United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

SEP 7 2011

The Honorable Daniel Akaka
Chairman
Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Department of the Interior (DOI) is pleased to submit the enclosed report addressing Recommendations 1 and 2 of the Government Accountability Office (GAO) report entitled, *NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act* (Report No. GAO-10-768). These two recommendations require a report to Congress.

Recommendation 1 requires a needs assessment for each involved DOI bureau and office to assure compliance with the summary and inventory requirements of the Native American Graves Protection and Repatriation Act (NAGPRA). Recommendation 2 requires a timetable for the expeditious publication of notices of inventory completion for known culturally affiliated remains in inventories yet to be published in the *Federal Register.*

This report is being submitted to the Senate and House Appropriations Subcommittees on Interior, Environment, and Related Agencies; the Senate Committee on Indian Affairs, and the House Natural Resources Subcommittee on Indian and Alaska Native Affairs.

For additional information, please contact Pam Haze, Deputy Assistant Secretary – Budget, Finance, Performance and Acquisition at (202) 208-4775.

Sincerely,

Rhea Suh
Assistant Secretary
Policy, Management and Budget

Enclosure

Additional Recipients of this report

The Honorable Jack Reed
Chairman
Subcommittee on Interior, Environment,
and Related Agencies
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The Honorable Dan Boren
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Committee on Natural Resources
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The Honorable Don Young
Chairman
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U.S. Department of the Interior

Report to Congress
on
Two Recommendations Issued by the Government Accountability Office Report:
Native American Graves Protection and Repatriation Act: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act
(Report No. GAO-10-768)

August 2011

The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) requires Federal agencies and museums to prepare summaries and inventories of their collections for Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony (cultural items); research and consult with tribes to identify lineal descendants and culturally affiliated groups; and upon a valid claim, repatriate to the appropriate parties.

In July 2010, the Government Accountability Office (GAO) issued the report entitled, *NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT: AFTER ALMOST 20 YEARS, KEY FEDERAL AGENCIES STILL HAVE NOT FULLY COMPLIED WITH THE ACT* (Report No. GAO-10-768). This report brought attention to concerns with Federal agency compliance with NAGPRA, including the bureaus and offices within the Department of the Interior (DOI). The GAO study offered five recommendations for executive action, responses to two of which are presented in this report.

One recommendation requires a needs assessment for each involved DOI bureau and office to assure compliance with the summary and inventory requirements of the Native American Graves Protection and Repatriation Act (NAGPRA). The second recommendation requires a timetable for the expeditious publication of notices of inventory completion for known culturally affiliated remains in inventories yet to be published in the Federal Register. Both recommendations require that DOI report to Congress. This report summarizes the overall DOI position, including the responses of the following DOI bureaus and offices:

- Bureau of Land Management (BLM)
- Bureau of Reclamation (BOR)
- Indian Affairs (IA), includes the Bureau of Indian Affairs and Bureau of Indian Education
- Indian Arts and Crafts Board (IACB)
- National Park Services (NPS)
- U.S. Fish and Wildlife Service (FWS)

GAO Recommendation 1: *The Secretary of the Interior should direct the cultural resource management programs to develop and provide to Congress a needs assessment listing specific actions, resources, and time needed to complete the inventories and summaries required by NAGPRA sections 5 and 6 for their historical collections.*

To address this recommendation, each DOI bureau and office that has possession or control over Native American cultural items in their collections prepared a needs assessment. The needs assessments list specific actions, resources, and time needed to complete inventories and summaries of Native American cultural items.

Currently, DOI bureaus and offices utilize $1.42 million for these NAGPRA activities. The results of the needs assessments shows that DOI requires an additional $3.34 million annually for bureaus and offices to complete compliance with sections 5 and 6 of NAGPRA, and a minimum of eight years to complete specific tasks. However, on-going work in this area will be necessary.

Generally, all bureaus and offices have completed summaries and inventories for known collections – primarily those that are within the control of these Federal entities. Additional work is necessary to locate items in collections that are housed in non-federal museums, universities, historical societies and other organizations (repositories). These items would have been removed from DOI-managed lands between 1906 and 1990. As collections are located in these repositories, DOI bureaus and offices will complete the necessary summaries and inventories in accordance with the timelines prescribed in 43 CFR Part 10.13, *Future Applicability.*

DEPARTMENT OF THE INTERIOR CONSOLIDATED FUNDING FOR COMPLIANCE WITH SECTIONS 5 AND 6 OF NAGPRA

Bureau / Office	Existing Funds		Additional Annual Funding Needs	Timeframe
	Dedicated NAGPRA Funds	Other Funds Available[1]		
BLM	$0	$285,000	$2,000,000	FY 2012 – 2017, and on-going
BOR	$0	$139,000	$155,200	FY 2012 – FY 2016, and on-going
IA	$0	$50,000	$765,000	FY 2012 – FY 2019, and on-going
IACB	$0	$48,000	$20,000	FY 2012
NPS	$850,000	-	$0	On-going
FWS	$0	$50,000[2]	$400,000	FY 2012 – FY 2017
Total	**$850,000**	**$572,000**	**$3,340,200**	

[1]Funding for these bureaus and offices is from the museum or cultural resources programs and is estimated.
[2]This amount includes only those NAGPRA activities that are related to museum collections reported annually to the Office of Acquisition and Property Management.

The following tables provide more detail on specific actions, time, and funding necessary for each bureau and office to complete inventories and summaries of Native American cultural items. Also provided is information on actions that are planned to be funded by bureau and office programs.

DEPARTMENT OF THE INTERIOR CONSOLIDATED NEEDS ASSESSMENT

THE BUREAU OF LAND MANAGEMENT– The BLM's Cultural Resources Management Program maintains a modest, but active, NAGPRA compliance component. The BLM has reported all known NAGPRA collections in inventories. All culturally affiliated Native American human remains and cultural items have been published in the Notices of Inventory Completion in the *Federal Register* or are in the NPS National NAGPRA Office queue for publication. The BLM's principle concern is to ensure full compliance with NAGPRA's requirements for summaries and inventories involving unknown collections in the possession of non-federal repositories. There may be collections recovered since 1906 from BLM public lands or its predecessor agency, the General Land Office (GLO) that are in the possession of non-federal repositories, but unknown to the BLM. The BLM continues to improve its accountability over and coordination of museum collections managed by non-federal repositories that were recovered from the BLM or GLO lands. Any previously unreported NAGPRA cultural items that are located in collections and identified to be in the control of the BLM are handled by the Bureau pursuant to the Future Applicability Rule (43 CFR 10.13). This rule also applies to new collections acquired by the BLM that did not originate from BLM lands, such as those seized and forfeited as part of law enforcement activities.

ACTION	TIMELINE	FUNDING	NOTES
1. Establish five regional curator positions to provide technical expertise, support and coordination for museum collections and NAGPRA compliance for 2-to-3 BLM state offices.	FY 2012 & annually thereafter	$850,000	FY 2012 President's Budget Increase
Proactive work to identify unknown and unreported collections	FY 2012 – 2017		
a. Review and update previously completed NAGPRA inventories and summaries	FY 2012		
b. Inventory and certify the existence or absence of NAGPRA Cultural Items in BLM Facilities	FY 2012 – FY 2013		
c. Obtain a copy of the NPS permits database and complete data entry of permit records and collections	FY 2012 – FY 2013		
d. Resurvey the museums with BLM collections for which no NAGPRA material was previously reported/located	FY 2013 – FY 2014		
e. Survey museums to locate unreported collections in the control of the BLM	FY 2013 – FY 2014		
2. Upon identification of previously unreported collections, comply with 43 CFR 10.13	FY 2013 & On-going	$640,000	

ACTION	TIMELINE	FUNDING	NOTES
a. Fund repositories to compile collections and catalog data			
b. Fund tribal participation in consultation activities			
c. Determine cultural affiliation			
d. Prepare inventories and summaries			
3. Develop distance learning training for BLM managers and staff	FY 2012	$10,000	
4. Coordination with museums, support of BLM's internal facilities and management of data	FY 2012 & annually thereafter	$500,000	
Total Annual BLM Need	**5 years & On-going**	**$2,000,000**	
Work within current resources (staff/budget)	Ongoing	$235,000	From Existing Cultural Budget
Continue to track leads for possible collections in repositories and, if found, comply with 43 CFR 10.13			
Review NPS's databases of culturally affiliated and culturally unidentifiable human remains reported by repositories to identify locales that may be on BLM lands			
Provide NAGPRA training for BLM states, one training planned per year ($1,500/year)			
Partnership with Law Enforcement (OLES) for disposition and repatriation of seized and forfeited artifacts and NAGPRA collections	FY 2011 – FY 2016	$50,000	From Existing Cultural & OLES Budgets
Total Planned from BLM Programs	**6 years & On-going**	**$285,000**	

BUREAU OF RECLAMATION – In general, the Bureau of Reclamation is compliant with Sections 5 and 6 of NAGPRA. Four of Reclamation's five regions have minor issues to resolve regarding summaries, inventories, and repatriations for the NAGPRA cultural items and human remains that still remain under their control. The Mid-Pacific Region has major work to accomplish to determine ownership of NAGPRA items and Native American human remains located in non-Federal repositories, complete inventories and summaries, consult with affected tribes and individuals, determine cultural affiliation, secure the items, and transfer custody.

ACTION	TIMELINE	FUNDING	NOTES
Hire and maintain experienced NAGPRA staff	FY 2012 – FY 2016	$155,200	Not available from existing resources Not identified in FY 2012 President's Budget
Identify and resolve custody, "ownership", and responsibility issues with Reclamation's NAGPRA collections			
Inventory Native American Human Remains and Cultural Items in collections			
Consult with Native American individuals and tribes, as appropriate			
Prepare Summary and Inventory reports of the NAGPRA items			
Complete Cultural Affiliation determinations			
Repackage Native American Human remains and Cultural Items			
Prepare and publish Federal Register notices			
Transfer Custody of Native American Human Remains and Cultural Items to the appropriate Native American individuals or tribes, as appropriate			
Total Annual Reclamation Need	**5 years**	**$155,200**	
Address minor issues in four regions	FY 2012	$139,000	FY 2012 budget request
Total Planned from Reclamation Programs	**1 year**	**$139,000**	

Note: All agencies included in this report, excluding the Bureau of Reclamation, are under the jurisdiction of the Interior and Environment Appropriations Subcommittee. The Bureau of Reclamation is under the jurisdiction of the Energy and Water Development Subcommittee.

INDIAN AFFAIRS – The Museum Program within the Division of Environmental and Cultural Resources Management, in the Office of Facilities, Environmental and Cultural Resources, in Indian Affairs provides oversight for all NAGPRA activities to ensure compliance with Sections 5-7 of NAGPRA. All culturally affiliated Native American human remains and cultural items over which IA asserts control have been published in Notices of Inventory Completion in the Federal Register or are in the NPS queue for publication. IA's archaeological collections, which include NAGPRA cultural items, are primarily housed in non-IA repositories, typically in museums and universities. IA maintains contact with all known repositories that currently house IA collections. NAGPRA cultural items, over which IA asserts control, that are identified in museum collections are handled pursuant to the Future Applicability Rule (43 CFR 10.13). Therefore, while IA continues to fund NAGPRA projects in its known repositories as budgets permit, IA still needs to identify all other repositories which house NAGPRA cultural items removed from Indian lands between 1906 and 1979.

ACTION	TIMELINE	FUNDING	NOTES
Fund and fill a vacant Staff Curator position in the IA Museum Program to provide technical expertise, support and coordination for museum collections and NAGPRA compliance.	FY 2012 & annually thereafter	$98,000	Not available from existing resources Not identified in FY 2012 President's Budget
Identify unknown and unreported collections through contract with Army Corps or archaeological services company.	FY 2012 & annually for 5-7 years	$260,000	
Literature review to determine the locations of archaeological sites on Indian lands and the extent of collections from those lands in repositories in the following states: Colorado, Florida, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Texas, Wisconsin.	FY 2012 & On-going		
Contact each identified repository to determine the status of its NAGPRA holdings and inventory completion for objects which came from Indian lands.	FY 2013 & On-going		
Conduct site visits as needed to repositories housing NAGPRA cultural items.	FY 2014 – FY 2017		
Provide assessment and report to IA for each repository with status of holdings.	FY 2014 – FY 2017		
Complete inventories for all NAGPRA cultural items at newly identified repositories.	FY 2018 – FY 2019		

ACTION	TIMELINE	FUNDING	NOTES
Fund known repositories to allow each to complete full inventories and move towards repatriating human remains and funerary objects.	FY 2012 – FY 2017	$257,000	
Upon identification of previously unreported collections, comply with 43 CFR 10.13.	FY 2014 & On-going	$150,000	
Fund repositories to compile collections and catalog data			
Fund tribal participation in consultation activities			
Determine cultural affiliation			
Prepare inventories and summaries			
Total IA Annual Need	**7 years & On-going**	**$765,000**	
Total Planned from IA Programs	**Annually**	**$50,000**	**From existing budget**

INDIAN ARTS AND CRAFTS BOARD – The IACB's NAGPRA compliance efforts are part of its overall museum program. To achieve full compliance with NAGPRA, funding and staff time have been shifted from the agency's Indian Arts and Crafts Act (law enforcement) and economic development programs to address outstanding NAGPRA needs.

ACTION	TIMELINE	FUNDING	NOTES
Chief Curator to coordinate efforts to ensure NAGPRA compliance at the three IACB museums.	FY 2012	$20,000	FY 2012 President's Budget Increase
Review and update previously completed NAGPRA inventories and summaries	FY 2012 – FY 2013		
Inventory and certify the existence or absence of NAGPRA Cultural Items in IACB Facilities	FY 2012 – FY 2013		
Fund Tribal participation in consultation activities	FY 2012 & On-going		
Determine cultural affiliation of Cultural Items			
Prepare inventories and summaries of Cultural Items			
Total Annual IACB Need	**2 years**	**$20,000**	
Work within current resources (staff/budget)			
Fill Chief Curator position to provide technical expertise, support and coordination for museum collections and NAGPRA compliance at the three IACB museums.			
Total Planned from IACB Programs	**2 years**	**$48,000**	**From existing budget**

NATIONAL PARK SERVICE – The NPS holds its own collections and has completed the inventories and summaries required by Sections 5 and 6. Any cultural items subject to NAGPRA received in a new collection or newly located in current collections are handled by NPS units pursuant to the Future Applicability rule (43 CFR 10.13).

ACTION	TIMELINE	FUNDING	NOTES
On-going work as necessary to address new collections or newly located in collections are handled by NPS units pursuant to the Future Applicability rule (43 CFR 10.13).	On-going	Within existing Park NAGPRA budget	No additional funds are needed
Total Annual NPS Need	**On-going**	**$0**	
Total Planned from NPS Programs	**Annually**	**$850,000**	**From existing budget**

U.S. FISH AND WILDLIFE SERVICE – The USFWS compiled inventory data to satisfy the requirements of Sections 5 and 6 of the NAGPRA in 1996.The USFWS continues to improve its accountability for newly identified cultural items located in museum collections and under the control of the USFWS; or, for those items forfeited to the USFWS as part of law enforcement activities (pursuant to the Future Applicability Rule (43 CFR 10.13).Work is necessary to examine USFWS legacy collections—those that are part of unaccessioned and uncataloged collections, most of which are in non-federal museums – which still lack basic information on their origin, location and affiliation, if any, under NAGPRA.

ACTION	TIMELINE	FUNDING	NOTES
1. Comprehensive review of USFWS legacy collections for NAGPRA items			Not available from existing resources Not identified in FY 2012 President's Budget
a. Establish a National Curator/NAGPRA coordinator position (FTE or contractor) to provide technical expertise to USFWS offices and coordinate overall work on museum collections and NAGPRA compliance, and other support work for FWS offices, adapting NPS collections systems, and updating the inventory work	FY 2012 – FY 2016	$150,000	
b. Examine all USFWS legacy collections (~1.5 million objects) to identify NAGPRA related items through a contract or cooperative agreement to contact and work with institutions housing FWS collections.	FY 2012 – FY 2014	$100,000	
2. Complete NAGPRA work for previously unreported collections			
Consultation with tribes on affiliation and repatriation efforts	FY 2012 – FY 2017	$150,000	
Coordination with and support for repositories			
Determining cultural affiliation			
Updating summaries and inventories			
Preparing notices for publication in the Federal Register.			
Total Annual USFWS Need	**5 years**	**$400,000**	
Total Planned from USFWS Programs	**Annually**	**$50,000[1]**	**From existing budget**

[1]This amount includes only those NAGPRA activities that are related to museum collections reported annually to the Office of Acquisition and Property Management.

Recommendation 2. *The Secretary of the Interior should direct the cultural resource management programs to develop and provide to Congress a timetable for the expeditious publication in the Federal Register of notices of inventory completion for all remaining Native American remains and associated funerary objects that have been culturally affiliated in inventories.*

To address this recommendation, each DOI bureau and office that has inventoried and determined the cultural affiliation of Native American cultural items in their collections, but not published in Notices of Inventory Completion in the *Federal Register,* prepared a timetable for the expeditious publication of notices. The following table presents the timeline for each DOI bureau and office to publish these notices.

DEPARTMENT OF THE INTERIOR CONSOLIDATED TIMELINE FOR PUBLISHING NOTICES OF INVENTORY COMPLETION FOR CULTURAL AFFILIATED CULTURAL ITEMS

BUREAU/ OFFICE	UNIT	STATUS/COMMENTS	ESTIMATED PUBLICATION DATE
BLM	Not applicable. BLM does not have a backlog of Native American human remains and cultural items that are culturally affiliated with present-day Indian tribes, but not published in Notices of Inventory Completion in the Federal Register. Therefore, no BLM action is required.		
IA	Not applicable. IA does not have a backlog of Native American human remains and cultural items that are culturally affiliated with present-day Indian tribes, but not published in Notices of Inventory Completion in the Federal Register. Therefore, no IA action is required.		
IACB	Museum of the Plains Indian and Sioux Indian Museum	IACB has been working to determine the correct cultural affiliation for three objects that incorporate human scalps. Documentation for these objects is insufficient to determine their Tribes of origin. Tribes have been notified and IACB plan to concluded research and consultation by October 2011.	Submit to NPS National NAGPRA by November 2011; projected publication February 2012
NPS	Canyon de Chelly National Monument	Efforts were delayed due to legal issues raised by the Navajo Nation. The park is receiving funding to support tribal consultation.	December 2012
	El Morro National Monument	The park received funding for a cultural affiliation study, including tribal consultation.	December 2012

BUREAU/ OFFICE	UNIT	STATUS/COMMENTS	ESTIMATED PUBLICATION DATE
NPS (CONT.)	Glen Canyon National Recreation Area	The park received funding to support inventory verification and tribal consultation. Review of existing and in-process research to evaluate evidence for cultural affiliation is underway.	October 2012
	Grand Canyon National Park (GRCA)	The park received funding to support inventory verification and tribal consultation.	April 2012
	Lake Mead National Recreation Area	Because the inventory consists of items removed from sites in three geographically separated areas, three or four separate notices may be necessary.	September 2012
	Montezuma Castle National Monument	The park is receiving funding to support inventory verification followed by tribal consultation.	December 2012
	Petrified Forest National Park	The park is reassessing its cultural affiliation determination through tribal consultation and research.	June 2012
	Tuzigoot National Monument	The park is receiving funding to support inventory verification followed by tribal consultation.	December 2012
	Walnut Canyon National Monument	The park has received funding to support inventory verification and tribal consultation.	June 2012
	Wupatki National Monument	The park has received funding to support inventory verification and tribal consultation.	June 2012
Reclamation	Pacific Northwest	Submitted draft to National NAGPRA March 2011, for review and approval	Published June 21, 2011

BUREAU/ OFFICE	UNIT	STATUS/COMMENTS	ESTIMATED PUBLICATION DATE
	Great Plains – Nebraska Kansas Area Office	The collection was inventoried in the 1990s and consultation conducted. Three tribes were determined to be culturally affiliated, but no resolution was made for whom to repatriate. Given the amount of time that has passed, the collection is being re-inventoried to ensure the record is accurate and continue consultation to determine cultural affiliation.	June 2012
FWS	Eufala National Wildlife Refuge	This collection was listed in the GAO report, but the USFWS does not have authority for it. This is an overlay refuge with the land being owned by the U.S. Army Corps of Engineers, which therefore has NAGPRA responsibilities for items recovered from these lands.	Refer to the U.S. Army Corps of Engineers
	Buenes Aires National Wildlife Refuge	Four sets of human remains. The Refuge is working to determine the full listing of materials and their applicability to NAGPRA. The full accounting is expected in 2012.	December 2012
	Sevilleta National Wildlife Refuge	Two sets of human remains. The Refuge is working to determine the full listing of materials and their applicability to NAGPRA. The full accounting is expected in 2012.	December 2012
	Upper Mississippi National Wildlife and Fish Refuge	The refuge is documenting items covered by NAGPRA and is expected to have a resolution by the end of the calendar year.	December 2011

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