

HP Fact Sheet #6 Guidance on Archeological Investigations in HUD Projects

HUD offers the following guidance on when to do professional archeological investigations in HUD-assisted projects to meet environmental review requirements under Section 106 of the National Historic Preservation Act and 36 CFR Part 800. It is applicable to both Part 50 and Part 58 programs.

Archeological investigations seek to identify historic properties that may be affected by a project, and/or serve as mitigation prior to their loss if impacts cannot be avoided. Such investigations span a wide range of activities, including background research in existing documents, sample field testing to determine the presence of archeological sites, and full data recovery through excavation to retrieve information and artifacts that would otherwise be lost. Sometimes they occur sequentially, in phases, with the results of one phase determining whether more investigation in a subsequent phase is warranted. Archeological sites that may be encountered range from prehistoric settlements or activity areas, to places and landscapes of traditional religious and cultural significance, to archeological remnants of historic period resources like early settlement sites and industrial sites. Data recovery should be a last resort after avoidance measures have been considered.

36 CFR Part 800.4 requires a federal agency to make a “reasonable and good faith effort” to identify historic properties that may be affected by a federal undertaking. If a project includes types of activities that may affect historic properties of religious and cultural significance (see HUD’s [When to Consult With Tribes Checklist](#)), you need to consult with federally recognized Indian tribes (tribes) and Native Hawaiian Organizations (NHOs) and other knowledgeable parties to identify if there are such historic properties in the project’s Area of Potential Effect (APE). The on-line Tribal Directory Assessment Tool (TDAT) identifies where tribes and NHOs have current or ancestral interest.

HUD recognizes that tribes and NHOs have special expertise in assessing the eligibility of historic properties of religious and cultural significance to them for the National Register of Historic Places. National Register listing or eligibility is the threshold for consideration as a historic property under Section 106. Most archeological resources are not immediately visible or apparent. Background research, previous identification efforts and existing National Register documentation may indicate a high likelihood that archeological historic properties may be present in an APE, but a lack of existing information does not indicate a lack of historic properties. In the latter case, predictive models and/or consultation with knowledgeable parties like the State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Officer (THPO) are often used to identify the likelihood of archeological sites in an APE.

Sometimes applicants for HUD assistance undertake archeological investigations prior to application, as part of project planning. Other times, a consulting party may request an archeological investigation to identify historic properties during the consultation process. In this case, the HUD official or RE considers the advice and recommendations received and makes the decision about what further steps to take. The HUD official or RE acting as HUD should consider the factors below when deciding whether to undertake an archeological field investigation in a HUD-assisted project. If approved by HUD and the grantee, an archeological investigation can be an eligible project expense.

HUD officials, Responsible Entities (REs) and grantees should honor requests from tribes and NHOs to keep information on sensitive sites confidential.

Factors to Consider in Deciding to Undertake an Archeological Field Investigation

- **Information received** from SHPO, THPO, federally recognized Indian tribe(s), NHO(s), local universities, and other tribal organizations and parties with knowledge of potential historic properties in the APE. Do sources corroborate the likelihood of historic properties in the APE? Do recent archeological studies indicate either a presence or absence of sites in the APE or nearby?
- **Likely impact.** Will the potential sites be affected or disturbed in the project, such as by significant digging, or 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 taking into account 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 archeological investigation in a specific project in the public interest? In some cases it may be; in other cases, perhaps not. In reaching these decisions, the HUD official or RE should seek a balance with other important public values, such as the program mission, objectives, costs and public benefits.

Contact your local HUD Environmental Officer for further assistance.