

August 2005

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



The Athens Room at the Monaco Hotel, site of the 2005 Annual ACRA Conference.

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## 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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## 10TH ANNUAL ACRA CONFERENCE NOVEMBER 8-11, 2005

The 10th Annual ACRA Conference will be held at the Hotel Monaco, Washington D.C. Next year's conference, which will focus on government issues, is scheduled to start one day early, on Wednesday, to afford attendees an opportunity to meet with their legislators.

The Hotel Monaco is the former Tariff Building, built in the mid-nineteenth century. This Registered National Landmark is Washington, DC's first all-marble building. For a preview of the hotel visit [www.monaco-dc.com](http://www.monaco-dc.com)

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## MESSAGE FROM PRESIDENT

### TIME WARP

*Submitted By Ian Burrow*

When I was working in what we then called “Rescue Archaeology” in Britain in the late 1970’s and early 1980’s we cast envious eyes across the Atlantic at the U.S. historic preservation program. What we saw there was a philosophy that placed responsibility for identifying, evaluating and treating historic sites squarely on the shoulders of government agencies whose actions were likely to harm those sites.

In the U.K. at that time there was, you may be surprised to learn, no such responsibility or requirement. To take one example, the Motorway system (equivalent to the American Interstate Highway network), constructed under the authority the Department of Transport, was continuing to cut swathes of destruction across the landscape with minimal or no CRM oversight or resources. The DOT (and this will sound familiar) was legally obliged only to identify sites that were already placed on the statutory “List” of historic buildings, or on the “schedule” of ancient monuments. Both of these registers were widely recognized as being unrepresentative of the actual historic resources of the country.

So I feel as if I’m in a time warp.

The current proposals in the House of Representatives to limit the application of Section 106 of the National Historic Preservation Act to sites already listed on, or formally determined eligible for, the National Register, are nothing less than a disgrace and an abdication of civic responsibility.

If enacted, they will put the U.S. historic preservation program back 40 years, lead to enormous

destruction of known and unknown historic properties, and set a dreadful example for state and local governments and private interests to emulate over the coming years. They will also, as in so many other areas of public policy in these strange times, make the United States the weird exception among the community of developed nations.

I think it is time to take some moral high ground here. I personally believe that the protection of the historic fabric of a nation is of vital importance to its cultural wellbeing. This country, in particular, constantly references its past in formulating its approach to the present and future. It endlessly wrestles with what that past means and how it should influence how we behave today. The physical remains of at least portions of that past have been revered now for well over 100 years. These remains are used, however imperfectly and inaccurately, to convey messages about the past and the present.

More subtly, they create a sense of scale, time and place and connection that truly is harder and harder to discover anywhere else. In a nation of supposedly limitless choice and individual freedom we are creating a homogenized built environment of unappealing blandness and limited choice that puts the stalwart efforts of the 1950’s to shame. Historic resources are a counterpoint to that. Historic Tourism, as we all know, is a booming and profitable industry, and clearly it meets a deep need.

It seems a self-evident truth to me that it is a legitimate and important function of any national government to be actively responsible for the identification, protection, and management of the

historic fabric of that nation. We can argue endlessly (and we do) about the relationship between private property rights and the interests of the People in this and other areas, but the principle remains: history in some sense belongs to all of us, and our elected government has a strong responsibility for its care.

This is why the proposed Section 106 changes are so unacceptable. In the interests of misguided ideology and corporate goals, in the name of "property rights" and "predictability", they abandon civic principle to private entitlement. They say that our government can really no longer be bothered. It cannot be concerned with tracking down the settlements of the earliest humans to explore this part of the world. It is too much trouble to identify the beginnings of agriculture and complex societies. If completely unmarked burial sites have not yet been identified, too bad. The first, elusive, toe-holds of the Spanish, English and French on this continent? Just an annoyance. That 18th century German plank house that everyone knows about? Not important: down it comes.

None of these will be of concern any longer if they lie in the path of an Undertaking, and have been foolish enough not to get themselves nominated, by a slow, expensive and obscurantist process, to the National Register.

Forgive my sarcastic tone, but the stakes are high here

It is scarcely surprising that the currently dominant political mindset should see the reduction or outright elimination of perceived regulatory burdens as a high priority. Reasonable people can agree that the application of Section 106 is not always sensible and logical. Name any bureaucratic and regulatory structure that is always so applied.

The trouble, as I see it, is that we are not facing a political viewpoint that is interested in making adjustments to a system that is less than perfect. We are facing a viewpoint that truly does not see any role

for government (still less for applicants for government permits) in the identification of important historic sites that will be destroyed in our name.

This is the issue, and this is what we must oppose.

Ian Burrow

*(These opinions are entirely my own, and do not necessarily reflect those of ACRA or any other organization or company with which I am associated)*



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## THE 2005 DUES QUESTIONNAIRE RESULTS

*By Tom Wheaton, Executive Director*

The 2005 ACRA dues questionnaire resulted in 70 responses out of a total corporate membership of 133. A few questionnaires were returned after the deadline, but were too late to be counted. Out of the 70, a number did not include information on company size and/or region, shrinking the useable data for some correlations to 66 or 67. As this is my last year putting these data together and the tradition may not be carried on in the future, I will not bother you with calls to please answer all the questions, but it sure would have been useful to have had complete surveys. The return rate

was around 50%, not too bad for such a survey, but still not 100%.

Table 1 presents the percentages of members from the various regions versus company size category in the 2005 responses. Table 2 presents the entire membership for comparison. The distribution of the sample is similar to that of the entire membership, although the smaller firms seem to have responded at a slightly higher rate than the large firms. Companies in the Southeast, Northeast, Southwest and Far West

**Table 1- 2005 Questionnaire Results**

SIZE VS REGION

Sample Size = 67

Dues Category	Far <u>West</u>	Inter- <u>mountain</u>	Mid- <u>Atlantic</u>	<u>Midwest</u>	<u>Northeast</u>	Pacific <u>Rim</u>	<u>Plains</u>	<u>Southeast</u>	<u>Southwest</u>	<b>Total</b>
<100	4.5%	7.5%	0.0%	4.5%	1.5%	0.0%	0.0%	6.0%	1.5%	25.4%
100-250k	0.0%	1.5%	0.0%	1.5%	0.0%	1.5%	1.5%	4.5%	1.5%	11.9%
250-500k	0.0%	1.5%	3.0%	4.5%	0.0%	0.0%	0.0%	4.5%	1.5%	14.9%
500-1mil	1.5%	0.0%	0.0%	1.5%	0.0%	0.0%	0.0%	6.0%	1.5%	10.4%
1-3mi I	6.0%	3.0%	9.0%	4.5%	3.0%	0.0%	0.0%	1.5%	0.0%	26.9%
>3 mil	<u>3.0%</u>	<u>0.0%</u>	<u>1.5%</u>	<u>0.0%</u>	<u>0.0%</u>	<u>0.0%</u>	<u>1.5%</u>	<u>1.5%</u>	<u>3.0%</u>	<u>10.4%</u>
	14.9%	13.4%	13.4%	16.4%	4.5%	1.5%	3.0%	23.9%	9.0%	100.0%

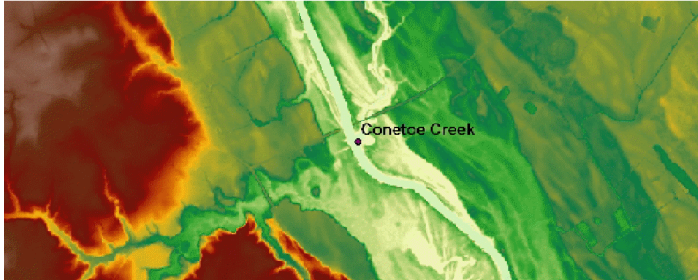
**Table 2- Total Membership in 2004-2005**

SIZE VS REGION

Sample Size = 133

Dues Category	Far <u>West</u>	Inter- <u>mountain</u>	Mid- <u>Atlantic</u>	<u>Midwest</u>	<u>Northeast</u>	Pacific <u>Rim</u>	<u>Plains</u>	<u>Southeast</u>	<u>Southwest</u>	<b>Total</b>
<100	3.8%	6.0%	0.0%	3.0%	3.0%	0.0%	0.8%	6.8%	2.3%	25.6%
100-250k	4.5%	0.8%	2.3%	3.0%	0.8%	0.0%	2.3%	2.3%	3.0%	18.8%
250-500k	0.0%	0.8%	1.5%	3.0%	1.5%	0.0%	0.0%	3.8%	0.8%	11.3%
500-1mil	3.8%	0.8%	0.8%	3.8%	0.0%	1.5%	0.8%	3.0%	0.8%	15.0%
1-3mil	6.8%	1.5%	4.5%	3.0%	0.8%	0.0%	0.0%	2.3%	2.3%	21.1%
>3 mil	<u>0.8%</u>	<u>0.8%</u>	<u>2.3%</u>	<u>0.8%</u>	<u>0.0%</u>	<u>0.0%</u>	<u>0.0%</u>	<u>1.5%</u>	<u>2.3%</u>	<u>8.3%</u>
	19.5%	10.5%	11.3%	16.5%	6.0%	1.5%	3.8%	19.5%	11.3%	100.0%

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responded at a somewhat higher rate than their proportion of the entire membership, and the Intermountain West and Mid-Atlantic at a slightly lower rate. Does this indicate that certain regions were more engaged than others or that ACRA responded better to the needs of certain size categories and regions than others? I hazard a guess that it is the former, rather than the latter.

Table 3 shows the number and distribution of disadvantaged businesses, Section 8a's., woman-owned businesses, etc. All 19 members who have self-certified as being disadvantaged responded to the questionnaire. Most of these firms make less than \$100,000 per year, about what one would expect of a single consultant. What is somewhat surprising is that 21% of these firms make between \$1,000,000 and \$3,000,000, which is the same percentage for the membership as a whole. And like the respondees as a whole, most disadvantaged members are from the Southeast.

**Table 3 Distribution of Disadvantaged Business Members in 2005**

8a/WBE Members Only, 19 responses

<u>Dues Category</u>	<u>Total</u>	<u>As percentage of 8a/WBE</u>	<u>As percentage of entire membership</u>
<100	7	36.8	10.0
100-250k	2	10.5	2.9
250-500k	3	15.8	4.3
500-1mil	2	10.5	2.9
1-3mil	4	21.1	5.7
>3 mil	0	0.0	0.0
Northeast	1	5.3	1.4
Mid-Atlantic	3	15.8	1.8
Plains	0	0.0	0.0
Far West	3	15.8	5.3
Southeast	6	31.6	10.5
Southwest	1	5.3	1.8
Pacific Rim	2	10.5	1.8
Midwest	1	5.3	1.8

Every year since 1997, with the exception of 2004 when a poll was not taken, I have maintained a comparative chart of what members project business to be for the coming year compared to what business actually turned out to be (Chart 1). Things were generally looking up until 2001. Since then the projection decreased much more steeply than the

actuality, perhaps indicating a “bear” market? By 2003, these trends began heading back up, and appear to be leveling off this year without reaching the highs experienced in 2000. If hiring of employees is any indication, then perhaps 2005 will be a better year as more people are planning on hiring new employees than for the past several years.

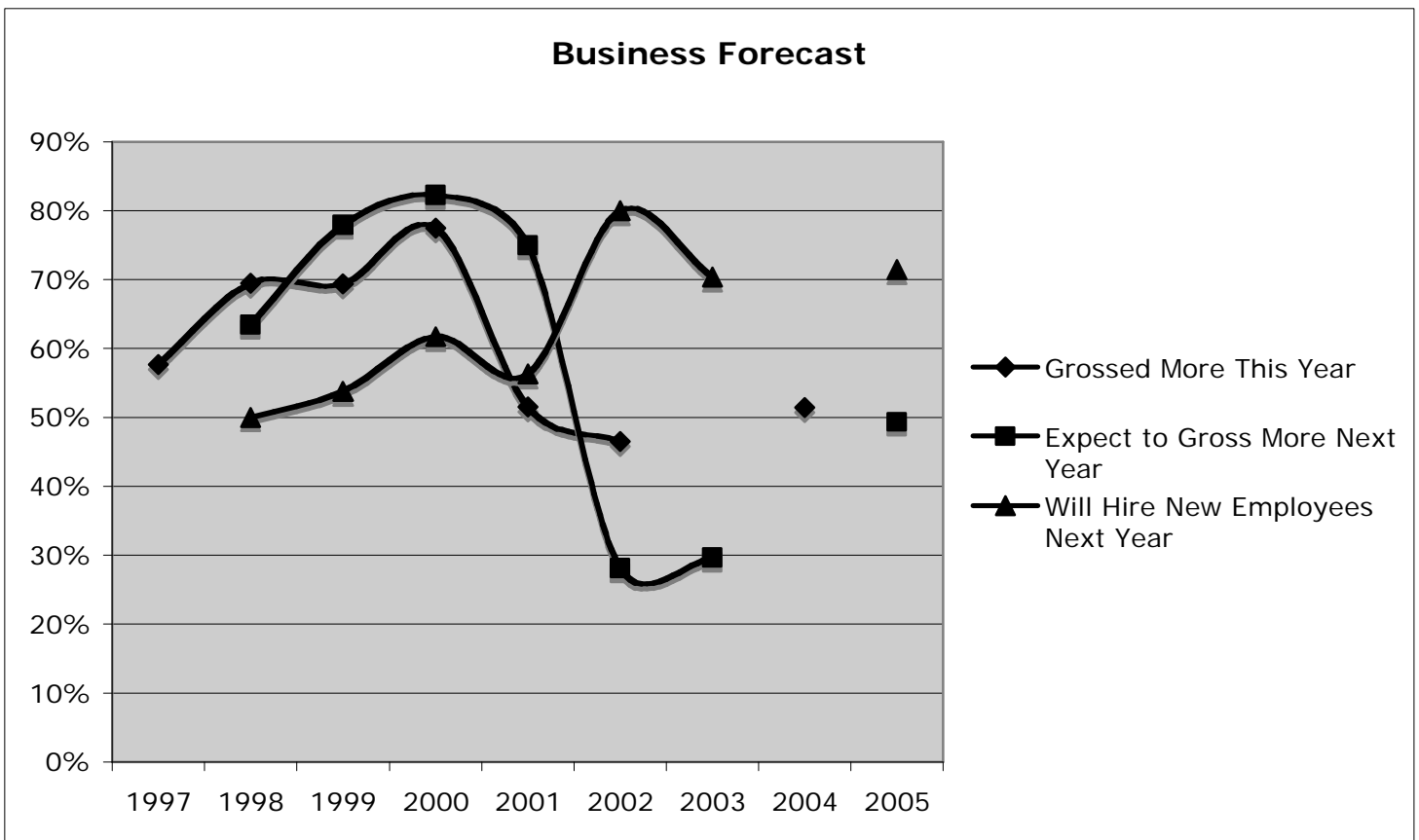


Chart 1- Business History and Forecast (No data collected in 2004)

Table 4 shows that half our members are planning on hiring permanent employees this year, and over half are planning on hiring temporary employees. The average numbers of new hires is 2.3 permanent and 9.1 employees per hiring company. This seems encouraging, and translates into 79 permanent and 375 temporary jobs. Extrapolating that to the entire membership would mean about 160 new permanent jobs and 750 temporary jobs this year. If you have been having trouble finding a good senior level archaeologist or historian this is probably why. We are in a sellers market.

**Table 4- Hiring Projections for 2005**

Projected 2005 <u>Hires</u>	Total Companies <u>Hiring</u>	<u>Total Hires</u>	Average Total Employees <u>per Company</u>	Total Companies <u>not Hiring</u>	Companies <u>Responding</u>
PERMANENT	35	79	2.3	34	69
TEMPORARY	41	375	9.1	28	69



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\*\*Surely you remember good ol' Thoth. He's the Egyptian (Kemetic) god of knowledge, writing, and math, which makes him a patron of editors and Lord of the Internet.



Chart 2 shows that we are approaching the pre-2001 income distribution which was most jobs being private, then state and local government and then federal government. During 2001-2002 the picture was somewhat confused, and we are missing data from 2004, but it appears we are experiencing a return to the stability of the pre 9/11 days. This could, of course, change over night as Congress cuts federal spending, an unlikely scenario given the tax-cut and spend impulses of the current Congress. But if the current attempt to curtail Section 106 succeeds, we could see all sources of income decrease dramatically.

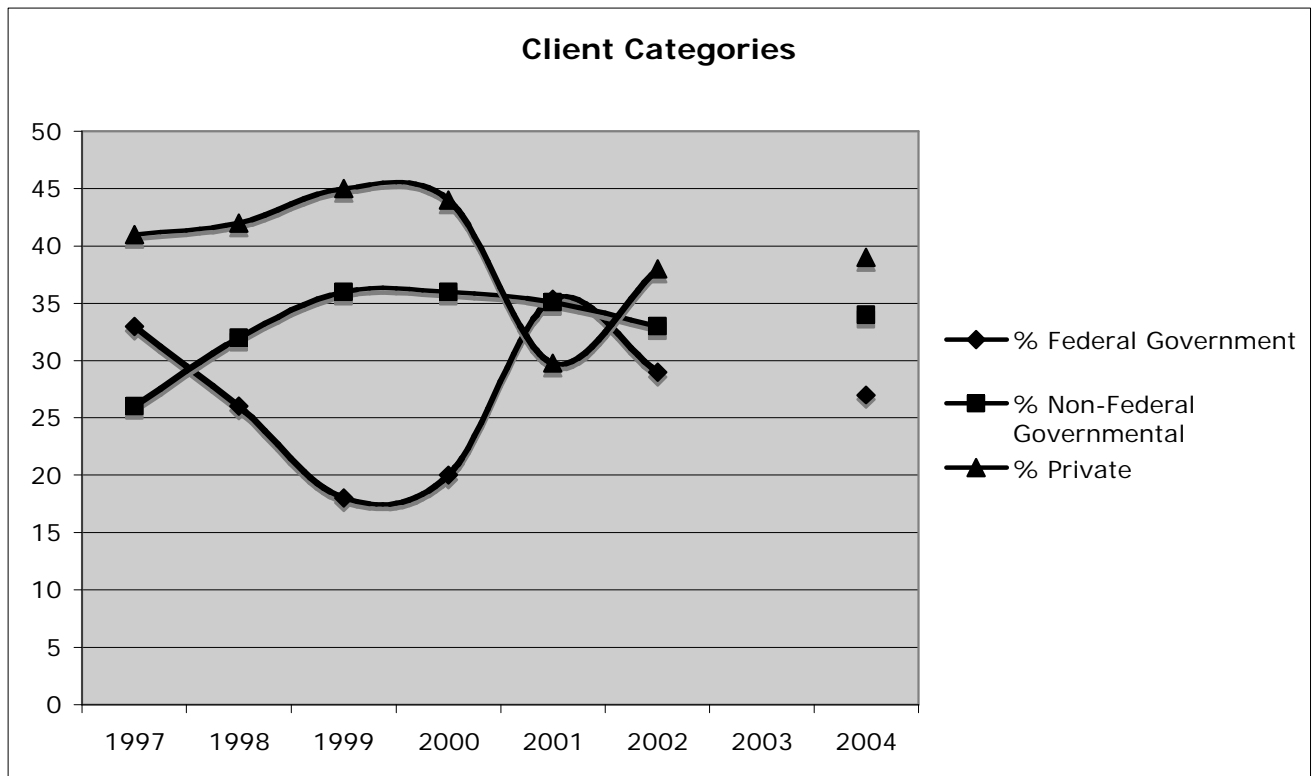


Chart 2- Average Percentage of Member Income Sources (No data collected in 2004)

Chart 3 shows an increase in the number of our members who did TCP studies last year. However, the increase of a little over two percent from 2003 may not be significant.

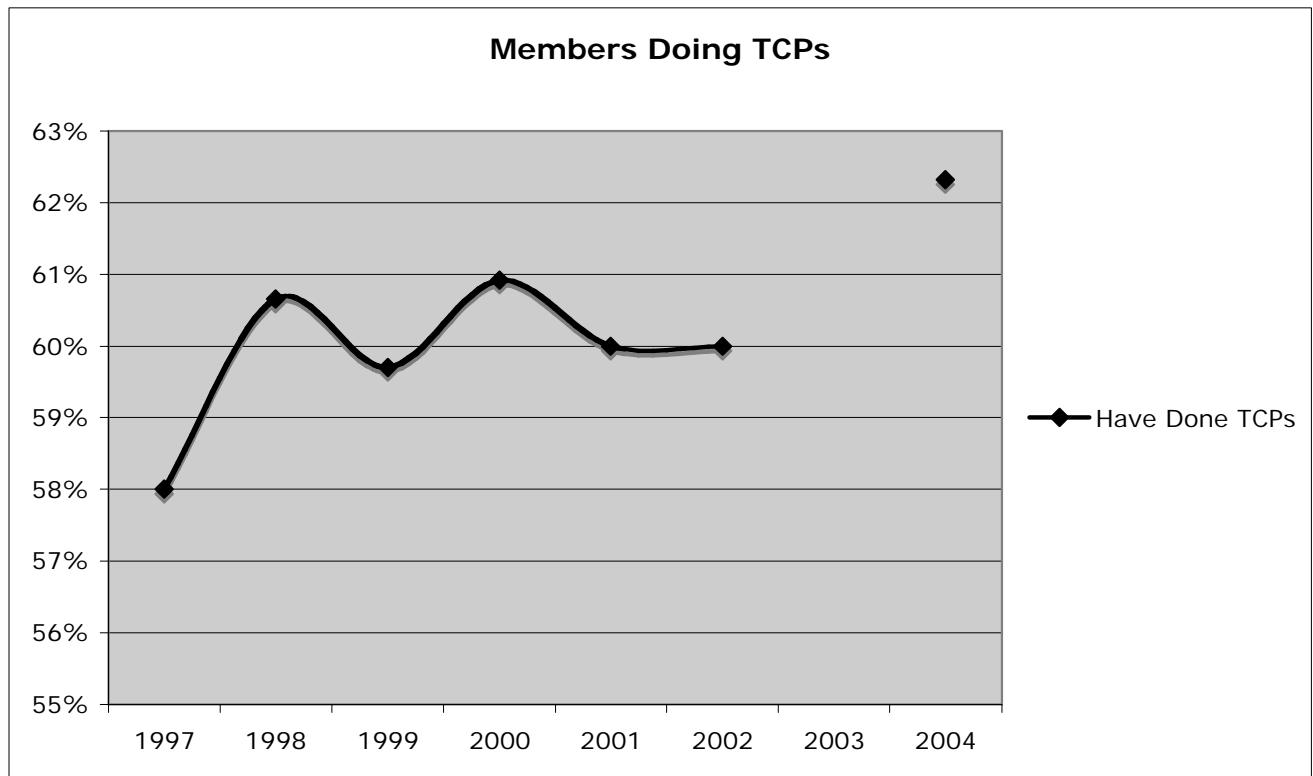


Chart 3- Members Doing TCP Projects (No data collected for 2004)

One of the main reasons we started ACRA was to provide benefits like E&O insurance. As you know, that has not been terribly successful, but it is interesting to see that only the purchase of E&O insurance has shown a steady rise since we started asking the question. Health insurance, after taking a hit post 9/11, is on the rebound but still not up where it was before 9/11.

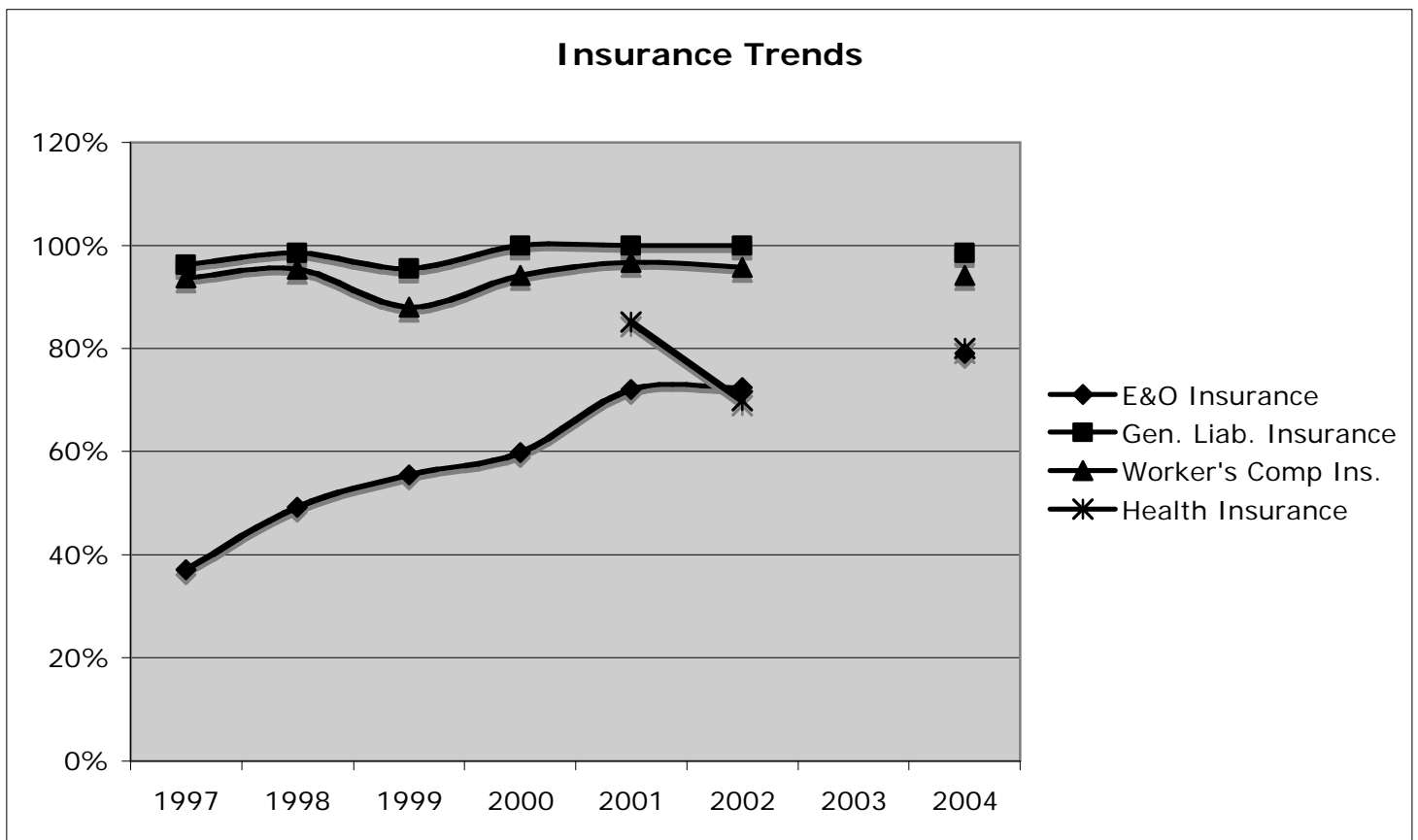


Chart 4- Insurance Coverage of Members

We also asked the question “Would you approve of a Generalized CRM degree program?”, first posed by Tom King back in the 1990s. 81.8 percent of you thought this was a good idea, even though no one seems to agree on exactly what it would entail, and nearly the same percentage, 80.3%, of you say that you would hire a person with such a degree. It seems that this is something that the Education Committee might want to discuss with universities.

The following two tables show the importance members put on various benefits. As usual the conference is the highest ranked benefit. When only those who have attended a conference are examined, the average score increases to 2.1 or nearly an entire point higher than the second ranked item, the MembersOnly list. For those of you who have not attended the conference, this is a clear indication that you should. The lowest ranked benefit is Training Programs/Workshops at a score of 4.8. However, this does not seem to mean that members do not want training programs as indicated by the second chart which places Developing Training Programs for Members number 2. There were various comments that we do not have Training Programs/Workshops, which reflects the hiatus we have had between the contracting workshop Patrick O’Bannon and Kevin Pape used to put on at various national conferences and the new

workshop being developed by ACRA in association with SRI Foundation.

Only one attendee, out of 35 companies that attended and answered a questionnaire, felt that the conference did not meet expectations. By general consensus, the most important things about the conference have always been networking and generally gaining an appreciation for private sector CRM nationally, giving our members more confidence in themselves and their businesses. Table 7 gives the conference specific activities that conference attendees felt were the most and least useful about the conference. The total score is the remainder after subtracting the negative responses from the positive ones. I apologize for leaving out the NCRS symposium

Table 5- Ranking of Current Member Benefits

Average Score (1 highest, 7 lowest)	Rank	Activity
2.8	1	Annual Conference
2.9	2	MembersOnly
3.4	3	ACRA Website
3.7	4	Online Gov Relations
4.0	5	ACRA Edition

Table 6- Ranking of Other Possible Member Benefits

Average Score (1 highest, 7 lowest)	Rank	Activity
2.5	1	Discounted E&O Insurance
2.9	2	Developing Training Programs For Members
3.0	3	Group Health Insurance Plan
3.3	4	Production Of Educational Bulletins Or Manuals On Business Issues
3.8	5	Setting Up Regional ACRA Conferences
3.9	6	Working With Universities And Others To Improve Training

Table 7- The Riverside Conference Activity Score Card Sorted on Total Score.

	<u>Most Useful</u>	<u>Least Useful</u>	<u>Total Score Most-Least</u>
Plenary with Brian Fagan	14	1	13
Dinner at SRI's Redlands Office	13	0	13
Small Business Set-Asides and SBA	15	3	12
CRM and DOT	15	3	12
Legal Landscape	13	1	12
The National Park Service Forum	12	0	12
Ethics and Standards in CRM	12	0	12
Tour of the Historic Mission Inn	12	3	9
Lessons from the Founders	11	2	9
Banquet	8	1	7
Friday Luncheon	7	1	6
Marketing to Private Developers	10	6	4
Awards Luncheon	6	3	3

that discussed the Department of Agriculture's outsourcing initiative. Five of the 35 attendees did not bother to answer the conference questions.

Members also commented on the conference and made some suggestions to improve it. Future conference organizers, take heed:

- ◆ How to find a banker, attorney, accountant etc.
- ◆ How to move your business to the next level
- ◆ Need broader topics to appeal to new and veteran business owners.
- ◆ Too focused on newcomers
- ◆ Plenary very good
- ◆ NCRS workshop very useful
- ◆ More info on business development, how to work with feds, developers
- ◆ Too California oriented
- ◆ Conference good for new companies but not for mature companies

Finally, the following are some written comments on the returned questionnaires that reflect members' opinions on ACRA and areas in which they would like ACRA to become more involved. These ideas may act as the seeds of conversations on MembersOnly and among the board:

- ◆ There are no workshops right now
- ◆ More ACRA marketing on behalf of members
- ◆ Need info on government contracting
- ◆ Development of a master program for new/small businesses.
- ◆ Develop research goals for archaeology and SHPOs
- ◆ Think of ways to become more professional
- ◆ Have to get wages up
- ◆ Some way to weed out bad companies
- ◆ NRG would consider hosting a workshop

## HIGHWAY PROJECTS AND SECTION 4(F): DO THEY PASS THE TEST?

*By Christina Slattery and Amy Squitieri  
Mead & Hunt, Inc.*

Section 4(f) of the Department of Transportation Act mandates avoidance of historic properties in planning for federal transportation projects unless there is no prudent and feasible alternative. Transportation planners often debate whether a project can pass the "4(f) test." To pass the test, it must be conclusively demonstrated that there is no prudent and feasible alternative to the use of Section 4(f) land. This article deals with transportation projects that propose to use land from historic properties and the application of the Section 4(f) test to these projects. These cases demonstrate the challenges of meeting the Section 4(f) test and the merits of identifying alternatives in early stages of project planning. It is based on Mead & Hunt's recent experiences in Wisconsin. In other states, transportation agency staff may have different perspectives on what constitutes a prudent and feasible alternative.

Section 4(f) issues proved insurmountable for a proposed roadway project near Elkhart Lake, Wisconsin, because the need for the project was not compelling. In 2004 the Sheboygan County Highway Commission sought to reconstruct County Trunk Highway (CTH) A to current design standards. The project would have added 6-foot shoulders to the existing two-lane road and re-graded its steep ditches and side slopes. CTH A forms the southern leg of the historic Elkhart Lake Road Race Circuits—a county road system that was used for road racing in the early 1950s. Due to the dangers of racing on public roads, the races were moved to a purpose-built track at nearby Road America after a few years. For their historic role as a racing venue, the county roads that make up the circuit were determined eligible for listing in the National Register of Historic Places.

Section 4(f) applies to a historic transportation facility when it will be demolished, or if the historic quality for which the facility was determined to be eligible for the National Register is adversely affected by the proposed improvement. The Federal Highway Administration (FHWA) determined that the construction of elements that were not historically present—specifically the shoulders, ditches and slopes—would be an adverse effect to the historic property. The public, including racing fans nationwide, rallied to preserve the historic Elkhart Lake Road Race Circuits in their current condition. The road has a low traffic volume and crash rate. FHWA, in consultation with the county and Wisconsin Department of Transportation, determined that the project could not meet the Section 4(f) test because no build was a prudent and feasible alternative. As a result, the county decided not to proceed with the proposed improvements to CTH A. Jaclyn Lawton, FHWA Environmental Engineer, concluded that "Considerations of historic preservation and the U.S. Department of Transportation law regarding adversely affecting a historic site outweighed the other concerns of this route."

In a second case in Allenton, Wisconsin, a highway project met the Section 4(f) test based on FHWA's determination that project alternatives were not prudent because they would destroy the cohesion of the community and cause negative economic impacts. The project involved reconstructing State Trunk Highway (STH) 33 (Main Street in Allenton) to a four-lane urban roadway and eliminating on-street parking. The overall width of the proposed cross section was 52 feet. The existing facility consisted of two 12-foot driving lanes with

paved shoulders varying in width from 3 to 12 feet. The purpose of the proposed project was to improve the deteriorating condition of the pavement and provide a safe and efficient transportation facility that would accommodate existing and future traffic.

One historic property, the Van Beek Filling Station, located on the north side of STH 33 posed a constraint to the widening the roadway. During early project planning, consideration of Section 4(f) led to the investigation of several alternatives to the use of land from, or the removal of, this historic property. One alternative would have shifted the alignment south to avoid removing the Van Beek Filling Station. This alternative would have required the removal of 10 buildings on the south side of STH 33. Residents opposed removing these buildings, stating they were in better condition and were more viable economically than the buildings on the north side of STH 33 including the filling station. Village residents and community leaders also expressed concerns that selection of this alternative would adversely impact community cohesion by leaving houses along the north side of the road as a "residential island" separated from the rest of the community by a 52-foot-wide STH 33.

Under the selected alternative, the road was shifted to the north. This alternative removed 11 buildings—two businesses, including the Van Beek Filling Station, and nine residences. The town board and local residents fully supported the project as a way to maintain the economic integrity of the community by maintaining the more vibrant businesses on the south side of the road. The Section 4(f) Evaluation demonstrated that there was no feasible and prudent alternative to the use of the Van Beek Filling Station. The final project included provisions for attempting to relocate the filling station, documenting the building if it was to be demolished, and preparing a public interpretation program.

Application of the Section 4(f) test ultimately led to the replacement of the Highway X Bridge in a third case.

The project proposed replacement of a deteriorated structure that did not meet federal safety standards. Located in the unincorporated community of Saylesville, Wisconsin, the 1930s steel girder bridge was a contributing element in an historic district of local significance. To avoid the entire district would have required a lengthy and costly alternative route with significant wetland impacts. Under the chosen alternative, impacts to the Section 4(f) property include acquisition of a small amount of land within the Saylesville Historic District and removal of the contributing bridge. FHWA determined that there was no feasible and prudent alternative to the use of Section 4(f) property and that the proposed action included all possible planning to minimize harm to the Saylesville Historic District resulting from such use.

The final project included provisions for minimizing effects to the historic district by limiting approach work, minimizing right-of-way purchase, and designing an aesthetic bridge. The district was also nominated to the National Register with the support of local residents.

Section 4(f) has come under scrutiny as being inflexible and time consuming, and some have argued that inappropriate transportation decisions are made in order to preserve historic resources. Congress is currently exploring ways to amend Section 4(f), as well as other environmental review procedures, as a way to speed up project delivery. In these three Wisconsin cases, the application of Section 4(f) resulted in sound transportation decisions that fully considered effects to historic properties. When no prudent and feasible alternative to the use of the Section 4(f) property could be found during project planning, some historic properties were adversely affected or demolished. In the case of the historic road, the Section 4(f) test led to selection of the no build alternative. Full evaluation of options during early project planning provided the necessary information to apply the Section 4(f) test.

## CONNECTIONS

*By Chad Moffit, Liaison Committee Chair*

*This column highlights items of interest to the CRM industry and updates on related and client organizations as reported by ACRA member liaisons.*

### **American Institute of Architects**

Historic Resources Committee of the American Institute of Architects (AIA) has released its Liaison Reports from allied preservation organizations, in the newsletter of the AIA's Historic Resources Committee (HRC). ACRA and several other historic preservation and cultural resources organizations are listed.

The AIA HRC liaison reports are presented annually to offer a forum and networking opportunity for HRC members and representatives of organizations engaged in historic preservation. The 2004 liaison reports focused on the relationship of architecture practice to HRC's allied preservation organizations and lessons for architecture education.

For a complete list of AIA liaison reports, see [http://www.aia.org/nwsltr\\_hrc.cfm?pagename=hrc\\_a\\_20050214\\_liaison](http://www.aia.org/nwsltr_hrc.cfm?pagename=hrc_a_20050214_liaison).

The HRC allied preservation organizations presented liaison reports on November 19, 2004, during the HRC symposium, "Historic Preservation and Architecture Education: A Dialogue."

*Charissa Wang* of Hardlines Design Company Inc. is the ACRA liaison to the AIA.

### **American Society of Landscape Architects**

The Historic Preservation Professional Practice Group of American Society of Landscape Architects (ASLA) announced that ACRA member representative Chad Moffett of Mead & Hunt Inc. is serving as vice-chair of the committee. Moffett, an ACRA representative who serves as the ACRA liaison to ASLA, will work to highlight cultural resource issues within ASLA and assist in hosting the members of the group in the 2006 annual conference that will be held in Minneapolis, Minnesota.

For more information on ASLA contact *Chad Moffett* at [chad.moffett@meadhunt.com](mailto:chad.moffett@meadhunt.com).

### **National Association of Environmental Professionals**

The National Association of Environmental Professionals (NAEP) is a multidisciplinary, professional association dedicated to the promotion of ethical practices, technical competency, and professional standards in the environmental fields. Members reflect a diversity of employers, including government, industry, academia, consulting firms, and the private sector in the U.S. and abroad. They have access to the most recent developments in environmental practices, research, technology, law and policy.

The 2005 convention was held in Alexandria, Virginia. The conference had a good turnout and featured speakers from the Council on Environmental Quality



(CEQ), including Horst G. Greczmiel, the CEQ's Associate Director for NEPA Oversight, who spoke on recent challenges that NEPA is facing, and Dinah Bear, CEQ General Council, spoke on the future of NEPA.

The next national conference is scheduled for April 2006 in Albuquerque, New Mexico. This conference will likely have a strong emphasis on cultural resources.

*Joe Trnka*, AICP, CEP of Howard R. Green Company is the ACRA liaison to NAEP. Joe can be reached at [jtrnka@hrgreen.com](mailto:jtrnka@hrgreen.com).

ACRA members who represent CRM client or related organizations are encouraged to become a liaison and share information about upcoming events and items of interest. Please send information to [preservation@meadhunt.com](mailto:preservation@meadhunt.com).



## ACRA's 10th Anniversary Conference

Washington D.C., November 9-11, 2005  
at the Historic Monaco Hotel

### Hotel Information:

Registration at the Hotel Monaco in the heart of Washington, DC can be made by calling the Hotel Reservation department at 877 202 5411, The code to get our conference discount and to assure that your room counts toward our block is A0525 or just ask for the American Cultural Resources Association block. We are getting the government rate of about \$153/day (single or double, normally \$329) until October 5, 2005. This rate may change slightly as the government rate changes, so reserve early to get the best rates. Reservations after that date may be at the full rate. You may also reserve rooms three days before or after conference at the discounted rate.

### Conference Registration:

The registration fee includes the Thursday Committee Luncheon, the Friday Awards Luncheon, transportation and admittance to the Thursday evening reception. There are discounts for ACRA members and additional staff members after the first company staff person has registered. The close-out date for early registration is October 7. The Post Conference Tour is a separate item and space is limited. Members may rent display table space for Friday and Saturday for a low fee. Click here to register online now.

### Getting There

The nearest airport to the conference is Washington National (DCA). Other nearby airports are Baltimore-Washington (BWI) and Dulles (IAD). The Washington Metro will take you from Washington National directly to the MCI center, across the street from the hotel. Check with your travel agent for shuttles from BWI and Dulles.

## LEGISLATIVE UPDATE

*By Nellie L. Longworth, Consultant to Government Affairs Committee*

### August 2005 Government Affairs Update on Washington Issues of Importance to You!

As Congress prepared for a month of August recess, many issues of special interest for historic preservation, archaeology, and cultural resource management were "moved along." These include the completion of federal highway bill, the FY06 Interior appropriations, new bills introduced in both House and Senate for the reauthorization of the Historic Preservation Act and a surprising hearing on NAGPRA.

#### SAFTEA Highway Bill

Our interest in the Highway bill (SAFETEA) was focused on two areas: the continuation of enhancement funding (10% of highways funding reserved for special needs including historic preservation) and the Voinovich Amendment on Section 106 and Section 4(f). Both the Voinovich amendment and enhancements are included in the House/Senate conference report. The final measure insures that when a Section 106 consultation process finds no adverse effect on a historic site or there are no historic properties affected by the transportation project, the finding, with written concurrence from the SHPO or TPO, will satisfy the environmental review. If there is disagreement on the findings of Section 106, 4(f) will be required as it is for all National Historic Landmarks. The measure, unfortunately, did not include an authorization of money for the States and tribes to upgrade their inventory systems as had been included in some previous drafts.

Language was also included to denote that the Interstate Highway System is exempt from Section 106 and 4(f) even though listed on or determined eligible for the National Register. The exception is when the Secretary has determined through an administrative process that individual elements have national or exception significance and, for those, Section 106 review would be required.

The total funding level of \$864.5 billion for 6 years

was a 30% increase over levels in ISTEPA. Resolution of differences between House and Senate were eased by generous pork passed out to members through 6,376 special projects totaling billions of dollars. House Committee Chair Don Young (R-AK) scored well with \$941 million for 119 special projects in Alaska, only bested by project funding to California, Illinois and New York.

Kudos to all who worked tirelessly to save Section 4(f) from complete obliteration and a special thank you to Sen. George Voinovich.

#### NAGPRA Hearing in Senate Brings Surprise Announcement from DOI

Paul Hoffman, Deputy Assistant Secretary for Fish and Wildlife and Parks, was the initial witness before the Senate Committee at the Indian Affairs NAGPRA hearing on July 28.th. In a surprise move, he announced that Interior opposed the amendment's proposed change in definition of "Native American" on the basis that it broadened the scope of what remains would be covered under NAGPRA, a change that would be in conflict with the 9th Circuit Court's decision in the Bonnicksen case. The Department now supports the current definition that "remains must have a significant relationship to presently existing tribes, people, or culture to be considered Native American. When there is no significant genetic or cultural relationship to an existing indigenous tribe, people or culture, the remains should be available for appropriate scientific analysis. Thus, the Department has abandoned its previous position on the Bonnicksen case.

Testifying for SAA was Keith Kintigh, Tempe AZ., who stated support for the amendment as an appropriate balance between the interests of science, museums and Native Americans. He noted that it is important to look at circumstances within NAGPRA in which repatriation can occur in absence of a finding of cultural affiliation. First, "cultural affiliation is not required where repatriation of human remains and associated funerary objects are those of a lineal

descendent.” Second, “cultural affiliation has not been required for human remains or other cultural items found on tribal land since November 16, 1990, taking priority over a culturally affiliated tribe. Third, “a finding of cultural affiliation is not required for remains or other items that lack cultural affiliation but are discovered since November 16, 1990 on Federal land recognized as the aboriginal land of some Indian tribe.” SAA argued in the 1990 negotiation of language for NAGPRA that “remains and items should meet the standard of cultural affiliation in order for repatriation to be mandated” but it accepted the current “language in the statute as part of a compromise and will stand behind the compromise.” Patricia Lambert, testifying for American Association of Physical Anthropologists, was not opposed to the amendment but cautioned and requested postponement of further action until the DOI Culturally-Unidentified Human Remains draft regulations are published.

Paul Bender of Arizona State University Law School and Walter Echo-Hawk Sr., National American Rights Fund, testified in support of the amendment stating that it was necessary to ensure that tribes have a place at the table in the determination of appropriate repatriation that is not mandatory under the 9th Circuit Court decision. They stated that the limitation of Bonnicksen to affiliation with only presently existing tribes, not to ancient indigenous inhabitants of the US, is in conflict with the intent of Congress in 1990.

During the questioning, Sen. Bryan Dorgan (D-ND) inquired about the attorney’s fees for the Bonnicksen case. Secretary Hoffman answered that the fees were about \$675,000 and were paid from the NAGPRA Grant Program. Stay tuned.

### **National Historic Preservation Act - Discussion Draft Update**

Following the departure of Rep. Devin Nunes (R-CA) to join the prestigious House Ways and Means Committee, Rep. Richard Pombo (R-CA), Chair of the House Resources Committee, appointed Rep. Steve Pearce (R-NM) to chair the National Parks Subcommittee. Pearce steps into a heated “discussion” about changes to the Section 106 process in which the draft recommends limiting Section 106 review to only those properties on the National Register of Historic Places or determined eligible for the Register by the Keeper. Chairman Richard Pombo wants to report a preservation bill

out of the Resources Committee this year. Rep. Pearce has issued a memorandum detailing the process for dealing with Section 106 in the discussion draft. He will team up a Republican and Democratic Subcommittee Member to review the problems where preservation and development come into conflict and “suggest ways the NHPA can or will be used for obstruction rather than preservation.” The memo further notes that the intent of the draft is not to eliminate Section 106, it is to address the “potential adverse effects from unintended consequences of Section 106 while still insuring that deserving sites are not plowed up and developed.” He notes the following areas of conflict: (1) why should buildings not included on the National Register be evaluated, (2) why should sites not located in the direct impact area be considered, (3) why should visual impacts be considered, and (4) how to address the financial burden of surveys. Other than the memo to subcommittee members, no further action has been announced.

### **New National Historic Preservation Reauthorization Bills Introduced**

During the last week, the ranking Democrat on House Resources Committee, Nick Rahall (D-WV), and Subcommittee chair Donna Christiansen (D-VI) introduced a NHPA reauthorization bill that makes no reference to Section 106. It is identical legislation to that introduced in the Senate by Sen. James Talent (R-MO) in July that reauthorizes both the Historic Preservation Fund and the Advisory Council, and includes technical housekeeping provisions for the Council. The Senate bill is S 1378 and the House bill is HR 3446. Key provisions of both:

- ♦ Reauthorization of funding for the Historic Preservation Fund through 2011;
- ♦ Permanent funding for the Advisory Council in “such amount as necessary to carry out this title.” Technical amendments for the Council: Addition of three new members;
- ♦ A designee to sit in for the Governor; Increase quorum requirement from nine to eleven;
- ♦ The Council may obtain financial and administrative services from agencies and private entities through agreement with the Council ;
- ♦ The Council can enter into cooperative agreements with any federal agency that administers a grant or assistance

- program to improve its ability to meet the purposes of the Act; and
- ♦ The Council can review and evaluate Federal Grant Programs, make recommendations to the head of a Federal agency, and make recommendations to the President and Congress on the effectiveness of the grant programs, including recommendations for appropriate funding levels.

passed by unanimous consent, which means that no senator opposes it by putting a “hold” on it.. The “sticking point” is the permanent reauthorization of the Council, which may be changed to \$5 million through 2011.

There is discussion of joint letters and an multi-organizational effort to get co-sponsors on both bills. The House co-sponsor effort is aided by the existence of a Historic Preservation Caucus, which has 94 members, 34 Republicans and 61 Democrats. More about this later.

**The Politics of These Bills**

Rep. Pombo wants to report a version of the discussion draft out of committee in September but he also wants to take action on NEPA and Endangered Species. The Senate will be tied up during September with the Supreme Court nomination but may be able to hold a hearing on S. 1378 in late September. The Senate bill would most likely be

**Final FY06 Appropriations for the Department of the Interior**

	<u>FY05</u>	<u>FY06 House</u>	<u>FY06 Senate</u>	<u>FY06 Conference**</u>
SHPOs	\$35.712 mil	\$36.5 mil	\$38.5 mil	\$36.5 mil
Tribes	\$3.224 mil	\$3.2 mil	\$4 mil	\$4 mil
Save America's Treasures	\$29,760 mil	\$30 mill	\$30 mil*	\$30 mil
HBCUs-black colleges	\$3.472 mil	\$3.5 mil*	0	\$3 mil
Nat'l Trust Sites	\$.0	0	0	0
Preserve America	\$ 0	0	\$7.5 mil	\$5 mil
HPF Total	\$72,146 mil	\$73.2 mil	\$72.5 mil	\$73.25 mil
Advisory Council on HP	\$4.6 mil	\$4.86 mil	\$4.6 million	
BLM	\$1.731 bil	\$1.8 bil	\$1.788 bil	\$1.78 bil
NPS	\$2.348 bil	\$2.2 bil	\$2.3 bil	\$2.36 bil
LWCF	\$140 mil	\$140 mil*	\$404 mil	\$201.9 mil

\*\* FY06 - Subject to a 0476% across the boards cut

## PROCUREMENT WEB SITES

*By Kay Simpson*

I would like to inform the ACRA membership of several extremely useful procurement links available on the NIGP website. The National Institute of Governmental Purchasing, Inc. (NIGP) is a national, membership-based non-profit organization providing support to professionals in the public sector purchasing profession. NIGP provides its members with many services, including education, professional networking, research, and technical assistance. Organized in 1944, NIGP is an international not-for-profit educational and technical organization of public purchasing agencies.

From their home page, [www.nigp.org](http://www.nigp.org), follow the Links button on the far left side of the page. One link is to a list of all State Procurement Sites - [www.nigp.org/stwebsit.htm](http://www.nigp.org/stwebsit.htm). Under Related Links is a website that gives you a directory of all state, city, and county government websites. There is also a link to general federal government websites.

ACRA is building a new Links area to several procurement, small business, and federal business websites. However, until completed, this is a nice site to shop around in for useful information. Stay tuned to for more member benefits coming soon to your MembersOnly area.

## MILITARY HOUSING AND THE NHPA

*The Capehart-Wherry Housing Compliance Action is something that ACRA members should be aware of, especially those members working on military bases. Here is the introduction. The complete website is: <http://aec.army.mil/usaec/publicaffairs/update/win04/win0416.html>.*

Installation housing projects can now move forward under an Armywide action bringing work done on housing structures built between 1949 and 1962 – the Capehart and Wherry era – in compliance with the National Historic Preservation Act (NHPA). Three reports on Capehart and Wherry-era housing published at the end of 2003 completed the steps required by the Advisory Council on Historic Preservation (ACHP) when the action was approved in May 2002.

The action, using an ACHP mechanism called a “program comment,” fulfills at one time the NHPA Section 106 requirement for an extensive review process before significant changes are made to any building over 50 years old. The Army completed this centrally managed and funded, three-part mitigation effort six months before the required compliance deadline.

“Installations are now free to do maintenance and repair, rehabilitation, layaway and mothballing, renovation, demolition, and transfer, sale or lease out of federal control – in short, any undertaking – to Capehart and Wherry-era Army family housing, associated structures, and landscape features without further Section 106 consultation,” said Sarah Killinger, a preservation specialist and ACHP liaison to the Army at the U.S. Army Environmental Center.

The action covers all Army family housing built between 1949 and 1962, including those built under the Capehart, Wherry and Military Construction, Army (MCA) programs.

# ACRA

## EDITION

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

### ACRA's Members-Only Listserver

ACRA now has an online discussion group just for members. "MembersOnly" is a listserver 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](mailto:tomwheaton@newsouthassoc.com).

### 2005 ACRA EDITION SCHEDULE

DEADLINE	PRODUCTION
February 7	February 21
April 4	April 18
June 6	June 20
August 1	August 15
October 3	October 17

#### 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:

Jeanne Harris, Editor  
ACRA News  
[ejharris@aol.com](mailto:ejharris@aol.com)

or

Thomas Wheaton,  
Executive Director  
c/o New South Associates, Inc.  
6150 East Ponce de Leon Ave.  
Stone Mountain, Georgia 30083  
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