarks/contactus.htm>

2. National Register of Historic Places Contact - <https://www.nps.gov/subjects/nationalregister/contactus.htm>
3. Native Hawaiian Organization Complete List - <https://www.doi.gov/hawaiian/NHOL>
4. Tribal Leaders Directory - <https://www.bia.gov/service/tribal-leaders-directory>
5. Tribal Preservation Program, Tribal Historic Preservation Offices - https://grantsdev.cr.nps.gov/THPO_Review/index.cfm