

**Guidance on the Native American Graves Protection and Repatriation Act (NAGPRA)**  
**43 CFR part 10**

**10.10(a) Step 1 – Compile an itemized list of human remains / associated funerary objects.**

Based on information available, a museum or Federal agency must compile a simple itemized list of any human remains and associated funerary objects in a holding or collection. Depending on the scope of the holding or collection, a museum or Federal agency may organize its itemized list into sections based on geographical area, accession or catalog name or number, or other defining attributes. A museum or Federal agency must ensure the itemized list is comprehensive and covers all holdings or collections relevant to this section. The simple itemized list must include:

1. The number of individuals identified in a reasonable manner based on the information available. No additional study or analysis is required to identify the number of individuals. If human remains are in a holding or collection, the number of individuals is at least one;
2. The number of associated funerary objects and types of objects (counted separately or by lot);
3. The geographical location (provenience) by county or state where the human remains or associated funerary objects were removed;
4. The acquisition history (provenance) of the human remains or associated funerary objects;
5. Other information available for identifying a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation; and
6. The presence of any potentially hazardous substances used to treat any of the human remains or associated funerary objects, if known.

**10.2 Definitions for this part.** Related terms:

*Human remains* means any physical part of the body of a Native American individual. This term does not include human remains to which a museum or Federal agency can prove it has a right of possession. (1) Human remains reasonably believed to be comingled with other materials (such as soil or faunal remains) may be treated as human remains.... (3) Human remains incorporated into an object or item that is not a funerary object, sacred object, or object of cultural patrimony are considered human remains.

*Funerary object* means any object reasonably believed to have been placed intentionally with or near human remains. A funerary object is any object connected, either at the time of death or later, to a death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. This term does not include any object returned or distributed to living persons according to traditional custom after a death rite or ceremony. Funerary objects are either associated funerary objects or unassociated funerary objects.

*Associated funerary object* means any funerary object related to human remains that were removed and the location of the human remains is known. Any object made exclusively for burial purposes or to contain human remains is always an associated funerary object regardless of the physical location or existence of any related human remains.

*Inventory* means a simple itemized list of any human remains and associated funerary objects in a holding or collection that incorporates the results of consultation and makes determinations about cultural affiliation.

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*Example 1: Itemized Record (or transposed in a spreadsheet)*

State:	Oklahoma
County:	Geary
Site Name:	Oklahoma Territory
Collection ID:	Accession 1932.12; Catalog AB123
Number of individuals	1
Number of associated funerary objects	10
Collection history:	Reportedly collected in the Oklahoma Territory by Frank Fox in the late 1880s. Mr. Fox reportedly identified the remains as being a named individual. Donated to THE MUSEUM in 1932.
Age/Culture:	Named individual was born around 1804 and died between 1839-1864.
AFOs:	5 ceramic pots, 1 lot of ceramic sherds, 4 feathers, 1 jasper flake
Comments:	Biological evidence of fractured left femur; no known hazardous substances

*Example 2: Itemized Entry*

**Item:** Human remains and associated funerary objects

**Site Name:** Oklahoma Territory

**Geographical Location:** Geary County, OK

**Collection History:** Reportedly collected in the Oklahoma Territory by Frank Fox in the late 1880's. Mr. Fox reportedly identified the remains as being a named individual. Donated to THE MUSEUM in 1932.

**Number of individuals:** 1

**Description:** Nearly complete skeleton, Male, Age 35-60, Fractured left femur

**Accession #:** 1932.12

**Catalogue #:** AB123

**Associated funerary objects:** 10

**Description:** 5 ceramic pots, 1 lot of ceramic sherds, 4 feathers, 1 jasper flake

**Accession #:** 1980.34

**Catalogue #:** YZ123

**Additional information:** Biological evidence of fractured left femur; no known hazardous substances

*Example 3: Itemized Catalogue Record*

1a: Accession 1932.12, Catalogue AB123

1b: Accession 1980.34, Catalogue YZ123

2a: 1 individual: Nearly complete skeleton, Male, Age 35-60, Fractured left femur

2b: 10 associated funerary objects: 5 ceramic pots, 1 lot of ceramic sherds, 4 feathers, 1 jasper flake

3: Oklahoma Territory, Geary County, OK

4: Reportedly collected in the Oklahoma Territory by Frank Fox in the late 1880's. Mr. Fox reportedly identified the remains as being a named individual. Donated to THE MUSEUM in 1932.

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**Case study of a hypothetical holding or collection of 1,000 boxes.**

All boxes are in archaeological collections storage and are presumed to all contain material from archeological excavations.

A. 300 boxes have associated catalog cards with specific information about when and where the contents were acquired and what each box contains.

B. 350 boxes have handwritten notes with archeological site, contents, and date

C.1. 100 boxes are numbered and labeled with a feature and description such as “cremated + cremated infant.” Documentation with archeological site and date for all boxes.

C.2. Boxes 28, 69, and 87 have information crossed out and conflicting information is written on the box identifying a different site, date, and description.

D. 200 boxes have only accession numbers, no information, and associated records no longer exist or cannot be located.

E. 50 boxes have no information and no records indicate when the boxes came into the collection or what they contain.

**Options to complete an itemized list for hypothetical holding or collection**

A. For 300 boxes, the information available is sufficient to compile an itemized list without opening the boxes or handling any contents.

B. For 350 boxes, the information available is sufficient to compile an itemized list without opening the boxes or handling any contents.

C.1. For 100 boxes, the information available is sufficient to compile an itemized list without opening the boxes or handling any contents.

C.2. For Boxes 28, 69, and 87, the information available, even if conflicting, is sufficient to compile an itemized list without opening the boxes or handling any contents

D. For 200 boxes, must determine if the boxes contain human remains or associated funerary objects.

E. For 50 boxes, must determine if the boxes contain human remains or associated funerary objects.

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Museums and Federal agencies have discretion on how to evaluate the contents of a holding or collection. A museum or Federal agency can choose to review each box in a holding or collection to determine if it contains human remains or associated funerary objects, but it must do so within the timeframes required by the Act and the regulations. Neither the Act nor the regulations require a physical review of a holding or collection to comply with the inventory requirements.

For the 750 boxes described in A., B., and C., the information available is sufficient to compile an itemized list without opening the boxes or handling any of the contents. Any additional effort to identify human remains or associated funerary objects prior to compiling an itemized list is at the discretion and direction of the museum or Federal agency.

For the 250 boxes described in D. and E., the museum or Federal agency may choose one of the following options, or some other option not listed here, to compile an itemized list:

1. Without opening any of the boxes, include the boxes as one item on the list as they may contain human remains and identify the number of individuals as at least one. Request further direction from consulting parties on what, if any, additional review may be necessary.
2. Open the boxes to look for information about when or where the collection was made. Do no other analysis of the contents of the boxes and include the boxes as one item on the list and identify the number of individuals as at least one. Request further direction from consulting parties on what, if any, additional review may be necessary.
3. Open the boxes to determine if human remains are present. As soon as human remains are identified, add the box to the list and identify the number of individuals as at least one. Any boxes that do not contain human remains are added as possibly containing funerary objects. Request further direction from consulting parties on what, if any, additional review may be necessary.
4. Open the boxes and have a skilled individual examine each item in each box to identify and catalog the contents. Determine a minimum number of individuals using scientific standards and the number of associated funerary objects. Rehouse the contents using standard curation practices. Compile a report on the boxes and include each individual and associated funerary object on the itemized list.
5. Do not include the boxes on the itemized list because the contents are unknown.

In evaluating these options, museums and Federal agencies should consider the following possible outcomes as well as the required timelines for consultation and completing an inventory.

1. If, after consultation, the boxes are opened and do not contain human remains or associated funerary objects, the boxes can be removed from the list prior to completing the inventory.
2. If, after consultation, the boxes do not contain human remains or associated funerary objects, the boxes can be removed from the list prior to completing the inventory.
3. If, after consultation, the consulting parties request an analysis to determine a minimum number of individuals or additional analysis of the associated funerary objects, that analysis can be done prior to completing the inventory provided there is sufficient time to do so or the consulting parties consent to requesting an extension of the inventory deadline.
4. Prior to consultation, research or analysis conducted prior to consultation may be a failure to comply with the duty of care requirements.
5. If, after consultation and completing the inventory, the boxes are opened and they do contain human remains or associated funerary objects that were not identified in the inventory, there may be a failure to comply with the requirements of the Act and these regulations.

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**Frequently asked questions about Step 1: Compile an itemized list.**

1. What is the purpose of the itemized list?
2. Do I need to consult BEFORE or WHILE preparing the itemized list?
3. Is the term “research” synonymous with the term “analysis?”
4. Who dictates the level of analysis, documentation, or research required for an itemized list?
5. Who decides what to include in the itemized list?
6. Should I create an itemized list from existing museum documents, invite lineal descendants, Indian Tribes, and NHOs to consult, and then seek permission from consulting parties for further assessments (i.e., determining the number of individuals)?
7. Can an inventory be complete without consultation? Can an itemized list be submitted to National NAGPRA if consultation has not occurred?
8. How can I complete an inventory if no one responds to an invitation to consult? Can I conduct research or analysis to complete the inventory if no consulting parties respond?
9. How should the itemized list identify human remains that are comingled with other material?
10. Should the itemized list include holdings or collections that do not include human remains?
11. Should the itemized list include human remains that have been destroyed, deaccessioned, lost, or otherwise removed from the holding or collection?

**1. What is the purpose of the itemized list?**

The purpose of an itemized list is to **facilitate consultation and repatriation** by providing information available about Native American human remains and associated funerary objects to lineal descendants, Indian Tribes, and Native Hawaiian organizations for further consultation.

**2. Do I need to consult BEFORE or WHILE preparing the itemized list?**

No. There is no requirement for consultation before or while compiling an itemized list, but under [10.1\(d\)\(3\)](#) Duty of care, lineal descendants, Indian Tribes, and NHOs must consent to any research or analysis of human remains and associated funerary objects. Museums and Federal agencies should consider if actions it takes in preparing an itemized list include allowing access to or research on the human remains or associated funerary objects. **Consent is not required** to compile an itemized list of human remains and associated funerary objects or to initiate consultation with potentially culturally affiliated Indian Tribes or NHOs. **Consent is required** prior to allowing access to or research on human remains or associated funerary objects.

To compile an itemized list, museums and Federal agencies must identify the number of individuals in a reasonable manner based on the information available. No additional study or analysis is required to identify the number of individuals. If human remains are present in a holding or collection, the number of individuals is at least one. (See Final Rule [paragraph 499](#).)

For example, if a museum wished to have a skilled individual, such as an osteologist, analyze its collection to identify the scientific minimum number of individuals, the museum must first obtain consent from lineal descendants, Indian Tribes, or NHOs. Until that consent is obtained, the museum must rely on the information available (previous inventories, catalog cards, accession records, visual inspection, etc.) to identify consulting parties, conduct consultation,

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update the inventory, and submit a notice of inventory completion. (See Final Rule [paragraph 152.](#))

**3. Is the term “research” synonymous with the term “analysis?”**

Yes. The regulation text describes analysis as a form of research: [10.1\(d\)\(3\)](#) Research includes, but is not limited to, any study, analysis, examination, or other means of acquiring or preserving information about human remains or cultural items. Research of any kind on human remains or cultural items is not required by the Act or these regulations.

“Research” equates to the term “scientific study” in the Act and means any study, analysis, examination, or other means of acquiring or preserving information. “Research” includes any activity to generate new or additional information beyond the information that is already available. For example, “research” might mean osteological analysis of human remains, physical inspection or review of collections to gather specific information, examination or segregation of comingled material (such as soil or faunal remains), or the rehousing of collections. “Research” is not required to identify the number of individuals or cultural items, or to determine cultural affiliation. (See Final Rule [paragraph 460.](#))

**4. Who dictates the level of analysis, documentation, or research required for an itemized list?**

Lineal descendants, Indian Tribes, and NHOs dictate the level of documentation, research, or collections review for human remains or cultural items. Changes to § 10.1(d) Duty of care are specifically meant to achieve this goal. The final regulations require a museum or Federal agency to obtain free, prior, and informed consent prior to any exhibition of, access to, or research on human remains or cultural items. (See Final Rule [paragraph 253.](#))

**5. Who decides what to include in the itemized list?**

Museums and Federal agencies have discretion on which holdings or collections they include in an itemized list. When a museum or Federal agency decides to exclude a holding or collection from an itemized list and, then from an inventory, it is deciding that the Act and these regulations are not applicable to that holding or collection. If that holding or collection contains human remains or associated funerary objects, the museum or Federal agency may have failed to comply with the requirements of the Act and these regulations.

Museums and Federal agencies also have discretion on how to evaluate the contents of a holding or collection. A museum or Federal agency can choose to review each box in a holding or collection to determine if it contains human remains or associated funerary objects, but it must do so within the timeframes required by the Act and the regulations. Neither the Act nor the regulations require a physical review of a holding or collection to compile an itemized list or to complete an inventory. (See Final Rule [paragraph 437.](#))

Under the regulations, consent from lineal descendants, Indian Tribes, or NHOs is required prior to allowing any research on human remains or associated funerary objects. We have defined

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“research” to mean any study, analysis, examination, or other means of acquiring or preserving information. “Research” includes any activity to generate new or additional information beyond the information that is already available, for example, osteological analysis of human remains, physical inspection or review of collections, examination or segregation of comingled material (such as soil or faunal remains), or rehousing of collections. (See Final Rule [paragraph 438.](#))

**6. Should I create an itemized list from existing museum documents, invite lineal descendants, Indian Tribes, and NHOs to consult, and then seek permission from consulting parties for further assessments (i.e., determining the number of individuals)?**

Yes. If a museum or Federal agency wishes to conduct research (or analysis or study) in order to complete the inventory, the museum or Federal agency should seek consent to do so during consultation. If an Indian Tribe or NHO wishes certain research or analysis be conducted prior to completing the inventory, the Indian Tribe or NHO should convey that request during consultation.

**7. Can an inventory be complete without consultation? Can an itemized list be submitted to National NAGPRA if consultation has not occurred?**

An inventory is not complete until a museum or Federal agency **initiates** consultation with lineal descendants, Indian Tribes, and NHOs and consults with any consulting party that wishes to do so. Only completed inventories that contain the names of consulting parties or those invited to consult should be submitted to the National NAGPRA Program. If there is no response to the invitation to consult, the museum or Federal agency must still complete or update the inventory by the required deadlines. (See Final Rule [paragraph 254.](#))

**8. How can I complete an inventory if no one responds to an invitation to consult? Can I conduct research or analysis to complete the inventory if no consulting parties respond?**

Until consulting parties respond to the invitation, the museum or Federal agency may not be required to consult under paragraph (d)(1) or collaborate under paragraph (d)(2) of § 10.1. Until consulting parties respond, the museum or Federal agency must not allow any exhibition of, access to, or research on human remains or cultural items as doing so may be subject to a failure to comply with the requirements of these regulations. If a museum or Federal agency wished to conduct research to include a specific scientific study of human remains or cultural items, it could do so by following the requirements for a stay of repatriation under §§ [10.9\(i\)\(3\)](#) or [10.10\(j\)\(3\)](#). (See Final Rule [paragraph 149.](#))

**9. How should the itemized list identify human remains that are comingled with other material?**

The Act requires identification of all human remains in a holding or collection, including human remains reasonably believed to be comingled with other material (such as soil or faunal remains). Museums and Federal agencies are required to identify these comingled materials in its itemized

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list and **during consultation should evaluate if the entire admixture can be treated as human remains.** If it is not possible to treat the admixture as human remains, the record of consultation should include the effort to identify a mutually agreeable alternative, which may include additional handling, with consent of the lineal descendant, Indian Tribe, or NHO, to separate the human remains from other materials. We are aware that comingled materials are a significant issue for many Indian Tribes, NHOs, museums, and Federal agencies. The intent of the addition to the definition of human remains is **to ensure these kinds of collections are included on an itemized list and made available to lineal descendants, Indian Tribes, and NHOs during consultation and for repatriation.** (See Final Rule [paragraph 233.](#))

**10. Should the itemized list include holdings or collections that do not include human remains?**

Only holdings or collections, or portions of holdings or collections, that may contain human remains or associated funerary objects are required to be identified on an itemized list. If a museum or Federal agency knows that a certain holding or collection does not contain any human remains or associated funerary objects, the holding or collection would not need to be included on an itemized list of human remains and associated funerary objects (but may still need to be included on a summary of cultural items as appropriate). For example, a collection excavated from an historic era ranch that does not contain any Native American human remains, objects, or items would not need to be included on an itemized list or a summary. (See Final Rule [paragraph 434.](#))

**11. Should the itemized list include human remains that have been destroyed, deaccessioned, lost, or otherwise removed from the holding or collection?**

Based on the information available, a museum or Federal agency must determine if human remains or cultural items that are destroyed, deaccessioned, lost, or in any other way removed from a holding or collection are under its possession or control and therefore subject to these regulations. As discussed elsewhere, a museum or Federal agency must ensure the itemized list is comprehensive and covers any holding or collection that may contain human remains and associated funerary objects. We note that an itemized list may be prepared using only documentation identifying human remains and associated funerary objects and there is no requirement to physically locate the human remains and associated funerary objects prior to compiling the itemized list or completing the inventory. (See Final Rule [paragraph 498.](#))