

## ACRA Board of Directors

**Marion Almy** Archaeological Consultants, Inc.  
Sarasota, Florida

**Cory Dale Breternitz** Soil Systems, Inc.  
Phoenix, Arizona

**Colin I. Busby** Basin Research Associates, Inc.  
San Leandro, California

**Susan M. Chandler** Alpine Archaeological Consultants, Inc.  
Montrose, Colorado

**Ann Emmons** Historical Research Associates, Inc.  
Missoula, Montana

**Lynn L. Larson** Larson Anthropological Archaeological  
Services, Seattle, Washington

**Loretta L. Lautzenheiser** Coastal Carolina Research, Inc.  
Tarboro, North Carolina

**Dana McGowan** Jones & Stokes Associates, Inc.  
Sacramento, California

**Steve Mehls** Western Historical Studies, Inc.  
Lafayette, Colorado

**Charles Niquette** Cultural Resource Analysts, Inc.  
Lexington, Kentucky

**Patrick O'Bannon** Kise Straw & Kolodner  
Philadelphia, Pennsylvania

**W. Kevin Pape** Gray & Pape, Inc.  
Cincinnati, Ohio

**Duane Peter** Geo-Marine, Inc.  
Plano, Texas

**Elton R. Prewitt** Prewitt and Associates, Inc.  
Austin, Texas

**Michael R. Polk** Sagebrush Archaeological Consultants L.L.C.  
Ogden, Utah

**Jo Reese** Archaeological Investigations NW, Inc.  
Portland, Oregon

**Dan Roberts** John Milner Associates, Inc.  
West Chester, Pennsylvania

**Kay Simpson** Louis Berger & Associates, Inc.  
Richmond, Virginia

**Charissa Wang** Hardlines: Design & Delineation  
Columbus, Ohio

**Don Weir** Commonwealth Cultural Resources Group  
Jackson, Michigan

**Thomas Wheaton** New South Associates, Inc.  
Stone Mountain, Georgia

## BUSINESS 101: The Mysteries of Billable Hours, Overhead, and Contracts

By Kay Simpson, Louis Berger & Associates, Inc.

*This article was originally prepared for new Berger staff and is intended to provide an introduction to basic business contract language.*

### SALARIES AND RATES

Employees often ask why they see different hourly rates in different project budgets and why some rates appear to be so much higher than what they or their buddies are making per hour. "I only make \$10.00 an hour but those blankity-blank employers are charging the client \$25.00 an hour for me - they're pocketing \$15 in profit!" Well, not quite - that \$15 is covering all of the company's expenses for the pleasure of being in business plus an attempt to make a profit.

There are two basic kinds of salaries entered on budgets. The first and simplest kind is the *straight salary*. For example, an Archaeologist is listed as \$20.00/hour which equates to a person making \$41,600/year [based on 2080 hours in a work-year, i.e., 52 weeks in a year x 5 days a week]. The firm bills the client the exact rate of the actual employee who works on the job, up to contract limits. Naturally, it behooves the firm to select an employee whose rate is closest to or under the budget rate. In these budgets, Labor categories are enumerated, then Direct Expenses, then the company Overhead and Profit are added for the total budget amount (See Figures 1 and 2 at end of article).

The second kind of salaries entered on budgets is a *loaded rate*, also called a *billing rate* by some firms. This is the employee's direct salary with overhead and profit already combined in one amount. For example, an Archaeologist may earn \$20.00/hour, but the employer bills him out to the client at \$50.00/hour. The \$50.00/hour figure is derived from multiplying the \$20.00/hour times a multiplier of 2.50 (which is the overhead rate combined with the profit). Loaded Labor and Direct Expenses are added together for the total budget amount (Figure 3).

Of course, there are several variations on the above theme. Often contracts have an *average employee rate*. Firms enter into contracts with agencies, especially open-ends, where they agree to pre-determined employee rates for typical employee classes. For example, a firm signs a three-year open-end contract with a Department of Transportation whereby the employee rates are established as \$20.00/hour for an Archaeologist, \$10.00/hour for an Archaeological Technician, \$15.00/hour for an Editor, etc. Sometimes such contracts have escalation rates [sometimes called cost-of-living increases] which allows the firm to bill \$21.00/hour for the Archaeologist in the second year of the contract and \$22.05/hour the third year, for example. The escalation rate is agreed upon in advance and is typically between 3 and 5 percent. Under these contracts, groups of employees are lumped together for average billable rates. For example, all employees making ~\$19.00-21.00/hour with the title Archaeologist would be clas-

*continued on page 3*

### In This Issue...

ACRA Business  
The ACRA Brand pg. 6

Message from the President pg. 7

Summary of Board of Director's  
Meeting October 7, 1999 pg. 8-10

Contributed Articles  
Subcontractors Welcome pg. 3  
Prompt Pay Rule

Associated General Contractors Vow  
to Fight New Rules pg. 11

# MESA TECHNICAL

HABS/HAER Large Format Photography  
Archaeological Soil Science

**David G. De Vries**  
principal

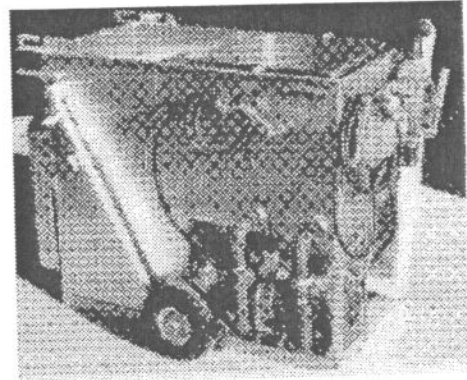
- HABS/HAER Photographic Documentation**
- Dozens of large and small HABS/HAER projects completed.
  - Industrial, Residential, Commercial, Cold War and Military.
  - Widely experienced in Historic Districts and Landscapes.
  - In-house 8x10" Sinar copy camera for historic drawings.
  - In-house lab/darkroom for archival processing and printing.

- Archaeological Soil Studies & Geomorphology**
- Stratigraphy: description and correlation across landscape.
  - Depositional History: paleolandforms, stratigraphic integrity.
  - Sampling: physical, chemical; lab data interpretation.

2630 Hilgard, Berkeley, CA 94709-1002  
Telephone/Fax 510.845.7830

# Flote-Tech Flotation

- **Excellent recovery**
- **Cost-effective**
- **Labor saving**



**R.J. Dausman Technical Services, Inc.**  
2860 Division Rd., Jackson WI 53037  
414-677-4825 Fax 414-677-0339  
<http://www.execpc.com/~rdausman>

# Geospatial Technologies for Archæology

## Archæological Mapping Specialists

provides its clients with advanced geospatial services to solve substantial cultural resource research and management problems.

- **Geographic information systems**
- **Satellite, aerial, & subsurface remote sensing**
- **Photogrammetry**
- **Computer cartography**
- **Virtual visualization**
- **Spatial analyses**

**Christopher D. Dore, Ph.D., RPA**  
**LuAnn Wandsnider, Ph.D.**  
*Principals*

[www.archymap.com](http://www.archymap.com)

2430 5th Street, Suite K, Berkeley, CA 94710.2452  
510.540.0791

**NEW REGS GOT YOU BAFFLED?  
AFFORDABLY PRICED HELP IS AVAILABLE!**

## Section 106

**in the new regulatory  
environment**

*an on-site workshop  
designed with CRM consultants and their clients in  
mind*

This one-day workshop covers Section 106 fundamentals, important changes in the regulations, and potentially costly pitfalls and ways to avoid them. The workshop handbook contains copies of the law, the revised regulation, a plain-English translation of the regulation, and other useful information.

Save time and money by bringing the training to your staff, your clients, and other preservation partners!

*Lynne Sebastian, Ph.D.*  
*Cultural Resource Consulting*  
*Preservation Planning, Training, and Problem solving*  
*e-mail: [lynnesebastian@mindspring.com](mailto:lynnesebastian@mindspring.com)*  
*or call (505) 890-2670*

sified together and regardless of which person completes the project assignment, the employee is billed out at a flat \$20.00/hour. In invoicing with Person X (the employee making \$21.00/hour), a firm may lose money but in invoicing Person Y (the employee making \$19.00/hour), it may make money. The agencies have a vested interest during contract negotiation to audit actual employee rate lists to determine that the categories have been fairly derived and the firms have a vested interest in new hires and annual salary reviews to retain employee classifications in tight groupings. This type of contract can lead to much employer angst when task orders stretch way beyond original contract limits and they are billing employees out at rates that are years old and out of sync with current salaries.

Some agencies have contract rates established with Average Daily Rates. These establish an average rate of all costs for a task, such as fieldwork, in which all salaries of all employees (Project Archaeologist, Field Supervisor, Archaeological Technicians, etc.) and their typical Direct Expenses (Per Diem, Travel, Field Supplies, etc.) are calculated for one grand Daily Rate, such as \$400/day (Figure 4). Clients love these because invoicing is simple. Firms hate these because it is hard to establish typical rates for widely varying types of projects not knowing the employees who may be assigned to the job or even where the project may be geographically.

*Direct Expenses:* These are out-of-pocket costs directly assignable to a project. These include per diem (usually the amount is established by the client), travel, vehicle rentals and/or mileage, backhoe operators, and specialized studies such as C-14. Photocopying and report preparation costs must be clearly identified as a project cost; i.e., you can't charge your monthly copier maintenance fee to a client but you can bill the Copy-Center-R-Us cost of photocopying and binding the report. Field and equipment breaks down into disposable (= billable) costs, such as film, paper bags, field pencils, and archival curation boxes vs. capitol (= non-billable) costs which are items which you will use over again for many projects, such as cameras, transits, and compasses. Some items are debatable among clients. Based on the sad shape in which most shovels return from projects, most consulting firms wish to view them as disposable field equipment, but most government agencies do not. Some agencies go to the length of having a company buy equipment for a field project and then demand the items be returned to them. There is some amusement factor in delivering 10 very used, very battered shovels to an agency.

#### OVERHEAD AND PROFIT

Overhead is everything else for which an employer pays - the cost of doing business. It is usually sub-divided into Fringe benefits and general overhead Expenses. *General overhead expenses* include rent, utilities, taxes, insurance, vehicles, office supplies and non-billable employee time. The latter include secretaries and most clerical and computer support, marketing and proposal time, professional development (such as attending a professional conference), and management time (a clear incentive to reduce staff meeting time!). Each company's overhead rate is determined by its previous year's costs of doing business.

*Fringe Benefits* include employee benefits and expenses, such as vacations, holidays, matching social security and medicare taxes, unemployment taxes, matching 401K contributions and/or pension funds, and insurance benefits. Typical employee benefit or expense packages average 25-40 percent of their salary. That is, an employee

## Subcontractors Welcome Prompt Pay Rule

[Reprinted from *Engineering News-Record*, October 11, 1999, copyright The McGraw-Hill Companies, Inc. All rights reserved.]

Prompt-pay rules are "a deliberate move to bolster the health of Disadvantaged Business Enterprises (DBE)," says Edward Kussy, the Federal Highway Administration's deputy chief counsel. "We want to insure that small businesses have enough cash flow to go on," he told attendees at the American Association of State Highway and Transportation Officials annual meeting in Tulsa.

Added Kussy: "The AGC has let us know in no uncertain terms how they feel." Which is to say, not very good.

If the Associated General Contractors are against the new prompt-pay rules, the American Subcontractors Association (ASA), with some reservations, is equally adamant in their support.

"When you are talking about any small business— minority or otherwise— cash flow becomes very, very important," says E. Colette Nelson, "Assuring prompt pay is critical."

The transportation departments (DOTs) rule was drafted in response to the 1995 Supreme Court decision in *Adarand Constructors Inc., v. Peisa*. The court ruled that "racial classifications" must be "narrowly tailored measures that further compel governmental interests."

How did the prompt-pay rule become part of the new DBE program that the agency is struggling to create? Nelson says that ASA has "talked to DOT on and off for many years about our concerns with predatory practices on state DOT contracts... Those problems become more serious for smaller firms."

Nelson believes DOT's rule in its current form falls short of protecting subcontractors and DBEs from pay abuses. "I think the rule leaves an awful lot of lee-

way to the individual states," she says. ASA will work with the states on specific aspects of their pay rules, trying to put some teeth into the details.

Kussy declines to reveal details of DBE goals or breakdowns of formulas. But he did note some problems in plans, including some states' reliance on past DBE achievements and too vague formulas.

While Kussy stressed the transportation department's acceptance of state "good faith" efforts, states are still worried about the agency's interpretation. "The good faith issue is very subjective," said Amanda Villejo, head of the Oregon DOT's Office of Civil Rights. "We are concerned about holding up projects over this. It's one thing to submit a plan, another to live with it."

Kussy says DOT was expecting to "act on the plans" within the next few weeks. But agency officials will take a measured approach to early enforcement. "It's in no one's interest to threaten federal funds," said Transportation Secretary Rodney Slater at the October 2, 1999, meeting. But Slater warned that "DOT will take action" if the rules are not implemented.

By Debra Rubin in Tulsa and Tom Ichniowski in *Engineering News-Record*, October 11, 1999.

making \$41,600/year may also be receiving an additional \$10,400/year in paid benefits. Some of these are visible to an employee (vacation/sick time); others less so (unemployment taxes every employer must pay for each employee). None of these are billable to a client other than as part of Overhead.

Combining Fringe benefits and General Overhead Expenses for a company results in the Overhead figure, which in archaeology can be anywhere between 50-190%. Smaller firms, especially those with few employee benefits, can have much lower overheads. Please compare Figure 1 to Figure 2 to see how much difference overhead percentages make in a budget. Overhead rates are established for firms through annual audits by both employer and client. The most common audit today is the Federal Audited Rate (FAR) based on Federal rules. Most agencies accept this rate, reducing the need for multiple audits. In the bad old days, every state transportation agency would independently audit a firm, each one using different rules.

*Profit* is just what it sounds like. It averages 8-12% and agencies often have established profit rates. "If everyone gets ~10% profit in a job, why don't firms seem to be making much money and why can't I get some of that?" Because paired with Profit is its twin, Loss. Remember the above discussion on sometimes taking a loss on average rates of employees when invoicing? And don't we wish every job went as scheduled and as budgeted? If work goes over budget and there is no justification for a supplement .... you bid for 10 artifacts and got a 1000.... your Project Archaeologist takes 80 hours to write a report that was budgeted for 40... your Field Supervisor decides to run off to Samoa with your Crew Chief and they take all of the field notes - or more likely you are just now discovering that person never took notes - it goes on and on. Bad debt can destroy an entire year's worth of profits for a firm. While state and federal agencies rarely cause problems, private clients sometimes do not pay, or go into bankruptcy and you get 10 cents on the dollar. Also, remember the above discussion on audit? Not every company cost can be billed to the company's books, for example, certain entertainment expenses.

#### TYPES OF CONTRACTS

Under *Cost-Plus* Contracts, sometimes referred to as "time & materials" (especially by construction clients), projects are invoiced with full accounting of every hour billed and expense incurred, and they usually require extensive backup documentation, i.e., receipts and timesheets. These contracts usually have stated contract limits, a not-to-exceed amount. Such contracts guarantee the consultant a previously agreed upon overhead and profit amount on all labor expended on a project. Clients like them because if you finish under budget, they do not have to pay you the full amount. Also, they can reconstruct how you completed all of your tasks and what individuals and materials you used. Such budgets are invaluable templates for clients responsible for preparing in-house government cost estimates.

*Lump Sum* contracts guarantee consultants an agreed-upon amount for their work. You bill the job out regardless of whether you came in under or over budget. Consultants like these contracts because there is the potential to make a higher profit if a project comes in under budget. However, the great risk is that if your project goes over budget, there is little recourse for supplements unless there is a clear and demonstrably major change in scope. Clients like them because invoicing is usually by percent-



A C R A E D I T I O N

age completed and backup documentation is not required. A caveat here - lump sum government contracts may be audited, and in an audit you must account for how you spent the money.

Cost Plus Fixed Fee contracts are billed the same as cost-plus contracts. However, the fee (Profit) is a fixed sum and is billed out as a percentage of project completion, rather than as a percentage of labor plus overhead.

Note: Colleen McCarthy, J.D., Financial Manager for The Louis Berger Group's Cultural Services, and Loretta Lautzenheizer, Coastal Carolina Research, provided comments on an earlier draft of this essay. Kay also wish to acknowledge a series of articles on project management, contracts, and budgeting issues in CE News that provided the impetus and foundation for this article.

FIGURE 1:

DIRECT LABOR	HOURS	RATE	TOTAL
Archaeologist	80	\$20.00	\$1,600.00
<b>TOTAL</b>		<b>DIRECT LABOR</b>	<b>\$1,600.00</b>

DIRECT EXPENSES	EACH	RATE	TOTAL
Mileage	50	\$0.27	\$135.00
Film	2	\$18.00	\$36.00
Field/research supplies (expendables)	1	\$30.00	\$30.00
Communications cost	1	\$15.00	\$15.00
<b>TOTAL</b>		<b>DIRECT EXPENSES</b>	<b>\$216.00</b>

A. DIRECT LABOR TOTAL	\$1,600.00
B. OVERHEAD (120% of A)	\$1,920.00
C. FEE BASE (A+B)	\$3,520.00
D. NET FEE (10% OF C)	\$352.00
E. NONSALARY DIRECT COSTS	\$216.00
F. TOTAL ESTIMATED COST (C+D+E)	\$4,088.00

FIGURE 2:

DIRECT LABOR	HOURS	RATE	TOTAL
Archaeologist	80	\$20.00	\$1,600.00
<b>TOTAL</b>		<b>DIRECT LABOR</b>	<b>\$1,600.00</b>

DIRECT EXPENSES	EACH	RATE	TOTAL
Mileage	500	\$0.27	\$135.00
Film	2	\$18.00	\$36.00
Field/research supplies (expendables)	1	\$30.00	\$30.00
Communications cost	1	\$15.00	\$15.00
<b>TOTAL</b>		<b>DIRECT EXPENSES</b>	<b>\$216.00</b>

A. DIRECT LABOR TOTAL	\$1,600.00
B. OVERHEAD (150% of A)	\$2,480.00
C. FEE BASE (A+B)	\$4,080.00
D. NET FEE (10% OF C)	\$408.00
E. NONSALARY DIRECT COSTS	\$216.00
F. TOTAL ESTIMATED COST (C+D+E)	\$4,704.00

FIGURE 3:

DIRECT LABOR	HOURS	FIXED BILLABLE RATE	TOTAL
Archaeologist	80	\$50.00	\$4,000.00
<b>TOTAL</b>		<b>DIRECT LABOR</b>	<b>\$4,000.00</b>

DIRECT EXPENSES	EACH	RATE	TOTAL
Mileage	500	\$0.27	\$135.00
Film (includes processing)	2	\$18.00	\$36.00
Research & Field supplies	1	\$30.00	\$30.00
Communications cost	1	\$15.00	\$15.00
<b>TOTAL</b>		<b>DIRECT EXPENSES</b>	<b>\$216.00</b>

A. DIRECT LABOR	\$4,000.00
B. NONSALARY DIRECT COSTS	\$216.00
C. TOTAL ESTIMATED COST (A+B)	\$4,216.00

FIGURE 4:

ITEM	DAYS	DAILY RATE	TOTAL
Archaeologist	10	\$400.00	\$4,000.00
<b>TOTAL</b>			<b>\$4,000.00</b>

*message from the*  
**EXECUTIVE DIRECTOR**

*by Tom Wheaton*

**"The ACRA Brand"**

All of you with e-mail addresses (102 out of 115 now or more than those with fax numbers) have recently received an attached file asking for information about your number of staff, regions served, disciplines and branches. We need your responses as soon as possible, and certainly by the end of the year. We are trying to gather information to make our website the place for clients to go to hire consultants. Right now we have our membership list, but it only shows names, addresses and the disciplines served by members, and is organized alphabetically by company name. There are no branches listed. Of course, potential clients could do a search on states, but it is awkward, and web surfers like to be spoon fed.

Our new set of pages, really more like a new website, will make it easy to find ACRA member companies in any of the major regions of the country by simply clicking on a map. If you have listed a region as one where you or your branches work, your main office and any branch offices serving that region will be listed along with the number of people you have in your various disciplines. It will also be easy for potential clients to click on a button for a particular discipline and get a list of ACRA members who have upper level (DOI qualified or graduate degreed) staff in that discipline. This will be sorted by state so people can easily find a [qualified] good historian in Delaware (if such a thing is possible). We are also listing Section 8 firms to encourage teaming opportunities between large businesses needing subs to satisfy small-business set-asides.

ACRA will market this site to potential clients in various ways. One will be to set up links from other websites that represent groups who may need cultural resources services, such as other trade associations and organizations, etc. Another way to market the site will be through our standup display. Dana McGowan just sent me the first mock-ups for the displays. There will be two, or rather two versions, that will be attached to the display board with velcro. One will be to attract members to ACRA. This version will be displayed at national conferences of historians, archaeologists, etc. The other version will sell the con-

cept of ACRA at client conferences (engineers, developers, federal agencies, etc.) as a way for clients to find good, business-like firms, that can be relied on to get clients through the compliance process with the least amount of pain. Of course we can't promise too much and will have to be careful in our wording. This attempt at the "branding" of ACRA will also include a new brochure just for clients and some form of mailing to clients. I am presently developing a list of client trade associations. If you know of one, let me know.

One last form of branding is through a company, ENI-Net, that provides and maintains subcontractor files for several large, national, engineering and environmental firms. ENI-Net provides a single source for industry, prime contractors and consultants to locate, pre-qualify, solicit and procure environmental service providers, equipment manufactures and product vendors. Not only does ENI provide a list of subcontractors, but ENI installs systems, trains employees and maintains the databases in the various offices of these firms. They expect to add new firms continually, and have already added another firm since my firm, New South, signed on a few weeks ago. Some of you have already signed on with them, but I am presently negotiating a discount for ACRA members, and some way for ENI to denote ACRA membership in their database.

Over the next year or so, I hope to get clients thinking about ACRA membership as a valuable asset when looking for a cultural resources consultant, or at the very least to start thinking about cultural resources as more than just what those poor misguided and underpaid academics do. There is a role for our members in all of this beyond volunteering to host the display or providing input to the website. We need to start pushing ACRA to our current clients, we need to start pushing an ACRA member when we cannot do a job ourselves, we need to select other ACRA members in teaming opportunities, and we need to start realizing that as we represent ACRA, we are representing each other. We, therefore, need to hold ourselves to the highest level of work, safety standards, and business practices.

*message from the*

## PRESIDENT

*by W. Kevin Pape*

This past October many of us gathered for our annual meeting in Mt. Laurel, New Jersey. The meeting's theme focused on cultural resources management as "a maturing profession." I want to reflect briefly on how this theme plays out for our profession in terms of accomplishments as well as future directions and opportunities for CRM.

Think about it. How far have we come since the days of sitting in front bulldozers (as if anyone of us has even done such a thing!) as the preferred method of "mitigating" project impacts on cultural resources? Over the last 25 years, cultural resources management has matured from its earliest antecedents in the ad hoc pursuits of ill-prepared academic institutions to full-service professional consulting practices, well integrated into the national environmental regulatory process.

Yes, we still fight rear-guard actions against unscrupulous clients and low-ball, marginal-quality competitors. But these are short-term concerns. The longer-term perspective shows us that important benchmarks such as the quality of our work, the range of our projects, the professionalism of our staffs, and the legitimacy of CRM firms as professional business concerns have been on a steadily inclining trajectory over the last 25 years. CRM professionals have accomplished great things and we owe it to ourselves to step back and revel in the accomplishments of the long-term view.

On the compliance front, the National Historic Preservation Act has been in effect for almost 34 years and compliance with the Section 106 review process has become standard practice with government agencies and most reputable businesses. Although not perfect, the new changes to the Section 106 regulations offer significant business opportunities to the savvy consultant. The new regulations allow and encourage innovative and expeditious ways of working through the compliance process. Clients with large, complex projects are very interested in working with highly skilled consultants to explore these options. The new regulations offer increased opportunities for more interaction with an interested public. Though still seen as onerous by some agencies and private clients, in the long-term, the new emphasis on public involvement with Section 106 will create strong public support for this regulatory process. Finally,

CRM consultants will find new ways of partnering with A&E clients as they begin to work more collaboratively on the integration of the Sectopm 106 and National Environmental Protection Act (NEPA) processes.

Some of the most exciting prospects for CRM lie outside of the more traditional Section 106 markets. Opportunities linking cultural resources with public interpretation and economic development (e.g., heritage tourism, scenic byways, heritage areas) have direct relevance to important issues such as sustainable development, anti-sprawl initiatives, and community preservation. I believe that the CRM community has some significant advantages that can be brought to bear in developing these new markets and shaping future directions of these efforts: CRM consultants are closely attuned to the full range of issues and public involvement with these efforts; many of these new markets are driven by economic development agenda and CRM consultants are familiar with integrating resource considerations in a business environment; and finally, these new opportunities require the types of multidisciplinary approaches that we are all familiar with (i.e., collaboration between planners, historians, landscape architects, archaeologists, etc.).

And don't forget, chief among our accomplishments is the establishment and on-going success of ACRA. Our organization has become the recognized representative of professional CRM interests and we have earned a place at the table along with other well-established organizations such as the National Trust for Historic Preservation, the Society for American Archaeology, etc. As a result, ACRA is taking on an increasingly sophisticated agenda for considering issues of significant concern to our membership. In my next column I will outline some of these issues and discuss what steps ACRA is taking to address them.

In the spirit of this holiday season I encourage you to take a break from daily concerns with marketing, quality control, staff development, project management, payroll.....and reflect on your collective accomplishments and the bright opportunities the future holds for our profession.

## SUMMARY OF THE BOARD OF DIRECTORS ANNUAL MEETING OCTOBER 7, 1999, MOUNT LAUREL, NEW JERSEY

The following is a summary of those board discussions considered to be of most interest to the membership or that require comment or action. Those agenda items detailed elsewhere in *ACRA Edition* are not repeated here. The full and approved minutes will be available for review following the 2000 mid-year board meeting (by April 1). Please note that the Board of Directors meetings are open to all ACRA members; the board welcomes your attendance and participation. Contact Executive Director Tom Wheaton one week prior to the mid-year or annual board meetings if you would like an item added to the agenda.

**Board Members in Attendance (representing a quorum):** Cory Breternitz, Colin Busby, Susan Chandler, Karen Hartgen, Ann Emmons, Lynn Larson, Loretta Lautzenheiser, Charles Niquette, Patrick O'Bannon, Kevin Pape, Duane Peter, Mike Polk, Dan Roberts, Kathryn Toepel, Charissa Wang, Donald Weir, and Tom Wheaton.

**Board Members Absent:** David Ketz, Tom Lennon.

**Also in Attendance:** Jeanne Harris, editor *ACRA Edition*; Ian Burrows, Hunter Research and conference coordinator; Chris Robinson, Project Manager for Soil System, Inc.; Mike McNerney, American Resources Group Ltd.

### Financial Report

Treasurer Don Weir reported that ACRA has met dues projections of \$48,000. Funds, however, are not being generated from any other source, which may create problems as costs increase and membership levels stabilize. Weir strongly suggested that ACRA determine additional means of raising funds.

### Conference Report

Conference committee chair Cory Breternitz reported that the ACRA 2000 annual conference is scheduled for November 4-6, 2000, at the historic National Register-listed San Carlos Hotel in downtown Phoenix, Arizona. The hotel is eight minutes from the airport, and within walking distance of a vibrant commercial, museum, and art district. The conference

rate will be honored for three days on either side of the conference for those in need of extra sun. In keeping with tradition, round-table lunches will be held on Friday and Saturday and a Saturday breakfast has been proposed. Much of the subsequent discussion focused on the preliminary conference agenda, with Breternitz proposing a plenary session devoted to federal preservation legislation and breakout sessions focused on specific issues "directly relevant to the way we do business," such as determination of the Area of Potential Effect. Additional suggestions included a workshop or breakout session devoted to succession plans, including mergers and Employee Stock Option Plans. (Please note that the conference committee requests member input on the focus of the Saturday sessions and Friday workshops. The final agenda will be determined as soon as possible following the February winter board meeting, no later than June. Please contact Cory Breternitz at SSI.)

### ACRA Edition, Newsletter Report

Editor Jeanne Harris informed the board of a proposed formatting change, whereby the newsletter will be distributed as a PDF file rather than in hard copy. Formatting will be streamlined, in an effort to reduce file size. The change is not only of environmental benefit (reducing paper consumption), but will help contain ACRA's production and mailing costs. Those ACRA members without e-mail will continue to receive hard copy, as will those who request hard-copy rather than PDF distribution.

Newsletter contributions remain low. Harris is compelled to write much of the content or to condense from other sources, all of which increases her labor costs. Board members suggested that the membership be polled as to their expectations of the newsletter, and that newsletter articles be identified as a means of actively involving members in the organization. The board further determined to appoint a newsletter committee that will consist of ACRA members who represent various disciplines and regions of the country and will serve under the leadership of newsletter liaison and committee chair Kay Simpson. Each regional coordinator will be responsible for writing or soliciting non time-sensitive articles addressing issues of importance to our businesses or to Cultural Resources Management.



### Member Services: Marketing

In an on-going effort to assure that ACRA provides tangible benefits to its members, the board discussed means of marketing ACRA affiliation, of "familiarizing our client universe with ACRA," and of presenting ACRA as a body that represents the industry. Suggestions include ACRA advertisements in trade magazines and preservation handbooks and linking the ACRA web page (with its links to member firms) to industry web sites. In addition, ACRA's web site will be modified to include a description of what it means to be an ACRA firm: a "value-added" statement. ACRA member firms will also be provided with a template for promoting ACRA, including inclusion of the ACRA logo and advertising the ACRA web site on letterhead. Members are urged to contact Tom Wheaton with contributions to the value-added statement.

### Federal Contracting

Efforts to establish a dialogue with the National Park Service continue, with an agenda proposed for distribution to NPS representatives by late winter. Initial discussion will be limited to three or four umbrella issues related to contract procurement and contract administration. Each agenda item is designed to educate federal clients on business practices; on cost measurement; and on the impact of federal policies on legitimate profit, on the quality of deliverables, and on cultural resources. In addition to the face-to-face meeting with NPS officials, ACRA proposes to market the contracting workshop to federal employees.

### SAA's CRM Award

As a means of promoting ACRA and CRM, the board recommended that ACRA take a more aggressive role in nominating member firms for industry awards, particularly the SAA's CRM Award. This award traditionally goes to academic programs thereby perpetuating false impressions of the scope and the talent within the industry.

### Status of ACRA Display

ACRA has purchased a fully portable display for discipline and client conferences. Board member Dana McGowan of Jones and Stokes will assume responsibility for text and graphics depicting "who we are" and "what we do." Duane Peter, GeoMarine, will generate a list of industry conferences where we can promote ACRA member firms, and a list of discipline confer-

ences where ACRA can solicit new members. If you will be attending local, regional, or national conferences and are willing to set up and/or man the display unit, please contact Duane Peter or Tom Wheaton.

### CRM Awards

Concerned that the nomination process was needlessly onerous, the board determined to eliminate the requirement that best-product nominations be anonymous. Award committee members nominated for an award must recuse themselves from the evaluation.

### Standardized Contract Language

A member firm recommended that ACRA develop a model of standard contract language, appropriate to cultural resources. Although such a template was seen as a tangible benefit of membership, numerous board members voiced concern that ACRA limit its liability (we are not licensed to practice law), that the model include only lists of issues to be aware of, and that it be reviewed by ACRA's attorney prior to distribution.

### Labor Pool

Numerous member firms have experienced difficulty fielding crews over the past year and the board discussed possible causes: surplus of work; fewer students in the universities; attrition of the experienced work force. The board determined to raise the question at the Sunday membership meeting, and to discuss the merits and demerits of field-crew cooperatives.

### Hastings Bill and ACRA's Position on Controversial Issues

The ACRA board and the ACRA membership have been unable to reach consensus on the merits of the Hastings Bill. The board agreed that ACRA is an advocacy group, for cultural resources and for business organizations, not just a clearinghouse for information. No formal procedure, however, has been established for soliciting member input and for determining the proper course of action when a formal position on a controversial issue of national scope is demanded. Using the Hastings Bill as an example, the board established the following procedure:

First, the president will poll the Executive Committee to determine if an issue is "important" as currently defined in the policy statement of the Government Relations Committee: is the issue national in scope or does it have the potential to set a

national precedent? Upon a majority vote, the president will appoint an ad-hoc committee of those board members interested and informed on the issue (Step 2). This committee will solicit information from the board and ACRA members in a neutral capacity: "we're wrestling with this issue – we're looking for input, we want your opinion (Step 3)." ACRA's formal position on an issue then will be determined by a 2/3 majority vote of the board of directors (Step 4). If the board cannot reach a 2/3 majority, then the issue will be identified as too complex and controversial to allow consensus and the board will mediate discussion and encourage distribution of information on *Members-Only* (Step 5).

Upon unanimous acceptance of this 5-step procedure the board, by simple majority, the board determined that the Hastings Bill is a national issue of high priority (Step 1) and determined to solicit and provide information when the bill comes out of committee.

#### Action Items and Priorities

Following extensive discussion, the list of issues requiring ACRA action and/or attention is defined as follows (the following list combines Government/Regulatory Issues and ACRA in-house issues). Please contact Susan Chandler or Tom Wheaton with questions.

#### First Priority

- Corps of Engineers Southern Division Limitation on Area of Effect
- Standardization of CRM job terms and descriptions
- Salaries, wages and benefits
- OSHA in CRM
- Native American Consultation
- Improved communications with ACRA members
- Meeting NPS on a national level (procurement, contracting, product quality issues)
- Section 106 enforcement, support, financing
- Reauthorization of NHPA and HPF
- Standardization of Section 106 enforcement
- Homeowners Tax Credit
- Section 110 enforcement, support, financing
- ACHP-Corps of Engineers Programmatic Agreement

#### Second Priority

- Group business discounts
- NAGPRA
- TCPs
- Privatization of university and state programs

#### Third Priority

- Professional certification
- List of member benefits

## Associated General Contractors Vows to Fight New Rules

[Reprinted from *Engineering News-Record*, October 11, 1999, copyright The McGraw-Hill Companies, Inc. All rights reserved.]

The Associated General Contractors (AGC) is turning up the heat on two regulatory issues. Association officials used their midyear meeting in Chicago to develop plans to fight the federal government's proposed blacklisting regulations and a "pay-before-paid" requirement that is about to be implemented under U.S. Department of Transportation disadvantaged business enterprise (DBE) rules.

The proposed blacklisting rule was published July 9, 1999, in the Federal Register. It directs government contracting officers to renew a firm's compliance with labor, tax, antitrust and environmental laws before awarding contracts (FNR 7/19 p. 10). If "persuasive evidence" of lack of compliance is found, contractors would be barred from Federal work.

The rules fulfill a promise made by Vice President Al Gore to an AFL-CIO executive council meeting in 1997 that the Clinton administration would try to keep companies with poor labor records from winning Federal contracts.

"The administration is trying to use debarment to serve political objectives. No one has made a case that the regulations are necessary," said Stephen E. Sandberg, AGC's executive vice president at the September 30- October 3, 1999, meeting. Contracting officers already have broad discretionary powers, added Michael E. Kennedy, AGC general counsel. "We don't want them putting their thumbs on the scale. The Federal acquisition regulations are not supposed to be used as punishment for violations of law."

AGC will be filing extensive legal comments on the proposed regs and asks members to file comments as well. Comments can be e-mailed to the Federal Acquisition Regulation Secretariat at [farcase.99-O1O@gsa.gov](mailto:farcase.99-O1O@gsa.gov). AGC also is working with a coalition from many industries called the National Alliance Against Blacklisting to urge congressional oversight hearings.

The board also passed a resolution opposing the retainage provision in DOT's new Disadvantaged Business Enterprise (DBE) regulations. AGC calls the provision a "pay-before-paid" clause because it prohibits prime contractors on any Federally funded highway project from holding retainage from a contract with any subcontractor (not just a DBE subcontractor) after the completion of its portion of the work, even

when the state is withholding retainage from the prime.

Asking contractors to finance retainage for states will cause "no small amount of heartburn" for small and large contractors alike, said Richard Ashmore, chairman of AGC's highway contractors division. He asked the group to imagine a large contractor subbing out 80% of a \$400-million job and then trying to pay out a 5% retainage of \$16 million. "It's going to be tough to make those payments before you get paid," he said. The requirement also removes any leverage the prime has over the subcontractor should any problems later be found with the subcontractor's work.

Further complicating the situation is that state plans for implementing the new DBE rules have just been filed with DOT. Not all address "pay-before paid" issues the same way. The regulation states subs must be paid "upon satisfactory completion" of their work, but "different states will have different ways of spelling out what that entails," said Zack Burkett III, co-chairman of a joint committee of AGC, the American Association of State Highway and Transportation Officials and the American Road and Transportation Builders Association.

Burkett reported that AGC met September 22 with the Department of Transportation's general counsel, the Federal Highway Administration deputy administrator and other officials to discuss retainage and other issues in the DBE rules. DOT officials acknowledged that retainage is a problem for primes and subs alike and expressed the hope that states would move away from using retainage and toward performance and payment bonds instead to assure satisfactory completion of projects.

AGC Vice President Robert J. Desjardins said AGC staff will be requesting a meeting with DOT Secretary Rodney Slater. "We plan to inform him that if DOT will not modify its position on the retainage issue, we will have to seek an injunction to prevent implementation," he said.

By Janice L. Tuchman in Chicago



**Michael Polk**  
**Sagebrush Consultants L.L.C.**  
**3670 Quincy Avenue**  
**Suite 203**  
**Ogden, UT 84403 0**

1 3 1 8 M a i n S t r e e t , C i n c i n n a t i , O h i o 4 5 2 1 0

## 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](mailto:tomwheaton@newsouthassoc.com).

## 2000 ACRA EDITION SCHEDULE

DEADLINE	PRODUCTION
February 7	February 18
April 3	April 14
June 5	June 16
August 7	August 18
October 2	October 13
December 4	December 15

advertising space available

ACRA Edition offers advertising space to our members. Does your company have a special product, service, or publication that would be of interest to some aspect of the CRM community?

Why not consider placing an ad in ACRA Edition?

Advertising Rates:	Per 6 Months	Per Year
Business Card size (3.5"x 2")*	\$100.00	\$175.00
1/4 page (3.5"x 4.75")	\$200.00	\$350.00
1/2 page (7.0"x 4.75")	\$300.00	\$525.00

\* 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:

Jeanne Harris, Editor  
 ACRA News  
 c/o Gray & Pape, Inc.  
 1318 Main Street  
 Cincinnati, OH 45210  
 513-287-7700  
[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  
 770-498-5159  
[tomwheaton@newsouthassoc.com](mailto:tomwheaton@newsouthassoc.com)