

## Policy Issues Impacting Application Form/Budget Form/Contracts

At the recent Outdoor Heritage Fund Technical Committee meeting there was discussion about the information that is included in the applications regarding tree/shrub plantings. We frequently ask the Board's technical advisors for their comments on these applications. It is difficult for them to comment on these applications without more information. The following is a proposed amendment (highlighted in yellow) to the application form that would result in more detail for the technical advisors as well as the Board to make a determination of whether funding should be awarded for these types of projects:

### **Purpose of Grant – Describe the proposed project identifying how the project will meet the specific directive(s) of the Outdoor Heritage Fund Program \***

Identify project goals, strategies and benefits and your timetable for implementation. Include information about the need for the project and whether there is urgency for funding. Please indicate if this is a new project or if it is replacing funding that is no longer available to your organization. Identify any innovative features or processes of your project. **If your project includes tree/shrub planting, please provide a planting plan describing the site design, planting methods, number of trees/shrubs by species and stock size, and future maintenance. A statement certifying that the applicant will adhere to USDA-NRCS tree and shrub planting specifications along with the name of the governmental entity designing the planting may be substituted for a planting plan.** Please note that if your proposal provides funding to an individual, the names of the recipients must be reported to the Industrial Commission/Outdoor Heritage Fund. These names will be disclosed upon request.

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## Cultural Reviews

Since the last Board meetings staff has been asked if Cultural Reviews are required when Outdoor Heritage Fund dollars are utilized. This topic is not covered in the Outdoor Heritage Fund contracts. The State Historical Society website contains the following information about Cultural Reviews.

### State Review

North Dakota Century Code 55-02-07 states:

Any historical or archaeological artifact or site that is found or located upon any land owned by the state or its political subdivisions or otherwise comes into its custody or possession and which is, in the opinion of the director of the state historical society, significant in understanding and interpreting the history and prehistory of the state, may not be destroyed, defaced, altered, removed, or otherwise disposed of in any manner without the approval of the state historical board, unless section 55-02-07.2 applies to the site. Notification of the director's opinion of significance must be communicated to the appropriate governing official. The state historical board through the director, within sixty days of written notification to it by the appropriate governing official of the state or political subdivision's desire, need, or intent to destroy, alter, remove or otherwise dispose of a significant artifact or site, shall provide the governing official written direction for the care, protection, excavation, storage, destruction, or other disposition of the significant artifact or site. The state and its political subdivision shall cooperate with the director in identifying and implementing any reasonable alternative to destruction or alteration of any historical or archaeological artifact or site significant in understanding and interpreting the history and prehistory of the state before the state historical board may approve the demolition or alteration.

## Cultural Resource Inventories in North Dakota

(from *North Dakota SHPO Guidelines Manual for Cultural Resource Inventory Projects*. SHSND, Bismarck, North Dakota, 2012)

North Dakota Century Code (NDCC 55-03 & NDAC 40-02-02) outlines the permitting process for cultural resource investigations, and the SHSND is charged with the responsibility of implementing the permitting process on an annual (calendar-year) basis. Additional information regarding the permitting process may be obtained by contacting the SHSND Chief Archeologist or by downloading a Permit application cover letter and form.

Identification of cultural resources is an obvious prerequisite to a determination of their significance, to the evaluation of impacts on such resources, and to the planning of methods for the preservation of the resources or the mitigation of identified impacts. Once an undertaking's impacts on significant resources have been evaluated, it will then be possible to ascertain whether data recovery constitutes appropriate mitigation, whether some other mitigative measure must be developed and implemented, or whether the project should be reevaluated, redesigned, or relocated.

Although the exact activities necessary for the identification of cultural resources will vary, depending on the nature of federal or state land holdings or jurisdiction and on the nature of the proposed undertaking itself, one or more of the following steps will generally be required:

### Pre-Field Research - Class I: Literature Search

Documentary research is the starting place for all inventory efforts. Systematic study and evaluation of documentary data will usually permit predictions to be made about the kinds and distribution of cultural resources that may be encountered in an area. Such study may also make it possible to develop a broad evaluation framework within which the significance of particular cultural resources can be judged. Finally, background research will aid in pinpointing cultural resources that have already been adequately documented, or cultural resources that are known but need further study to obtain full documentation.

### Class II: Reconnaissance Inventory

In some situations, a Class II: Reconnaissance Inventory may be an acceptable strategy in combination with a Class I. Class II is usually used only as a methodology in large scale projects for locating areas with good or better cultural resources potential which would require investigation at the Class III level. Prior to undertaking a reconnaissance inventory, a Class I must be conducted in order to determine whether previously recorded cultural resources exist within the proposed project area, and to determine whether portions of the project area have been adequately surveyed in the recent past.

Only the lead agency in consultation with the ND SHPO can require that a Class II be conducted instead of a Class III Inventory. Private contractors permitted under the state for conducting archaeological work cannot make such determinations on their own in the field unless the lead agency and the ND SHPO have agreed to this method.

### Class III: Intensive Cultural Resources Inventory

An intensive inventory is a systematic, detailed field inspection done by, or under the direction of professional architectural historians, historians, archeologists, and/or other appropriate specialists. This type of study is usually required to formulate a preliminary determination of the significance of resources and their eligibility for listing in the NRHP and/or the North Dakota State Historic Sites Registry. It is preceded by adequate literature search (Class I), and, sometimes, by a reconnaissance effort (Class II).

A comprehensive, systematic effort is made to identify all resources within the area of concern that might qualify for the NRHP and/or the North Dakota State Historic Sites Registry, and to record information sufficient to permit their evaluation or to indicate what further work is necessary to accomplish their evaluation. All cultural resources should be evaluated against the criteria established at 36 CFR 60.6 (redesignated 36 CFR 1202), and supporting documentation should be developed with reference to guidelines published as an attachment to interim regulations at 36 CFR 63 (redesignated 36 CFR 1204) in the Federal Register on Wednesday, September 21, 1977, Vol. 42, page 47666.

Professional personnel of the HPD are available to consult with other federal, state, and local agencies, or private concerns, about applying these guidelines to particular circumstances.

There are a number of issues related to Cultural Reviews.

- Generally Cultural Reviews are required when Federal funding is involved.
- Based on the provisions of NDCC 55-02-07 should cultural reviews be required only in the state agency and political subdivisions contracts? There are additional guidelines for Cultural Reviews related to tribal lands.
- As noted above there are different levels of Cultural Reviews. Rhonda Kelsch (Vetsch) has considerable experience with this topic and will be able to respond to questions.
- These levels result in different costs. If the Board/Commission requires the Cultural Reviews then should the related costs be paid with OHF dollars?