

April 2004

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(Board members who also are officers are listed on Page 2)



ACRA Board attending the 2004 Spring Board meeting in Albany, New York.

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By Ian Burrow

ACRA's Mission

Our mission is to promote the professional, ethical and business practices of the cultural resources industry, including all of its affiliated disciplines, for the benefit of the resources, the public, and the members of the association by:

- promoting and supporting the business needs of cultural resources practitioners;
- promoting professionalism in the cultural resources industry;
- promoting and providing educational and training opportunities for the cultural resources industry; and
- promoting public awareness of cultural resources and its diverse fields.

A basic tenet of ACRA's philosophy is the cost efficiency of private-sector firms in meeting the need for expertise in cultural resource management. ACRA is strongly opposed to unfair competition from tax-supported contracting programs. We believe that a greater benefit to society, and to the resources, derives from the existence of a healthy community of tax-paying, job-generating, private-sector CRM businesses.

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MESSAGE FROM THE PRESIDENT

THE ARCHAEOLOGICAL PROBLEM IN CRM

Submitted By Christopher D. Dore, ACRA President

The recent attacks against Section 106 of the National Historic Preservation Act (NHPA) by our client industries (e.g. telecommunications, mining, oil/gas) are largely driven by the fact that cultural resource compliance takes too long. Time translates into money and it is financial concerns that drive our clients' business decisions. The overall costs of compliance, however, are not really due to our direct costs, but instead due to the costs of project delays. Many times the delay of a single day costs more than the entire cost of cultural compliance!

More often than not, it is the archaeological component of our compliance efforts that take the largest amount of time. Conducting identification survey work is time consuming and very labor intensive. Additionally, a higher proportion of archaeological sites is found eligible for listing in the National Register of Historic Places (National Register) than other types of resources. This is primarily due to Criterion D.

When archaeological sites are found to have almost any type of data (and integrity) they are usually determined to be eligible. This certainly violates the intent of the National Register to represent the most significant national heritage resources and may even violate the letter of the criterion. Criterion D states that a site must contain information that is "important in prehistory or history." This language was added specifically to restrict the listing of sites (Townsend 1994). What does 'important' really mean? I believe that in the context of the National Register important means that sites have data to contribute to *important* research questions. This is fundamentally different than having data that can contribute to *any* research question. Additionally, if there are many other sites that have

these same data, the value of the site is dramatically diminished. Fundamentally, the Section 106 process is about values: what is the value of a particular resource in relation to the societal value of a project that may affect the resource.

One SHPO, at a conference I recently attended, reported that in her state approximately ninety percent of archaeological resources that were evaluated were determined to be eligible for listing! When ninety percent of resources are considered eligible, we have a fundamental problem. It is definitionally impossible that nearly all resources represent the most significant of our nation's resources. Why is this happening? Two major problems are the lack of scientific rigor and inconsistency.

Under Criterion D, contexts are driven by research concerns. Many of our archaeological CRM practitioners don't read research journals, attend research meetings, or contribute to the body of scientific knowledge. Without a detailed understanding of current research questions and the data needed to address these questions, how can a resource be adequately evaluated? We must ensure that our archaeologists making important eligibility evaluations under Criterion D are active researchers and well versed in current scientific literature. A friend of mine who is a senior archaeologist for a federal government agency has been so appalled by the quality of consultant National Register evaluations that cross his desk, he has actually considered going into private practice working for project proponents 'debunking' the significance recommendations of other CRM consultants. He believes that this may be the only way to ensure scientific and compliance rigor in private-sector archaeology, and that such an

undertaking would benefit the discipline of archaeology overall.

Evaluations also tend to be inconsistent. While detailed guidance does exist for conducting evaluations (e.g. the National Register bulletin series), there is a large amount of variability in the application of this guidance. This includes variability in the evaluation process as well as in the resulting recommendations we make. One person may conclude that a particular resource is eligible while another may conclude that a virtually identical resource is not. This inconsistency is a huge liability for our industry, because it erodes credibility, violates the intent of the NHPA, and it is easily interpreted as self-serving, if not unethical, by our clients and the general public.

Thus, it is not surprising that our clients are upset and are trying to change Section 106 of the NHPA. The most recent attacks focus on eligibility determinations and it has been suggested that only resources that are listed in the National Register be considered in the Section 106 process. Since most archaeological sites are not formally listed, but simply are determined eligible for listing, a large number of resources will drop out of the process. There currently are 76,933 resources listed in the National Register. Of these, only 5,152 (6.7 percent) are archaeological sites!

At the end of February I represented ACRA at *A Working Conference on Historic Preservation and Transportation: Enhancing and Streamlining Compliance with Section 106 of the National Historic Preservation Act*. The working conference was attended by about 40 individuals from state departments of transportation, SHPOs, THPOs, FHWA, AASHTO, NCSHPO, and the private sector. ACRA was invited to represent the perspective of the private-sector CRM industry. In discussions on streamlining, the identification and evaluation issues I

have identified in this column were called “the archaeological problem.” Some solutions to aspects of the problem were identified. One of our member firms, URS Corporation, presented an expert system tool developed with Transportation Research Board funding to apply historic context data against the traits of resources to make evaluation decisions in a consistent manner. Studies in identifying archaeological resources through the use of remotely sensed satellite imagery, minimizing survey time, are underway by my firm (Statistical Research) with funding from the Department of Defense. I have written about this approach in a previous ACRA Edition (9:01, February 2003). The burden of finding solutions such as these must come from our industry, and come quickly. If we don’t find ways to solve the archaeological problem, our clients will solve it for us by changing the laws and regulations.

It is essential that we take the National Register much more seriously and embrace listing archaeological resources in the National Register. Relying on determined eligible status for Section 106 consideration may no longer be sufficient. When we conduct National Register evaluations of archaeological sites (i.e. “testing”) we have all the data necessary to nominate resources to the register. If resources are truly important enough to recommend them as eligible for listing, we must take the extra time to complete the registration forms, and either initiate the process ourselves, or provide federal land owners with these forms so that they can submit them. This must become a standard part of doing business.

Finally, we also must be prepared to make hard decisions about archaeological resources that in our best professional judgement *do not* meet the criteria for National Register eligibility. If we develop well-researched historic contexts driven by the information needs of our science, the task of

differentiating the truly important resources becomes considerably easier. Plus, in addition to helping define archaeology as a mature scientific endeavor, we gain the trust and confidence of our clients. Most of our clients embrace preserving significant examples of our national heritage. At present, however, they are objecting to costly delays caused by resources that are not truly significant and are frustrated by our industry's inability to consistently identify historic properties based upon sound research. We must take the responsibility to reform our identification and evaluation efforts. If we do, we will find that our clients will willingly give us the time and money to preserve or conduct first-class research on the resources that are truly important.

Townsend, Jan E.
1994 Archaeology and the National Register. *CRM* 17(2):10-12. National Park Service, Washington.

This commentary does not necessarily represent official positions of the American Cultural Resources Association. Have another opinion? Contact ACRA Edition editor Jeanne Harris (ejharris@aol.com).

ACRA at the Society for American Archaeology Conference in Montreal, April 3, 2004

ACRA and SAA co-hosted a cultural resource career exposition at the Montreal conference. More than 25 firms put up displays and had staff on hand to discuss with students and others the realities of careers in CRM. A representative from Hunter Research says that there was much interest shown in the exposition from a wide range of conference attendees. This, the third exposition of its kind at SAA, is now becoming an established event that increases awareness of private sector CRM in the wider archaeological community.

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SMALL BUSINESS ADMINISTRATION PROPOSED CHANGES IN BUSINESS SIZE LIMITS

The Small Business Administration is proposing to change the definition of a small business for the purpose of federal small business set asides from \$6 million gross receipts to 50 or fewer employees. In effect, this means that CRM firms making significantly less than \$6 million will be considered large businesses and unable to compete for the set asides. To find out more and to see how to determine the average number of employees on your payroll (including permanent, part-time, temporary and interns) please follow the links below or go to http://www.sba.gov/advo/laws/law_regalerts.html. The proposed rule is 36 pages and explains how it will determine average payroll for various industries. Comments can be sent to the addresses below before May 18.

Small Business Size Standards;

Restructuring of Size Standards; Proposed Rule

The U.S. Small Business Administration (SBA) is seeking comments on a proposed rule that modifies its small business size standards to define business size in terms of the number of employees of a business concern for most industries and SBA programs. This change will both reduce the number of different size standard levels and simplify size standards and their application to federal government programs. Under this proposal, size standards will range between 50 employees and 1,500 employees, depending on the industry or SBA program.

For a limited number of industries, SBA proposes to establish a maximum average annual receipts amount (referred to as a receipts cap) along with the employee-based size standard. Concerns in those industries that meet the employee-based size standard also cannot exceed a specific receipts cap to qualify as an eligible small business.

To further simplify size standards, SBA also proposes the following:

- 1) modify the size standard for the Surety Bond Guarantee (SBG) Program by replacing the \$6 million size standard with the requirement that the contractor meet the size standard for its primary industry;

- 2) extend the 125,000 barrels per calendar day component of the size standard for petroleum refiners beyond federal government procurement to all federal small business programs using SBA's size standards;

- 3) eliminate the special size standard based on market share for tire manufacturers that applies to only federal government procurements;

- 4) modify three receipts-based size standards and one employee-based size standard for the sale or lease of government property; and

- 5) revise the non-manufacturer size standard applicable to federal procurements from 500 employees to 100 employees, the size standard that applies to wholesale trade businesses for all other SBA programs.

The deadline for submitting comments is May 18, 2004

Proposed rule from the Federal Register - <http://www.acra-crm.org/sbarulechange.pdf>

For Further Information: Contact the SBA's Office of Size Standards at 202-205-6618 or sizestandards@sba.gov

MARCH BOARD MEETING HIGHLIGHTS

By Ian Burrow, ACRA President Elect

The ACRA Board converged on the Crowne Plaza Hotel in Albany, New York, from all over the USA for the 2004 Spring Board Meeting. As a relative newcomer to ACRA's board I was impressed by the very high level of dedication of the members and the high degree of trust that is displayed. The board demonstrates in a very practical way ACRA's ability to work for the CRM industry.

Plans for both the annual conference in Riverside, California (September 30 - October 3, 2004), and the 15th anniversary conference in Washington, D.C. (November 9 - 12, 2005) are well advanced thanks to the work of the Conference Committee and Tom Wheaton. The Washington conference promises to be a milestone: ACRA's first conference was held in the nation's capital, and this return visit will enable the Association to take stock of its history and to showcase the CRM industry to elected officials and agency decision makers.

The 2005 annual conference will also mark the retirement of Tom Wheaton as Executive Director. This is not the place to pay tribute to Tom's many accomplishments, but suffice it to say that ACRA would not be where it is today without his tireless efforts on its behalf.

The Board reviewed the policy on the dissemination of ACRA Edition. This issue will be the last to be placed on the public ACRA web site and ACRA will revert to the previous policy of putting the

newsletter on the Members Only site. A table of contents will be posted on the public site, and hard copies will continue to be sent to State and Tribal Historic Preservation Officers and to the organizations with whom ACRA has a formal liaison. On consideration, the Board now feels that ACRA Edition should really be a member benefit, so join ACRA now!

ACRA, through its Education Committee, continues to work with the SRI Foundation on developing a workshop on the "Business of CRM," which is a product ACRA hopes can be made available at a variety of conferences and venues. Another service ACRA will be providing is a web site listing of academic programs with a CRM component that ACRA feels provide the kind of curriculum that will help students successfully pursue careers in CRM.

Government relations committee has been extremely active, especially its cell tower sub-committee. The Section 106 process is coming under increasing scrutiny in Washington, D.C., from anti-regulatory representatives and interest groups.

The Board Meeting was hosted by Karen Hartgen of Hartgen Archaeological Associates, who also provided for an evening round table discussion on ACRA as a trade association, plus a convivial evening at the Albany Visitor Center and a nearby Brew Pub (very good fish and chips). Consider becoming a board member so you too can enjoy these benefits!

ETHICS IN A TRADE ORGANIZATION

By Ian Burrow, ACRA President Elect

ACRA's mission as a trade organization is to "promote the professional, ethical and business practices of the cultural resources industry, including all of its affiliated disciplines, for the benefit of the resources, the public, and the members of the association." In my view, one of the main things that will distinguish an ACRA member firm from a non-ACRA company in the eyes of our clients, peers, competitors, reviewers and the public, is a clear adherence to ethical standards.

In our competitive and often cash-strapped industry ACRA members are, I suspect, all well aware of the ethical challenges. All of us probably have anecdotal stories of "other" firms (always other firms, of course) doing such things as deliberately underbidding to obtain contracts, using volunteer labor but charging the client the full cost, slanting results to favor a particularly important and insistent client, denigrating competitors, using under-qualified staff, and plagiarizing the work of others.

There are more insidious challenges too. In our legitimate search for new clients who need our services we may come across other trade

associations or groups who can provide us with useful contacts and publicity if we join them. What is our position if such an association has aims antithetical to the conservation of cultural resources? What if it is actively lobbying at local, state or federal level to remove regulations that currently manage and protect cultural resources? Is this a conflict of interest or a mere detail essentially irrelevant to the daily business of CRM?

From its inception, ACRA has had in place a Code of Ethics and Professional Conduct which is available on the website <http://www.acra-crm.org/Ethics.html> (see Page 7), and is reproduced here. Unlike the Register of Professional Archaeologists, which is an individual membership organization just for archaeologists (<http://www.rpanet.org/>), ACRA currently has no formal grievance and censure provisions in its by-laws. Firms are assumed to be members of ACRA because they believe in what it stands for. The ACRA Code of Ethics is a reality check for our members, those thinking of becoming members, and those who are seeking reputable CRM firms.

CODE OF ETHICS AND PROFESSIONAL CONDUCT AMERICAN CULTURAL RESOURCES ASSOCIATION

Preamble

This Code of Ethics and Professional Conduct is a guide to the ethical conduct of members of the American Cultural Resources Association (ACRA). The Code also aims at informing the public of the principles to which ACRA members subscribe. The Code further signifies that ACRA members shall abide by proper and legal business practices, and perform under a standard of professional behavior that adheres to high principles of ethical conduct on behalf of the public, clients, employees, and professional colleagues.

The ACRA Member's Responsibilities to the Public

A primary obligation of an ACRA member is to serve the public interest. While the definition of the public interest changes through ongoing debate, an ACRA member owes allegiance to a responsibly derived concept of the public interest. An ACRA member shall:

- 1) Have concern for the long-range consequences of that member's professional actions.
- 2) Be cognizant of the relevance to the public of that member's professional decisions.
- 3) Strive to present the results of significant research to the public in a responsible manner.
- 4) Strive to actively support conservation of the cultural resource base.
- 5) Strive to respect the concerns of people whose histories and/or resources are the subject of cultural resources investigation.
- 6) Not make exaggerated, misleading, or unwarranted statements about the nature of that member's work.

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The ACRA Member's Responsibilities to Clients

An ACRA member is obligated to provide diligent, creative, honest, and competent services and professional advice to its clients. Such performance must be consistent with the ACRA member's responsibilities to the public interest. An ACRA member shall:

- 1) Exercise independent professional judgment on behalf of clients.
- 2) Accept the decisions of a client concerning the objectives and nature of the professional services provided unless the decisions involve conduct that is illegal or inconsistent with the ACRA member's obligations to the public interest.
- 3) Fulfill the spirit, as well as the letter, of contractual agreements.
- 4) Not provide professional services if there is an actual, apparent, or perceived conflict of interest, or an appearance of impropriety, without full written disclosure and agreement by all concerned parties.
- 5) Not disclose information gained from the provision of professional services for private benefit without prior client approval.
- 6) Not solicit prospective clients through the use of false or misleading claims.
- 7) Not sell or offer to sell services by stating or implying an ability to influence decisions by improper means.
- 8) Not solicit or provide services beyond the level or breadth of the professional competence of its staff or project team.
- 9) Solicit or provide services only if they can responsibly be performed with the timeliness required by its clients.
- 10) Not solicit or accept improper compensation for the provision of judgments or recommendations favorable to its clients.
- 11) Not offer or provide improper compensation as a material consideration in obtaining or sustaining client or prospective client favor.
- 12) Disclose information identified as confidential by its client only if required by law, required to prevent violation of the law, or required to prevent injury to the public interest.

The ACRA Member's Responsibilities to Employees

As an employer, an ACRA member firm has certain responsibilities to its employees, and shall strive to:

- 1) Comply with all applicable employment/labor laws and regulations.
- 2) Provide a safe work environment in compliance with all applicable laws and regulations.
- 3) Appropriately acknowledge work performed by employees.
- 4) Provide opportunities for the professional growth and development of employees.
- 5) Develop clear lines of communication between employer and employee, and provide employees with a clear understanding of their responsibilities.
- 6) Consistently maintain fair, equitable, and professional conduct toward its employees.

The ACRA Member's Responsibilities to Professional Colleagues

An ACRA member shall strive to contribute to the development of the profession by improving methods and techniques, and contributing knowledge. An ACRA member shall also fairly treat the views and contributions of professional colleagues and members of other professions. Accordingly, an ACRA member shall:

- 1) Act to protect and enhance the integrity of the cultural resources profession.
- 2) Accurately and fairly represent the qualifications, views, and findings of colleagues.
- 3) Review the work of other professionals in a fair, professional, and equitable manner.
- 4) Strive to communicate, cooperate, and share knowledge with colleagues having common professional interests.
- 5) Not knowingly attempt to injure the professional reputation of a colleague.

ACRA

EDITION

6150 East Ponce de Leon Ave., Stone Mountain, GA 30083

ACRA's Members-Only Listserv

ACRA now has an online discussion group just for members. "MembersOnly" is a listserv that operates much the same way as ACRA-L, with the exception that it is only available to ACRA members. Its purpose is to offer the board, members, and the executive director a venue to share the latest news from ACRA; promote dialogue between members on current issues; and enable members to post announcements or inquiries.

To subscribe to the list, a member must contact ACRA's Executive Director, Tom Wheaton. Once you have supplied Tom with your e-mail address, he will subscribe you to this list. Contact Tom at 770-498-5159 or e-mail: tomwheaton@newsouthassoc.com.

2004 ACRA EDITION SCHEDULE

DEADLINE	PRODUCTION
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ACRA Edition

is a bi-monthly publication of The American Cultural Resources Association. Our mission is to promote the professional, ethical and business practices of the cultural resources industry, including all of its affiliated disciplines, for the benefit of the resources, the public, and the members of the association.

This publication's purpose is to provide members with the latest information on the association's activities and to provide up-to-date information on federal and state legislative activities. All comments are welcome.

Please address comments to:

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