

U.S. Army Environmental Center's Program Assistance Announcement (PAA-2): ACRA's Reaction

In late May, ACRA's Board of Directors was contacted by a member firm regarding proposed cooperative agreements issued by the U.S. Army Environmental Center, USAMRAA, Fort Detrick, MD: Program Assistance Announcement (PAA 99-2) for Cultural Resource Services. The proposed cooperative agreements are intended to secure for the Army "assistance in achieving clearly identified public purposes associated with stewardship of the Nation's cultural resources entrusted to the United States Army's care." For the reasons stated below, ACRA's Board of Directors felt it appropriate to have ACRA's attorney write a letter on behalf of the American Cultural Resources Association, protesting the issuance of any cooperative agreement with regard to the above-mentioned announcement.

Securing the services detailed in PAA 99-2 through a cooperative agreement may not be lawful. The use of cooperative agreements is inappropriate for the work proposed in PAA 99-2. Cooperative agreements are regulated by Title 31, §6301 et. seq. of the United States Code.

When a cooperative agreement is executed, "substantial involvement is expected between the executive agency and the state, local government, or other recipient when carrying out the activity contemplated in the agreement."

The statute is implemented by Office of Management and Budget Circulars A-102 and A-110. Limitations on the use of cooperative agreements are clearly set forth in the circulars.

A grant or cooperative agreement shall be used only when the principal purpose of a transaction is to accomplish a public purpose of support or stimulation authorized by Federal statute. Contracts shall be used when the principal purpose is acquisition of property or services for the direct benefit or use of the Federal Government. The statutory criterion for choosing between grants and cooperative agreements is that for the latter, substantial involvement is expected between the executive agency and [a governmental or non-profit organization](a-102, ¶.a. See also A-110, Subpart B section 11 (a)).

As stated in PAA 99-2, the services sought to be secured are to directly support the Army's mission.

The Army, in recognition of its growing inventory of cultural resources and limited fiscal resources, intends to accomplish these established public purposes by providing for stewardship of its cultural resources through development of progressive and efficient strategies for management

of these resources . . . The Cooperative Agreements will allow organizations to provide cultural resources technical assistance directly to the Army's installations, major commands, and headquarters.

Management of solely Government owned resources and activities is, by definition, provision of a service for the "direct benefit of the Federal Government" which must be procured by competitive contracts.

Furthermore, the issuance of this contract violates small business procurement requirements. By use of the cooperative agreement form, the agreement is in violation of the expressed policy of Congress to encourage participation of small business in Government programs. Most members of ACRA are small business enterprises.

Finally, cooperative agreements are inappropriate for obtaining indefinite services. The requested proposals are in the nature of a schedule or indefinite quantity contracts. By their very nature, cooperative agreements do not contemplate such arrangements. Without specificity as to the quantity of work to be performed, it would be impossible to approve "a budget planned during the award process" (¶125) as required for a cooperative agreement. Nor will it be possible, if the quantity of work is unknown, to provide for cost-sharing which is required in such agreements.

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 Conference Committee
 Nominations Committee

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In early June, Matthew Watson, ACRA's attorney received a call from the Army's attorney. Mr. Watson was told that there was a misunderstanding. The Army was not trying to divert contracts away from CRM firms, but rather they thought that the CRM community would jump at the chance to bid on their projects. Furthermore, since the Army's 'mission' is national defense, they did not think CRM required contracts instead of grants. The Army's attorney has stated that the purpose for solicitation through a cooperative agreement was to avoid the Corps of Engineers project management overhead.

Mr. Watson has asked that the June 15, 1999, bid date be put off. He is scheduled to meet with Army representatives during the next few weeks. Look for updates on this matter in future issues of the *ACRA Edition* and the *MembersOnly List*.

House and Senate Calendars for 1999

HOUSE CALENDAR - 106TH CONGRESS

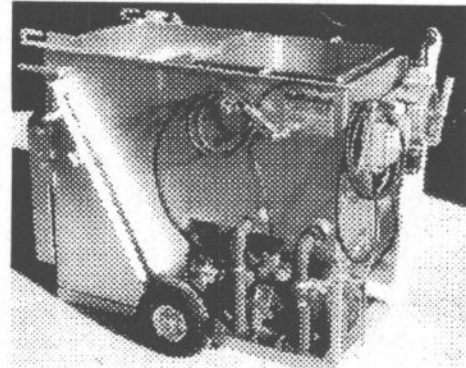
January 6	House Convenes
January 8-18	Winter District Work Period
February 13-21	President's Day District Work Period
March 27- April 5	Spring District Work Period
May 28 - June 1	Memorial Day District Work Period
July 3 - July 11	Independence Day District Work Period
August 7 - September 7	Summer District Work Period
October 29	Target Adjournment

SENATE CALENDAR

February 13-21	President's Day Recess
March 27-April 11	Easter Recess
May 1-9	State Work Period Recess
May 28- June 1	Memorial Day Recess
July 3 - 11	Fourth of July Recess
August 7 - September 7	August Recess
October 9-11	Columbus Day Recess
October 29	Target Adjournment Recess

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message from the
PRESIDENT

by Cory Breternitz

This year has been relatively quiet and the past eight months have gone quickly. While there is no national crisis currently facing ACRA, the membership and the organization need to remain diligent and aware of many issues facing the CRM industry on national, regional, and local levels. The weekly updates from Washington indicate that the annual appropriations bills will need to be closely monitored, and as usual, strong support for historic preservation funding will be needed from ACRA and the membership. All ACRA members need to monitor legislation on at least on a monthly if not weekly basis.

Issues that ACRA continue to be involved in include: the National Park Service Initiative on Improving Archaeological Practice, Office of Surface Mining cultural resource contracting, National Park Service contracting practices, the Amicus Brief for the Lee Pye versus Army Corps of Engineers Sanders Ruling, the American Heritage Rivers, Home Owner Tax Credits and workshops, sessions, and presentations at state and national conferences, among others. Recently ACRA's attorney sent a letter to the U.S. Army Environmental Center protesting the issuance of an RFP for a cooperative agreement rather than an indefinite services contract for their Program Assistance Announcement (PAA-2) for cultural resources services. (See a discussion of the Army's reaction to this letter elsewhere in the newsletter.)

The new 106 regs are another important issue that ACRA is monitoring and one that the membership needs to become familiar with. Tom Wheaton has sent out the web site address where the

new regs can be downloaded for closer scrutiny. The new regs will affect the way that all ACRA members conduct business. On the regional level, ACRA continues to monitor the permit requirements on BLM lands in New Mexico, and not-for-profit companies and universities operating in the competitive CRM market place.

Membership benefits have also been expanded this year. Tom Wheaton, ACRA Executive Director, has set up a Members Only list service. I encourage you to use this list for more specific or detailed discussions of issues that are important to ACRA and its members. ACRA-L seems to be dominated by a few correspondents that can debate an issue to death. The Members Only list should be a medium by which ACRA members can raise important issues to be discussed among the members. It is also a perfect place to ask questions you might have about business practices or to pose a specific question, problem, or solution that you might want to share with the membership.

Increasing the number of ACRA's members continues to be an important issue with the Board of Directors. At the Denver meeting I said that I would contact every ACRA member and your solicit input. I am still a long way from achieving that goal, but hope to continue this process during the summer months. Not only do we need to increase the size of the membership if possible, but just as importantly, we need to retain from year to year the members we do have. The ACRA Board is working on ways to make the benefits of ACRA membership more tangible. The Members Only list is one approach to this.

Several ACRA Board Members met with the Program Committee and the Executive Committee of the Society for American Archaeology (SAA) at their annual meeting in Chicago in late March. Discussions centered on how the SAA can better serve CRM professionals. ACRA has national recognition among archaeologists at least, and now we need to work on the historians and architects.

The nominations committee under the direction of Patrick O'Bannon, ACRA past President, is forming a slate of candidates at all business size levels for nomination to run for Board of Directors positions that are coming vacant at the fall meeting. If you are interested in serving as an ACRA Board Member, or know someone who would make a good Board Member, please contact Patrick ASAP.

The annual meeting has been scheduled and a draft agenda provided to the Conference Committee. Ian Borrow and his colleagues at Hunter Research have developed an exciting meeting agenda and I encourage all ACRA members to make an effort to attend the annual meeting at Mount Laurel, New Jersey, October 7 to 10, 1999. In my opinion, the annual meeting continues to be the greatest asset to membership providing a valuable opportunity to interact with other ACRA members, network, and share information. It is the highlight of my professional meeting attendance each year, and each year the conference gets better and better. Finally, mark your calendars for the annual meeting in Phoenix, November 2 to 5, 2000!

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- Reduce his or her compensation by a certain percentage each pay period, and
- Have the employer contribute the salary reductions to a SIMPLE IRA on behalf of the employee. These contributions are called salary reduction contributions.

So if you have been putting off establishing a plan because the cost or complexity, now is a good time to examine the options available to you. The sooner you get started the sooner you will see the benefits of a "SIMPLE" plan.

Legislative Update

Provided by
CEHP Incorporated, Washington, D.C.
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Heritage Areas Bills to Have House Hearings this Week

On Thursday, June 10, the House Parks Subcommittee will kick off the legislative process with a hearing on two bills to designate and expand heritage areas in Pennsylvania and Massachusetts.

HR 940 establishes the Lackawanna Heritage Valley American Heritage Area in northeastern Pennsylvania to highlight anthracite mining, ironmaking, textiles, and rail transportation industries - and their contribution to the nation's labor movement - in Luzerne, Wayne, and Susquehanna counties. The bills request the authorization of \$10 million in 50 percent matching grants.

HR 1619 would expand the Quinebaug and Shetucket River Valleys National Heritage Corridor in Connecticut to include adjacent towns in Massachusetts. The bill would authorize \$15 million in 50 percent matching grants.

Historic Preservation Fund Reauthorization - HR 834 - Readied for Full Committee Action

Word is out that the reauthorization of the Historic Preservation Fund - HR 834 - has cleared all hurdles and is waiting to be scheduled for Resources Committee mark-up, hopefully this month.

Rep. Hefley (R-CO) has resisted efforts to gut the legislation to a simple reauthorization for the HPF and Advisory Council. The bill will continue to contain language to insure the General Services Administration (GSA) compliance with EO 13006 requiring a preference for meeting federal agency office needs in downtown historic districts.

The Senate seems content to let the House complete its process on HR 834 before deciding whether to take up a House-passed measure or wade in with its own, probably simpler, proposal. Although it is noted every time HR 834 is mentioned in this newsletter, the priority for passage of this measure is one of dollars and cents; no monies have been covered into the HPF since the expiration of its authorization in FY97. While money is available from the built up backlog for annual appropriations, it does leave the program without a current authorization which could be a political liability with fiscal conservatives during times of a tight federal budget.

(Note: the bill picked up nine co-sponsors in April, the first group of co-sponsors in the bill's history. They include Reps. Rush (D-IL), Dicks (D-WA), M. Udall (D-CO), T. Udall (D-AZ), Simpson (R-ID), Taylor (R-NC), Jefferson (D-LA), Duncan (R-TN), and Cramer (D-AK).

For Those Following the Pye vs US Corps of Engineers

Following a very bad decision in the U.S. District Court, Charleston, SC, in July, the Fourth Circuit Court of Appeals has agreed to hear oral arguments May 5, 1999, in Richmond, Virginia.

The case is very important for preservationists as it deals with the issue of "standing," which is the opportunity for citizens (i.e. the Pyes) to challenge a flawed governmental decision. In the District Court, the Pyes challenged a failed Section 106 that never addressed fairly the full adverse effect on cultural resources. The judge, in denying standing to the Pyes, cited a Corps of Engineers local regulation, the Sanders ruling, that limits Section §106 and cultural resource protection to the points where the project actually touches the property, not the entire property affected by the proposed project. This decision, if upheld in the Appeals Court, will seriously undermine the ability to protect archeological sites to their full extent and jeopardize the very mission of historic preservation organizations.

The National Trust has been actively involved in this case and is hopeful that the sticky issue of "standing" will be resolved in a way that will insure citizen/organization participation in cases where government fails to carry out its mandated responsibility to protect cultural resources.

From MembersOnly List

Contributions by Tom Wheaton, Executive Director, ACRA

Training Schedule for the Advisory Council On Historic Preservation New Regulations

The ACHP schedule for training in the new regs is located on their site at <http://www.achp.gov/news-training.html>. You can also register on line. The course is intended for people who have already taken the introductory course.

ACRA Display for Conferences

ACRA is developing a display that can be used at conferences, meetings, and client conventions. We have purchased the table top display panel and table cloth (Laarhoven, very professional, very light weight tubular design, dark blue color). We are now in the process of developing the elements of the displayed information itself.

The display will highlight our goals (for people who have no idea who we are), our benefits (for people considering membership), our initiatives (to tell people what we are up to). To provide visual interest we need color photographs of the services our members provide.

This is a solicitation for such photos. We need photos for archaeology, history, architectural history, landscape architecture, anthropology, and perhaps underwater archaeology and cemetery studies. Photos from projects on national landmarks that are easily recognizable might also show our national scope (a California mission, a New York urban project, a recognizable southern plantation, etc.). Due to space limitations we may only be able to use three to five photos. Photos may be blown up to the seven inch by nine inch range so they need to be sharp, clear images. We will try to have attribution, but there is no guarantee. The display will not be an advertisement for individual companies.

If you have one photo (or more) that is visually appealing, unmistakably shows a CRM activity, and would look good enlarged, please send it to ACRA, 6150 East Ponce de Leon Ave., Stone Mountain, Georgia 30083. We do NOT need the negative. Photos will be scanned and computer enhanced (color balance, etc.; not materially changed). Please write the name of your company on the back of the photo so it can be returned to you, as well as the name of the project, or brief descriptor.

We need this material within the next few weeks so we can get started on the final display. Thanks, and I hope we get lots of submittals from around the country.

ACRA's New 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 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 other members.

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.

Committee Reports

Awards Committee

ACRA Awards: A Reminder

The deadline for submission of nominations for the 1999 ACRA awards is July 2, 1999.

Awards will be presented at the 1999 ACRA Annual Meeting. The 1999 categories are: Government Award, Industry Award, Public Service Award, and Quality Product Award.

Please note that this year, all entries will be anonymous. Please read the instructions and ensure that your submission meets the anonymity requirement or it will be disqualified. Questions can be directed to Charissa Wang, ACRA Awards Chair, 614-784-8733.

Full descriptions of each category and the nomination form was included in the February issue of the *ACRA Edition*. They also can be downloaded from the ACRA Web Site: <http://www.acra-crm.org/nominations.html>.

Conference Committee

ACRA's 1999 Annual Meeting

By Ian Burrows, Hunter Research, Inc.

The fifth annual meeting of the American Cultural Resources Association will be held October 7-10, 1999, at the Travelodge in Mt. Laurel, New Jersey. Mt. Laurel is located in southern New Jersey approximately 35 miles south of Trenton and 12 miles east of Philadelphia International Airport. The Travelodge is a full-service hotel with meeting and banquet facilities and features an indoor pool, car rental desk, restaurant/lounge and sports pub. Excursion are planned to the historic cities of Trenton and Philadelphia.

The conference will be hosted by Hunter Research, Inc., of Trenton, New Jersey. This year's theme is "A Maturing Profession," and will include sessions and workshops on marketing, public outreach, and benefit packages. The program will follow the same structure as conferences in the past years:

Thursday, October 7:	Board of Directors Annual Meeting
Friday, October 8:	Registration and Workshops
Saturday, October 9:	Registration, Plenary and Sessions
Sunday, October 10:	Members Annual Meeting

Full conference details will be included in the registration package that will be mailed to members this summer. However, if you have any questions, please contact Ian Burrows, Hunter Research, Inc., 120 W. State Street, Trenton, NJ 08608; 609-695-0122; E-mail: burrows@hunterresearch.com.

Nominations Committee

1999 Board of Directors' Ballots

The Nominating Committee announces that the ballots for the election of the 1999 ACRA Board of Directors will be mailed out from the Executive Director's office on August 1, 1999. All ballots are due in September 1, 1999. For further information, contact Patrick O'Bannon, Nominating Committee chair, at 215-790-1050.



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1999 ACRA EDITION SCHEDULE

DEADLINE	PRODUCTION
February 1	February 15
March 29	April 12
May 31	June 14
August 2	August 16
October 4	October 18
December 6	December 20

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* Business cards can be scanned.

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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