Chapter 10
MARFORRES Standard Operating Procedures

Table 61. Standard Operating Procedures (SOPs).

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SOPs 1 through 7 are derived from existing Marine Corps CRM-approved SOPs for USMC installations, especially background explanatory text on legislation and implementing regulations. Specific details are tailored to MARFORRES, as its reserve centers function differently than other USMC installations. SOPs 8-10 were developed specifically for MARFORRES in discussion with Facilities staff and the CRM for USMC.

Standard Operating Procedure #1, Compliance with Sections 106 and 110 of the National Historic Preservation Act (NHPA)

Regulatory Reference

54 U.S.C. § 300101 et seq. and its implementing regulation 36 CFR 800.

Purpose and Procedures

This SOP outlines MARFORRES' responsibility for compliance with Sections 106 and 110 of the NHPA.

The NHPA became law on October 15, 1966 (PL 89-665) and was codified in title 16 of the United States Code (16 USC § 470). Various amendments followed through the years. On December 19, 2014, Public Law 113-287 moved the NHPA's provisions from title 16 of the United States Code to title 54 (54 USC §§ 300101 et seq.), with minimal and non-substantive changes to the text of the act and a re-ordering of some of its provisions. The Advisory Council on Historic Preservation (ACHP), however, notes that the law that moved the NHPA to title 54 specifies that a reference to an old title 16 provision (e.g., 16 USC § 470f rather than 54 USC § 306108, for Section 106 of the NHPA) is legally deemed to refer to the corresponding provision in the new title 54. Similarly, the law that moved the NHPA to title 54 specifies that a reference to an old title 16 provision (e.g., 16 USC § 470h-2 rather than 54 USC §§ 306101 through 306114, for Section 110 of the NHPA) is legally deemed to refer to the corresponding provision in the new title 54.

The ACHP intends to continue referring to Section 106 of the NHPA as "Section 106" since that refers to the section in the original public law that enacted the NHPA, as opposed to its legal citation of the United States Code. It is also a reference that has been in constant use for almost 50 years. Likewise, the regulations implementing Section 106 of the NHPA (36 CFR 800), are not affected by this recodification, so referencing of those regulations can continue as before. The ACHP also intends to continue referring to Section 110 of the NHPA as "Section 110" since that refers to the section in the public law (PL 96-515) that added this section to the NHPA, as opposed to its legal citation of the United States Code (54 USC §§ 306101-306114). The Section 110 Guidelines, first published in the Federal Register on February 17, 1988 (53 FR 4727-46), are titled *The Secretary of the Interior's Standards and Guidelines for Federal Agency Historic Preservation Programs Pursuant to the National Historic Preservation Act.*

Section 106

The NHPA establishes the federal government's policy to provide leadership in preserving historic properties and to administer federally owned or controlled historic properties in the spirit of stewardship. The ACHP regulations, Protection of Historic Properties (36 CFR 800), sets forth the procedural requirements of the NHPA Section 106 to identify, evaluate, determine effects, and resolve adverse effects of all undertakings on historic properties. An undertaking, as defined in the regulations, means:

> 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; those requiring a federal permit, license or approval [36 CFR 800.16(y)].

A historic property, as defined in the regulations, means:

> any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria [36 CFR 800.16(l)(1)].

The regulations require that federal agencies initiate the Section 106 process early in the planning of an undertaking (36 CFR 800.1(c)). Consultation with the relevant State Historic Preservation Office and communication with Native American tribal representatives should also begin in this critical early phase and continue throughout the process. The general process of Section 106 is depicted in the flow chart in Figure 62, below. Each state-specific section in this ICRMP ends with a list outlining federally recognized tribes (and state-recognized tribes in some instances) with whom consultation typically takes place on federal projects. This information was current at the time of this writing but should be regularly updated. Additionally, Appendix C contains a current contact at each state's SHPO.

In addition to SHPO and Native American tribal representatives, when applicable, MARFORRES should also plan to enter into discussion with other parties that have a proven interest in the project at hand, including interested members of the public. Neither the NHPA nor the ACHP's regulations require that all historic properties be preserved; they do, however, require that all federal agencies consider the effects of their proposed undertakings on historic properties.

Procedures

Proposed undertakings that have the potential to cause effects on historic properties under MARFORRES' jurisdiction will be reviewed and processed through appropriate channels, depending on the type of undertaking and driver (e.g., Section 106, NEPA EA, etc.). All proposed undertakings are subjected to Section 106 review and procedures in accordance with the regulations (36 CFR 800). Below is a simple flowchart of the Section 106 process, which should be followed by MARFORRES.

Failure to take the effects of an undertaking on historic properties into account in accordance with NHPA Section 106 and its implementing regulations (36 CFR 800) can result in formal notification from the ACHP to the Secretary of the Navy of foreclosure of the ACHP's opportunity to comment on the undertaking pursuant to the NHPA. A notice of foreclosure could potentially be used by litigants against the USMC in a manner that can halt or delay critical mission activities.

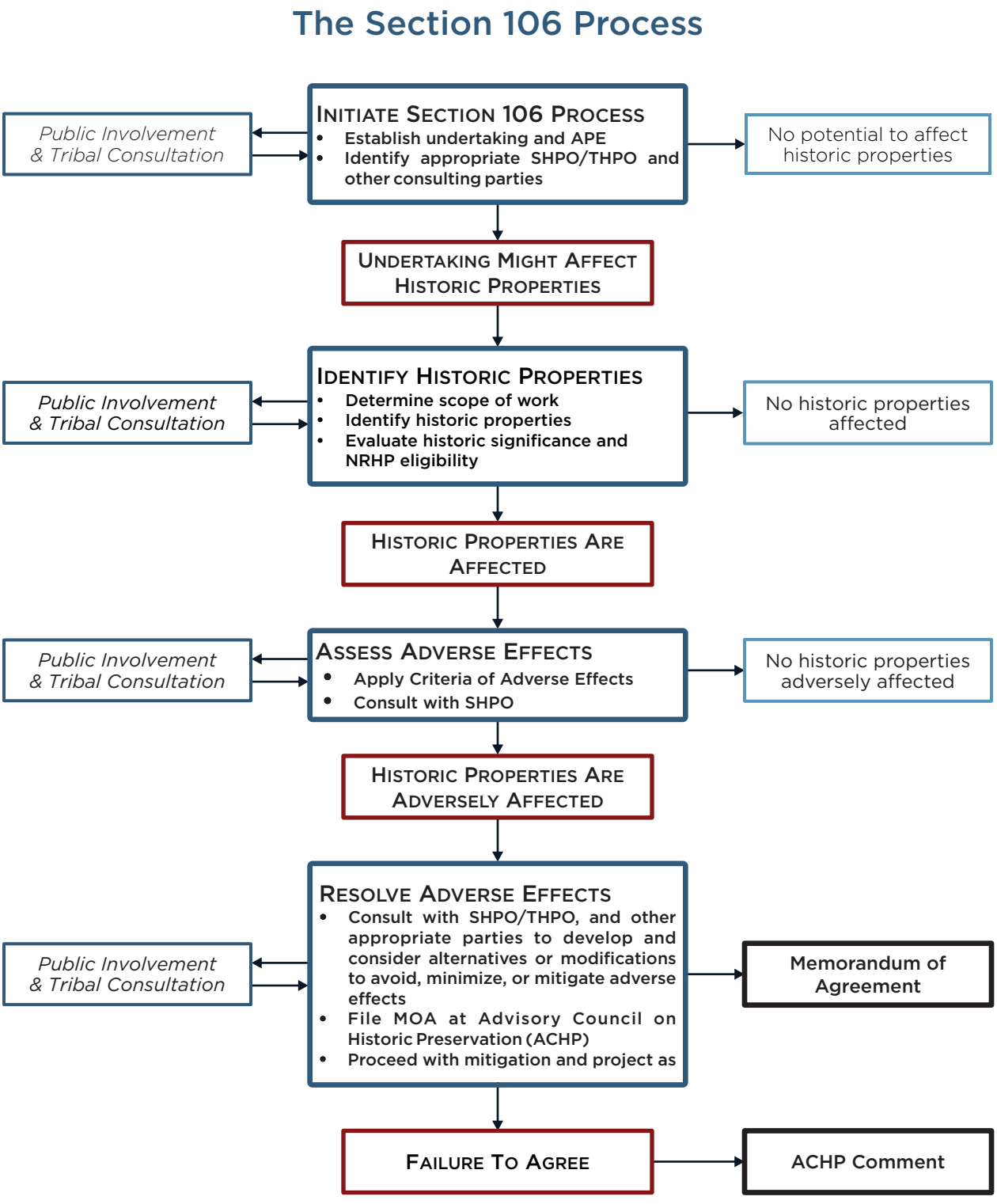

Figure 62. Flow-chart illustrating the Section 106 process

Section 110

Section 110 of the NHPA requires federal agencies that manage cultural resources to assess the significance of those resources and assume responsibility for the preservation of historic properties. Such properties may include archaeological sites, buildings, structures, districts, landscapes, objects, and traditional cultural properties. They are historic properties if they meet the criteria for inclusion on the NRHP. MARFORRES will continue their efforts to evaluate all known cultural resources at facilities that they own and maintain and to determine if any meet the criteria for nomination to the NRHP. Included is the directive to inventory and manage all properties that appear to qualify for inclusion on the NRHP. The criteria are specified in title 36 of the Code of Federal Regulations (36 CFR 60). Agencies are further cautioned not to allow historic properties to deteriorate significantly. Additionally, each DoD installation shall identify and evaluate all cultural resources under its control, including resources from 1945 to 1989, even if they have not yet reached the 50-year threshold.

The intent of Section 110 of the NHPA is to ensure that historic preservation is fully integrated into ongoing programs at federal agencies. The Secretary of the Interior's guidelines direct agencies to establish a preservation program for the identification, evaluation, NRHP nomination, and protection of historic properties. This ICRMP provides clear guidance as to which MARFORRES-owned facilities are currently up to date on Section 110 Survey, and which currently require additional inventory and survey work. As the land owned and maintained by MARFORRES changes often, and rapidly, these needs must be regularly assessed and revised. The ICRMP will assist the MARFORRES Facilities Department in doing so

Procedures

This SOP and associated ICRMP outline the procedures to be followed for Section 110 compliance at MCRCs in the continental U.S. currently overseen by MARFORRES.

Beginning with this ICRMP document, the first comprehensive document outlining MARFORRES-maintained cultural resources, MARFORRES cultural resources staff (the CRM, or acting CRM, depending on staffing within the Facilities Department) will review the current status of knowledge of known cultural resources and needed inventories and surveys.

This information should then be prioritized. Any facilities with known, upcoming undertakings would warrant priority, as well as should those with no prior survey. MARFORRES can then coordinate with NAVFAC Atlantic to address funding requests for Section 110 projects for upcoming Fiscal Years (FYs), during the annual FY planning cycle.

The size, scope, and scale of these projects would be location and funding-dependent, as the various reserve centers under MARFORRES have different cultural resources needs. These factors will also affect whether the work is completed within the government (e.g., survey work is completed for MARFORRES by NAVFAC Atlantic archaeologists), or if the work is contracted out to a private CRM firm. Regardless, a scope of work and timeline should be developed and then the work implemented, upon the approval of relevant funds. The results of each survey will be provided to MARFORRES and NAVFAC. MARFORRES will then seek tribal and SHPO concurrence with the NRHP eligibility assessments of the new survey reporting.

The specifics of archaeological survey, architectural inventory and evaluation, and the expectations of SHPOs and Tribal groups will be different for each state in which MARFORRES operates. Scopes of work for contractors should be explicit that those organizations are expected to complete all survey

work to the current standards of the state in which the work is occurring, in order to minimize complications with state-level review.

Criteria for Evaluation

The quality of significance in American history, architecture, archaeology, engineering, and cultural is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or

B. That are associated with the lives of significant persons in our past; or

C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. That have yielded or may be likely to yield, information important in history or prehistory.

Ordinarily, properties that have achieved significance within the past 50 years shall not be considered eligible for the NRHP. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they meet Criteria Consideration (g) (a property achieving significance within the past 50 years if it is of exceptional importance).

Standard Operating Procedure #2, Compliance with the Archaeological Resources Protection Act (ARPA)

Regulatory Reference

16 USC §§ 470aa-mm and its implementing regulation 32 CFR 229.

Purpose and Procedures

An archaeological resource, as defined under the Archaeological Resources Protection Act (ARPA), is any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest (32 CFR 229.3(a)). Per ARPA, it is a federal offense to excavate, remove, damage, alter, or otherwise deface archaeological resources on federal lands without authorization. The sale, purchase, exchange, transport, and/or receipt of archaeological resources obtained in violation of this law also are federal offenses. Unless found in direct physical relationship with other archaeological resources as defined by ARPA, items excluded from ARPA include paleontological remains, coins, bullets, and unworked minerals and rocks (32 CFR 229.3(a)(4)). Paleontological remains are protected under the Antiquities Act of 1906.

Procedures

Archaeological resources from federal installations, as defined under ARPA (32 CFR 229.3), belong to the installations, except where Native American Graves Protection and Repatriation Act (NAGPRA) requires repatriation to lineal descendants or the closest culturally affiliated federally recognized tribe (see SOP #3 [NAGPRA Compliance]). Resources collected from lands used by the USMC, but for which the fee title is held by another agency, are the property of the agency designated as the land manager in the land-use instrument (e.g., public land order, special use permit).

MARFORRES/NAVFAC staff, or contractors carrying out official duties associated with managing archaeological resources, are not required to obtain a permit under ARPA or the Antiquities Act for investigating archaeological resources on a federally owned or controlled installation, including situations where cultural items, as defined by NAGPRA, may be excavated. However, in situations where NAGPRA cultural items or historic properties may be encountered during intentional excavation of archaeological resources, the requirements of NAGPRA (43 CFR 10) and the NHPA (36 CFR 800) must be met before excavating.

To comply with ARPA, the Commanding Officer (CO) is considered the federal land manager as defined in the regulations (32 CFR 229.3(c)). As the federal land manager, the CO may determine that certain archaeological resources in specified areas under CO jurisdiction and under specific circumstances are not or are no longer of archaeological interest and are not considered archaeological resources for the purposes of ARPA (32 CFR 229.3(a)(5)). All such determinations are then justified and documented by memorandum and formally staffed for review.

The CO ensures that military police, installation legal staff, installation public affairs officials, and range management staff are familiar with the requirements and applicable civil and criminal penalties under ARPA.

Public Education

ARPA directs federal cultural resource managers to establish public education programs to foster the public's awareness of the significance and sensitivity of resources located on lands within their

jurisdiction. In accordance with ARPA Section 9, the CO may withhold information concerning the nature and location of archaeological resources from the public under the Freedom of Information Act (5 USC § 552).

Archaeological Resources Protection Act Permit

ARPA permits are required when the following three criteria are met:

1. The project is located on land owned and operated by MARFORRES;
2. Digging or collection of artifacts will occur; and
3. The participants are not directly contracted to or by MARFORRES and NAVFAC.

ARPA permits are issued for archaeological investigations that may result in the excavation or removal of Native American inhumations and other cultural items as defined in NAGPRA, or in the excavation of archaeological resources that are of religious or cultural importance to federally recognized tribes.

The CRM will monitor the field investigations conducted under an ARPA permit to ensure compliance with the ARPA and NAGPRA regulations (32 CFR 229 and 43 CFR 10) and the terms and conditions of the permits.

The CO ensures that the ARPA permits:

- Comply with the requirements of the regulations (32 CFR 229 and 43 CFR 10);
- Require any interests that federally recognized tribes may have in the permitted activity are addressed in a manner consistent with the requirements of NHPA and NAGPRA, prior to issuance of the permit;
- Require that permitted activities are conducted according to applicable professional standards of the Secretary of the Interior; and
- Require that the excavated archaeological artifact collection and associated records are permanently housed in a curation facility that meets the requirements of Curation of Federally-Owned and Administered Archaeological Collections (36 CFR 79), except as otherwise required under NAGPRA.

Archaeological Resources Protection Act Violation Documentation

Investigation of looting, vandalism, or other destruction of an archaeological resource on MARFORRES lands would require a systematic examination of the crime scene by formal investigative authorities. A law enforcement officer will be responsible for investigating violations of federal law and, therefore, will direct the archaeological crime scene investigation process. The archaeologist will provide forensic expertise on archaeological resources for the crime scene investigation, and law enforcement personnel may request assistance in other activities, such as taking the crime scene photographs, preparing crime scene sketches, collecting crime scene evidence, preparing reports, and testifying in court. The archaeologist will always work under the direction of the investigating officer. The primary function of the archaeologist during an ARPA investigation will be the production of the Archaeological Damage Assessment Report. At the outset of any ARPA violation investigation, the investigating officer and the archaeologist must coordinate all investigation activities through the Judge Advocate General's office. Penalties imposed for ARPA violations vary but could reach as high as $250,000 in fines and five years' imprisonment.

Standard Operating Procedure #3, Compliance with the Native American Graves Protection and Repatriation Act (NAGPRA)

Regulatory Reference

NAGPRA became public law on November 16, 1990 (PL 101-601) and was codified in title 25 of the United States Code (25 USC §§ 3001-3013). Implementing regulations for NAGPRA, Native American Graves Protection and Repatriation Regulations, are found within title 43 of the Code of Federal Regulations (43 CFR 10).

Purpose and Procedure

NAGPRA protects human remains, funerary objects, sacred objects, and objects of cultural patrimony of indigenous peoples on federal or tribal lands. NAGPRA stipulates priorities for assigning ownership or control of human remains, funerary objects, sacred objects, and objects of cultural patrimony of indigenous peoples excavated or discovered on federal or tribal lands. The act also provides for repatriation of Native American human remains and cultural objects previously collected from federal lands and in the possession or control of a federal agency or federally funded repository. In addition to defining procedures for dealing with previously collected Native American human remains and cultural objects, these regulations outline procedures for negotiating plans of action or comprehensive agreements for treatment of human remains and cultural items encountered in intentional excavations or inadvertent discoveries on federal or tribal lands.

In 1990, NAGPRA was signed into law, establishing a "systematic process for determining the rights of lineal descendants and Native American tribes and Native Hawaiian organizations to certain Native American human remains, funerary or sacred objects, or objects of cultural patrimony with which they are affiliated" (60 FR 232). The law applies to such collections in federal possession or control, in the possession or control of any institution or state or local government receiving federal funds, or any archaeological finds excavated intentionally or discovered inadvertently on federal lands. Briefly, NAGPRA requires the following:

- That an ARPA permit be obtained to excavate or remove NAGPRA-related items from federal or tribal lands (see SOP #2 [ARPA Compliance]);
- That the objects be excavated only after Native American consultation has been conducted, or, in the case of tribal lands, with the permission of the tribe;
- That the disposition of the human remains or other NAGPRA-related items be consistent with Section 10.6 of the regulations (43 CFR 10.6); and
- That proof of Native American consultation be provided to the agency that issued the ARPA permit.

NAGPRA also requires that "all Federal authorizations to carry out land use activities on Federal lands or tribal lands…must include a requirement for the holder of the authorization to notify the appropriate Federal or tribal official immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony" (60 FR 232).

Procedures

The ownership or control over Native American human remains and other NAGPRA-related items is given priority to tribes based upon the lineal descent of the deceased individual, the Native American tribe on whose lands the discovery was made, and the tribe with the closest cultural affiliation with the

NAGPRA-related items. When the tribal affiliation of the discovery cannot be determined, custody is based upon the tribe that prehistorically occupied the lands where the discovery was made. If, by a preponderance of evidence, it is determined that a different tribe has a stronger affiliation with the human remains or objects, the tribe with the strongest affiliation is awarded custody of the items.

Inventory of NAGPRA-Related Items

Museums or federal agencies that house Native American human remains, funerary or sacred objects, or objects of cultural patrimony are required to inventory these items and provide a summary description of the collections to lineal descendants or affiliated Native American tribes. The inventory serves to inform Native Americans of the existence of these items should they wish to request repatriation of them. The inventory provides: an estimate of the number of objects in federal possession; a description of the kinds of objects the collection includes; reference to the means by which the collection was made; the dates and locations it was made; and information pertaining to the cultural affiliation of the collections. Currently, MARFORRES holds no NAGPRA-related collections. In the instance that any are identified on a reserve center, these procedures must be followed.

Inadvertent Discoveries

In the event of the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony at a MARFORRES-owned reserve center or other location over which they have jurisdiction, MARFORRES will ensure that all appropriate measures are implemented to protect the remains and any other protected cultural items; all appropriate tribes and agencies will be promptly notified of the find; and all applicable federal, tribal, and state procedures will be followed. A general set of steps to follow are outlined below, however the specific details of these may vary depending on the location of the reserve center.

1. In the event of inadvertent discovery of cultural materials, cease activities immediately, secure the discovery site from further disturbance, and contact the CRM for MARFORRES.
2. The CRM, or a representative thereof, will visit the location of the discovery within 24 hours of the notification of the find to determine if NAGPRA applies. The services of appropriate technical experts (e.g., specialist in human osteology, forensic anthropologists) may be retained to participate in the field visit.
3. If the objects are determined to be not covered under NAGPRA, the procedures in SOP #6 (Inadvertent Discovery of Cultural Materials) will be implemented.
4. If human remains are known or suspected to be present, the CRM will also promptly coordinate with relevant military law enforcement regarding notification to the local medical examiner. The CRM, or representative thereof, will also notify the MARFORRES CO through the appropriate chain of command, legal counsel, and the Public Affairs Officer.
5. Military law enforcement will contact the city or county coroner's office of the jurisdiction where the human remains are located at the earliest opportunity. The Coroner will then have two working days to examine the remains after notification. The Coroner will determine if the remains are archaeological or of modern origin and if there are any criminal or jurisdictional questions to be answered.
6. The CRM, or representative thereof, will notify the SHPO of the discovery. The notification should be by telephone, to be followed immediately by written notification. Refer to Appendix C for current SHPO contact information, by reserve center. Note that for some states (e.g. California) there are regional SHPO offices that should be coordinated with.
7. Federally recognized tribes will be notified by telephone along with a written confirmation

within three days of the discovery. This notification must include pertinent information as to kinds of human remains, funerary objects, sacred objects, or objects of cultural patrimony, their condition, and the circumstances of discovery. A list of Federally Recognized Tribes with whom agencies consult is provided in each state section of this document. Note that for some states (e.g. California) this varies at a county level.

8. The CRM, or representative thereof, will follow NAGPRA procedures (43 CFR 10) and consult with interested parties (i.e., SHPO, tribes, property owner) to discuss disposition of remains and mitigation measures. The CRM, or representative thereof, in consultation with SHPO and Native Americans, as appropriate, will determine the procedures for disposition and control of any Native American cultural items excavated or removed as a result of an inadvertent discovery.
9. Activities in the area of discovery will resume 30 days after certification of notification is received, or sooner, if a signed binding agreement is reached. Before the original action can resume, the CRM must have implemented the NAGPRA process properly and confirmed with legal counsel that MARFORRES is in a legal position to proceed with the project in the area of discovery.

Intentional Excavation

The CO must take reasonable steps to determine whether a planned activity may result in the excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from a reserve center. In accordance with the regulations (43 CFR 10.3(b)), the intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from federal or tribal lands after November 16, 1990 is permitted only if:

1. The objects are excavated or removed following the requirements of ARPA and its implementing regulations (see SOP #2 [ARPA Compliance]),
2. The objects are excavated after consultation with or, in the case of tribal lands, consent of, the appropriate Native American tribe pursuant to Part 10.5,
3. The disposition of the objects is consistent with their custody as described in Part 10.6, and
4. Proof of the consultation or consent is shown to the federal agency official (i.e., CO) or other agency official (CRM) responsible for the issuance of the required permit.

The CO will notify in writing any Native American tribes that are likely to be culturally affiliated with any human remains, funerary objects, sacred objects, or objects of cultural patrimony that may be excavated. The CO will also notify any present-day Native American tribes which aboriginally occupied the area of the planned activity and any other Native American tribes that the CO reasonably believes are likely to have a cultural relationship to the human remains or objects that are expected to be found.

NAGPRA Consultations

Consultation is conducted to identify traditional religious leaders and lineal descendants for NAGPRA-related issues and serves to establish procedures to determine custody and the treatment and disposition of NAGPRA-related items excavated intentionally or discovered inadvertently at MARFORRES reserve centers. MARFORRES may ask for the following:

- Contact information for the tribal official(s) that will act to represent a particular tribe during the consultation process,
- Names of appropriate consulting partners and the methods by which to consult, and

- Kinds of cultural items that are perceived to be associated with NAGPRA issues.

After consultation is complete, MARFORRES will prepare a written plan of action, which is then provided to lineal descendants and Native American tribes. Native American representatives sign the plan of action as appropriate. The plan of action may include a description of the following:

- The kinds of cultural items that are of concern,
- The specific information used to determine the custody of NAGPRA-related items,
- The planned treatment and handling of such items,
- The planned archaeological recording and analysis of such items,
- Steps to be followed to contact tribal officials when excavation or discoveries occur,
- The traditional treatment that will occur when such items are encountered,
- The nature of any reports to be prepared, and
- The disposition of NAGPRA-related items.

Whenever possible, MARFORRES will enter into comprehensive agreements with tribes that are affiliated with NAGPRA-related items and those who have claims to them. Such agreements will typically address MARFORRES activities at reserve centers that may trigger NAGPRA.

Transfer of Custody

Once the custody rights of a particular tribe have been determined, MARFORRES will transfer custody of the Native American human remains and/or other NAGPRA-related objects with respect to traditional customs and practices of the affiliated tribes. A general notice of the proposed disposition will be published in a newspaper with circulation that covers the area in which the human remains and cultural objects were discovered, and in which interested Native American parties currently reside. The notice will describe the nature and affiliation of discoveries, solicit further claims to custody, and will be published twice (with the second publication occurring at least one week after the first). Transfer of the objects will occur at least 30 days after publication of the second notice. If additional claimants do not appear within this time period, a copy of the notice will be sent to the Departmental Consulting Archaeologist at the National Park Service for further research.

Unclaimed Native American human remains and cultural objects are cared for and managed, or returned in accordance with the regulations developed by the NAGPRA Review Committee.

Scientific Study

Many Native Americans consider the scientific study of human remains, including photographic documentation, to be disrespectful and culturally insensitive. NAGPRA limits scientific research to procedures that are necessary for determining cultural affiliation and lineal descendancy. The regulations only allow for more extensive study in those circumstances where human remains and certain cultural items are indispensable to the completion of a specific scientific study, the outcome of which is of major benefit to the United States (43 CFR 10.10(c)).

Standard Operating Procedure #4, Compliance with the National Environmental Policy Act (NEPA)

Regulatory Reference

42 U.S.C. §§ 4321-4370c

Purpose and Procedures

The Section 106 process is often conducted concurrently with the processes associated with NEPA. NEPA mandates that federal agencies consider all environmental consequences relevant to proposed actions and reasonable alternatives and include the public in the decision-making process.

A cultural resources survey with NHPA Section 106 review often supports the cultural resources component of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), which are two types of documents that may be used to detail the analyses of impacts performed during the NEPA process. Aside from on-going Section 110 compliance survey, as possible, nearly all cultural resources-related work within MARFORRES is driven by NEPA compliance, rather than standalone Section 106 undertakings.

Specific procedures for NEPA compliance within MARFORRES can be found in their environmental planning documents, but are summarized, below. This information is sourced directly from MARFORRES' Environmental and Energy Almanac (2019:11).

The NEPA process begins when an action proponent requests support from MARFORRES Facilities – Environmental and Energy. MARFORRES Facilities – Environmental conducts the NEPA review and provides guidance as to how the action can occur.

The action proponent may be any person or group representing an action with the potential to impact the environment. Examples of these actions include construction and demolition, training exercises, capital improvement, equipment fielding, and real property transactions. The action proponent may be a unit proposing a new training exercise or a member of the facilities team heading a construction project. MARFORRES Facilities - Environmental will provide NEPA training to action sponsors or other stakeholders as needed.

When an action occurs at a host installation, MARFORRES coordinates with the host. Either party may complete the NEPA review, but MARFORRES defers to the host to determine who executes the review. Early notice is extremely important in the planning process. Environmental review often includes consultations with outside regulatory agencies such as the U.S. Fish and Wildlife Service (USFWS), SHPOs, and USACE. These agencies often require a minimum of 30 days to review consultations upon receipt of request.

The most common environmental document produced at MARFORRES is a Categorical Exclusion (CATEX) Decision Memorandum (DM), outlined by MCO 5090.2, which applies to routine actions that would not individually or cumulatively have a significant impact on the environment. While CATEX DMs are less exhaustive than other NEPA documentation, they do not preclude required regulatory consultations. Section 106 and Section 7 consultations are conducted as necessary as part of the NEPA review and enclosed in the applicable CATEX DMs.

If environmental review concludes that the action does not permit the use of a CATEX DM, MARFORRES must prepare an Environmental Assessment (EA). EAs analyze environmental impacts of an action as well as the alternatives considered. MARFORRES must allow for the public to review and comment on EAs. If MARFORRES determines through thorough analysis and/or mitigation measures that the action will not have significant environmental impacts, it will issue a Finding of No Significant Impact (FONSI).

Cultural resources compliance has a role in both CATEX DM (e.g. the definition of a routine action that does not individually or cumulatively impact the environment must include the potential for impacts to cultural resources also).

MARFORRES Environmental and Energy Almanac outlines the timeline for the NEPA process, which can be summarized as follows (2019:13):

1. Requirements are identified and the action proponent initiates action.
2. MARFORRES takes action by coordinating with relevant local, state, and federal agencies, landowners, etc.
3. The action proponent then proceeds with actions, as approved by MARFORRES, in keeping with any special conditions of the approval.

Standard Operating Procedure #5, Native American Consultation

Regulatory Reference

Native American consultation, also referred to as American Indian or Indian Tribal consultation, is mandated by federal laws, Executive Orders, and DoD and Department of Navy (DoN) policies, including the NHPA (54 United States Code [USC] §§ 300101 et seq.), American Indian Religious Freedom Act (AIRFA; 42 USC § 1996), NAGPRA (25 USC §§ 3001-3013), ARPA (16 USC §§ 470aa-mm), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), DoD Instruction 4710.02 (DoD Interactions with Federally Recognized Tribes), and Secretary of Navy Instruction 11010.14B (DoN Policy for Consultation with Federally Recognized Indian Tribes).

Purpose and Procedures

Consultation, broadly defined, is the action or process of formally discussing. More specifically, consultation, as defined in the NHPA Section 106 regulations, is 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 process (36 CFR 800.16(f)). As it pertains to this SOP, consultation is the formal, mutual process by which the CO and CRM communicate and coordinate with tribal governments. It is intended to foster positive relationships with sovereign Native American nations and to ensure active participation by tribes in planning and implementing activities that may affect resources of interest to those groups. Consultation provides an essential means of obtaining the advice, ideas, and opinions of Native American parties regarding the management of federal resources, as well as ensuring the concerns of all involved parties are addressed.

Procedures

In general, MARFORRES should, and will, consult with Native American tribes and organizations for specific undertakings (see SOP #1 [NHPA Sections 106 and 110 Compliance]), when creating or updating procedural documents that affect tribal resources (e.g., ICRMP), when excavation of Native American remains is anticipated or unintentionally occurs (see SOP #3 [NAGPRA Compliance]), upon discovery of cultural materials during project implementation (see SOP #6 [Unanticipated Discovery of Archaeological Materials]), and/or when an undertaking will affect Traditional Cultural Properties or areas of tribal significance under DoD Instruction 4710.02, and when requested by a specific tribe.

MARFORRES should, and will, make every effort to ensure that consultation with the tribes is carried out in good faith and that honesty and integrity are maintained at all stages of the consultation process. Consultation should occur as part of a meaningful and comprehensive process that promotes effective communication between the tribes and MARFORRES. Consultations will respect the sovereign status of each Native American tribal government, and MARFORRES will work directly with federally recognized tribes on a government-to-government basis. MARFORRES consults with those groups that have tribal or trust lands in proximity to each reserve center location, those Native American tribes that occupied the area at some point in history, and those tribes or groups with an expressed interest in consultation proceedings regarding a MCRC. A detailed list of Federally Recognized Tribes is provided, by state, in the sections above. When an undertaking may affect a property of historic value to a non-federally recognized tribe on non-Native American lands, the consulting parties will, if warranted, afford such a tribe the opportunity to participate as an interested party.

Native American consultation can be either formal or informal but will always be initiated on a formal government-to-government basis. Given the disparate locations of MARFORRES' owned and operated

reserve centers, the procedures for such consultation will vary from location to location. A general outline from which to work is provided below:

Firstly, a letter will be written to the executive leader of each Tribal government from the CO (or appropriate signatory thereof, e.g., the CRM). Written correspondence should be sent via certified mail or similar device that offers receipt of delivery to the addressee. Subsequent, informal consultation is conducted at the staff level and consists of communication and exchange of information through emails, phone calls, and meetings, which are necessary to ensure relationships are maintained. The CO and CRM will share appropriate technical information and data with the tribes in accordance with the established Geospatial Data policy.

MARFORRES should, and will, provide timely opportunities for communication with Native American tribes concerning decisions that may affect them. DoD Instruction 4710.02 states that installations should involve tribal governments early in the planning process for proposed actions that may have the potential to affect protected tribal rights, land, or resources, and shall endeavor to complete consultations prior to implementing the proposed action. Similarly, tribal consultation should be conducted during the initiation of the NHPA Section 106 process. Early involvement means that a tribal government is given an opportunity to comment on a proposed action in time for the tribal government to provide meaningful comments that may affect the decision.

Because consultation is required by various statutes, regulations, and policies, it is important to maintain records that document MARFORRES' good faith efforts to consult with Native American tribes. Copies of letters and emails, documentation of phone calls, and notes of meetings should be compiled (with sensitive information omitted) and maintained with all other relevant documentation for that project. As MARFORRES is on-going in their efforts to reduce hard copy records, tribal consultation documents should be digitized and stored electronically with their other project materials in their SharePoint Online system. This should apply to records of both formal and informal consultation materials.

Government Liaisons

DoD Instruction 4710.02 states that:

> When contacting tribes, the consultation shall be initiated by the installation commander. Follow-on consultation shall be at a level agreed to by the installation commander and tribal government leadership. Base commanders at installations that have on-going consultation and coordination with tribes shall assign a staff member to serve as a tribal liaison [DoD Instruction 4710.02 Parts 6.8-6.9].

For MARFORRES, the designated liaison is the CRM.

Culturally Affiliated Tribes

MARFORRES should, and will, consult with the Federally Recognized Tribes who have claim to land relevant to a reserve center, in any instances warranting Tribal consultation. These tribes are outlined in each relevant state section of this ICRMP.

Public Disclosure and Confidentiality

Representatives of Native American tribes may be reluctant, unwilling, or even unable to provide information on sacred site locations or specific aspects of religious ceremonies or cultural traditions. MARFORRES will endeavor to not request more information than is needed to discuss and resolve

consultation issues and to not keep that information on file except when absolutely necessary. Even though subsection (b)(3) of the Freedom of Information Act (FOIA) exempts the locations of resources of tribal concern from release because they are "specifically exempted from disclosure by statute", that only applies if the other statute's disclosure prohibition is absolute (5 USC § 552(b)(3)). The U.S. Department of Justice has found that the ARPA of 1979 (16 USC §§ 470aa-mm) applies concerning information pertaining to the nature and location of certain archaeological resources. It is important to note, however, that FOIA applies only to records in the control or possession of a federal agency and does not apply to nongovernmental or private organizations (e.g., contractors, associations, or other organizations) simply because they may receive federal funds or support.

Standard Operating Procedure #6, Unanticipated Archaeological Discoveries

Regulatory Reference

36 CFR 800.13 regulations for the Protection of Historic Properties

Purpose and Procedures

Archaeological investigation methods are designed to discover material evidence of past cultural activities. It is possible, however, that buried archaeological deposits may remain undetected during the survey process, only to be exposed later by construction or other ground-disturbing activities. These inadvertent discoveries, also referred to as post-review discoveries, are managed in accordance with the Secretary of the Interior's regulations Protection of Historic Properties (36 CFR 800.13).

The MARFORRES CRM will ensure that, in the event of an inadvertent discovery of archaeological deposits, measures are taken promptly to protect the find from further disturbance, assess the significance of the discovery, and implement appropriate mitigation measures (if needed). See SOP #3 for policies and procedures related to NAGPRA compliance and the inadvertent discovery of Native American human remains and associated funerary objects, sacred objects, or objects of cultural patrimony.

Procedures

For ground-disturbing activities, project managers and construction personnel should be briefed on cultural resources potentially existing within their reserve center. Reserve centers with expected cultural resources potential are illustrated on the mapping in this ICRMP and any currently known cultural resource concerns are highlighted in the text. These personnel should notify the CRM immediately upon the discovery of any previously unknown cultural materials, and the following procedures will be adhered to.

1. In the event of inadvertent discovery of cultural materials, cease activities immediately within at least a 100-foot radius, secure the discovery site from further disturbance, and contact the CRM, or representative thereof, as appropriate.
2. The CRM, or representative thereof, will notify the relevant SHPO of the discovery. The notification should be by telephone, to be followed immediately by written notification.
3. If human remains are known or suspected to be present, the CRM, or representative thereof, will also promptly coordinate with military law enforcement regarding notification to the local medical examiner. The CRM will also notify the MARFORRES CO through the appropriate chain of command, legal counsel, and the Public Affairs Officer. No photographs of the human remains should be taken during this process.
4. The CRM, or representative thereof, will visit the location of the discovery within 24 hours of the notification of the find. The services of appropriate technical experts (e.g., specialist in human osteology, forensic anthropologists) may be retained to participate in the field visit.
5. A determination of NAGPRA, ARPA, and NHPA compliance will be made by the CRM, or representative thereof, upon identification of the discovered material as archaeological or historical in origin. If the CRM determines that the site contains human remains, funerary objects, sacred objects, or objects of cultural patrimony, the procedures in SOP #3 (NAGPRA Compliance) will be implemented. If the objects are determined to be not covered under

NAGPRA, the following procedures outlined in this SOP will be followed.

6. If archaeological materials are present and disturbance has been limited, the CRM will recommend that the activity be relocated to avoid the site until compliance with Section 106 and an evaluation for NRHP eligibility may be completed. If the activity cannot be relocated, the CRM shall consult with the appropriate SHPO. Unless the activity is of the nature of an actual emergency (natural disaster or declaration of war), site activity must stop until consultation with SHPO and/or the ACHP is completed. Failure to cease activities that intentionally destroy archaeological deposits prior to evaluation and determination of NRHP eligibility in accordance with the regulations (36 CFR 800) may result in fines and penalties under ARPA.

7. The CRM, or representative thereof, will contact the relevant SHPO to obtain concurrence on the NRHP-eligibility determination of the site. If SHPO and the CRM agree that the discovered archaeological deposit is not eligible for listing on the NRHP, the correspondence will be documented. The CRM may then advise the project manager to proceed with project activities, although the CRM, or representative thereof, will monitor the remainder of excavation activities in the vicinity to ensure that NRHP-eligible deposits are protected. All documentation of this correspondence and concurrence should be maintained with the relevant project documentation in MARFORRES' SharePoint Online system.

8. If, in the opinion of either the SHPO or the CRM, the recovered materials are of insufficient quantity or otherwise non-diagnostic to make a valid assessment of NRHP eligibility, an emergency mitigation plan may be developed by the CRM, in consultation with the SHPO. Further ground-disturbing activities in the immediate site vicinity shall be halted pending the accomplishment of the emergency mitigation plan. The CRM may request that SHPO be present on site to consult directly on the assessment of the site's NRHP eligibility. SHPO may choose to send a representative to observe the emergency mitigation plan. If so, access to the site by non-military personnel must be approved by and coordinated with the cultural resources office.

9. If the site is determined eligible, or if MARFORRES and SHPO cannot reach an agreement on determination of eligibility, the following alternative actions are available:

    a. Reconsider relocating the project to avoid adverse effect (this is always the preferable course of action).

    b. Develop a Memorandum of Agreement (MOA) with SHPO that specifies the scope and extent of data recovery required to mitigate the project impact.

10. All aspects of data recovery will be fully documented and reported to SHPO in a written report at the termination of data recovery efforts.

Standard Operating Procedure #7, Curation of Archaeological Artifacts in Compliance with 36 CFR Part 79

Regulatory Reference

36 CFR 79

Purpose and Procedures

The regulations titled Curation of Federally-Owned and Administered Archaeological Collections (36 CFR 79) establish definitions, standards, procedures, and guidelines to be followed by federal agencies to preserve collections of prehistoric and historical material remains and associated records recovered under the authority of the Antiquities Act (54 USC §§ 320301 et seq.), the Reservoir Salvage Act (54 USC §§ 312501 et seq.), the NHPA (54 USC §§ 300101 et seq.), or ARPA (16 USC §§ 470aa–mm). The regulations define responsibility for federal collections; procedures and guidelines to manage and preserve collections; terms and conditions for federal agencies to include in contracts, memoranda, agreements or other written instruments with repositories for curatorial services; standards to determine when a repository has the capability to provide long-term curatorial services; and guidelines for collections access, loan, and use (36 CFR 79).

Without proper conservation and storage, archaeological artifacts deteriorate, become misplaced, or are otherwise subject to the passage of time. Archaeological collections include material remains that are excavated or removed during a survey, excavation, or other study of a prehistoric or historical site, and associated documents that are prepared or assembled in connection with the survey, excavation, or other study. Associated documents comprise original records (or copies thereof) that are prepared or assembled to document efforts to locate, evaluate, record, study, preserve, or recover prehistoric or historical resources.

Collections from federal lands should be deposited in a repository that meets the standards outlined in Part 79.9 of the regulations to ensure that they will be safeguarded and permanently curated in accordance with federal guidelines (36 CFR 79.9).

A curation facility is specifically designed to serve as a physical repository where collections and records are sorted, repackaged, assessed for conservation needs, and then placed in an appropriate, environmentally controlled, secure storage area. Proper curation also includes a review and update of all paper records. Artifact data are entered into a database that serves as an important management and research tool. The overall goal of the federal curation program as set forth in Part 79.10 is to ensure the preservation and accessibility of cultural resource collections and documents for use by members of the public interested in the archaeology and history of the region (36 CFR 79.10).

Procedures

Currently, MARFORRES possesses one box of archaeological material from Quarters A, its NRHP-listed housing site in New Orleans. MARFORRES' will work with the National Museum of the Marine Corps to ensure appropriate disposition of these artifacts, in compliance with 36 CFR 79.

The following outlines general procedures for MARFORRES curation with the Museum of the Marine Corps:

- Before permanent curation, all artifacts recovered from a reserve center or other

MARFORRES-owned facility will be analyzed using commonly accepted methods for artifact analysis in the region. Artifact analyses will be consistent with current archaeological research objectives for the region and completed by a qualified professional.

- Cleaning, curation, and storage of artifacts and associated documents will meet all standards and follow all guidelines of the Museum of the Marine Corps.
- Artifacts and associated documents will be stored in clean, spacious, temperature-controlled facilities while on the installation and kept in archival-quality bags, folders, and boxes.
- All field, laboratory, and other project records to be curated will be reproduced on archival-quality paper. The originals should be stored according to MARFORRES' data management standards.

Standard Operating Procedure #8, Data Management

Regulatory Reference

16 U.S.C. § 470aa-470mm (ARPA), MCO.5090.2A (Environmental Compliance and Protection Manual)

Purpose and Procedures

Consistent, efficient data management is mission critical to ensuring compliance with the federal and USMC guidance that structures federal cultural resources management. The following standard operating procedure is intended to outline basic steps for MARFORRES to review and revise their existing cultural resources data ("CulturalResources" and "HistoricalSites" feature datasets) to ensure internal consistency and to establish a baseline to which future contractor deliverables can conform. This SOP should be reviewed at the time of the next ICRMP update (in 5 years, or sooner if applicable) to determine if it is still warranted. If the GIS-specific data management objectives laid out here have been met, there is no need for this SOP to remain, as MARFORRES' internal data will serve as a standard example to be maintained.

Steps for Review and Revision of Cultural Resources Data

1. Edit existing "CulturalResources" and "HistoricalSites" feature datasets and their feature classes. Importantly, attribute tables and metadata should be completed and updated, where possible, for all cultural resources feature classes in the MARFORRES geodatabase. Parameters for all feature classes and their attributes and metadata are defined in the GEOFidelis data model. Inconsistencies and misassignment of content to feature classes should be revised for consistency throughout.
2. Update cultural resources related feature classes within the MARFORRES geodatabase to include all previous surveys, archaeological sites, areas of cultural resource potential, shovel tests, etc. In some cases, this data exists and simply requires integration from the contractor submittal. In other instances, the survey work that was performed pre-dates the common use of GIS mapping technology and may not exist. This data should be created by digitizing the survey mapping that exists in those reports.
3. MARFORRES will (minimally) provide contractors with the current GEOFidelis data model guidelines if they do not have it at the time of contract start. If contractors cannot be provided access to SDSFIE tools, MARFORRES should anticipate completing that portion of the GIS data in order to make it fully compliant.

Standard Operating Procedure #9, Contractor Submittals and Deliverables

Regulatory Reference

16 U.S.C. § 470aa-470mm (ARPA), MCO.5090.2A (Environmental Compliance and Protection Manual)

Purpose and Procedures

Consistent, efficient data management is mission critical to ensuring compliance with the federal and USMC guidance that structures federal cultural resources management. The following standard operating procedure is intended to outline basic steps for MARFORRES to ensure that incoming data is managed appropriately. Such procedures should be reevaluated as this ICRMP is reevaluated (every 5 years or more frequently) to ensure that they align with the current needs and systems in place at MARFORRES.

Steps for Internal Data Management

1. **Contracting:** When developing contract Statements of Work, MARFORRES will provide clear guidance to contractors regarding reporting and GIS deliverable expectations. Because MARFORRES operates in numerous states (and that changes consistently), total standardization of contractor submitted reports is unrealistic. There are general report formatting expectations, but they must also conform to the reporting requirements of each SHPO. MARFORRES will supply contractors with the shapefile of the area to be surveyed (especially when it is the entirety of a reserve center. This prevents the contractor from creating their own survey shapefile, which can result in inconsistent GIS data at the end of a project.
2. **Survey**: All field surveys are to be conducted systematically and by qualified professionals.
3. **Deliverables:** MARFORRES will establish the required amounts and formats of all deliverables. Digital reports must be submitted in order to be incorporated into their EMPortal database of cultural resources reports. All GIS deliverables from contractors should be compliant with the current version of the GEOFidelis data model used by MARFORRES and USMC. As of the time of this ICRMP, the currently deployed GEOFidelis model is 4.0.5 model. MARFORRES will ensure that contractors are aware of the data model expectations and are submitting data that is compliant and that can be smoothly integrated into the existing databases.
4. **Systematic integration at MARFORRES:** Given the way that cultural resources contracting works for MARFORRES, many contractors are funded through NAVFAC to support MARFORRES. MARFORRES and NAVFAC will develop a systematic procedure for ensuring that all final deliverables supplied to NAVFAC are transferred to MARFORRES in an efficient and timely manner, to then be integrated into MARFORRES databases.
5. **Systematic inclusion in the EMPortal:** MARFORRES will develop a timeline and set of procedures for entering contractor-submitted data into their EMPortal.

Intra-Agency Transfer of Cultural Resources Data during Property Divestment

Reserve center sites frequently pass into and out of MARFORRES' responsibility, often to and from other federal agencies. In order to make a good faith effort at good stewardship of cultural resources,

MARFORRES will endeavor to provide their known cultural resources information for specific sites as part of the property divestment process. Vice versa, MARFORRES will request such information for sites that they are taking responsibility for in the future. This will allow for a more streamlined approach to cultural resources management at MARFORRES' sites.

Below is a table which lists twenty-three former MARFORRES sites for which they may retain relevant cultural resources data and documents. This list can be updated as the ICRMP is updated and distributed as is applicable.

Region	State	Reserve Center	Notes on Occupancy and Ownership
Atlantic	NC	Wilmington	-
	VA	Newport News	-
Central	TN	Memphis	-
	IL	Chicago	Empty but under lease and terminating lease soon
	MI	Saginaw	-
Northeast	PA	Clinton	Owned, leased to AFR and divesting soon
	NY	Albany	-
	NY	Farmingdale	-
	NY	Rochester	-
Northwest	WA	Yakima	-
	IA	Des Moines	-
	MN	Fort Snelling	Empty but still owned and divesting soon
Southeast	LA	Lafayette	Empty but under lease and terminating lease soon
	MS	Jackson	-
	GA	Robbins	-
	FL	Tallahassee	-
	LA	Broussard	-
	FL	Orlando	-
Southwest	CA	Bakersfield	-
	CA	Edwards AFB	-
	CA	Camp Parks	-
	CA	Pico Rivera	Empty but still owned and divesting soon
Not assigned	WY	Cheyenne	-

Standard Operating Procedure #10, Best Management Practices and Available Training for Staff Charged with Cultural Resources

Regulatory Reference

MCO.5090.2A (Environmental Compliance and Protection Manual)

Purpose and Procedures

In all government agencies, compliance with cultural resources law is important. Departments such as MARFORRES' Facilities do not always have a CRM. In many cases, the person tasked with this role is 1) not professionally trained as a CRM, and 2) even if they are, they often fulfill multiple roles within their department, of which cultural resources is only a portion.

MARFORRES and USMC combat this by ensuring that their acting CRMs have access to training that prepares them for successfully managing the cultural resources that fall under their purview.

Headquarters Marine Corps has a "Cultural Resources Toolkit," which is a document that succinctly summarizes the primary information a CRM needs access to in a single location. This is considered a critical document for CRMs within the Marine Corps. It outlines the laws and regulations that govern cultural resources, provides general program guidance, and points the reader to available training courses to further assist.

Training courses available to CRM professionals within MARFORRES include those presented by the ACHP, Naval Civil Engineer Corps Officers School (CECOS), International Centre for the Study of the Preservation and Restoration of Cultural Property (ICCROM), National Preservation Institute (NPI), and the U.S. Army Corps of Engineers (USACE), as well as the iNFADS inventory manual.

Specifically at MARFORRES, new staff are welcomed aboard to the Facilities department with materials that explain the nationwide organization of the Marine Corps Forces Reserves and how this is divided into reserve centers (also housing and land) owned by MARFORRES and other host/joint based locations on which MARFORRES operates. Staff are also given organizational charts that illustrate the location of Facilities within MARFORRES writ large and the positions and roles within the department.