

31 December 1996

Re: NEPA Call-In Technical Inquiry 0003 - Phase II SOW

Dear NEPA Call-In User:

This letter is in response to your October 24, 1996 request for a Scope of Work (SOW) for a Phase II archaeological survey of your building site. You stated the State Historic Preservation Officer (SHPO) is asking you to do a Phase II archaeological survey and you would like a sample SOW.

NEPA Call-In contacted Mr. John Dendy, Archaeologist, Dynamac Corporation, Fort Riley, Kansas, (913) 239-8788, for a sample SOW. He provided "Scope of Work, National Register Eligibility Assessment of Ten Prehistoric Archaeological Sites at Fort Riley, Kansas" (enclosed).

We then contacted Ms. Clara Brawley, U.S. Army Corps of Engineers, Fort Worth District, (817) 978-7471, to obtain additional SOWs. Ms. Brawley stated they could provide a SOW example for a Phase II archaeological survey which is integrated into their contracts. NEPA Call-In will forward the Corps of Engineers SOW when received.

NEPA Call-In reviewed the requirements of the National Historic Preservation Act (NHPA). Title 36 Code of Federal Regulations (CFR) Part 800, "Protection of Historic Properties," implements Section 106 of the NHPA and requires Federal agencies to go through a formal review process for any undertaking that might affect any historic property that is eligible or potentially eligible for inclusion in the National Register of Historic Places. The NHPA requires the SHPO to review the effect of the undertaking. The SHPO can ask GSA for a plan discussing the proposed project and the resulting effect. GSA may also, at that time, submit a plan for mitigation or other alternative to any effect of the proposed undertaking. However, the SHPO's role is primarily advisory and cannot directly require GSA to conduct such a study.

According to Mr. John Dendy, a Phase II archaeological survey refers to different activities in different States. However, in most States, a Phase I archaeological survey refers to Archival and Documentary Research, and Archaeological Survey, which determines if historical persons or events were associated with the site and if there is a potential for archaeological findings. A Phase II archaeological survey typically refers to "Testing for Eligibility" which will evaluate if a disturbed site has potential for revealing further archaeological discoveries. A Test for Eligibility consists of an evaluation of the site's integrity and whether it fits the criteria for eligibility listed in the Federal Register, September 13, 1996, Part IV, "Advisory Council on Historic Preservation" (enclosed). This usually requires an in-depth search of documentary and archival materials concerning the site, the site type, and its surrounding areas. It also requires sufficient subsurface testing be carried out to determine if the site has "integrity." Based on the information acquired during the Phase II test, the archaeologist recommends (through GSA) the site is eligible or not eligible. That

recommendation is sent to the SHPO for his/her "determination of eligibility." If it is determined eligible, GSA may continue with the project but will have to provide avoidance, protection, or mitigation plans (or all three alternatives) and, if no other alternative is feasible, justification for proceeding without such measures. All of this would then go back to the SHPO for review and comment and to the Advisory Council on Historic Preservation per Section 106 of NHPA (enclosed). A Phase III archaeological survey typically refers to "Full Data Recovery," where it has been determined that a site is historical, is eligible to be a historic site, but cannot be protected from the impact of the proposed activity. Mr. Dendy stated GSA should not send an entire SOW to the SHPO, only the part pertaining to the methods of field and archival investigation, the total area of impact, and the work plan. Because the SHPO has no purview over contract requirements, schedules, money, reporting times, ect., his/her concern is the impact and conduct of the field investigation.

According to the Advisory Council on Historic Preservation publication, "Step by Step on How to Implement Section 106 of the National Historic Preservation Act" (enclosed), the NHPA requires Federal agencies to consider the effects of their actions on historic properties. Section 110 (enclosed) of the NHPA states it is the responsibility of the agency official to identify historic properties in the area of potential effects, and whether they are included in or eligible for inclusion in the National Register. The SHPO, an initial source of information, can advise the agency on previous identification studies pertinent to the area, previously recorded historic properties not listed in the National Register, and the likelihood that undiscovered or unrecorded properties exist in the area. The SHPO can provide advice and guidance to the agency but it is ultimately the agency's responsibility to identify historic properties in the area of potential effects.

NEPA Call-In recommends coordination with the appropriate SHPO to ensure all state-specific concerns are addressed. Since you did not provide the State, we cannot coordinate this for you. If you provide additional information, we will contact the SHPO and determine if any State regulatory requirements should be added to the sample SOWs provided.

The materials in this TI have been prepared for use by GSA employees and contractors and are made available at this site only to permit the general public to learn more about NEPA. The information is not intended to constitute legal advice or substitute for obtaining legal advice from an attorney licensed in your state and may or may not reflect the most current legal developments. Readers should also be aware that this response is based upon laws, regulations, and policies in place at the time it was prepared and that this response will not be updated to reflect changes to those laws, regulations and policies.

Sincerely,

(Original Signed)

NEPA Call-In Researcher