**Responding to Cultural Resource Assessment Requests**

Occasionally, a Tribe will respond to the Invitation to Consult with a request for the Grantee to conduct a Cultural Resource Assessment, sometimes referred to as an Archeological Field Investigation. In this case, the Grantee should consider the advice and recommendations received from the Tribe and decide what further steps to take. The Grantee should consider the factors below when deciding whether to undertake an Assessment.

Factors to Consider when Determining to Undertake a Cultural Resource Assessment

* **Information Received** – was there any information provided by the Alabama Historical Commission (SHPO), Tribal Historical Preservation Office, federally recognized Indian Tribe(s), Native Hawaiian Organizations (NHOs), local universities or other tribal organizations and/or parties with knowledge of potential historic properties in the project area? Do any sources corroborate the likelihood of historic properties in the Area of Potential Effect (APE)? Do recent archeological studies indicate either a presence or absence of sites in the APE or nearby?
* **Likely Impact** – will the project activities affect or disturb any potentially historically significant areas within the APE (e.g. significant digging, or the introduction of visual, atmospheric or audible elements that may affect landscapes of religious and cultural significance)? If adverse effects are avoided, (e.g. by designating an archeologically sensitive area as undisturbed green space) it is generally not necessary to fully identify and document resources with an archeological survey.
* **Previous Ground Disturbance** – the potential to have intact archeological sites decreases in areas with more extensive ground disturbance. Is the ground already disturbed through previous construction or use? If so, has it been disturbed to the expected depth of the potential sites? Does the site consist of later fill from previous construction? Have flood deposits buried the potential sites below the depth of expected ground disturbance in the project?
* **Likely Significance of Potential Sites** – do sources provide a basis for concluding that the APE is likely to contain significant sites that would be eligible for the National Register primarily under Criterion D: “That have yielded, or may be likely to yield, information important in prehistory or history?” Can consulting parties identify potential areas and levels of significance based on tribal oral tradition, written sources, or reference to research questions in SHPO State Historic Preservation Plans and similar documents? Will the site likely yield important new information that is not available through other means and that expands knowledge of prehistory or history?
* **Presence of Human Remains** – if human remains are anticipated in a location that may be impacted, sample field testing to confirm presence and boundaries is highly recommended, with the advice of consulting parties, especially tribes and NHOs.
* **Magnitude and Nature of the Undertaking and the Degree of Federal Involvement** – the cost of an archeological investigation should relate logically to the value of HUD assistance in the project, while considering the expected significance of the site(s).
* **Policy Statement on Affordable Housing and Historic Preservation** – does the Advisory Council on Historic Preservation’s Policy Statement on Affordable Housing and Historic Preservation apply? The guidance for Implementation Principle #8 in the Policy says, “Archeological investigations should be avoided for affordable housing projects limited to rehabilitation and requiring minimal ground disturbance.” The Principle applies only to *rehabilitation* and not new construction.
* **Public Interest** – is the expenditure of funds on an archeological investigation in a specific project in the public’s best interest? Maybe, maybe not. In reaching these decisions, the Grantee should seek a balance with other important public values, such as the program mission, objectives, costs and public benefits.

The following is a sample of the language that could be used in a response letter to a request to conduct a Cultural Resource Assessment. This sample uses 3 of the previous factors in its argument (Information Received, Previous Ground Disturbance and Public Interest).

Dear <Insert Name Here>,

The <Grantee> appreciates your response to our invitation to consult on our CDBG project. We will include the inadvertent discovery clause in our construction contracts. However, we disagree with the need for a Cultural Resource Assessment after considering the following information:

* Neither you nor the Alabama Historic Commission has indicated that you have knowledge of any historic or potentially historic properties (including archeological sites, burial grounds, sacred landscapes or features, ceremonial areas, traditional cultural places and landscapes, plant and animal communities, and buildings and structures with significant tribal association) located within the project area. Our own research has not revealed any historic or potentially historic properties either.
* The project will be contained within the rights-of-way of an existing roadway. Any ground disturbance that takes place will include areas that have been previously disturbed many times over and to a much deeper depth that our project will require. Therefore, we have determined that there will be no adverse impact (including the introduction of visual, atmospheric, or audible elements that may affect landscapes of religious and cultural significance) to any historic or potentially historic properties.
* Due to the lack of knowledge of historic or potentially historic properties being located within the project limits and the fact that the project site has been previously disturbed we find that it is not in the best interest of the <Grantee> to spend additional resources, time and money, on a cultural resource assessment.

Should you have any comments or concerns, please respond within 30 days of the date of this letter.

The language provided above should indicate to the Tribe that you have heard their request and have given it all due consideration.