

**DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION
REVIEW OF PROPOSED STATE PROJECTS OR PROGRAMS**

This document is intended to provide guidance to state agencies and the general public on the documentation that is needed for our office to review a proposed projects that may affect cultural resources when the project does NOT involve a federal license, permit or funding. State agencies include departments, institutions and political subdivisions of the state.

Please submit the information discussed below in a cover letter along with any other information (maps, photographs, drawings, plans, etc.) that you believe will be useful for our review. **PLEASE CALL US** if you have any questions while you are preparing your submittal. We will be glad to work with you on a case-by-case basis. Our office number is (505) 827-6320. An overview of state laws is provided on the second page to help you understand which laws might apply to your project.

- 1. Description of the proposed project.** Describe in detail the scope of work including related activities to be carried out in conjunction with the project (for example, staging areas, equipment parks, access roads, etc.). Please include preliminary drawings or plans of the project design. Any additional information on kind and amount of prior or existing surface disturbance should also be included. For projects involving existing buildings, include the approximate construction dates for each building or structure and include current overall exterior photos. Photos need to be clear enough for HPD staff to evaluate the historic integrity of the building(s).
- 2. Project Location Map.** Provide a legible photocopy of the U.S. Geological Survey 7.5 quadrangle map with the project area clearly marked on it. Please include the name of the quadrangle, and Township, Range, and Section. If your project occurs within a municipality show the project clearly marked on a street map and provide street addresses.
- 3. Archaeological sites or other historic/cultural resources.** Discuss any known archaeological sites, other cultural resources, historic buildings or structures. If the project area has been surveyed for a prior project, a new survey may not be necessary, but this information must be provided to our office for a determination of whether a new survey is warranted. Prior cultural resource surveys within your project area may be accepted if the survey was conducted to current standards. If the project area has been severely disturbed, or is located in an area with little potential for cultural resources, a survey may not be necessary. A contractor with current permit to conduct survey on state land will be able to provide you with information on prior surveys or potential for cultural resources to exist within the project area. Any documentation they provide to you and their recommendations for whether a survey is warranted must be reviewed by this office for concurrence. Documentation of buildings, structures, and architecture must be conducted or overseen by an individual listed in the SHPO's Directory as an Historian, Architectural Historian, or Historic Architect.

If a cultural resource survey is completed, please forward the report and all attachments for our review. Attachments will include but are not limited to, a NMCRIS Investigation Abstract Form (NIAF), Laboratory of Anthropology (LA) forms if archaeological sites were found, and/or Historic Cultural Property Inventory (HCPI) forms for buildings or other historic/engineering structures in the project area, and photographs.

- 4. Land ownership.** Identify the owner of the land and/or buildings that will be affected by the proposed project.
- 5. Funding, permitting or licensing.** Identify the source of funding for the project. If state funding will be used, identify the type of funding (grant, bonds, etc.) and the source (state agency providing the funding). Does the project involve a state permit issued by another state agency? If so, list the permit and state agency.
- 6. Consultation with Native Americans** and efforts to identify other consulting parties. Consultation with Native Americans may be required under Governor's Executive Order 2005-003. It is always in your best interest to consult with tribes, especially if known archaeological sites and/or unmarked human burials may be affected by the proposed project. **If you wish to consult with Native American groups, call us. We can provide a list of contacts and a sample letter.**

AN OVERVIEW OF APPLICABLE STATE LAW AND REGULATIONS

The information provided below should in no way be construed as comprehensive. Instead, this overview of state laws and regulations that may be applicable to your proposed project is provided to encourage early planning and coordination or consultation with the SHPO and HPD to help integrate the identification and protection of important cultural properties into project planning to help avoid unnecessary delays.

- **State Undertakings.** Under section 18-6-8.0 of the Cultural Properties Act, NMSA 1978, the head of any state agency or department having direct or indirect jurisdiction over any land or structure modification which may affect a registered cultural property shall afford the state historic preservation officer a reasonable and timely opportunity to participate in planning such undertaking as to preserve and protect and to avoid or minimize adverse effects on registered properties. **State land** means any property owned, controlled or operated by a department, agency, institution or political subdivision of the state. A **registered cultural property** is a cultural property that has been placed on the official register on either a permanent or temporary basis by the committee. Rule 4.10.7 NMAC, *Review of Proposed State Undertakings that May Affect Registered Cultural Properties*, establishes the procedure under which heads of state agencies or departments coordinate with the state historic preservation officer.
- **Preservation of significant prehistoric or historic sites.** Section 18-8-7 of the Prehistoric and Historic Sites Preservation Act, NMSA 1989 states that "No public funds of the state or any of its agencies or political subdivisions shall be spent on any program or project that requires the use of any portion of or any land from a significant prehistoric or historic site unless there is no feasible or prudent alternative to such use, and unless the program or project includes all possible planning to preserve and protect and to minimize harm to the significant prehistoric or historic site resulting from such use.". **Significant prehistoric or historic sites** are properties listed in the state register of cultural properties or national register of historic places. 4.10.12 NMAC, *Implementation of the Prehistoric and Historic Sites Preservation Act*, establishes the procedures and guidelines for this section of the Act.
- **Permit required for the excavation of unmarked burials.** Section 18-6-11.2 of the Cultural Properties Act, NMSA 1978 provides for the protection and appropriate and respectful treatment and disposition of each human burial in the state interred in any unmarked burial ground and imposes penalties (fourth degree felony) for violation of this section. Any person who discovers a human burial in any unmarked burial ground shall cease any activity that may disturb that burial or any object or artifact associated with that burial and shall notify the local law enforcement agency having jurisdiction in the area. The local law enforcement agency shall notify the state medical investigator and the state historic preservation officer. Rule 4.10.11 NMAC, *Issuance of Permits to Excavate Unmarked Human Burials in the State of New Mexico*, establishes procedures for reporting discoveries of unmarked human burials and procedures for obtaining a permit to excavate unmarked human burials.
- **Professional Surveys.** Section 18-6A-5 of the Cultural Properties Protection Act, NMSA 1978 states, "The officer shall, in cooperation with the heads of state agencies, establish a system of professional surveys of cultural properties on state lands. State agencies shall cooperate with the officer and exercise due caution to ensure that cultural properties are not inadvertently damaged or destroyed. The **officer** is the state historic preservation officer. A **professional survey** is an archaeological or architectural survey. A **cultural property** is a structure, place, site or object having historic, archaeological, scientific, and architectural or other cultural significance and is usually 50 years old or older. **State agency** means a department, agency, institution or political subdivision of the state. **State land** means property owned, controlled or operated by a state agency. Archaeological surveys on state land must be performed by an individual or firm that has a current General Permit issued by the Cultural Properties Review Committee with the concurrence of the SHPO and State Archaeologist. A list of those firms is available on HPD's website: <http://www.nmhistoricpreservation.org>. Architectural surveys on state land must be performed by an individual listed in the SHPO Directory of Qualified Personnel. A list of individuals is available on HPD's website.