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The Federal Role in Historic Preservation: An Overview

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SUMMARY

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Mark K. DeSantis
Analyst in Natural Resources Policy

The Federal Role in Historic Preservation: An Overview

During the 20th century, Congress passed several laws that established a framework for federal historic preservation activities. The most comprehensive of these statutes is the National Historic Preservation Act of 1966 (NHPA; P.L. 89-665). NHPA created a grant program for state historic preservation, established the federal National Register of Historic Places (NRHP) and the procedures by which historic properties are placed on the Register, funded the National Trust for Historic Preservation (NTHP), established the Advisory Council on Historic Preservation (ACHP), and designated a process for federal agencies to follow when their projects may affect a historic property (known as the Section 106 process). Congress also has amended and expanded NHPA multiple times since its passage, most recently in 2016.

In addition, Congress often considers bills to designate specific properties or areas as historically important, under various designations. These designations include national monuments, national historical parks, national historic sites, national historic landmarks, and properties listed on the NRHP, to name a few. Such historic designations may bring few management changes to a site or may involve significant changes, depending on the individual designating laws and/or general authorities that may apply to a type of designation. Some historic designations are applied to federally owned lands (including lands already under federal administration and those that the designating law may authorize for federal acquisition), but many federal designations are conferred on lands that remain nonfederally owned and managed.

Because of these various legislative and oversight activities, historic preservation is of perennial interest to Congress. For example, some Members of Congress support proposals to eliminate a federal government role in financing historic preservation programs, leaving such programs to be sustained by other levels of government or by private support. Others state that a federal role in supporting historic preservation should be maintained or expanded. In particular, lawmakers and administrations pay significant attention to funding levels for various historic preservation programs that are subject to the annual appropriations process.

The Historic Preservation Fund (HPF) is the primary source of funding for federal preservation. Appropriations for the HPF totaled $118.7 million in FY2020 (P.L. 116-94), a nearly 16% increase from the FY2019 appropriation (excluding emergency supplemental funding) and a roughly $86 million increase over the FY2020 Administration request. For FY2021, the Trump Administration requests a roughly 66% reduction in funding for the HPF compared with FY2020 levels. This request includes no fiscal support for many of the federal grant programs available to states, tribes, local governments, and nonprofit organizations for historic preservation.

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Introduction

Historic preservation is the practice of protecting and preserving sites, structures, objects, landscapes, and other cultural resources of historical significance. Various federal, state, and local government programs, as well as privately funded activities, support historic preservation in the United States. This report provides an overview of the federal role in historic preservation, including background and funding information for some of the major preservation programs authorized by Congress. In addition to establishing national policies governing historic preservation, Congress considers the federal government's role in financing many of these programs through the annual appropriations process. Some programs also periodically come before Congress for reauthorization.

As a result, issues related to historic preservation are of perennial interest to Congress. Some Members of Congress support proposals to eliminate the federal role in historic preservation, leaving such programs to be sustained by other levels of government or by private support. Other Members feel federal support for historic preservation should be maintained or increased. The heavy toll of recent natural disasters such as Hurricanes Harvey and Irma on historic resources has contributed to increased support for incorporating preservation needs in federal disaster relief planning and aid.[1]

This report includes a summary of the federal government's role in historic preservation activities, from its early efforts in the late 1890s to today. The report contains a list of many of the federal grant programs funded through the annual appropriations process (see **Appendix**). It also includes overviews of historic preservation grants for tribal historic preservation, African American civil rights, historically black colleges and universities (HBCUs), Japanese American confinement sites (JACS), Native American Graves Protection and Repatriation Act (NAGPRA) programs, the Save America's Treasures grant program, and the American Battlefield Protection Program (ABPP). The appendix includes eligibility requirements, matching fund guidelines, and statutory authorization for each program. It also includes an overview of federal funding for historic preservation activities from FY2016 to FY2020, along with requested totals for FY2021. Finally, the report outlines some potential issues facing the 116th Congress in determining whether and how to address historic preservation needs at the federal level.

Background on Federal Historic Preservation Legislation

The federal role in historic preservation was limited for much of the country's early history, with no formal federal policy in place. The two most significant early efforts at federal historic preservation came in the 1890s. First, Congress passed laws intended to protect ancient Puebloan sites in the American Southwest.[2] Soon thereafter, Congress acquired thousands of acres of

[1] For example, see Annie Christoff, "House of the Setting Sun: New Orleans, Katrina, and the Role of Historic Preservation Laws in Emergency Circumstances," 95 *Georgetown Law Journal* (2006); and, Linda Poon, "Why Historic Preservation Needs to Be Part of Disaster Planning," *City Lab,* 8 April 2016, at https://www.citylab.com/equity/2016/04/why-historic-preservation-needs-to-be-part-of-disaster-planning/477318/. Both the 115th (P.L. 115-123) and 116th (P.L. 116-20) Congresses provided emergency supplemental appropriations for historic preservation activities in the aftermath of natural disasters.

[2] Richard West Sellars, "A Very Large Array: Early Federal Historic Preservation—The Antiquities Act, Mesa Verde, and the National Park Service Act," *Natural Resources Journal* 47, no. 2 (2007): 267-328, at http://www.jstor.org/

private land to establish five Civil War national battlefield parks to be administered by the Department of War.[3] These two distinct federal efforts—commemorating very different moments in American history—are often marked as the genesis of the United States' federal preservation program.[4] In the 20th century, a legislative campaign for a comprehensive historic preservation policy bolstered these efforts.

Antiquities Act of 1906[5]

The Antiquities Act of 1906 provided the executive branch with authority to identify and protect cultural resources on federal lands in an expeditious manner.[6] Prior to its passage, federal law provided no means to preserve national cultural and historic resources that had not received specific legislative authorization from Congress. The Antiquities Act authorized the President to proclaim national monuments on federal lands that contain "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest."[7] The law also established guidelines around the future excavation of objects of antiquity found on land owned or controlled by the federal government.[8] Since its passage in 1906, the Antiquities Act has been used to create more than 150 national monuments.

Historic Sites Act of 1935

With the passage of the Historic Sites Act of 1935, Congress established a national policy on historic preservation.[9] The act outlined a policy to "preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States" while also providing the Secretary of the Interior the authority to develop a program aimed at identifying and evaluating cultural resources.[10] It placed the primary responsibility for administering federal historic preservation activities with the National Park Service (NPS). Efforts to survey and evaluate cultural resources of national historical significance eventually led to the designation of national historic landmarks (NHLs)—a federal recognition for historic properties that exists today.[11] (See "National Historic Landmarks Program" section for more information on NHL designation.)

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stable/24889175. Hereinafter referred to as Sellars, "A Very Large Array."

[3] Richard West Sellars, "Pilgrim Places: Civil War Battlefields, Historic Preservation, and America's First National Military Parks, 1863-1900," *CRM*, vol. 2, no. 1 (winter 2005), 22-52. The five national battlefield parks were Chickamauga and Chattanooga (administratively combined by the establishing legislation), Antietam, Shiloh, Gettysburg, and Vicksburg.

[4] Sellars, "A Very Large Array."

[5] For a more complete discussion of the history and authorities granted by the Antiquities Act, see CRS Report R41330, *National Monuments and the Antiquities Act*, by Carol Hardy Vincent.

[6] John M. Fowler, "Federal Historic Preservation Law: National Historic Preservation Act, Executive Order 11593, and Other Recent Developments in Federal Law," *Wake Forest Law Review*, vol. 12, no. 1 (Spring 1976), pp. 31-74, at https://heinonline.org/HOL/P?h=hein.journals/wflr12&i=37.

[7] 54 U.S.C §320301. A presidentially proclaimed monument must occupy "the smallest area compatible with the proper care and management of the objects to be protected."

[8] 54 U.S.C §320302.

[9] Charles M. Elliott, "Historic Preservation," *Colorado Lawyer*, vol. 5, no. 2 (February 1976), pp. 151-156, at https://heinonline.org/HOL/P?h=hein.barjournals/cololaw0005&i=155.

[10] August 21, 1935, ch. 593, 49 Stat. 66. The text of the law had been codified at 16 U.S.C. §461. It was recodified pursuant to P.L. 113-287 to 54 U.S.C §320101.

[11] Jess R. Phelps, "Preserving National Historic Landmarks," New York University *Environmental Law Journal*, vol.

National Historic Preservation Act of 1966

In the aftermath of World War II, the United States saw an unprecedented transformation of the natural and built environment, thanks in part to a rapid growth in federal infrastructure projects. The construction of interstate highways, urban renewal projects, and large-scale development led to the destruction of numerous historic buildings, archaeological sites, and cultural resources not previously protected under the Historic Sites Act of 1935.[12] In response, President Lyndon B. Johnson convened a special committee on historic preservation in 1965.[13] The following year, the committee released its report, *With Heritage So Rich*, which called for a comprehensive national historic preservation program.[14] The same year, Congress passed the National Historic Preservation Act of 1966 (NHPA), which incorporated nearly every major recommendation included in the report.[15]

Broader than its two predecessors, NHPA is the most comprehensive piece of legislation addressing federal historic preservation. Among its many provisions, the law established the National Register of Historic Places and the procedures by which historic properties are placed on the register, funded the National Trust for Historic Preservation, created a grant program for state and tribal historic preservation, required federal agencies to manage and preserve their historic properties, and created a process for federal agencies to follow when their projects may affect a historic property. Congress has amended and expanded NHPA multiple times since its passage, most recently in 2016.[16]

Selected Historic Preservation Programs and Entities

Various federal programs and federally established entities support historic preservation across the United States. Many of these programs and entities were established in NHPA and its subsequent amendments; however, Congress has authorized through separate legislation several other programs that also support activities related to historic preservation. Although it is beyond the scope of this report to discuss all federal programs and entities that support historic preservation, selected major programs and entities are highlighted.

Advisory Council on Historic Preservation

Created by NHPA, the Advisory Council on Historic Preservation (ACHP) is an independent agency consisting of federal, state, and tribal government members, as well as experts in historic preservation and members of the public.[17] ACHP oversees the Section 106 review process, a

24, no. 2 (2016), pp. 137-200, at https://heinonline.org/HOL/P?h=hein.journals/nyuev24&i=146.

[12] Barry Mackintosh, *The National Historic Preservation Act and the National Park Service: A History* (U.S. Department of the Interior, 1986), at https://www.nps.gov/parkhistory/online_books/mackintosh5/index.htm.

[13] National Park Service (NPS), "National Historic Preservation Act," at https://www.nps.gov/subjects/historicpreservation/national-historic-preservation-act.htm.

[14] United States Conference of Mayors Special Committee on Historic Preservation, *With Heritage So Rich* (New York: Random House, 1966). Also see Mark P. Nevitt, "The National Historic Preservation Act: Preserving History, Impacting Foreign Relations," *Berkeley Journal of International Law*, vol. 32, no. 2 (2014), pp. 388-444, at https://heinonline.org/HOL/P?h=hein.journals/berkjintlw32&i=407.

[15] P.L. 89-665, 80 Stat. 915. The text of the law had been codified at 16 U.S.C. §§470 et seq. It was recodified pursuant to P.L. 113-287 to 54 U.S.C §§300101 et seq.

[16] P.L. 114-289, Title VIII, December 16, 2016, 130 Stat. 1494.

[17] 54 U.S.C. §§304101 et seq.

process federal agencies must follow when their projects may affect a historic property.[18] Federal agencies are required to review the potential impacts of their actions on historic sites, a process that is to be concluded before federal funding is provided or a federal license is issued. Section 106 applies only to federal or "federally assisted" undertakings, such as those receiving federal funding or a federal permit.[19] As an independent agency, ACHP receives funding as part of the "Related Agencies" portion of the annual Department of the Interior, Environment, and Related Agencies appropriations bill.

Historic Preservation Fund

The Historic Preservation Fund (HPF) is the primary source of funding for federal preservation awards to states, tribes, local governments, and nonprofit organizations. Although federal funding for historic preservation was available under the 1966 NHPA and subsequent amendments in 1970 and 1973, Congress did not officially establish the HPF to carry out the activities specified in NHPA until 1976.[20] The HPF is funded through revenue generated by outer continental shelf mineral receipts, and it has been periodically reauthorized by Congress. Most recently, in 2016, Congress authorized the HPF to receive deposits of $150 million annually through FY2023.[21] The funding is available only to the extent appropriated by Congress in discretionary appropriations laws. Since the HPF's establishment, Congress has never appropriated the full $150 million for the fund in a single fiscal year.[22]

The HPF funds historic preservation activities in two ways: (1) formula-based apportionment grants and (2) competitive grant programs. Most HPF appropriated funds are used to provide formula-based matching grants-in-aid to state historic preservation offices (SHPOs) and tribal historic preservation offices (THPOs) and sub-grants to certified local governments (CLGs). Congress also has provided appropriations for additional competitive grant programs that fund specific historic preservation activities. The **Appendix** to this report provides an overview of the various grant programs that have been funded through the HPF, eligibility requirements, and program goals.

State Historic Preservation Office Program

HPF grants are awarded annually to SHPOs of the 50 states plus the District of Columbia and the territories. SHPOs are appointed officials responsible for administering and managing federal funds to conduct historic preservation activities.[23] These activities may include surveys and

[18] So called because it was established in Section 106 of the National Historic Preservation Act of 1966 (NHPA; P.L. 89-665), 54 U.S.C. §§306102 et seq.

[19] 54 U.S.C. §306108; and 36 C.F.R. §800.16(y). Under Section 106, agencies must "take into account" the effects of such undertakings on any historic properties, including properties listed on or eligible for listing on the National Register of Historic Places. The law and its implementing regulations require a review and consultation process if any historic properties may be affected, but they do not require the agencies to avoid effects.

[20] P.L. 94-422, Title II, §201(4), September 28, 1976, 90 Stat. 1320.

[21] Congress reauthorized funding for the Historic Preservation Fund (HPF) through FY2023 under P.L. 114-289, Title VIII, §802, December 26, 2016, 130 Stat. 1494.

[22] Although total appropriations for FY2019 were $152.7 million, this reflects both regular appropriations and an additional $50 million in supplemental emergency appropriations. Without these supplemental funds, HPF appropriations for FY2019 would be less than the authorized amount.

[23] Under NHPA, State Historic Preservation Offices (SHPOs) for each state or territory are designated and appointed by the governor—or "the chief elected official"—of that state to administer the state's historic preservation program, 54 U.S.C. §302301(1).

inventories, nominations to the National Register of Historic Places, preservation education, architectural planning, historic structure reports, community preservation planning, and physical preservation of historic buildings, among others.

States conducting these activities are statutorily required to provide a 40% match to the funds provided by the HPF.[24] Guidelines allow each state the flexibility to design and shape its historic preservation program as long as the program meets the overall responsibilities outlined by NHPA. Typically, SHPOs do not use these funds to issue sub-grants to other entities for individual historic preservation projects; rather, SHPOs generally use these funds for their own operational and administrative costs, as well as programmatic activities (listed above) carried out directly by the SHPO. Under federal regulations, at least 10% of the allocations to SHPOs are sub-granted to assist CLGs with local preservation needs (see "Certified Local Government Program" below).[25] Congress appropriated $49.7 million in FY2019 and $52.7 million in FY2020 for SHPO grants-in-aid.[26]

Tribal Historic Preservation Office Program

Since 1996, NPS has awarded annual formula-based grants to Tribal Historic Preservation Offices (THPOs).[27] Eligibility for grants under the THPO grant program is limited to federally recognized tribes that have signed agreements with NPS designating them as having an approved THPO. To become an approved THPO, a tribe submits a request to assume responsibilities from the SHPO and provides a program plan demonstrating how SHPO duties will be conducted. Once a program plan is completed and approved, an agreement between the tribe and the Secretary of the Interior is executed and the THPO becomes eligible for HPF grant support.

Similar to SHPO grants, the THPO grant program requires at least a 40% nonfederal match. Activities funded through the program include staff salaries, archeological and architectural surveys, review and compliance activities, comprehensive preservation studies, National Register nominations, educational programs, and other preservation-related activities. Grants are not awarded competitively but instead are determined according to a formula in consultation with tribes.[28] Congress appropriated $11.7 million in FY2019 and $13.7 million in FY2020 for THPO grants-in-aid.[29]

Certified Local Government Program

NHPA requires that at least 10% of the annual HPF funding provided to each SHPO be sub-granted to local government entities known as certified local governments (CLGs).[30] A CLG is a unit of local (town, city, or county) government that has undergone a certification process administered by NPS and the respective state SHPO, involving demonstration of a commitment to

[24] 54 U.S.C. §302902(b)(3). The matching share is 40% of the total budget, not 40% of the federal award amount.

[25] 54 U.S.C. §302902(c)(4).

[26] NPS, *Budget Justifications and Performance Information – Fiscal Year 2021*, at https://www.doi.gov/sites/doi.gov/files/uploads/fy2021-nps-budget-justification.pdf. Hereinafter referred to as NPS, *FY2021 Budget Justification.*

[27] In 1992, Congress directed the Secretary of the Interior to establish a National Tribal Preservation Program (P.L. 89–665, Title I, §101(e)(5), as amended by P.L. 102-575, Title XL, §4007(2), October 30, 1992, 106 Stat. 4758.). Funding for the Tribal Historic Preservation Office (THPO) grant program was first provided in FY1996.

[28] Of the total annual appropriations provided to the THPO program, approximately 81% is divided equally among all THPOs and the remaining 19% is apportioned based on the area of *tribal lands* as defined in NHPA.

[29] NPS, *FY2021 Budget Justification*.

[30] Regulations regarding the transfer of funds to certified local governments (CLGs) can be found at 36 C.F.R. §61.7.

historic preservation. Under this certification process, local governments must meet NPS guidelines that include the establishment of a "qualified" historic preservation commission, inventory maintenance and surveys of local historic resources, and enforcement of state or local historic preservation laws, as well as additional requirements that may be established at the state level.

Although CLGs receive at least 10% of the total annual apportionment from their respective SHPOs, states may provide more than the required minimum 10% pass-through should they choose to do so. States typically award grants to individual CLGs through a competitive application process established by the SHPO.[31]

National Register of Historic Places

The National Register of Historic Places (or National Register) stands as the United States' "official list" of properties significant in "American history, architecture, archeology, engineering and culture."[32] The National Register is maintained by the Department of the Interior (DOI) and in particular by NPS under the authority of NHPA, as amended.[33] NHPA requires the Secretary of the Interior to maintain the register, develop guidelines and regulations for nominations, consider appeals, make determinations of eligibility of properties, and make the National Register accessible to the public. NPS has developed standards and guidelines to help federal, state, and local governments prepare nominations for the register.[34]

SHPOs, THPOs, or federal historic preservation offices typically coordinate nominations for the National Register. Property owners, historical societies, preservation organizations, government agencies, and other interested parties work through these offices to determine whether a given property meets the requisite criteria for listing, at which point a completed nomination and recommendation are submitted to NPS for review. NPS is to decide whether a property should be listed within 45 days after receiving a completed nomination.[35] Benefits of listing on the National Register include honorary designation, access to federal preservation grant funds for planning and rehabilitation activities, possible tax benefits, and required application of Section 106 review should a federal or federally assisted action affect the property. Listing of a property places no restrictions on what nonfederal owners may do with their property, up to and including destruction of the property. Under federal regulations, should a property no longer meet the

[31] Regulations at 36 C.F.R. §61.7(b) clarify that "[e]ach CLG is eligible to receive funds from the 10 percent (or greater) CLG share of the State's total annual HPF grant award. However, the SHPO need not award funds to all CLGs."

[32] 54 U.S.C. §302101.

[33] 54 U.S.C §§302101-302108.

[34] For more information, see NPS, "National Register of Historic Places," at https://www.nps.gov/subjects/nationalregister/index.htm.

[35] Regulations for the National Register can be found at 36 C.F.R. §60. In March 2019, NPS issued a proposed rule that would modify nomination procedures for the National Register (84 *Federal Register* 6996, March 1, 2019). Among other provisions, the proposed changes would extend the timeline for the Keeper of the National Register to respond to appeals, and ensure that if the owners of a majority of the land area in a proposed historic district object to listing, the proposed district will not be listed over their objection. In the report language for the FY2020 Interior Appropriations bill, both the House and Senate expressed concern regarding these proposed changes, indicating that such modifications "are not required" and that NPS "failed to appropriately conduct meaningful" consultation with appropriate stakeholders (H.Rept. 116-100 and S.Rept. 116-123).

criteria for listing, the property shall be removed from the National Register.[36] Currently, more than 94,000 properties are listed on the National Register.

National Historic Landmarks Program

The National Historic Landmarks (NHL) program—like the National Register—is a federal recognition program administered by NPS. The agency is responsible for overseeing the nomination process for new NHLs and providing technical assistance to existing landmarks. NHLs are places of national significance to the history of the United States (as opposed to National Register properties, which, according to NPS, "are primarily of state and local significance").[37] The Historic Sites Act of 1935 created the NHL program, and the National Historic Preservation Act Amendments of 1980 clarified the role of NPS as the entity responsible for overseeing the designation of NHLs.[38] All NHLs are also listed in the National Register. Funding for the NHL program falls under the National Register program, and NHLs are eligible for federal investment tax credits, technical assistance, and consideration in federal undertakings, similar to other properties on the National Register. With regard to federal undertakings, however, NHLs have a higher standard for protection than properties listed on the National Register. Whereas Section 106 of NHPA, applicable to properties on the National Register, requires only that agencies "take into account" the effects of an undertaking on historic properties, Section 110(f) of the law, applicable to NHLs, requires that agencies "to the maximum extent possible undertake such planning and actions as may be necessary to minimize harm to the landmark."[39]

National Trust for Historic Preservation

Congress chartered the National Trust for Historic Preservation (or National Trust) in 1949.[40] It is a private nonprofit corporation, responsible for encouraging the protection and preservation of historic American sites, buildings, and objects that are significant to the cultural heritage of the United States. The trust provides technical and educational services, promotes historic preservation activities, and administers several historic preservation grant programs.

Congress authorized federal funding for the National Trust in the NHPA of 1966. Federal funding for the trust largely continued until FY1996, at which point the Interior Appropriations bill conference report stated that the managers agreed "to a 3-year period of transition for the National Trust for Historic Preservation to replace federal funds with private funding."[41] From FY1998 through FY2001, there was no federal funding for the National Trust. In FY2002, Congress appropriated from the HPF $2.5 million to use as an endowment to maintain and preserve National Trust historic properties.[42] In FY2003, Congress appropriated an additional

[36] 36 C.F.R. §60.15(a)(1).

[37] NPS, "National Historic Landmarks Frequently Asked Questions," at https://www.nps.gov/subjects/nationalhistoriclandmarks/faqs.htm.

[38] P.L. 96-515, Title II, §201(a), December 12, 1980, 94 Stat. 2988.

[39] 54 U.S.C. §§306107 and 306108.

[40] P.L. 81-408, ch. 755, §1, 63 Stat. 927.

[41] H.Rept. 104-402.

[42] P.L. 107-63. H.Rept. 107-103 indicates that Congress provided funding for the establishment of a National Trust Historic Sites Fund "to assist in the perpetual care and maintenance of the historic sites of the National Trust." The report language also established terms for the endowment account, including spending rates and record-keeping requirements. Congress has not appropriated federal funds to the endowment fund since FY2004, but the Trust continues to issue matching grants from the fund in support of historic properties.

$2.0 million from the HPF for the endowment, and added $0.5 million more in FY2004.[43] In FY2005, Congress stopped funding the National Trust, and currently the organization's funding comes largely from private donations.[44]

Federal Historic Preservation Tax Incentives Program

In 1976, Congress passed the Tax Reform Act, which provided tax incentives for owners of historic structures to consider rehabilitation and preservation over demolition.[45] Some argued that the law prior to 1976 encouraged the demolition and redevelopment of historic properties over their preservation.[46]

Since then, tax law has continued to evolve into what is now the Federal Historic Preservation Tax Incentives program, which includes historic tax credits (HTCs) administered by the Internal Revenue Service (IRS) and NPS in partnership with SHPOs. The HTC program encourages private investment in historic preservation and rehabilitation initiatives by providing a 20% federal tax credit to property owners who undertake substantial rehabilitation of a certified historic structure, while maintaining its historic character.[47] Eligible buildings include those listed on the National Register of Historic Places, or architecturally contributing to a National Register district, that are rehabilitated for income-producing purposes. The program previously included a separate 10% rehabilitation credit for the rehabilitation of nonhistoric, nonresidential buildings built before 1936; however, the 2017 tax revision repealed this credit.[48] Since 1976, over 44,000 projects have been completed under the program, with more than $96 billion leveraged in private investment for the rehabilitation of historic properties.[49]

National Heritage Areas Program[50]

Since 1984, Congress has designated 55 national heritage areas (NHAs) to recognize and assist efforts to protect, commemorate, and promote natural, cultural, historic, and recreational resources that form distinctive landscapes.[51] NHAs are partnerships among NPS, states, and local communities, in which NPS supports state and local conservation through federal recognition, seed money, and technical assistance. Congress has established heritage areas for lands that are regarded as distinctive because of their resources, their built environment, and the culture and history associated with the land and its residents. In a majority of cases, NHAs have had a

[43] P.L. 108-7 and P.L. 108-108, respectively.

[44] The National Trust is still authorized to receive grants, at the Secretary of the Interior's discretion. 54 U.S.C. §302903.

[45] P.L. 94-455, 90 Stat. 1525.

[46] Stephen F. Weber, "Historic Preservation Incentives of the 1976 Tax Reform Act: An Economic Analysis," National Bureau of Standards, Technical Note 980, U.S. Department of Commerce, February 1979, at https://nvlpubs.nist.gov/nistpubs/Legacy/TN/nbstechnicalnote980.pdf.

[47] 26 U.S.C. §47.

[48] P.L. 115-97.

[49] NPS, "Federal Tax Incentives for Rehabilitating Historic Buildings: Annual Report for Fiscal Year 2018," March 2019, at https://www.nps.gov/tps/tax-incentives/taxdocs/tax-incentives-2018annual.pdf.

[50] For a more complete discussion of national heritage areas, see CRS Report RL33462, *Heritage Areas: Background, Proposals, and Current Issues*, by Mark K. DeSantis and Laura B. Comay.

[51] Six new national heritage areas (NHAs) were established in 2019 as part of P.L. 116-9. In addition to the federal heritage areas, other heritage areas have been designated by local governments or announced by local preservation groups, and a number of states have developed their own heritage area programs.

fundamental economic activity as their foundation, such as agriculture, water transportation, or industrial development.

No comprehensive statute establishes criteria for designating NHAs or provides standards for their funding and management. Rather, particulars for each area are provided in the area's enabling legislation. Congress designates a management entity, usually nonfederal, to coordinate the work of the partners. NHAs are not part of the National Park System, in which lands are primarily federally owned and managed.

Historic Federal Property Disposal Programs[52]

Real property disposal is the process by which federal agencies identify and then transfer, donate, or sell real property they no longer need. The federal government has several programs that enable state, county, and local governments, as well as nonprofit organizations, to acquire at no cost properties deemed excess to the needs of a federal agency. Two programs in particular address the disposal of historic properties under federal ownership: the Historic Surplus Property Program and the National Historic Lighthouse Preservation Act Program.[53]

Historic Surplus Property Program

The NPS Historic Surplus Property Program is administered in partnership with the General Services Administration (GSA) and was authorized under the Federal Property and Administrative Services Act of 1949, as amended.[54] When federally owned historic buildings are no longer needed by their respective agencies, the GSA declares the buildings to be surplus.[55] Applicants interested in obtaining these properties—which must be listed, or eligible for listing, in the National Register—submit an application to the GSA. Eligible applicants include state and public agencies, tribal entities, and nonprofit organizations. NPS then makes a formal recommendation to the GSA (or the Department of Defense, in the case of military properties) to effect the transfer of property. Once conveyed, a property must be managed and maintained in accordance with the terms of the transfer and the Secretary of the Interior's Standards for Rehabilitation.[56]

National Historic Lighthouse Preservation Act Program

The NPS also administers a program to oversee the transfer of surplus historic lighthouses under federal ownership. Federal lighthouses and light stations were previously transferred to eligible entities through the Historic Surplus Property Program. In 2000, however, Congress passed the National Historic Lighthouse Preservation Act (NHLPA), an amendment to NHPA.[57] The NHLPA provides a mechanism for the U.S. Coast Guard (USCG) to dispose of historic lighthouses that are listed, or determined eligible for listing, in the National Register. Similarly to other historic

[52] For a general discussion of federal property disposal programs, see CRS Report R44377, *Disposal of Unneeded Federal Buildings: Legislative Proposals in the 114th Congress*, by Garrett Hatch.

[53] Section 110 of NHPA requires federal agencies to identify, evaluate, and protect historic properties under their ownership. Once an agency reports a property as excess to the General Services Administration, the agency is responsible for both identifying historic resources (in what is referred to as a *Report of Excess*) and for managing those resources until the property is transferred or conveyed.

[54] P.L. 81-152, 63 Stat. 377 (codified in scattered sections of 40 U.S.C., 41 U.S.C., and 50 U.S.C.).

[55] In the case of military base closures, surplus determinations are made by the U.S. Department of Defense.

[56] 36 U.S.C. §67. The Secretary of the Interior's Standards for Rehabilitation are the regulatory criteria used to determine if a rehabilitation project qualifies as a certified rehabilitation for the purposes of various federal programs.

[57] P.L. 106-355, 54 U.S.C. §§305101–305106.

federal properties deemed to be excess, the NHLPA directs the USCG to issue a *Report of Excess* for historic light stations to the GSA, which then releases a notice of availability. At this point, interested parties looking to acquire the light station in question—at no cost—work with NPS to submit a formal application, which is then reviewed by an internal NPS review committee that makes a recommendation to the Secretary of the Interior and the GSA Administrator. If there are no interested parties—or if no applicant meets the requirements set forth by the review committee—the property is offered for sale by competitive bid or auction.

National Historic Networks

Congress occasionally has passed legislation authorizing NPS to establish national networks aimed at coordinating the preservation and education efforts of various places, museums, and interpretive programs associated with specific historical moments or movements in U.S. history. To date, Congress has authorized the establishment of three such networks: the National Underground Railroad Network to Freedom (P.L. 105-203), the African American Civil Rights Network (P.L. 115-104), and the Reconstruction Era National Historic Network (P.L. 116-9). Legislation in the 116th Congress (H.R. 1179 and S. 2827) would establish a fourth network, the African-American Burial Grounds Network. These laws have provided that network sites can include federal, state, local, and privately owned properties, although inclusion in the network requires consent from property owners. Congress has authorized the Secretary of the Interior to produce and disseminate educational materials and provide technical assistance to network sites, and to develop an official symbol or logo for use across the network.

Federal Historic Preservation Grant Programs

The federal government currently supports historic preservation through a variety of grant programs. The largest source of funding for federal historic preservation programs is the HPF, which currently funds state, tribal, and local historic preservation, African American civil rights grant programs, grants to underrepresented communities, tribal heritage grants, the Save America's Treasures program, disaster recovery grants, historic revitalization grants, and grants to historically black colleges and universities (HBCUs).

Several other historic preservation grant programs are funded through annual appropriations under other NPS and non-NPS accounts rather than through the HPF. These programs include grants for Japanese American confinement sites, Native American grave protection and repatriation, and preservation and acquisition grants for American battlefields. For a complete list of these programs and their guidelines, refer to the **Appendix**.

National Historic Designations

Table 1, below, compares selected designations used by Congress and the executive branch for historic properties and sites. The table provides information on the entity that confers each designation (e.g., Congress, the President, the Interior or Agriculture Secretary); statutory authorities for the designation; the agency or agencies that administer each type of area (also noting designations for which the area typically is under nonfederal management); selected characteristics of the areas; and examples of each type of area. Designations for nonfederally owned and managed sites are listed according to the agency with administrative responsibility for the designation (e.g., responsibility for evaluating site qualifications and providing technical and/or financial assistance to designated sites).

Table 1. Comparison of Selected Historic Designations

Designation	Authorizing Entity	Authority for Designation[a]	Administering Agency[b]	Selected Characteristics	Examples
National Monument	Congress, President	Congressional designations: Individual statutes Presidential proclamations: Antiquities Act of 1906 (54 U.S.C. §§320301-320303)	NPS, BLM, FS, FWS, other agencies	• Sites include both natural areas and areas of cultural, historical, and archaeological significance. • Presidentially proclaimed monuments must be on federal lands that contain historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest. The President is to reserve "the smallest area compatible with the proper care and management of the objects to be protected" (54 U.S.C. §320301(b)). • Allowed uses vary according to the establishing law or proclamation and the management framework of the administering agency.	Petroglyph National Monument (NM), P.L. 101-313 Pullman National Monument (IL), Presidential Proclamation no. 9233
National Historical Park	Congress	Individual statutes	NPS	• Preserve sites related to events or people of national historical significance. • Generally extend beyond a single building or property.	Blackstone River Valley National Historical Park (RI), P.L. 113-291, §3031 Cedar Creek and Belle Grove National Historical Park (VA), P.L. 107-373
National Historic Site	Congress or (for earlier sites) the Secretary of the Interior[c]	Congressional designations: Individual statutes Secretarial designations: Historic Sites Act of 1935 (54 U.S.C. §§320101 et seq.)	NPS, FS, nonfederal entities[d]	• Most sites feature buildings of historical interest, such as the homes of notable individuals, public buildings where significant events occurred, or military forts.	Little Rock Central High School National Historic Site (AR), P.L. 105-356 Grey Towers National Historic Site (PA), P.L. 108-447, §348
National Historic Trail	Congress	National Trails System Act of 1968, as amended (16 U.S.C. §§1241-1251), plus individual statutes	NPS, FS, BLM, nonfederal entities[e]	• Identify and protect travel routes of national historic significance. • Can include land or water segments, marked highways paralleling the route, and sites that together form a chain or network along the historic route.	Oregon National Historic Trail (ID, KS, MO, NE, OR, WY), P.L. 95-625 Star-Spangled Banner National Historic Trail (DC, MD, VA), P.L. 110-229

Designation	Authorizing Entity	Authority for Designation[a]	Administering Agency[b]	Selected Characteristics	Examples
National Heritage Area	Congress	Individual statutes	Nonfederal entities	• Congress has established national heritage areas in support of community-centered initiatives to preserve historical, cultural, and natural resources. • Areas remain under state, local, and/or private control, while receiving financial and technical aid from NPS.	Appalachian Forest National Heritage Area (MD, WV), P.L. 116-9, §6001. Mississippi Delta National Heritage Area (MS), P.L. 111-11, §8008
National Historic Landmark	Congress, Secretary of the Interior	National Historic Preservation Act of 1966, as amended (NHPA; 54 U.S.C. §§300101 et seq.)	Mainly nonfederal entities[f]	• There are more than 2,500 national historic landmarks, selected for exceptional value or quality in illustrating or interpreting the heritage of the United States. • Most national historic landmarks are nonfederal properties that remain in nonfederal ownership and management. NPS provides technical but not financial assistance. Properties may qualify for historic preservation grants and historic tax credits. • Under Section 110(f) of NHPA (54 U.S.C. §306107), prior to approving any federal undertaking that may directly and adversely affect a national historic landmark, federal agencies must engage in planning and action to minimize harm to the landmark. • Under NHPA, all national historic landmarks are also added to the National Register of Historic Places.	Medgar and Myrlie Evers House National Historic Landmark (MS) (designated 2017) Deer Medicine Rocks National Historic Landmark (MT) (designated 2011) Juliette Gordon Low Historic District (GA) (designated 1965)

Designation	Authorizing Entity	Authority for Designation[a]	Administering Agency[b]	Selected Characteristics	Examples
National Register of Historic Places	Congress, Secretary of the Interior	NHPA	Mainly nonfederal entities[g]	• More than 94,000 properties are listed on the National Register. Properties are selected based on their significance in American history, architecture, archeology, engineering, and culture. • Most are nonfederal properties that remain in nonfederal ownership and management. NPS provides technical but not financial assistance. Properties may qualify for historic preservation grants and historic tax credits. • Under Section 106 of NHPA (54 U.S.C. §306108), prior to approving any federal undertaking that may directly and adversely affect a property listed on the National Register, federal agencies must engage in planning and action to minimize harm to the property.	Daniel Pratt Historic District (AL) (designated 1984) Nathaniel Irish House (PA) (designated 1972) Mountain Meadows Massacre Site (UT) (designated 2011) Oakland City Auditorium (NE) (designated 2019)

Source: Congressional Research Service (CRS).

a. In addition to these statutory authorities for designation, the agencies more broadly administer lands under their "organic acts" and other statutory authorities.

b. BLM = Bureau of Land Management; FS = U.S. Forest Service; FWS = U.S. Fish and Wildlife Service; NPS = National Park Service. The column lists the agency or agencies that typically serve as primary administrators for each type of area. Although an agency serves as the overall administrator for a given area, some parcels of land within the area's boundaries may be owned and/or managed by another federal agency; by states, tribes, or localities; or by private owners.

c. The Secretary of the Interior has the authority to designate national historic sites under the Historic Sites Act of 1935 (54 U.S.C. §§320101 et seq.). However, this authority was limited in 1992 by an amendment to the Historic Sites Act stipulating that Congress must authorize the appropriation of any funds used to carry out secretarial designations. Since then, only Congress has established national historic sites.

d. NPS administers 76 national historic sites and1international historic site (St. Croix Island on the Canadian border). FS manages one national historic site (Grey Towers National Historic Site in Pennsylvania). An additional nine national historic sites are nonfederally owned and administered but are NPS "affiliated areas," receiving technical and/or financial assistance from NPS.

e. For national historic trails, a single federal agency typically serves as the overall administrator, but lands along the trail may be owned and managed by multiple federal agencies, state and local governments, private groups, and individuals. For a more detailed discussion on the National Trails System, see CRS Report R43868, *The National Trails System: A Brief Overview*, by Mark K. DeSantis and Sandra L. Johnson.

f. Some national historic landmarks are on federal lands and are managed by the federal agency that controls the land.

g. Some properties listed on the National Register are on federal lands and are managed by the federal agency that controls the land.

Federal Funding for Historic Preservation

The federal government supports historic preservation through direct appropriations for federally protected sites and grants to nonfederal entities. Grant funding is typically provided to NPS-administered accounts within the annual Interior, Environment, and Related Agencies Appropriations bill.[58] These accounts provide technical and financial assistance to state, local, and tribal governments, educational institutions, and nonprofit organizations with the goal of protecting cultural resources and promoting historic preservation activities across the United States. The majority of the funding is split between two NPS accounts: the HPF account, the primary source of funding for federal historic preservation programs, and the National Recreation and Preservation (NR&P) account, which provides funding for a variety of other congressionally authorized grant programs. Funding for historic preservation programs is not limited to these two accounts, however, nor does Congress exclusively fund grant programs as part of the Interior appropriations bill.[59] **Table 2** and **Table 3** provide FY2016-FY2020 appropriations figures and the FY2021 budget request for programs funded as part of the HPF and NR&P accounts.

HPF Appropriations: FY2016-FY2020 and FY2021 Request

In 2016, Congress reauthorized deposits of $150 million annually into the HPF for FY2017 through FY2023. Congress has never appropriated the full $150 million for the HPF since its establishment; however, regular appropriations to NPS's HPF account increased each year from FY2016 to FY2020.[60] The FY2021 budget justification for NPS requests $40.7 million for HPF—a roughly 66% reduction in funding from FY2020 enacted amounts.[61] This request would provide funding only for the core grant-in-aid programs to SHPOs ($26.9 million) and THPOs ($5.7 million), as well as $8 million for grants to HBCUs.[62] It would not provide funding for additional competitive or non-formula-based grant programs.

[58] At times, Congress also has provided funding as part of supplemental emergency appropriations legislation, such as in the aftermath of natural disasters.

[59] For example, Battlefield Acquisition grants for the American Battlefield Protection Program are funded using Land and Water Conservation Fund funds appropriated through NPS's Land Acquisition and State Assistance account. The Maritime Heritage Grant program receives funding through the Department of Transportation's Maritime Administration.

[60] Overall appropriations to the HPF for FY2019 totaled $152.7 million, $2.7 million over the authorized amount of $150 million. However, only $102.7 million was provided through the regular appropriations process. Congress provided an additional $50 million as part of the Additional Supplemental Appropriations for Disaster Relief Act of 2019 (P.L. 116-20) for necessary expenses related to the consequences of Hurricanes Florence and Michael, and Typhoon Yutu. This marks the first time that Congress has funded the HPF above the authorized amount, albeit through combined supplemental and regular appropriations.

[61] NPS, *FY2021 Budget Justification*.

[62] The statutorily required 10% pass-through to certified local governments (CLGs) is included within the FY2021 budget request for Grants-in-Aid to States. The Grants-in-Aid to Tribes account includes support for the competitive Tribal Heritage Grant program.

Table 2. Appropriations for the Historic Preservation Fund (HPF)
(in millions of dollars)

	FY2016	FY2017	FY2018	FY2019	FY2020[a]	FY2021 Request
State Historic Preservation Offices (SHPOs)[b]	46.9	47.9	48.9	49.7	52.7	26.9
Tribal Historic Preservation Offices (THPOs)[c]	10.0	10.5	11.5	11.7	13.7	5.7
Competitive Grants						
African American Civil Rights	*8.0*	*13.0*	*13.0*	*14.5*	*15.5*	—
New Civil Rights Grant Program[d]	—	—	—	—	*2.5*	—
Underrepresented Communities	*0.5*	*0.5*	*0.5*	*0.8*	*0.8*	—
Paul Bruhn Historic Revitalization Grant Program	—	—	5.0	5.0	7.5	—
Historically Black Colleges and Universities	—	4.0	5.0	8.0	10.0	8.0
Save America's Treasures	—	5.0	13.0	13.0	16.0	—
Supplemental Appropriations	—	—	50.0[e]	50.0[f]	—	—
TOTAL HPF	**65.4**	**80.9**	**146.9**	**152.7**	**118.7**	**40.7**

Sources: CRS, with data from annual NPS Budget Justifications for FY2018-FY2021. Figures for each of FY2016-FY2019 were taken from the volume published two years following the fiscal year in question (e.g., for FY2016, figures are from FY2018 document) and reflect actual totals. Figures for FY2020 reflect enacted totals (P.L. 106-94). Totals for grant programs funded under the "Competitive Grants" activity are from joint explanatory statements for FY2016-FY2020.

Notes: Totals may not sum to exact amount due to rounding. "—" indicates no federal funding was provided/requested for a given program.

a. Figures for FY2016-FY2019 reflect actual totals. FY2020 figures reflect enacted totals.

b. SHPO funding includes the statutorily required 10% pass-through to certified local governments.

c. Tribal Heritage Grants are funded through moneys reallocated from the Tribal Preservation Office line item.

d. As part of the FY2020 funding bill, Congress provided funding for a new grant program that would "preserve and highlight the sites and stories associated with securing civil rights for All Americans, including women, American Latino, Native American, Alaska Native, Native Hawaiian, and LGBTQ Americans." (H.Rept. 116-100.)

e. In FY2018, Congress appropriated $50 million for necessary expenses related to the consequences of Hurricanes Harvey, Irma, and Maria pursuant to the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (P.L. 115-123).

f. In FY2019, Congress appropriated $50 million for necessary expenses related to the consequences of Hurricanes Florence and Michael and Typhoon Yutu pursuant to the Additional Supplemental Appropriations for Disaster Relief Act of 2019 (P.L. 116-20).

National Recreation and Preservation Appropriations: FY2016-FY2020 and FY2021 Request

In addition to grant funds through the HPF account, Congress provides funding to other NPS-administered historic preservation grant programs under the National Recreation and Preservation (NR&P) account. This account provides for a broad range of activities related to historic and cultural preservation, as well as programs for recreational activities, natural resource

conservation, environmental compliance, operations of the Office of International Affairs, and national heritage areas. Administration of grants funded through the NR&P account and HPF grant administration are included within the NR&P account under the "Cultural Programs" line item and the sub-activity "Grants Administration."[63] Congress appropriates direct funding for NPS-administered grant programs under the Cultural Programs line item. The Administration requested $33.9 million for NR&P in FY2021—a roughly 52% reduction from FY2020 enacted amounts.

Table 3. Appropriations for NPS's National Recreation and Preservation (NR&P) Account

(in millions of dollars)

	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021 Request
Natural Programs[a]	14.2	14.2	14.2	14.2	15.8	11.5
International Park Affairs	1.6	1.6	1.6	1.6	1.9	1.0
Environmental Compliance and Review	0.4	0.4	0.4	0.4	0.4	0.4
Heritage Partnership Programs	19.8	19.8	20.3	20.3	21.9	0.4[b]
Grants Administration[c]	2.0	2.0	2.0	2.0	—	—
Preserve America[d]	—	—	—	—	—	—
Cultural Programs	24.6	24.6	25.1	25.6	31.1	20.7
National Register Programs	*16.8*	*16.8*	*16.8*	*16.8*	*16.6*	*16.0*
National Center for Preservation, Technology, and Training	*2.0*	*2.0*	*2.0*	*2.0*	*2.0*	*1.8*
Native American Graves Protection and Repatriation Grants (NAGPRA)[e]	*1.7*	*1.7*	*1.7*	*1.7*	*1.9*	—
Japanese American Confinement Site Grants	*2.9*	*2.9*	*2.9*	*2.9*	*3.2*	—
American Battlefield Protection Program (ABPP) Assistance Grants[f]	*1.2*	*1.2*	*1.2*	*1.2*	*1.2*	—
American Indian and Native Hawaiian Art and Culture Grants[g]	—	—	*0.5*	*1.0*	*1.5*	—
9/11 Memorial Grants[h]	—	—	—	—	*2.0*	—
Grants Administration	—	—	—	—	*2.8*	*2.9*
TOTAL NR&P	**62.6**	**62.6**	**63.6**	**64.1**	**71.2**	**33.9**

Sources: CRS, with data from the annual NPS Budget Justifications for FY2018-FY2021. Figures for each of FY2016-FY2019 were taken from the volume published two years following the fiscal year in question (e.g., for FY2016, figures are from FY2018 document) and reflect actual totals. Figures for FY2020 reflect enacted totals.

[63] Prior to FY2020, "Grants Administration" was its own line item within the NR&P account. The FY2020 and FY2021 NPS budget requests proposed a transfer of the Grants Administration line item to the Cultural Programs sub-activity. Congress approved this transfer in FY2020. The sub-activity funding for "Grants Administration" is now listed under Cultural Programs for FY2020 and FY2021.

Notes: Totals may not sum to exact amount due to rounding. "—" indicates no federal funding was provided/requested for a given program.

a. For FY2016-FY2017, the Federal Lands to Parks program was funded under a separate line item—Recreation Programs. Since FY2018, this program has been consolidated under the Natural Programs sub-activity. Amounts for FY2016-FY2017 include funding for Federal Lands to Parks.

b. The FY2021 NPS budget request proposes eliminating funding for national heritage area Commissions and Grants.

c. The FY2020 and FY2021 budget requests propose a transfer of the Grants Administration line item to the Cultural Programs sub-activity. Congress approved this transfer in FY2020. The sub-activity funding is listed under Cultural Programs for both FY2020 and FY2021.

d. Funding for Preserve America was initially included as part of the HPF account before being moved to the NR&P account in FY2010. Since FY2010 was the last year that Preserve America received funding, it is included here to reflect the most recent account in which the program was funded.

e. NAGPRA funding under the NR&P account is intended for the NAGPRA grant program, not general operating support for the larger NAGPRA program, which is traditionally funded as part of the Operations of the National Park System line item under the Resource Stewardship sub-activity. The grant program was authorized by Congress in 1990 as part of the Native American Graves Protection and Repatriation Act (P.L. 101-601).

f. ABPP Grants under NR&P are only for the ABPP Planning Grant Program. The ABPP Land Acquisition Grant Program receives appropriations under the Land Acquisition and State Assistance line item from Land and Water Conservation Fund funds. Congress authorized this program in 1996 with the American Battlefield Protection Act (P.L. 104-333, Div. I, Title VI, §604) and has subsequently reauthorized the program multiple times.

g. Congress provided funding for this program in FY2018, FY2019, and FY2020 pursuant to the authority granted in the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, as amended (P.L. 99-498). Per the accompanying joint explanatory statement for the FY2018 Interior appropriations law, P.L. 115-141, Congress appropriated $500,000 in funding for "the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development" (Joint Explanatory Statement on H.R. 1625, *Congressional Record*, daily edition, vol. 164, part 2, March 22, 2018, p. H2615). The committee directed the Department of the Interior to "consider funding the Northwest Coast arts program as outlined by the memorandum of agreement between the Institute of American Indian Arts and the Sealaska Heritage Institute." The FY2019 appropriations law included an additional $500,000 for a total of $1 million program cost. In the accompanying conference report, Congress directed these funds to be "utilized consistent with the direction outlined in the explanatory statement accompanying P.L. 115-141" (H.Rept. 116-9). The FY2020 joint explanatory statement provided $1.5 million for this grant program (Joint Explanatory Statement on H.R. 1865/P.L. 116-94, p. 597).

h. The FY2020 Interior appropriations bill includes $2 million for a new competitive grant program, as authorized by the 9/11 Memorial Act (P.L. 115-413).

Selected Issues for the 116th Congress

Historic preservation programs are of perennial interest to Congress and have been the subject of congressional oversight and legislation in the 116th Congress. Some Members of Congress support proposals to eliminate a federal government role in both administering and financing historic preservation programs, leaving such programs to be sustained by other levels of government or by private support. Others feel that a federal role in supporting historic preservation should be maintained or expanded. Similarly, some advocates believe there may be an inherent or increased tension between preservationist goals and federally controlled or licensed infrastructure projects.[64]

The majority of federal grant programs for historic preservation receive funding through the annual appropriations process. Members of Congress as well as both current and past

[64] For example, see Christopher Castaneda, "History Beneath the Surface: Natural Gas Pipelines and the National Historic Preservation Act," *The Public Historian* 26, no. 1 (2004): 105-22. doi:10.1525/tph.2004.26.1.105.

Administrations have expressed various opinions as to how federal funding for these programs should be allocated and at what levels. Both the FY2020 and the FY2021 budget requests from NPS would have significantly reduced funding for the HPF and would provide no funding for African American civil rights grant programs, grants to underrepresented communities, the Save America's Treasures program, or historic revitalization grants.

In response to the FY2020 budget proposal, the House Subcommittee on National Parks, Forests, and Public Lands of the Committee on Natural Resources held oversight hearings in April 2019 on the spending priorities and mission of NPS. During these hearings, some Members expressed concern that the proposed reduction in grant funding would impact the ability of communities to protect and maintain culturally and historically important resources.[65] Others—including witnesses from NPS—expressed the position that "core" NPS priorities such as infrastructure and the NPS maintenance backlog should take priority over historic preservation when considering the appropriation of federal funds.

Other issues Congress may consider are specific to NHPA and current historic preservation laws and regulations. For instance, some have argued that the "stop, look, and listen" approach under Section 106 of NHPA does not provide adequate protection for historic resources, since the law only establishes a procedural requirement for federal agencies.[66] According to a study commissioned by the National Trust for Historic Preservation in 2010, NPS reported to Congress that only 2% of all SHPO reviews for Section 106 compliance included findings of adverse effects to historic properties.[67] For those undertakings that are deemed to have an adverse effect on a given historic property, the agency in question is only required to consider these effects—with no explicit legal mandate requiring them to address these potential impacts. In other words, although agencies are compelled to consult with the SHPO/THPO to develop solutions to mitigate effects, agency officials are not required to pursue the solutions, regardless of any adverse effects. As a result, some preservation advocates have charged that NHPA fails in its purported mission to protect cultural and historic sites.[68]

Others suggest that Section 106 compliance results in unnecessary and costly delays and have suggested that in some cases, opponents of specific federal projects may invoke Section 106 procedural steps in the hopes of delaying approval for a project—sometimes to the point of impacting a project's feasibility.[69] Although federal regulations provide certain ways for agencies to tailor the Section 106 process to their needs, some stakeholders have asserted that these options

[65] U.S. Congress, House Natural Resources, National Parks, Forests, and Public Lands, *Examining the Spending Priorities and Mission of the National Park Service*, 116th Cong., April 3, 2019.

[66] Brody Hinds, "Twenty-Five Years Later: The Amendments to the National Historic Preservation Act and Tribal Consultation," *American Indian Law Review* 42, no. 1 (2017), pp. 141-71, at https://www.jstor.org/stable/26492275. Federal courts have referred to both NHPA and the National Environmental Policy Act (NEPA) as "stop, look, and listen" statutes. Their purpose is to establish a process of consideration for alternative solutions, but not mandate that the permitting agency pursue a solution that might arise from this process. For more context on the "stop, look, and listen" principle, see Narragansett Indian Tribe v. Warwick Sewer Auth., 334 F.3d 161, 166 (1st Cir. 2003) (quoting Muckleshoot Indian Tribe v. U.S. Forest Serv., 177 F.3d 800, 805 (9th Cir. 1999) (*per curiam*)).

[67] Leslie E. Barras, "Summary" in *Section 106 of the National Historic Preservation Act: Back to Basics*, 2010, p. 3, at http://www.preservationnation.org/information-center/law-and-policy/legalresources/additional-resources/Back-to-Basics-Summary.pdf.

[68] Amanda M. Marincic, "The National Historic Preservation Act: An Inadequate Attempt to Protect the Cultural and Religious Sites of Native Nations," *Iowa Law Review 103*, no. 1 (2018), pp. 1777-1809, at https://ilr.law.uiowa.edu/assets/Uploads/ILR-103-4-Marincic.pdf.

[69] Thomas F. King, *Saving Places that Matter: A Citizen's Guide to the National Historic Preservation Act* (Walnut Creek, CA: Left Coast Press, Inc., 2007), p. 18 ("The power of Section 106 is largely the power to delay a project and make it more costly than its proponents can tolerate ... ").

are time-consuming to implement and not flexible enough for undertakings that involve new or emerging technologies.[70] Multiple bills have been introduced to exempt or limit NHPA reviews for certain projects, such as rail and transit infrastructure projects and Federal Communications Commission construction projects for communications facilities following a major disaster.[71]

Many of the programs that directly or indirectly support historic preservation also have received attention in recent years. For example, in 2013, the Federal Railroad Administration published a study that concluded "there is no consistent approach on how to address the National Register eligibility of railroad corridors."[72] Although federal regulations outline the criteria for inclusion of a property on the National Register, the report states that inconsistent standards still abound, due to the multitude of entities conducting National Register evaluations. Another program of congressional interest has been the National Heritage Areas program. Legislation has been introduced in recent Congresses to establish a National Heritage Areas System governing the designation, management, and funding of NHAs, to replace the stand-alone approach currently in place.[73] Additionally, some Members—as well as past and current Administrations—have expressed interest in ensuring that NHAs eventually become financially self-sufficient and in limiting the federal funding for long-standing areas.[74]

In addition, Congress often considers bills to designate specific properties or areas as historically important, under various designations. For example, in the 116th Congress, P.L. 116-9 included provisions that designated three new historical sites as units of the National Park System and six new national heritage areas, as well as stand-alone provisions that recognized the historical importance of sites across the United States.[75] Although many of the programs described in this report provide for properties to receive historical designation administratively, Congress has at

[70] U.S. Congress, House Committee on Natural Resources, Subcommittee on Oversight and Investigations, *Examining Impacts of Federal Natural Resources Laws Gone Astray*, 115th Cong., 1st sess., July 18, 2017, H.Hrg. 115-16 (Washington: GPO, 2017), p. 16. (Testimony from Amos J. Loveday, Ph.D: "While provisions for 'tailoring' of undertakings are available to agencies, taking advantage of them is often arduous and time consuming. For example, it required almost 5 years to craft the Nationwide Programmatic Agreements the [Federal Communications Commission] uses for towers. Moreover, the processes spelled out in 36 C.F.R. 800.14 are too cumbersome to be useful for undertakings that involve emerging technology, or industries subject to rapid change.")

[71] Recent examples in the 115th Congress include H.R. 4845, which would have exempted Federal Communications Commission (FCC) communications projects from NHPA review in the aftermath of a major disaster or presidentially declared emergency; H.R. 5378 and S. 2576, which would have required the FCC to make a determination whether certain activities by licensees are considered "undertakings" under NHPA; and—from the 114th Congress—S. 769, which would have exempted improvements to, maintenance, and rehabilitation of railroad or rail transit lines from (among other requirements) Section 106 review.

[72] Federal Railroad Administration, "Streamlining Compliance with Section 4(f) of the Department of Transportation Act and Section 106 of the National Historic Preservation Act for Federally Funded Railroad Infrastructure Repair and Improvement Projects," March 2013, at https://www.fra.dot.gov/eLib/details/L04483.

[73] See H.R. 1049 and S. 3217 in the 116th Congress, H.R. 1002 in the 115th Congress, H.R. 581 in the 114th Congress, H.R. 445 in the 113th Congress, and H.R. 4099 in the 112th Congress.

[74] See H.Rept. 111-180, H.Rept. 112-151, H.Rept. 113-551, and H.Rept. 114-632 for congressional language on NHA self-sufficiency in Interior appropriations bills. In the FY2020 NPS budget justification, the Administration proposed to cut the budget for the Heritage Partnerships Program entirely, stating, "The National Park Service encourages national heritage area managers to continue to use the designation, which continues in perpetuity, to facilitate sustainable funding from local and private beneficiaries." See NPS, *Budget Justifications and Performance Information Fiscal Year 2020*, p. NR&P-40, at https://www.doi.gov/sites/doi.gov/files/fy2020-nps-justification.pdf.

[75] P.L. 116-9 §§2301-2303 designated the Medgar and Myrlie Evers Home National Monument, Mill Springs Battlefield National Monument, and the Camp Nelson Heritage National Monument as units of the National Park System; §2301 designated the Appalachian Forest NHA, Maritime Washington NHA, Mountains to Sound Greenway NHA, Sacramento-San Joaquin Delta NHA; Santa Cruz Valley NHA, and Susquehanna NHA; and §9008 recognized the historical importance of the Quindaro Townsite by designating it as a National Commemorative Site.

times conferred individual designations in law. Certain programs or designations require congressional action to establish new areas or to designate properties as historically significant.

Appendix. Selected Federal Grant Programs for Historic Preservation

Table A-1 is an overview of selected federal historic preservation grant programs. This overview focuses on programs with the primary mission of historic preservation and is not a complete representation of all federal grant programs that support historic preservation activities.[76] Most of the programs listed here are subject to annual appropriations and therefore may not be currently funded, despite some programs having congressional authorization to administer grants. Programs authorized or funded in FY2020 for the first time may not be listed below. For example, as part of the FY2020 funding bill (P.L. 116-94), Congress provided funding for a new civil rights grant program that would preserve and highlight the sites and stories associated with women, American Latino, Native American, Alaska Native, Native Hawaiian, and LGBTQ Americans.[77] NPS has not yet published eligibility requirements or program guidelines. P.L. 116-94 also authorized two new grant programs as part of the American Battlefield Protection Program (ABPP): a battlefield interpretation modernization grant program and a battlefield restoration grant program.[78] As these new programs have yet to receive appropriations from Congress, they are not listed below.

[76] Other federal grants programs provide funding for a variety of activities that may include historic preservation but are not explicitly authorized for that purpose.

[77] Language regarding the new grant program can be found in H.Rept. 116-100.

[78] P.L. 116-94, Div. P, Title VII, §703.

Table A-1. Selected Federal Grant Programs for Historic Preservation

Program	Authorization	Type	Match Requirement [Federal : Nonfederal]	Eligible Entities	Program Details
HISTORIC PRESERVATION FUND (HPF) PROGRAMS					
State Historic Preservation Office (SHPO) Grants	54 U.S.C. §302902	Formula[a]	3 : 2[b]	SHPOs of 50 states plus the District of Columbia and territories.	Activities may include surveys and inventories, National Register nominations, preservation education, architectural planning, historic structure reports, community preservation planning, and physical preservation of historic buildings, among others. Typically, SHPOs do not use these funds to issue sub-grants for individual historic preservation projects or entities but rather fund their own operational and administrative costs and programmatic activities.
Tribal Historic Preservation Office (THPO) Grants	54 U.S.C. §302906	Formula[c]	3 : 2	Federally recognized tribes that have signed agreements with the National Park Service (NPS) designating them as having an approved THPO.	Activities funded through the program include staff salaries, archeological and architectural surveys, review and compliance activities, comprehensive preservation studies, National Register nominations, educational programs, and other preservation-related activities.
Certified Local Government (CLG) Grants	54 U.S.C. §302902(c)(4)	Formula	Various	CLGs, which are units of local (town, city, or county) government that have undergone a certification process involving demonstration of a commitment to historic preservation.	NHPA requires that at least 10% of the annual HPF funding provided to each SHPO be sub-granted to CLGs.[d] States typically award grants to individual CLGs through a competitive application process established by the SHPO. Specific requirements and eligibility for CLG grants are defined by individual SHPOs.

Program	Authorization	Type	Match Requirement [Federal : Nonfederal]	Eligible Entities	Program Details
Tribal Heritage Grants	54 U.S.C. §3027	Competitive	Not required[e]	Federally recognized Indian tribes, Alaska Natives, and Native Hawaiian organizations.	Funding is provided as part of the THPO line item. NPS reallocates a portion of these moneys to support project grants under the program. Activities funded include planning, development, and research projects for preservation of tribal cultural resources, including surveys, inventories, oral histories, educational programs, architectural services, historic structure reports, preservation plans, and more.
African American Civil Rights Grants	Not authorized in legislation[f]	Competitive	Not required	SHPOs, federally recognized tribes, Alaska Natives, and Native Hawaiian organizations, local governments (including CLGs), and nonprofits.	Program to preserve the sites and stories of the civil rights movement. Grant funds are awarded through two separate application processes: one for physical preservation projects and another for historical projects aimed at surveying, documenting, and interpreting significant sites and moments of the civil rights movement of the 20th century.
Underrepresented Community (URC) Grants	Not authorized in legislation[g]	Competitive	Not required	SHPOs, federally recognized tribes, Alaska Natives, Native Hawaiian organizations, and CLGs.	Program aimed at surveying and documenting historic properties associated with communities underrepresented on the National Register of Historic Places and in the National Historic Landmark Program.[h]

Program	Authorization	Type	Match Requirement [Federal : Nonfederal]	Eligible Entities	Program Details
Paul Bruhn Historic Revitalization Grants Program	Not authorized in legislation[i]	Competitive	Not required (sub-grant programs may require match)[j]	SHPOs, THPOs, CLGs, and nonprofits.	Program supports the physical preservation and rehabilitation of properties listed on—or eligible for listing on—the National Register that are located within rural communities. For the purposes of this program, *rural* is defined according to Bureau of the Census parameters as populations under 50,000.[k] The rehabilitation projects are awarded through a sub-grant program, whereby the applicant serves as a pass-through entity—or *prime recipient*—administering funds to eligible sub-recipients in its jurisdiction. Grants are intended to be distributed to multiple rural preservation projects; therefore, individual grants are not allowed to be awarded to only one sub-grantee.
Historically Black Colleges and Universities (HBCU) Preservation Grants	54 U.S.C. §302101 note[l]	Competitive	Varied requirements[m]	Accredited HBCUs.	Funds physical preservation of historical buildings, sites, and structures, as well as pre-preservation studies, architectural plans, and reports. Funds may only be awarded for preservation projects that address buildings or structures already listed in the National Register of Historic Places as of the application deadline.
Save America's Treasures[n]	54 U.S.C. §3089[o]	Competitive	1 : 1	State, local, or tribal governments, educational institutions, nonprofits, and federal agencies funded under the Interior appropriations bill with the exception of NPS.[p]	Program provides preservation and/or conservation assistance to nationally significant collections and historic property. According to the NPS guidelines, "historic collections and properties" include artifacts, museum collections, documents, sculptures, and other works of art, as well as historic districts, buildings, sites, and structures.

Program	Authorization	Type	Match Requirement [Federal : Nonfederal]	Eligible Entities	Program Details
Preserve America	54 U.S.C. §3111[q]	Competitive	1 : 1	Designated Preserve America Communities, as well as SHPOs, THPOs, and CLGs.[r]	Supports preservation efforts through heritage tourism, education, and historic preservation planning. While still authorized, this program has not been funded by Congress since FY2010.
Emergency Supplemental Grants	Various[s]	Various	Various	Varies, although eligible entities typically have been SHPOs and THPOs.	Occasionally, Congress has appropriated emergency supplemental funding to the HPF for states and tribes to address damages incurred to historic resources in the aftermath of natural disasters.
NATIONAL RECREATION and PRESERVATION (NR&P) GRANTS					
Japanese American Confinement Site (JACS) Grants	P.L. 109-441[t]	Competitive	2 : 1[u]	Private nonprofits; educational institutions; state, local, and tribal governments; and other public entities working to preserve World War II Japanese American confinement sites and their history.	Preservation and interpretation of U.S. confinement sites where Japanese Americans were detained during World War II. The initial bill expressly identified 10 internment sites eligible for the program, while also making other confinement sites eligible if determined to be historically significant by the Secretary of the Interior.[v]
Native American Graves Protection and Repatriation Act (NAGPRA) Grants	25 U.S.C. §3008	Competitive and noncompetitive[w]	Not required	Museums with possible NAGPRA collections, Native Hawaiian organizations, and Indian tribes as defined in NAGPRA. Under NAGPRA, *Indian tribe* means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]).	NPS administers two types of NAGPRA grant awards: Consultation/Documentation grants and Repatriation grants. Consultation/Documentation grants support the efforts of museums, Indian tribes, and Native Hawaiian organizations to consult on and document NAGPRA-related human remains and cultural items in nonfederal collections. Repatriation grants are intended to assist in the cost associated with the packing, transportation, contamination removal, reburial, and/or storage of NAGPRA-related human remains and cultural items.

Program	Authorization	Type	Match Requirement [Federal : Nonfederal]	Eligible Entities	Program Details
National Center for Preservation Technology and Training Grants	54 U.S.C. §305304	Competitive	Not required	Universities, nonprofit organizations, and government agencies.	Program funds research into new technologies or into improving existing technologies to preserve cultural resources. Grant recipients undertake innovative research and produce technical reports.
American Battlefield Protection Program (ABPP) Planning Grants	54 U.S.C. §308102	Competitive	Not required	Groups, institutions, organizations, or governments (local, state, and tribal) sponsoring preservation projects at historic battlefields. Any battlefield on American soil is eligible for this grant.	ABPP planning grants support projects that include site identification and documentation, planning and consensus-building projects, and educational programs. Planning grants are not awarded for land acquisition or capital improvements.
ADDITIONAL HISTORIC PRESERVATION GRANTS					
American Battlefield Protection Program Battlefield Acquisition Grants	54 U.S.C. § 308103	Competitive	1 : 1	State and local governments. Eligible sites are limited to Revolutionary War, War of 1812, or Civil War battlefield land.[x]	Grants for fee simple acquisition of eligible battlefield land or the acquisition of permanent, protective interests (easements) in battlefield land. Funding for the program is appropriated from the Land and Water Conservation Fund.[y]
National Maritime Heritage Grant Program[z]	54 U.S.C. § 308703	Competitive[aa]	1 : 1	SHPOs, THPOs, local governments, nonprofits.	Grants for education and preservation projects aimed at preserving maritime resources and increasing awareness and appreciation for the maritime heritage of the United States. The grant program is administered by the National Maritime Heritage Program of NPS in partnership with the Maritime Administration (MARAD). Funding for the program is provided, as available, through MARAD's Vessel Operations Revolving Fund from proceeds generated by the sale or scrapping of obsolete vessels of the National Defense Reserve Fleet. Project funds are disbursed directly to SHPOs who make subgrants to applicants.

Source: Congressional Research Service.

Notes:

a. The apportionment formula for state, tribal, and local government historic preservation programs was developed by NPS in accordance with NHPA and regulations at 36 C.F.R. §61. The Tier 1 apportionment formula is for annual appropriations up to $20 million, Tier 2 is for annual appropriations from $20 million to $50 million, and Tier 3 is for annual appropriations higher than $50 million. A full description of the HPF apportionment formula can be found within the NPS *Historic Preservation Fund Grant Manual* at https://www.nps.gov/preservation-grants/HPF_Manual.pdf (pp. 2-1 to 2-6).

b. 54 U.S.C. §302902(b)(3). Note: The nonfederal matching share is 40% of the total budget, not 40% of the federal award amount.

c. Of the total annual appropriation provided to the THPO program, approximately 81% is divided equally among all THPOs and the remaining 19% is apportioned based on the area of the tribal lands as defined in NHPA.

d. Regulations regarding the transfer of funds to CLGs can be found at 36 C.F.R. §61.7.

e. A nonfederal match is not required as part of the application process; however, according to the FY2018 application guidance issued by NPS, "preference will be given to applications that show community commitment through nonfederal match and partnership collaboration." NPS, "FY 2018 Tribal Heritage Grant Program," at https://www.nps.gov/thpo/tribal-heritage/downloads/FY2018TribalHeritageGrantsGuidance.pdf.

f. In FY2016, Congress directed NPS to establish a competitive grant program "to preserve the sites and stories of the Civil Rights movement" as part of the annual Interior appropriations bill (P.L. 114-113, Div. G, Title I, December 18, 2015, 129 Stat. 2532). Funds have been appropriated for this program every year since FY2016.

g. In FY2014, Congress directed NPS to establish a grant program aimed at surveying and documenting historic properties associated with communities underrepresented on the National Register of Historic Places and in the National Historic Landmark program (joint explanatory statement on H.R. 3547, Consolidated Appropriations Act, 2014, *Congressional Record*, vol. 160, part 2 (January 15, 2014), p. H974). From FY2014 to FY2018, Congress appropriated $500,000 annually for the URC program. In FY2019 and FY2020, funding was increased to $750,000.

h. Prior to FY2014, less than 8% of the then-roughly 86,000 sites included on the National Register were associated with African American, American Latino, Asian American, American Indian, and other minority communities.

i. Congress first provided funding for this program in FY2018 as part of the annual Interior appropriations bill (P.L. 115-141).

j. Matching funds on behalf of the prime recipient are not required under the application guidelines; however, the ability to provide a match may be considered as part of the evaluation process.

k. U.S. Census Bureau, "Defining Rural at the U.S. Census Bureau: American Community Survey and Geography Brief," December 2016, at https://www.census.gov/content/dam/Census/library/publications/2016/acs/acsgeo-1.pdf.

l. In 1988, NPS established the HBCU Preservation Program to document, preserve, and stabilize historic structures on HBCU campuses. Congress authorized $29 million in funding for the program in 1996 as part of the Omnibus Parks and Public Lands Management Act of 1996 and later amended the law in 2003, authorizing an additional $10 million in appropriations for each of FY2003 through FY2008 (P.L. 104-333, Div. I, Title V, §507, November 12, 1996, 110 Stat. 4156-4157; and P.L. 108-7 , Div. F, Title I, §150, February 20, 2003, 117 Stat. 245). Although additional funding was authorized in 2003, Congress did not appropriate the full $10 million in each of those years. Instead, Congress appropriated $0 in FY2003, $3 million in FY2004, $3.5 million in FY2005, $3 million in FY2006, and $0 in FY2007 and FY2008 (figures based on enacted totals not actuals). Congress provided stand-alone appropriations in the amounts of $4 million and $5 million for the program in FY2017 and FY2018, respectively. The program was again reauthorized in March 2019 as part of the John D. Dingell, Jr., Conservation, Management, and Recreation Act to receive $10 million for each of FY2019 through FY2025 (P.L. 116-9, Div. I, Title II, Subtitle E, §2402, March 12, 2019).

m. The FY2018 grant cycle did not require a nonfederal match; however, past iterations of the program have required varying levels of matching funds.

n. Grants are administered by NPS in partnership with the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum and Library Services.

o. The program was initially created in 1998 as a public-private partnership between President Clinton's White House Millennium Council and the National Trust for Historic Preservation to protect "America's threatened cultural treasures." The White House Millennium Council was created under Executive Order 13072, "White House Millennium Council," 63 *Federal Register* 6041-6043, February 5, 1998. Congress later authorized the program as part of the Omnibus Public Land Management Act of 2009, which authorized $50 million in appropriations for each fiscal year, to remain until expended. From FY1999 through FY2010, annual appropriations fluctuated from a high of $35 million in FY1999 to a low of $20 million in FY2009. Congress did not provide appropriations funding for the program from FY2011 through FY2016; however, the program has been funded every year since FY2017. Most recently, Congress provided $13 million in appropriations for both FY2018 and FY2019.

p. 54 U.S.C. §308901(2). According to NPS, grants will not be available for work on sites or collections owned by NPS. Other federal agencies not funded by the Interior appropriations bill that are collaborating with a partner may submit applications through a nonprofit partner.

q. The program was initially created under Executive Order 13287, "Preserve America," 68 *Federal Register* 10635-10638, March 5, 2003. Congress then authorized the program in legislation as part of the 2009 omnibus public lands bill (P.L. 111-11, Title VII, Subtitle D, §7302(f), March 30, 2009, 123 Stat. 1214-1216). While the program was officially authorized in 2009, that same year Congress expressed concern regarding the effectiveness of the program in the explanatory statement on the FY2009 appropriations bill and subsequently did not provide funding (U.S. Congress, House Committee on Appropriations, *Omnibus Appropriations Act, 2009*, committee print, 111th Cong., January 1, 2010, pp. 1109-1110). Congress did appropriate $4.6 million in the following year (FY2010); however, Congress has not provided funding since then, although the program is still authorized.

r. To be considered for designation as a Preserve America Community, a community, tribal area, or neighborhood applies to the Advisory Council on Historic Preservation, which—in consultation with the Secretary of the Interior—determines eligibility based on established criteria. The criteria include the degree to which the heritage of a given community, tribal area, or neighborhood is currently protected and celebrated, the use of the area's historic assets, and the ongoing educational and heritage tourism programs in place (54 U.S.C. §311103).

s. In 2006, Congress appropriated emergency supplemental funding to the HPF for SHPOs in states affected by Hurricanes Katrina and Rita. P.L. 109-234 provided $43 million for the HPF for hurricane recovery, to remain available until the end of FY2007: $40 million for a program for repair and rehabilitation of damaged historic structures; and $3 million for Section 106 assistance. P.L. 110-28 appropriated an additional $10 million to remain available until the end of FY2008. In 2013, P.L. 113-2 provided $50 million (pre-sequestration, which resulted in $47.5 million post-sequestration) in response to Hurricane Sandy. The funds were for assistance in grants administration, technical assistance, planning, and completion of reviews required under Section 106, as well as for disaster relief grants. Most recently, in 2018, Congress appropriated $50 million to SHPOs and THPOs for FY2018 to provide relief for historic preservation projects impacted by Hurricanes Harvey, Irma, and Maria (P.L. 115-123, Title VII, February 9, 2018, 132 Stat. 88).

t. P.L. 109-441, December 21, 2006, 120 Stat. 3288. Previously codified at 16 U.S.C. §461 note.

u. The authorizing legislation for JACS grants requires a 50% nonfederal match, but NPS application guidelines require a 2:1 federal to nonfederal match.

v. The 10 sites identified in statute are Gila River, Granada, Heart Mountain, Jerome, Manzanar, Minidoka, Poston, Rohwer, Topaz, and Tule Lake. No additional sites have been identified by Congress or the Secretary of the Interior.

w. Consultation/Documentation grants are competitive grants, awarded annually. Repatriation grants are noncompetitive and are considered on a rolling basis to the extent that funds are available. Although NAGPRA Repatriation grants are considered noncompetitive, there is an evaluation process by which eligible applicants (i.e., those that meet eligibility requirements and submit a complete application) are categorized into one of three categories based on whether their proposal "Exceeds" (Category 1), "Meets" (Category 2), or "Does not meet" (Category 3) outlined grant criteria. If funding is available, Category 1 proposals are approved, while Category 2 proposals may be funded should additional funding exist after Category 1 proposals are reviewed. Category 3 proposals are not funded. See "FY2019 NAGPRA Repatriation Grant Notice of Funding Opportunity" at https://www.grants.gov/web/grants/view-opportunity.html?oppId=311524.

x. Only Civil War battlefields listed in the Civil War Sites Advisory Commission's *1993 Report on the Nation's Civil War Battlefields* and Revolutionary War and War of 1812 battlefields listed in the *2007 The Revolutionary War and War of 1812 Historic Preservation Study* are eligible for this grant.

y. Specifically, the appropriation goes to the agency's Land Acquisition and State Assistance account, under the Federal Land Acquisition activity (although the grants are not for federal acquisition but for state and local acquisition). See *National Park Service, Budget Justifications and Performance Information, Fiscal Year 2019*, p. LASA-8, at https://www.nps.gov/aboutus/upload/FY2019-NPS-Budget-Justification.pdf. For more information on the Land and Water Conservation Fund, see CRS Report RL33531, *Land and Water Conservation Fund: Overview, Funding History, and Issues*, by Carol Hardy Vincent.

z. Congress authorized this program in 1994 as part of the National Maritime Heritage Act (P.L. 103-451, November 2, 1994, 108 Stat. 4770). An initial round of grants was awarded in 1998, but the program was discontinued the following year due to environmental and worker safety issues associated with the sale of obsolete vessels. An amendment to the FY2010 National Defense Authorization Act subsequently permitted the Administrator of the Maritime Administration to divert Vessel Operations Revolving Fund proceeds "for use in the preservation and presentation to the public of maritime heritage property of the Maritime Administration" (P.L. 111-84, Div. C, Title XXXV, §3509, Oct. 28, 2009, 123 Stat. 2721). Funding for the program returned in FY2014 and continued through FY2018.

aa. Funds are distributed as direct grants to SHPOs, who administer the grant program at the state level and make funds available to applicants via sub-grants. These sub-grants are awarded through a competitive process.

bb. MARAD is an agency of the Department of Transportation that supports the U.S. merchant marine, improves port efficiency, and maintains an adequate shipbuilding and repair infrastructure.

Author Information

Mark K. DeSantis
Analyst in Natural Resources Policy

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