

**Archaeological Institute of America**

Located at Boston University  
656 Beacon Street  
Boston, Massachusetts 02215  
Tel 617.353.9361 • Fax 6550  
[www.archaeological.org](http://www.archaeological.org)



On January 8th, 2004, Jane Waldbaum, AIA President, sent the following letter to officials at US AID and the US Army Corps of Engineers requesting that the Iraqi State Board of Antiquities and Heritage (ISBAH) be consulted and that cultural heritage resource management requirements be established for reconstruction projects entered into in Iraq and that qualified archaeologists approved by the ISBAH conduct any survey or salvage excavations undertaken in conjunction with these projects. The American Association for Research in Baghdad (AARB), the American Schools of Oriental Research (ASOR), the Society for American Archaeology (SAA), and the College Art Association (CAA) also endorsed these requests.

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As President of the Archaeological Institute of America (AIA), I am writing to urge the inclusion of cultural heritage resource management in the various contracts and subcontracts that have been and will be issued to construction companies that are working in the development and reconstruction of Iraq. Founded in 1879, chartered by an act of Congress and with nearly 9000 professional and lay members, the Archaeological Institute of America is the largest and oldest organization of archaeologists in the United States. Many of our members work in the Middle East and all have an abiding and sincere concern for the preservation of the past and a heritage that can be transmitted to future generations. The American Association for Research in Baghdad (AARB), the American Schools of Oriental Research (ASOR), The College Art Association (CAA) and the Society for American Archaeology (SAA) join the AIA in presenting this letter.

Over the past year, these organizations have been active in drawing attention to the impact of war on the cultural heritage of Iraq. Members of these groups were instrumental in informing the Department of Defense of sensitive sites in Iraq to be protected during war. One of our members, Professor John Russell, is currently serving as the Deputy Senior Advisor to the Coalition Provisional Authority in Baghdad. At this point, one of our greatest concerns is the potential impact of construction work on cultural sites in Iraq.

Iraq is the birthplace of civilization and the home of the ancient Mesopotamian civilization which gave us the first examples of writing, agriculture, organized city-states, astronomical calculations and legal codes. There are approximately 10,000 known archaeological sites in Iraq, and approximately 3500 of these sites are officially registered. Previous experience of archaeological survey and remote sensing has shown that there are many thousands more that have yet to go through the official registration process. Although the mounded sites (tells) are easy to recognize, small, low sites in the rain-fed areas and in the irrigated zones are more difficult to distinguish but are often of great importance. Likewise, thousands of Paleolithic sites in the Western Desert are difficult to discern for anyone but a trained archaeologist and these are under special threat from potential oil exploration and development.

The undertaking of construction projects poses a real threat to recorded and particularly to unrecorded sites. Accidental damage to sites through construction work can cause significant losses of scientific, historical and cultural information and could permanently diminish our capacity to understand and reconstruct the human past. In light of all that has happened in the past year, destruction or damage to these cultural resources is likely to draw both national and international attention and is likely to be a subject of concern to the Iraqi people as well.

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United States domestic law requires the avoidance or mitigation of harm from federal undertakings in foreign countries at sites that have been listed on the World Heritage List or on the country's equivalent of the National Register. 16 U.S.C. § 470a-2. In addition to the World Heritage sites located in Iraq (such as Assur and Ur), the 3500 listed sites seem to fall under this statutory provision. International norms and customary international law as embodied in the 1907 Hague Convention, Articles 55 and 56, the 1954 Hague Convention on the Protection of Cultural Property In the Event of Armed Conflict, Article 5, paragraph 1, Article 53 of the Fourth Geneva Convention, and the UNESCO Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works 1968 establish general principles for the protection of cultural property during occupation and require cooperation to the fullest extent feasible with the local national authorities in doing so.

The AIA, joined by the other organizations listed here, requests that all contracts and subcontracts entered into by the United States government establish requirements for cultural heritage resource management. The primary principles include collection of data concerning known cultural sites in regions to be affected by construction and similar projects. Surveys should be conducted in areas where projects will be located and projects should be located or re-located so as to avoid interference or damage to such sites. If a determination is made in consultation with the Iraqi State Board of Antiquities and Heritage (ISBAH) that a project cannot be relocated, salvage archaeology should be conducted so as to retrieve scientific and historical data. The ISBAH should supervise all such work, and professional archaeologists, who are qualified to work in Near Eastern archaeology, should conduct any survey and excavation. Finally, it needs to be clear that all movable cultural objects, like the archaeological sites themselves, belong to the Iraqi nation and all intellectual property rights and rights of publication also belong to the Iraqi nation. A more detailed outline of these points is enclosed .

I ask that you respond to this letter indicating what steps the US AID will take to ensure that construction projects funded or otherwise assisted by the U.S. government will follow procedures to avoid damage to the Iraqi cultural heritage and that construction contracts will incorporate the principles outlined in this letter. In addition, the members of our respective organizations are available to provide expertise in a variety of cultural resource management areas.

Sincerely,

Jane C. Waldbaum  
President, Archaeological Institute of America

## **Contract Guidelines for Cultural Heritage Resource Management and Preservation**

Construction projects in Iraq should be undertaken with a sensitivity and concern for the preservation of archaeological sites and historic monuments. This requires the collection of existing data concerning known archaeological and cultural sites, survey work to determine the location of previously unknown archaeological sites, and the relocation of building projects or the salvage excavation of sites, as appropriate, to avoid any damage to such cultural resources. This also requires documentation under internationally accepted professional standards of the results of all surveys and excavation work and the safeguarding of both sites and the objects excavated from such sites. These activities should be carried out in accordance with recognized professional standards, embodied, for example, in the 1956 UNESCO Recommendations on International Principles Applicable to Archaeological Excavations and the ICOMOS Charter for the Protection and Management of the Archaeological Heritage (1990), available at: [http://www.international.icomos.org/e\\_archae.htm](http://www.international.icomos.org/e_archae.htm).

The terms “cultural resources” or “cultural heritage resources” refer to tangible cultural resources. These include movable and immovable objects, sites, structures, groups of structures, natural features and landscapes that have archaeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance. Cultural resources may be located in urban or rural settings, and may be above ground, underground, or underwater.

All obligations imposed by these provisions on Contractors apply equally to all subcontractors.

### *Procedure*

1. Before commencing a construction project, the Contractor or its subcontractors shall
  - a. define the projected area of impact;
  - b. collect available data from both the Iraqi State Board of Antiquities and Heritage (ISBAH) and foreign archaeologists as to the location and any prior exploration of any sites or other cultural heritage resources located within or immediately adjacent to the area of impact;
  - c. conduct a survey within the area of impact and the immediately adjacent area in order to identify any previously undiscovered cultural heritage resources;
  - d. in conjunction with the ISBAH, assess the nature of the project impact on these resources; and
  - e. in conjunction with the ISBAH, determine appropriate actions to mitigate those impacts, including
    - i. relocation of the project whenever possible so as to avoid damage or other interference with the cultural heritage resources,
    - ii. or, if relocation is not feasible, employ professionally-qualified archaeologists, under the supervision of the ISBAH, to carry out salvage work so as to prevent loss of information that is of cultural, archaeological or historical interest. Such survey work shall be documented and both the documentation and artifacts recovered from the excavation shall be delivered to the ISBAH within a reasonable time.

2. If during the course of a project, the Contractor or its subcontractors discover any previously unidentified cultural resources, they shall
  - a. immediately stop work in any area where cultural heritage resources or artifacts with cultural, archaeological or historical value are discovered;
  - b. immediately notify the ISBAH;
  - c. attempt to relocate the project so as to avoid any further damage or other adverse effect on the cultural heritage resources;
  - d. if relocation is not feasible, employ professionally-qualified archaeologists, under the supervision of the ISBAH, to carry out salvage excavation work so as to prevent any further loss of information that is of cultural, archaeological or historical interest. Such salvage excavation shall be documented and both the documentation and artifacts recovered from the excavation shall be delivered to the ISBAH within a reasonable time.
  
3. Neither the Contractor nor any of its subcontractors shall have property or intellectual property rights to any artifacts, items, or other materials discovered during the course of carrying out a project or any documentation or other data derived from salvage or survey work carried out pursuant to this contract. All artifacts, items or materials discovered during the course of carrying out a project belong to the nation of Iraq, in accordance with Iraqi law. The Contractor and any subcontractors must secure and guard any artifacts recovered and shall be responsible for delivering them to the ISBAH or another agency designated by the ISBAH. The Contractor and its subcontractors are also responsible for safeguarding from looting, vandalism and other destructive activities any archaeological or other cultural heritage resources located within the area of impact. The Contractor shall also require that its personnel and its subcontractors comply with these provisions and respect all cultural heritage resources located in the areas where they are performing work.

#### *Process*

Throughout the process of compliance with these provisions, the regulations of the Iraqi State Board of Antiquities and Heritage (ISBAH) shall be followed and the Contractor shall consult with relevant Iraqi authorities at each step. Contractors shall hire qualified archaeologists or other heritage management professionals with experience in Near Eastern and preferably Mesopotamian archaeology. Contractors may request the ISBAH to provide qualified archaeologists; the credentials of all archaeologists to be hired must be approved by the ISBAH. A representative of the ISBAH shall monitor each excavation project to ensure compliance with ISBAH procedures, and the ISBAH shall approve and monitor all survey, assessment, excavation, and mitigation work. Contractors shall provide full documentation of methods and results to the ISBAH. They shall care for and safeguard all objects of cultural heritage until these are delivered to the ISBAH.