

**PROGRAMMATIC AGREEMENT  
AMONG  
THE COMMANDER, JOINT REGION MARIANAS AND  
THE GUAM STATE HISTORIC PRESERVATION OFFICER,  
REGARDING  
MILITARY TRAINING AND TESTING ON, AND WITHIN THE SURROUNDING  
WATERS OF THE ISLAND OF GUAM**

**WHEREAS**, the Commander, Joint Region Marianas (CJRM) manages the Mariana Island Range Complex (MIRC) and is the executive agent for certain military training and testing conducted on, and within the surrounding waters 3 nautical miles from shore baseline of Guam; and

**WHEREAS**, the Department of Navy, pursuant to the National Environmental Policy Act of 1969, has analyzed the impact of military training on and within the surrounding waters of Guam in various documents listed in Appendix C; and

**WHEREAS**, “Undertaking” in this document refers to DoD training and testing on Guam, and in the surrounding waters 3 nautical miles from shore baseline of Guam, including training and testing with foreign military and other personnel; and

**WHEREAS**, the Undertaking is critical to military readiness, to personnel safety, and to the defense of the United States, including and in particular, of Guam; and

**WHEREAS**, the Undertaking includes DoD’s current training and testing on the same training ranges and areas on DoD-controlled lands, many of which are similar, repetitive, and of sufficient frequency as to necessitate a Programmatic Agreement (PA); and

**WHEREAS**, Historic American Building Survey/Historic American Engineering Record documentation has been previously completed for any potential adverse effect of military training activities in the Northwest Field area on Andersen Air Force Base, Guam; and

**WHEREAS**, pursuant to 36 CFR § 800.1, CJRM has determined that the Undertaking may have adverse effects upon eligible historic properties; and

**WHEREAS**, CJRM has consulted with the Advisory Council on Historic Preservation (ACHP), the Governor of Guam, Guam State Historic Preservation Officer (SHPO), as well as the National Park Service (NPS) and the Guam Preservation Trust (GPT); and

**WHEREAS**, Section 800.14(b)(1)(i), allows for Programmatic Agreements to govern the resolution of adverse effects from certain multiple undertakings when effects on historic properties are similar and repetitive, and the undertakings addressed in this Programmatic Agreement are similar and repetitive in nature.

**WHEREAS**, pursuant to Section 800.14 of the regulations, 36 CFR Part 800, which implement Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, and Section 110(f) of the same act, and 16 U.S.C. 470h-2(f), the entities listed above are Signatories, Invited Signatories, or Concurring Parties to this PA; and

**NOW, THEREFORE**, CJRM and Guam SHPO agree that CJRM will carry out the Undertaking in accordance with the following stipulations to satisfy its responsibilities under Section 106 and Section 110(f) of the NHPA.

### **STIPULATIONS**

CJRM shall ensure that the following measures are carried out:

#### **I. STANDARDS**

- A. All reviews of Undertakings regarding historic properties will be carried out by or under the oversight or supervision of a person or persons meeting the professional qualifications under Standard (a) in the Secretary of the Interior's (SOI) *Historic Preservation Professional Qualification Standards* (Federal Register Vol. 62, No. 119, p. 33719, 1997). Reviews will be documented by the professional making the review.
- B. All surveys and mitigation relating to historic properties will be carried out by, or under the oversight of a person or persons meeting the professional qualification (per area of expertise) for Archaeologist, Historian, and Architectural Historian, or Historical Architect for buildings, structures, or historic properties in the SOI *Professional Qualification Standards*, 48 FR 44716.
- C. Traditional Cultural Property (TCP) studies and eligibility determinations will be carried out by or under the oversight, or supervision of, a person or persons having a graduate degree in Anthropology, History, or closely related field; documented experience or expertise involving Pacific Island cultures; and previous experience, conducting TCP studies and evaluations.

- D. Where Joint Region Marianas utilizes contracts that involve work governed by this PA that may affect historic properties, Joint Region Marianas will use appropriate contract performance requirements and/or appropriate source selection criteria which shall include, but not be limited to, minimum qualifications for historic preservation experience and satisfactory prior performance, to the nature of work and the type of procurement, developed with the participation of a qualified professional described in Stipulation I.A. above.
- E. The Signatories will provide information and documentation to each other that is consistent with the *Documentation Standards* found in 36 CFR § 800.11.
- F. JRM shall insure any information and documentation provided by JRM adheres to the restrictions imposed by 36 CFR § 800.11(c), Archeological Resources Protection Act (ARPA) (16 U.S.C. 470hh) and NHPA (16 U.S.C. 470w-3). Information determined to be restricted shall be clearly identified as such, and handled in accordance with the provisions of 36 CFR § 800.11(c).
- G. For the purposes of this PA, whenever the term “day” is used or reference to a number of days is made, *day or days* means consecutive calendar days inclusive of weekends and holidays.
- H. The time within which any act provided in this PA to be done is computed by excluding the date of the action, and including the last day, unless the last day is a Saturday or holiday, then it is also excluded.

## **II. OTHER AGREEMENTS**

- A. Appendix C is a listing of National Environmental Policy Act and other compliance documents that are relevant to this PA.
- B. Appendix D is a listing of the Survey Reports supporting this PA

## **III. AREA OF POTENTIAL EFFECTS**

- A. The Area of Potential Effects (APE) subject to this Agreement is Guam and the surrounding waters 3 nautical miles from shore baseline of Guam.
- B. Appendix A, lists and provides maps of specific training areas and describes the training conducted within each area.

#### **IV. TRAINING AND TESTING REVIEWS**

##### **A. Training and Testing Requiring No Further Review.**

1. Appendix A, lists and provides maps of specific training areas and describes the training conducted within each area. It lists specific historic preservation requirements applicable to each training and testing activities listed.
2. Undertakings listed in Appendix A, and conducted in accordance with the specified historic preservation requirements, require no further review or consultation under this PA and satisfy CJRM obligations under Section 106 and Section 110(f) of the NHPA.

##### **B. Training and Testing Requiring Further Review.**

1. CJRM shall consult with SHPO as required by the provisions of Section 106 of the NHPA for training or testing not captured within Appendix A.
2. CRJM will notify SHPO in writing at least 45 days in advance of proposed training or testing that has the potential to cause effects on historic properties not captured within Appendix A. This notification does not automatically extend or modify the timelines for consultation contained within the provisions of Section 106 of the NHPA.

#### **V. GENERAL MITIGATION MEASURES**

##### **A. Monitoring and Surveying.**

CJRM will notify SHPO prior to conducting cultural resource surveys associated with training and testing activities, and will coordinate with SHPO on survey methodology and processes.

##### **B. Indirect Effects on Historic Properties.**

1. As a best management practice to reduce the potential for certain types of possible indirect adverse effects on historic properties (such as increase in population or visitation in areas where historic properties are located), DoD will conduct cultural sensitivity training for all incoming DoD military and civilian personnel, their families, contractors, and visiting foreign military personnel.

- a. The JRM Cultural Resources Manager (CRM) will develop the training in collaboration with SHPO, to include curriculum based on the differing geographic areas and likely cultural findings in each. The curriculum shall include awareness of the importance of recognizing sensitive cultural material and how to protect it.
  - b. Cultural sensitivity training shall be conducted:
    - i. Prior to any individual's first use of a training area covered by this PA, including all U.S. and foreign military and other personnel prior to their first use of a training area covered by this PA.
    - ii. Within 90 days of arrival for DoD military and civilian personnel not covered by B.1.b.i .
    - iii. Annually for U.S. and foreign military personnel stationed on Guam for a period of greater than one year
  - c. Cultural sensitivity training will have command emphasis.
  - d. Cultural sensitivity training shall be conducted either in person by a qualified individual or via approved electronic format.
2. As a best management practice to reduce the potential for certain types of possible indirect adverse effects on historic properties, DoD will provide public notice of Major Training Exercises.
- a. A Major Training Exercise is comprised of several "unit-level" range exercises conducted by several units operating together while commanded and controlled by a single commander.
  - b. Except where otherwise prohibited, CJRM shall publish a press release and notice on social media platforms and a CJRM website at least 24 hours in advance of a Major Training Exercise.
  - c. When possible, public notice will be provided via press release and notice on social media platforms and a CJRM website, five days in advance of a Major Training Exercise that could be noticed by the public at large.

## **VI. DOCUMENTATION**

- A. CRJM shall ensure training and testing activities requiring no further review in accordance with Stipulation IV.A. are documented and will ensure such documentation is available to SHPO upon request.
- B. CJRM shall ensure training and testing activities requiring further review in accordance with Stipulation IV.B. are documented.

## **VII. IDENTIFICATION OF HISTORIC PROPERTIES**

- A. Within six months of the date of the execution of this PA, effected by the last Signatory to sign, CJRM will provide SHPO, for the training areas listed in Appendix A, the following:
  - 1. Photographic and Geographic Information System (GIS) documentation of sites identified by DoD as eligible for listing on the National Register of Historic Properties (NRHP).
  - 2. For each site within the training areas, an electronic copy of all archeological survey reports available to DoD covering the eligible sites.
- B. Signatories objecting to this method of identification shall make such objection pursuant to the Objections and Resolving Objections Stipulations of this PA.

## **VIII. DISCOVERIES AND EMERGENCIES**

- A. As listed in Appendix A, a qualified individual will monitor ground disturbing projects with the potential to affect historic properties, oversee coordination and execution of the mitigation measures outlined in Appendix A, and provide quality control. The qualified individual will be responsible for supporting CJRM in managing any discoveries and emergencies consistent with the procedures defined below. If during the performance of the Undertaking, previously unknown archaeological sites are discovered and are not accounted for in an archaeological monitoring plan, then:
  - 1. Any activities within the immediate area will be halted, and reasonable measures will be taken to avoid or minimize impacts to the discovery pending further review under subpart 2 of this Stipulation.

2. The Qualified Individual will evaluate the discovery to assess potential effects. DoD will determine what actions can be taken to resolve adverse effects, if any, and notify the SHPO and ACHP within 48 hours. The notification shall describe DoD's assessment of National Register eligibility of the property and proposed actions to resolve the adverse effects, if any are identified. The SHPO and the Council shall respond within two working days of the notification. DoD shall take into account their recommendations regarding National Register eligibility and proposed actions, and then carry out appropriate actions. DoD shall provide the SHPO and ACHP a report of the actions when they are completed.
  3. Should any new discoveries be evaluated as eligible for listing on the NRHP and preserved in place, then management of such historic properties will be incorporated in the next annual revision of the ICRMP developed in consultation with the SHPOs, and their locations plotted on the installation GIS and provided for use in the SHPO's GIS. DoD archaeologists, or their archaeological contractors, will prepare the necessary site ID forms for SHPO Guam Historic Properties Inventory for each new or altered eligible site recorded, and receive the Guam site number assigned by the SHPO for new sites.
  4. Should any new discoveries be evaluated as eligible for listing on the NRHP and not preserved in place, CJRM will provide a Treatment Plan, consistent with Archeology and Historic Preservation; Secretary of the Interior's Standards and Guidelines (48 FR 44716-42, September 29, 1983) and applicable guidelines to SHPO and consult with SHPO on the Treatment Plan in accordance with 36 CFR Part 800. For the purposes of this PA, Treatment Plans include, but are not limited to, Data Recovery Plans. SHPO shall review the Treatment Plan and provide comment within 30 days. If a mutually agreeable Treatment Plan cannot be developed within the period of SHPO review and comment, SHPO may object in accordance with the provisions of Stipulation XI of this PA within 15 days of the expiration of the period of SHPO review and comment.
  5. If during any part of the Undertaking, human remains are discovered, the applicable Standard Operating Procedures specified in Appendix B shall be followed.
- B. In the event that natural disasters (such as typhoons or tsunamis), fires, sudden disruptions of utilities service, spill events or other emergency events occur, the appropriate installation CRM or the JRM CRM may take immediate actions to preserve life and property without appropriate review under this PA prior to carrying out such

emergency actions. However, emergency response work will take into consideration that historic properties may be affected by recovery or emergency efforts. When possible, such emergency actions will be undertaken in a manner that does not foreclose future preservation or restoration of historic properties. The appropriate CRM will notify the SHPO by telephone of the emergency and will follow up with written documentation if any historic properties were discovered or disturbed by the emergency efforts. Consultation under this PA with the SHPO will be conducted as soon as practical based on the emergency circumstances.

## **IX. GENERAL STIPULATIONS**

### **A. Reports provided by DoD**

1. An Annual Report will be provided not less than 30 days in advance of the annual meeting containing:
  - a. Summary of end of exercise field reports
  - b. Summary of monitoring as required in Appendix A
  - c. Summary of discoveries or emergencies responded to pursuant to Stipulation VII
  - d. Summaries shall include, at a minimum, relevant before and after photos, aggregate training event participation data
  - e. Summaries of the number of people who took the cultural sensitivity training specified in Stipulation V.B.b., including what method was used.

### **B. Reports provided by SHPO**

1. All reports and surveys, including GIS locations, within one quarter ( $\frac{1}{4}$ ) mile of the training areas listed in Appendix A, completed for private or Government of Guam entities, to which DoD has not had previous access.

C. Annual Meeting

1. CJRM shall host an annual meeting of the Signatories to this PA on or about April of each calendar year.
2. The Annual meeting shall include but is not limited to:
  - a. A review of the PA by the Signatories, including any enacted or proposed amendments
  - b. A review of the Annual Report provide in accordance with VIII A.
  - c. Discussion on the implementation of the PA, including any problems or successes

**X. REVIEW**

The SHPO may review activities carried out pursuant to this PA and will review such activities, if so requested. CJRM will cooperate with the SHPO in carrying out their review responsibilities.

**XI. OBJECTIONS**

Signatories wishing to object to any action or failure to act by any Signatory to this PA shall provide such objection in writing to the other Signatories. Objections shall include the specific nature of the objection to the action or failure to act and a requested disposition.

**XII. RESOLVING OBJECTIONS**

- A. Should a Signatory make an objection in accordance with Stipulation XI, the Signatories will consult, as appropriate, for up to 45 days to resolve the objection.
  1. During the consultative process, Signatories may provide the Signatories to the PA with information regarding actions they believe could continue without interfering with the dispute resolution process. Signatories may continue actions that they reasonably believe will not interfere with the dispute resolution process.

2. If agreement is reached, the CJRM will summarize the resolution and provide the information to the Signatories, Invited Signatories, and Concurring Parties.
  3. If agreement is not reached, CJRM will refer the matter to ACHP consistent with subpart B of this Stipulation.
- B. Objections not resolved through discussions among the Signatories within the 45-day dispute resolution process defined under subpart A above, shall be addressed as follows:
1. Disputes involving the National Register eligibility of a property shall be resolved in accordance with the provisions of 36 CFR Part 63.
  2. Continuing Actions:
    - a. Signatories may provide the Signatories to the PA with information regarding actions they believe could continue without interfering with the dispute resolution process.
    - b. Signatories seeking to continue an action shall provide a plan to do so to the ACHP and other Signatories for review and comment.
    - c. ACHP shall provide comments on plans to continue action within 15 days of receipt.
    - d. Signatories seeking to continue an action will take into account ACHP comments, provide the Signatories with the decision on possible continuing actions, and proceed accordingly.
  3. Resolution Process:
    - a. CJRM shall forward relevant documentation to the ACHP with CJRM proposed resolution.
    - b. Within 30 days of receiving CJRM proposed resolution, the ACHP shall:
      - i. Concur with CJRM proposed resolution; or

- ii. Provide CJRM with recommendations on the proposed resolution.
- c. Within 30 days of receiving comments from the ACHP, CJRM shall:
  - i. Take into account ACHP's recommendations in making a final decision on the matter; and
  - ii. Provide written documentation of CRJM decision to the Signatories, Invited Signatories, Concurring Parties, and the public; and proceed consistent with its decision.
- d. If the ACHP has not responded within 30 days, CJRM shall provide written documentation of CJRM decision to the Signatories, Invited Signatories, Concurring Parties, and the public and proceed with its decision.

### **XIII. AMENDMENT**

- A. The Signatories may request that this PA be amended by submitting in writing to the Signatories, the text of the proposed amendment and any supporting information.
  - 1. CJRM shall identify activities conducted in accordance with Stipulation IV.B., that occur with sufficient frequency as to warrant consideration for addition to Appendix A.
  - 2. Upon identification of such activities, CJRM may propose an amendment in writing to add such activities along with additional specific historic preservation requirements that are necessary, if any, to Appendix A.
- B. Upon receipt of a written proposed amendment, the Signatories will consult in accordance with 36 CFR Part 800 to accept, accept with modification, or reject such amendment. Public involvement with regard to proposed amendments shall be conducted in accordance with 36 CFR Part 800. Signatories agree to make good faith efforts to consider amendments in a timely manner.

- C. No amendment shall take effect until it has been executed in writing by the Signatories. Moreover, submission of a proposed amendment shall not affect the operation of this agreement absent the express written approval of the Signatories.
- D. Upon execution of any amendment, CJRM shall make the revised Appendices available to the Signatories, Invited Signatories, and Concurring Parties.
- E. Upon execution of any amendment to Appendix A, CJRM shall make the revised Appendices available to the Signatories, Invited Signatories, and Concurring Parties.

#### **XIV. EXTENSIONS**

Signatories may request extensions to any of the timeframes specified within this PA by providing, such request in writing to the Signatory to whom response or action is due. Signatories making an extension request shall also provide written notice of the request to all Signatories. Request for extension shall include the specific nature of the request, including a good faith reason and explanation of why the Signatory is unable to meet the timeframe specified in this PA. Requests for extension shall be considered in good faith. Granting or denial of any requested extension is solely the purview of the Signatory to whom the request is made. The decision regarding the extension request shall be provided to all Signatories by the Signatory making the decision.

#### **XV. TERMINATION**

The Signatories may propose in writing to terminate this PA by providing no less than 30 days' notice to the other Signatories explaining the reasons for the proposed termination. The Signatories will consult during this period to seek mutual amendment or other action that would avoid termination. In the event of termination of this PA, CJRM will comply with 36 CFR Sections 800.3 through 800.13 with regard to individual Undertakings covered by this PA.

#### **XVI. FAILURE TO CARRY OUT AGREEMENT**

In the event CJRM does not carry out the terms of this PA, CJRM will comply with 36 CFR Sections 800.3 through 800.13 with regard to individual undertakings covered by this PA.

#### **XVII. DURATION**

This PA shall become effective upon execution by the Signatories and shall remain in effect until terminated in accordance with Stipulation XIV.

## **XVIII. IMPLEMENTATION OF THIS PROGRAMMATIC AGREEMENT**

- A. This Agreement may be implemented in counterparts, with a separate page for each signatory, and CJRM will ensure that each party is provided with a complete copy. This Agreement will become effective on the date of the last signature.
- B. EXECUTION AND IMPLEMENTATION of this Programmatic Agreement, demonstrates that CJRM has satisfied its Section 106 and Section 110(f) responsibilities for all military training and testing areas as identified in the NEPA compliance documents listed in Appendix C on Guam, and the surrounding waters 3 nautical miles from shore baseline of Guam.

DRAFT

Signatories

COMMANDER JOINT REGION MARIANAS

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Rear Admiral  
Commander, Joint Region Marianas      Date

THE GOVERNMENT OF GUAM

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Lourdes Leon Guerrero Governor of Guam	Date	Carlotta Leon Guerrero State Historic Preservation Officer	Date
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INVITED SIGNATORY

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National Park Service      Date

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Advisory Council on Historic Preservation      Date

Concurring Parties

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Guam Preservation Trust      Date