

**PROGRAMMATIC AGREEMENT  
BETWEEN THE  
COMMANDER, JOINT REGION MARIANAS  
AND THE GUAM STATE HISTORIC PRESERVATION OFFICER,  
REGARDING DEPARTMENT OF DEFENSE UNDERTAKINGS  
ON THE ISLAND OF GUAM**

WHEREAS, the Department of Defense (DoD) has established the Joint Region Marianas (JRM) through a Memorandum of Agreement between the Departments of Navy, Army, and Air Force and pursuant to Department of Defense Instruction (DoDI) 4165.73; and

WHEREAS, the installations, Andersen Air Force Base, Marine Corps Base Camp Blaz, Navy Base Guam are subject to support the CJRM in their responsibilities; and

WHEREAS, the Department of the Navy, through the Commander, Joint Region Marianas (CJRM) retains responsibility for carrying out activities related to cultural resources management within the JRM area of responsibility (Appendix A, which is subject to future updates; and

WHEREAS, this programmatic agreement (PA) supersedes and replaces the 2008 Programmatic Agreement (PA) among the Commander, Navy Region Marianas, the Advisory Council on Historic Preservation, and the Guam Historic Preservation Officer regarding Navy Undertakings on the Island of Guam; and

WHEREAS, through the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510, Title XXIX), as amended through the 2005 National Defense Authorization Act, CJRM recognizes that future acquisitions of land and/or property on Guam would fall under the joint region; and

WHEREAS, for the purposes of this Programmatic Agreement (PA), the term Area of Responsibility (AOR) shall refer to DoD property specifically on the Island of Guam; and

WHEREAS, CJRM, to meet national defense mission requirements, authorizes, carries out, or causes to be carried out a variety of undertakings including but not limited to dredging of its harbors; maintenance, rehabilitation, repair, construction, and demolition of buildings, structures, and roads; installing, repairing, and updating utilities and infrastructure; and work regarding grounds and associated landscaping; and

WHEREAS, CJRM finds that a programmatic approach, in accordance with 36 CFR §800.14(1)(iv) is the appropriate approach to address the circumstances of routine and redundant operations, maintenance, repair activities; and

WHEREAS CJRM and its designee is required to have an Integrated Cultural Resources Management Plan (ICRMP) in accordance with DoDI 4715.16 (3)(b)(1) and Office of Chief of naval Operations (OPNAV) 5090.13-3.4; so

NOW, THEREFORE, CJRM and the Guam State Historic Preservation Officer SHPO agree that CJRM will carry out undertakings on the Island of Guam in accordance with this programmatic agreement with the following stipulations to satisfy its National Historic Preservation Act (NHPA) responsibilities.

## STIPULATIONS

### I. APPLICABILITY

- A. This PA applies to all DoD undertakings not covered by the *2020 Programmatic Agreement Between the Commander, Joint Region Marianas and the Guam State Historic Preservation Office, Regarding Military Testing and Training on and Within the Surrounding Waters of the Island of Guam* (Guam PATT) and the *2011 Programmatic Agreement Among the Department of Defense, the Advisory Council on historic Preservation, the Guam State Historic Preservation Officer, and the Commonwealth of the Northern Mariana Islands State Historic Preservation Officer Regarding the Military Relocation to the Islands of Guam and Tinian* (2011 Guam Build-up PA) while in effect, executed within CJRM's AOR, regardless of whether they are initiated, funded, or carried out by CJRM or by another DoD command or lessee of the CJRM.
- B. All future CJRM land acquisitions on the Island of Guam shall be incorporated into CJRM's AOR and subject to stipulations identified in this PA.
- C. Unless otherwise noted, this PA will utilize the definitions found within 36 CFR §800.16.

### II. PROFESSIONAL STANDARDS

- A. CJRM will use appropriate contract performance requirements, and/or appropriate source selection criteria for cultural resources contractors which shall include, but not necessarily be limited to, minimum qualifications for historic preservation experience and satisfactory prior performance, as appropriate to the nature of the work and the type of procurement, developed with the participation of CJRM CR professionals meeting Stipulation II.A.1, II.A.2, or II.A.3, as appropriate.
  - 1. All archaeological investigations shall be carried out by or under the supervision of a person meeting the Secretary of Interior's (SOI) Professional Qualification Standards for archaeology finalized and adopted in 1983 and published in Federal Register Volume 48, Number 190, pages 44716-44740; 36 CFR §61.
  - 2. All built environment inventories and eligibility determinations shall be carried out by or under the supervision of a Qualified Preservation Professional meeting the SOI's Professional Qualifications Standards for History, Architectural History, or Historic Architecture finalized and adopted in 1983 in Federal Register Volume 48, Number 190, pages 44716-44740; 36 CFR §61.
  - 3. Traditional Cultural Place (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. Studies shall be consistent with guidance in Identifying, Evaluating, and Documenting Traditional Cultural Places National Register Bulletin (2024).

### III. OTHER AGREEMENTS

- A. Pursuant to 36 CFR §800.14, federal agencies are authorized to negotiate and adopt multiple program alternatives to achieve compliance. The intent of this PA is to provide for a streamlined process for meeting Section 106 obligations on individual project actions that occur within the JRM AOR, on Guam (See Appendix A). CJRM shall continue to consult on additional program alternatives intended to assist with mitigating large-scale and overarching effects to Guam's cultural resources and traditional lifeways.
- B. Nothing in this PA will alter, modify, or supersede the following Program Alternatives, or future relevant Program Comments, laws, or regulations:
  - 1. World War II (WWII) Temporary Buildings Programmatic Memorandum of Agreement among the U.S. Department of Defense, the ACHP, and the National Conference of State Historic Preservation Officers (NCSHPO) executed on 7 July 1986 with 1 May 1991 amendments.
  - 2. Management of Historic Family Housing Units Programmatic Agreement among the U.S. Navy, the Advisory Council on Historic Preservation, and the NCSHPO executed on 17 November 2000.
  - 3. Wherry and Capehart Era Family Housing Program comment issued by ACHP on 18 November 2004.
  - 4. Cold War Era (1946-1974) Unaccompanied Personnel Housing Program comment issued by the ACHP on 18 August 2006.
  - 5. WWII and Cold War Era (1939-1974) Ammunition Storage Facilities Program comment issued by the ACHP on 18 August 2006.
  - 6. Fiscal Year 2025 National Defense Authorization Act, Section 2823, Application of Certain Authorities and Standards to Historic Military Housing and Associated historic Properties of the Department of the Army (1941-1949)

### IV. USE OF ARCHAEOLOGICAL SENSITIVITY MAPS

- A. Each installation ICRMP will include archaeological sensitivity maps (maps). The purpose of the maps is to identify the potential for encountering archaeological resources within the installation's AOR. Maps (Appendix B) are based on historic maps, ethno-historic data, archaeological studies, and consultations with the SHPO.
- B. Within two years of signing this PA, CJRM, or its designee, will formalize a separate and complete ICRMP for each installation on Guam. Archaeological

sensitivity maps will be updated twice yearly and are included in the reporting requirements described in Stipulation X. SHPO will be provided an opportunity to review and comment on all map updates and CJRM will consider all comments prior to finalization.

## V. GEOGRAPHICAL INFORMATION SYSTEM

- A. All data related to site locations, determinations of eligibility, isolated find locations, facility locations, survey areas, and shovel test locations shall be compiled into a geographical information system (GIS) geodatabase for each installation.
- B. CJRM will provide the SHPO with all updates to the GIS information during the quarterly reporting update.
  - 1. CJRM may require a non-disclosure agreement (NDA) from the SHPO for all data that may be Controlled Unclassified Information or sensitive under other applicable laws (NHPA/ARPA).

## VI. ACCESS TO CULTURAL SITES

- A. In recognition of the importance that many properties within CJRM's AOR have for the local community, CJRM has developed a Public Access Plan (PAP) for important locations. The purpose of the PAP is to allow the people of Guam access to cultural sites on CJRM installations in accordance with the PAP Access Plan and the ICRMP for that installation. The access plan will be reviewed and updated annually with the understanding that the overall intent is to provide the local community access to collect medicinal and other plants used for traditional purposes as well as to provide access to those locations that hold special significance to the local community. Access to cultural sites can be requested through the JRM Access Plan Coordinator (APC), who coordinates with installation security to process these requests.
- B. If the SHPO is approached by individuals or organizations wishing to obtain access under the PAP, the SHPO will forward these requests to the APC.

## VII. Archaeological Sensitivity Definitions

Archaeological Sensitivity designations will be established in consultation with Guam SHPO.

- A. No Archaeological Sensitivity
  - 1. Areas depicted in Appendix B or the most recent finalized quarterly report map updates as having no potential for intact archaeological deposits.
- B. Low Archaeological Sensitivity
  - 1. For those not covered in VII.A, Low Archaeological Sensitivity Areas generally have no known surface or subsurface archaeological sites. Determination of

Low Archaeological Sensitivity must be documented using the following criteria, as appropriate:

- a. Archaeological surface surveys have been conducted, and review of historical map and/or historical aerial photograph review indicates substantial historical earthmoving associated with construction (i.e., not land clearing only); and/or
- b. Archaeological subsurface investigations identified no subsurface archaeological deposits.

#### C. Medium Archaeological Sensitivity

Medium Archaeological Sensitivity Areas have been subject to pedestrian inventory, contain no known surface sites, but subsurface investigations have not been conducted; therefore, the presence of subsurface archaeological resources is a possibility.

#### D. *High Archaeological Sensitivity*

High Archaeological Sensitivity Areas have either been previously surveyed and have documented surface or subsurface sites, or are areas identified from historic maps or ethnographic accounts as areas of known land use (e.g. location of old villages). This includes all areas located in ancient shoreline or beach areas prior to sea level decline from higher sea still stands.

### VIII. PROJECT REVIEW REQUIREMENTS

#### A. *Archaeology*

##### 1. No Archaeological Sensitivity

CJRM shall use good faith effort to provide at least 72 hours advance notice to the SHPO in an area identified as No Archaeological Sensitivity in Appendix B or the most recent finalized Archaeological Sensitivity Maps submission. Notification shall be submitted electronically by email or other electronic means. The Signatories recognize that mission, operational, or other matters of national security may preclude such prior notice. In circumstances where prior notice is not practicable, CJRM shall endeavor to provide notice as soon thereafter as possible. Any dispute arising from notice under this stipulation shall be resolved in accordance with Stipulation XIII.

##### 2. Low Archaeological Sensitivity

CJRM shall use good faith effort to provide at least 72 hours advance notice to the SHPO in an area identified as Low Archaeological Sensitivity in Appendix B or the most recent finalized Archaeological Sensitivity Maps submission and a professional who meets the

standards identified in Stipulation II.A.1 have reached a determination of No Historic Properties Affected. Notification shall be submitted electronically by email or other electronic means.

The Signatories recognize that mission, operational, or other matters of national security may preclude such prior notice. In circumstances where prior notice is not possible, CJRM shall endeavor to provide notice as soon thereafter as practicable. Any dispute arising from notice under this stipulation shall be resolved in accordance with Stipulation XIII.

### 3. Medium Archaeological Sensitivity

- a. Additional evaluation is required prior to initiating any ground-disturbing activity in these areas, unless alternate treatment is established in consultation with, the following consultation steps are required:
  - i. Notification to SHPO of the planned undertaking.
  - ii. Preparation and submission of an agency approved work plan allowing SHPO 30 calendar days to review and approve the submitted plan.
  - iii. If a previously approved work plan exists for a relevant prior project (eg. same geographic location and/or same activities) that plan may be cited to fulfill the requirement.
  - iv. Where feasible, subsurface archaeological investigations shall be conducted within the Area of Potential Effect (APE prior to construction. In cases where subsurface investigations are not possible (such as below paved areas or thick overburden or fill), archaeological monitoring shall be required.
  - v. In instances where subsurface investigations are not viable, archaeological monitoring shall be required in lieu of subsurface testing.

### 4. High Archaeological Sensitivity

- a. Additional evaluation is required prior to initiating any ground-disturbing activity in these areas. Additional surface or subsurface site identification and/or NRHP evaluative testing may be appropriate. The following consultation steps are required:
  - i. CJRM will make every effort to avoid or minimize effects to historic properties.
  - ii. Notification to SHPO of the planned undertaking;
  - iii. If avoidance of historic properties is not feasible, data recovery consistent with standard archaeological practices shall be conducted prior to the commencement of construction activities.
  - iv. Prior to conducting any archaeological data recovery, CJRM shall submit a data recovery plan to the SHPO. The plan will focus on

recovering the maximum amount of data from the densest areas of the site and will include excavation of all features encountered until reaching redundancy. Complete excavation of the site is not required. The SHPO shall have 30 calendar days to review and comment on the plan. If the SHPO disagrees with the plan, they shall contact CJRM in writing to request further consultation. If no response is received, CJRM will assume concurrence after 31 calendar days. In the event of disagreement on the data recovery plan, CJRM shall consult with the SHPO to resolve the disagreement. If such consultation fails to reach an agreement, then CJRM, following the procedure outlined in Stipulation XIII(A), will request comments from the ACHP and prepare their final decision.

#### B. Built Environment Historic Properties

1. CJRM shall use good faith effort to provide at least 72 hours advance notice to the SHPO. Notification shall be submitted electronically by email or other electronic means for:
  - a. Alterations consistent with the most recent Secretary of Interior's Standards for the Treatment of Historic Properties (36 CFR §68) treatment standards for Preservation, Rehabilitation, Restoration, and Reconstruction. Adherence to these applicable guidelines is not considered an adverse effect; and
  - b. Activities listed in Appendix C
2. The Signatories recognize that mission, operational, or other matters of national security may preclude such prior notice. In circumstances where prior notice is not practicable, CJRM shall endeavor to provide notice as soon thereafter as possible. Any dispute arising from notice under this stipulation shall be resolved in accordance with Stipulation XIII.
3. Procedures outlined in 36 CFR 800.3 through 800.7 will be followed for undertakings that have the potential to affect a historic property and the treatment plan is not consistent with guidance in the Secretary of Interior Standards for the Treatment of Historic Properties (36 CFR part 68).

### IX. DISCOVERIES AND EMERGENCIES

- A. All project construction contracts and associated work plans will include an inadvertent discovery clause that addresses discovery of archaeological sites/deposits and/or human remains in the course of project construction. If, during construction or other undertaking, previously unrecorded resources are encountered, CJRM will adhere to the following guidelines:
  1. Halt work in the immediate area and fully record the resources, taking reasonable measures to protect the find until consultation is completed. CJRM will notify the SHPO of the find;



2. A qualified professional shall evaluate the resource for eligibility for inclusion in NRHP. CJRM will notify the SHPO by email of the eligibility determination.
  3. If CJRM determines the find to be not eligible for inclusion in the NRHP, then the project will proceed following documentation of the discovery and completion of a SHPO site form. CRJM shall submit a report of findings to the SHPO following completion of ground disturbance.
  4. If CJRM determines the property is eligible for inclusion in the NRHP, they shall notify the SHPO of the determination by phone and email. CJRM shall begin consultation with the SHPO to determine an appropriate treatment plan.
  5. If there is a disagreement over the treatment plan and it cannot be resolved, then Stipulation XIII(A) will be followed.
  6. If, during the performance of an undertaking, human remains (HR), or indeterminate bone (IB), are identified, CJRM shall immediately halt work in the area, secure and cover the find, contact the appropriate authorities, and follow the Standard Operating Procedures (SOP) specified in Appendix D. This information shall be documented and reported to the SHPO in accordance with Stipulation X.
- B. In the event of natural disaster (such as typhoons or tidal waves), fires, sudden disruptions of utilities service, spill events or other emergency events, CJRM may take immediate actions to preserve life and property without Section 106 review. Emergency response work shall take effects to historic properties into consideration. When possible, such emergency actions will be undertaken in a manner that will allow for post-execution consultation. CJRM will notify the SHPO by telephone of the emergency and will follow up with written documentation. Consultation with the SHPO will be conducted as soon as practicable, based on the circumstances. These actions will be included in the twice-yearly report developed in accordance with Stipulation X.

## X. NOTIFICATION AND REPORTING REQUIREMENTS

- A. CJRM shall submit notifications in accordance with Stipulations VIII(A)(1) and (2) and VIII(B)(1) and (2). Notifications will include:
1. Project name
  2. Location/ Area (including a map) or Area of Potential Effect (APE)
  3. A brief description of proposed action and outcome of actions taken
  4. Applicable provision(s) of Appendix C (if any)
  5. Name of reviewer
- B. A report twice yearly containing:
1. Summary of actions taken under Stipulations IV - ICRMP; V(B) – GIS updates; IX(A)(5) – Table of HR/IB Reported Discoveries; and X.B.C.1— documentation of SHPO ‘non-responses’.



2. Table of new cultural resource sites identified
  3. Archaeological sensitivity maps/Appendix B – updated no less than twice yearly
- C. The SHPO shall provide a response to any CJRM finding of effect, or determination of eligibility for NRHP listing, within thirty (30) calendar days of receipt of the finding or determination.
1. CJRM will proceed with the undertaking or recording the determination, if at the close of the thirty (30) calendar days:
    - a. SHPO has agreed with the finding or determination
    - b. The 30 days has expired and SHPO has not provided a response or requested an extension
  2. If the SHPO does not concur with the finding or determination, they shall proceed in accordance with Stipulation XIII.

## XI. AUDIT

The SHPO may request an audit of activities carried out pursuant to this PA. CJRM will cooperate with all document requests, provided it will not result in delay or loss of Military Construction (MILCON) or other funding, or mission execution. The Signatories recognize that mission, operational, or other matters of national security may affect the schedule of any deliverable.

## XII. MEETING

Beginning at the execution of this PA, the Signatories shall meet annually to consult on outstanding issues or concerns that may have occurred during the previous year. CJRM will make every effort to resolve concerns raised by other Signatory to this PA.

## XIII. RESOLVING OBJECTIONS

- A. Should either Signatory to this PA object to any action carried out or proposed with respect to the implementation of this PA, CJRM shall consult with the objecting party. If, after such consultation, CJRM determines that the objection cannot be resolved through consultation, it shall forward all documentation relevant to the objection to the ACHP, and include a proposed response to the objection.
- B. Within 30 calendar days of receipt of all pertinent documentation, the ACHP shall exercise one of the following options:
  1. Concur with CJRM proposed response; or
  2. Provide CJRM with recommendations on the proposed response. CJRM shall

take into account such recommendations before making a final decision on the matter and proceed accordingly; or

3. Notify CJRM that the objection will be referred to the ACHP membership for formal comment per 36 CFR §800.7(c). The resulting formal comment shall be taken into account by the Navy in accordance with 36 CFR §800.7(c). If the ACHP has not responded within the allotted time, CJRM may make a final decision on the objection and proceed accordingly.

#### XIV. AMENDMENT

Either Signatory to this PA may request that this PA be amended. Such requests will be made in writing and provided to the other Signatory. The requests will include the proposed amendments and the reasons for proposing them. The Parties shall consult to consider the proposed amendment. No amendment shall take effect until it has been executed by all Signatories and filed by the ACHP.

#### XV. TERMINATION

Either Signatory may propose to terminate this PA by providing 30 calendar days written notice to the other Signatory explaining the reasons for the proposed termination. The Signatory will consult during this period to seek agreement on amendments or other actions that would avoid termination. If the Signatory proposing the termination does not withdraw the proposal by the end of the 30 day period, or a longer period agreed to by all Signatory, then the PA will be terminated. In the event of termination, CJRM will comply with 36 CFR Part 800 with regard to all individual undertakings.

#### XVI. ANTI DEFICIENCY ACT

- A. The Anti-Deficiency Act, 31 USC § 1341, prohibits federal agencies from incurring an obligation of funds in advance of or in excess of available appropriations. Accordingly, the parties agree that any requirement for obligation of funds arising from the terms of this agreement shall be subject to the availability of appropriated funds for that purpose, and that this agreement shall not be interpreted to require the obligation or expenditure of funds in violation of the Anti-Deficiency Act.
- B. If compliance with the Anti-Deficiency Act alters or impairs CJRM's ability to implement the stipulations of this PA, CJRM shall consult with the Signatory in accordance with Stipulation XIII, XIV, or XV.

#### XVII. DURATION

- A. This PA shall become effective upon execution by either Signatory and shall remain in effect in accordance with Stipulation XIV or expiration as provided in paragraph B below.

- B. Subject to the termination clause in Stipulation XV, This PA shall expire five years from its effective date if either Signatory provide notice in writing of the intent to expire this PA to the other Signatory no later than 30 days prior five years of the effective date of this PA. If such written notice is not provided, this PA shall continue in effect on a reoccurring five-year basis subject to the provisions above.

## SIGNATURE PAGE

COMMANDER, JOINT REGION MARIANAS

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B.W. Mietus  
Rear Admiral, U.S. Navy  
Commander, Joint Region Marianas

GUAM STATE HISTORIC PRESERVATION OFFICER

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Patrick Lujan  
Guam State Historic Preservation Officer

## Appendix A: Joint Region Marianas Landholdings

## Appendix B: Archaeological Sensitivity Maps

## Appendix C: Undertakings Requiring Advance SHPO Notification



## UNDERTAKINGS EXEMPTED FROM FURTHER REVIEW

### I. Historic Buildings and Structures

- A. Installation of interpretive signs or exhibit structures that are not attached to a historic property and that do not visually intrude on a historic property. Such signs or exhibits shall be constructed of materials and colors that are compatible with the historic property and its setting.
- B. Replacement of non-original interior light fixtures in historic interiors.
- C. Replacement of exterior lighting when in accordance with SOL's Standards for rehabilitation, restoration, or reconstruction.
- D. Replacement in kind of siding, trim, or hardware that match original or existing material and finish.
- E. Replacement of glazing similar to existing or original material and design.
- F. In-kind replacement of steel casement windows and their glazing and hardware to match existing or original materials and designs.
- G. Replacement of roofs or parts of roofs when replacement matches or is compatible with existing or original material and design; maintenance procedures that do not alter the integrity of the original material.
- H. Replacement of porches and stairs if replacement matches historic or existing character, material, and design.
- I. Removal of building additions and mechanical equipment determined by qualified personnel, as described in Stipulation II.B, not to be a characteristic feature to the building's NRHP eligibility.
- J. Replacement or installation of gutters and down spouts providing the material and design match existing or are comparable to the buildings period and type.
- K. Removal of existing fixtures, accessories, and cabinets that are not contributing elements to the building or structure's historic significance.
- L. Replacement of screens that match the existing window frame material or match specifications for buildings of similar period and type.
- M. Removal on non-original elements such as conduit, pipes, wiring, junction boxes, and air conditioners.
- N. Painting when new paint matches existing or original color.
- O. Repairs to spalling and cracking concrete if patched to hide repairs. Excluded

are patches to historic bomb damage, shrapnel, strafing or bullet marks if these are contributing elements to the building's or structure's historic character.

- P. Interior renovation of a building unless interior building configuration is a contributing element to the building's historic significance.
- Q. Repaving infrastructure such as streets, parking lots, driveways, and sidewalks with matching materials and configuration.
- R. Repairs in kind and maintenance of wharves, piers, berths, or dry-docks, dolphins, quays, pilings, bulkheads, decking, cleats, bitts, bollards, capstans, navigational markers, cranes, trains, or support equipment to maintain operational capability.
- S. Maintenance or repair of swimming pools, outdoor equipment, and other athletic equipment.
- T. Any replacement, rehabilitation, or restoration of a portion of a structure or building when SOI's standards for rehabilitation, restoration, or reconstruction are followed. For this stipulation to apply, it shall be reviewed by or conducted under the supervision of a professional meeting the qualifications in Stipulation II.B
- U. Maintenance or repair of aboveground or interior utilities, such as gas, fuel, electrical, telephone lines, provided that no disturbance occurs outside existing infrastructure or utility routes.
- V. Installation of reversible signage on existing fences where the fence is not a contributing resource to a historic property.

## II. Landscaping and Ground Disturbing Activities:

- A. Maintenance and repair of underground utilities such as sewer, water, storm, electrical, gas and fuel lines, provided that no excavation or ground disturbance occurs outside of existing utility corridors.
- B. Landscaping, grounds maintenance, ongoing maintenance of existing landscaping, or removal of dead or dying vegetation that does not result in ground disturbance.
- C. Ground disturbance activities that occur within low sensitivity areas as indicated on the most recent archaeological sensitivity map for that area.
- D. Ground disturbing activities that occur in fill layers as identified and documented in the most recent archaeological sensitivity map for that area.
- E. Buildings and Structures over 50 Years Old that have been determined Not Eligible for inclusion in the National Register of Historic Places.

1. Must have SHPO concurrence letter on the determination of eligibility.
- F. All activities that occur within or on a building or structure that do not require excavation outside No or Low Archaeological Sensitivity areas.

### III. Archaeological Sites

- A. Ground disturbance within archaeological sites previously determined Not Eligible for inclusion in the NRHP.
1. Must have consulted on the determination of eligibility.
  2. Must have SHPO concurrence on the determination of eligibility.

## Appendix D:

### Treatment of Human Remains

## SOP FOR HUMAN REMAINS

**PURPOSE:** This SOP provides uniform guidance for human remains that are inadvertently discovered or encountered during any activity that results in ground disturbance (including those caused by natural occurrences such as erosion) within the Commander, Joint Region Marianas (CJRM) Area of Responsibility (AOR).

**ETHICS:** All human remains shall be treated with respect and dignity.

**REFERENCE:** NHPA, 36 CFR Part 800; Archaeological Resources Protection Act; Guam Department of Parks and Recreation General Guidelines for Archaeological Burials.

**RESPONSIBILITY:** Primary responsibility for carrying out this SOP lies with CJRM Cultural Resources Manager (CRM) or the installation CRM per request of the CJRM. These procedures should be briefed to all on-site managers and supervisors who are carrying out work that could result in inadvertent discovery of remains on DoD property or during DoD sponsored projects.

### I. INITIAL DISCOVERY

- A. If suspected human skeletal remains are encountered during execution of an undertaking, the following procedures shall be followed:
1. All ground-disturbing work within 15 meters (50 feet) of the remains shall stop.
  2. The remains shall be covered to protect them from the elements and the area around the discovery shall be secured. A temporary barrier shall be emplaced, such as high visibility cones/candle sticks with flagging tape (until high visibility fencing is emplaced per request of the CRM).
  3. CJRM and the installation CRM should be notified immediately.
  4. If human remains were uncovered during a construction project, then the contracting officer (KO) associated with the specific project shall be notified per the contract clause referencing these procedures, including the installation of protective barrier (such as high visibility fencing per request of the CRM). A pause in ground disturbance for the area within 15 meters of the find shall be issued by the KO, or a stop work order if appropriate. The KO shall be notified of all subsequent consultations regarding the find.

### II. PRELIMINARY IDENTIFICATION

The installation CRM shall confirm the skeletal remains are human. If the installation CRM is unable to confirm the remains are human, they will seek the opinion of a professional trained in the identification of human remains such as an archaeologist, physical anthropologist, forensic specialist. If the skeletal remains are identified as human (or human cannot be ruled out), then proceed to Step III.

### III. IDENTIFICATION - AGE OF DEPOSITION (TIME PERIOD) & ANCESTRY

- A. As soon as possible following confirmation of the identification of human remains, the age of deposition (time period) and ancestry of the remains shall be determined. The determination should be based on skeletal morphology, archeological context, and associated artifacts and should be conducted by an archaeologist who meets the federal qualifications set forth in Stipulation II.B. of this document.
- B. The following discussion addresses procedures to be taken based on time period to which the remains date.
- C. Modern Remains
  - a. If the remains are determined to be modern, CJRM security personnel and Naval Criminal Investigative Services (NCIS) will take over the investigation.
- D. World War II Remains
  - a. If the skeletal remains are found to be human and are believed to be from World War II (WWII), the following procedures apply:
    - b. If there is reason to believe that the remains are from WWII and are of the indigenous origin (CHamoru) or other civilian (non-military) present in Guam at the time, then the Guam State Historic Preservation Office (SHPO) shall be notified and involved in the consultation process.
    - c. If there is reason to believe that the remains are of U.S. military personnel, then the Defense POW/MIA Accounting Agency (DPAA) shall be notified and will assume responsibility for the case. CJRM J45 Director will also be notified.
    - d. If there is reason to believe that the remains are Japanese from World War II, the Consulate-General of Japan (CGJ) in Hagatna [Guam] and the CJRM shall be notified and consulted, in coordination with the installation CRM, as to the disposition of the remains. CJRM J45 Director will also be notified.
    - e. Guam SHPO will be notified to inform them that human skeletal remains believed to be from WWII era military personnel were identified. In Guam, jurisdiction for WWII military remains rests with DPAA or CGJ. CJRM and the installation CRM will defer to DPAA and CGJ for treatment. The installation CRM shall arrange for a site visit by a SHPO representative if such visit is requested by the SHPO.
- E. Remains Older than WWII (Historic and Precontact)
  - 1. If the skeletal remains are determined to be older than 50 years and are not associated with WWII, then following procedures shall be followed:

1. The CJRM and Installation Leadership shall be notified (per commander's critical information requirement [CCIR]) by email the same day that the remains are confirmed human (or human cannot be ruled out).
2. After leadership has been informed, the Guam SHPO shall be notified within 24 hours by email that human remains were encountered that are historic or precontact in nature and do not belong to the WWII era. A more comprehensive notification of discovery shall be submitted to SHPO as soon as feasible.
3. The CJRM CRM shall arrange for a site visit by a SHPO representative, if such visit is requested by the SHPO.
4. The CJRM shall enter into consultation with the SHPO and shall coordinate procedures for the recovery, analysis, and repatriation of the human remains..
5. If a local organization, family, or agency expresses an interest in participating in the consultation process, they must submit a written request expressing their desire to participate and identify their relationship to the remains. All comments received during consultation will be considered in making final disposition determinations.
6. If the remains are encountered during project construction, CJRM shall determine the feasibility of project alternatives that will avoid further disturbance of the remains or whether disinterment is necessary. If an intact burial is identified, preservation in place shall be the preferred alternative.

#### F. Remains of Undetermined Age

1. If a determination as to the age of deposition of the remains or the ancestry of the remains cannot be determined, the procedures below shall be followed:
  - a. CJRM shall initiate consultation with the SHPO. Based on the consultation, a decision will be made to either preserve the remains *in situ* or to remove them for further analysis to establish the age of deposition and ancestry of the find.
  - b. If CJRM determines that the skeletal remains and associated artifacts will be exhumed, the remains will be documented by (or under the direct supervision of) a qualified archaeologist.
  - c. Further analysis is allowed to expand our knowledge of population interactions with prior approval by SHPO. The CJRM shall submit a letter of intent to SHPO for approval prior to any further analysis, such as radiocarbon dating and DNA. The results of these tests, if any, shall be presented in a report by the recording professional as part of the final report. The final report shall follow standard review and acceptance procedures with CJRM and SHPO.
  - d. If the age of deposition or ancestry of the human remains cannot be determined, then the CJRM, in consultation with the SHPO, shall curate



the remains and associated artifacts in the event that further information may come to light or rebury the remains. A record of the consultation process shall be placed on file at the CJRM and at the SHPO.

#### G. Conducting Research with Human Remains

1. Any professional within the Department of Defense (DoD) or outside the DoD, meeting the qualifications set forth in 36 CFR 61 Appendix A, may seek to research human remains. The researchers shall submit a written request to the CJRM cultural resources manager for review. The CJRM cultural resources manager shall submit the research design for review by the SHPO. The research design must be approved by the CJRM and the SHPO. The applicant shall be notified within 30 days of submission of the Research Design whether it has been accepted or rejected. The cost of the tests and report preparation shall be borne by the applicant. A copy of the results and findings shall be provided to the CJRM and the SHPO within six months of completion of the tests. The remains shall be curated at the expense of the researcher until plans for reburial have been made.

### IV. DISPOSITION

- A. CJRM shall coordinate with SHPO regarding the disposition of human remains older than WWII. Reiterated below are procedures tailored specifically to burials found on DoD property on Guam.
  1. If the remains are found eroding out of the soil, the CJRM, in consultation with the SHPO, shall decide whether the remains can be preserved in place or whether the remains would be severely damaged by leaving them *in situ*. The results of the decision-making process shall be placed on file at the CJRM environmental office.
  2. If the remains are exposed during a project, and the project can be redesigned to avoid the remains, or the remains can be left in place then the following steps shall be taken: The remains and any associated artifacts shall be recorded *in situ* by an individual meeting the qualifications and standard archeological procedures set forth in 48 FR 44716. Every effort shall be made to determine the number of individuals and the age, sex, and ancestry of the remains. The documentation and a record of the location of the remains shall be kept on file at CJRM environmental office. A copy shall be provided to the SHPO.
  3. If the project cannot be redesigned to avoid disturbing the remains the following steps shall be followed:
    - a. The remains and any associated artifacts shall be removed by an archaeologist meeting the professional qualifications using standard archeological procedures set forth in 48 FR 44716. A report of the excavation techniques and findings, along with a photographic record shall be submitted to the installation CRM within 30 days of disinterment. The documentation shall be kept on file at CJRM and a copy provided to

the SHPO; any associated artifacts shall be temporarily curated at the contractor's laboratory until the final disposition of the remains is determined.

- b. If remains have to be moved, CJRM will consult with the SHPO on intended disposition. The documentation and a record of the location of the remains shall be kept on file at the CJRM environmental office. A copy shall be provided to the SHPO.