

**Supporting Statement for Paperwork Reduction Act Submissions
Native American Graves Protection and Repatriation Regulations, 43 CFR 10
OMB Control Number 1024-0144**

Terms of Clearance: None

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that require the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Native American Graves Protection and Repatriation Act (NAGPRA), enacted in 1990, requires museums to compile certain information (summaries, inventories, and notification) regarding Native American cultural items in their possession or control and provide that information to lineal descendants and culturally affiliated Indian tribes and Native Hawaiian organizations. NAGPRA also requires museums to provide the Secretary of the Interior with a copy of the notification. Regulations promulgated in 1995 require that each museum also provide one copy of each summary and inventory to the Secretary, through the National Park Service (NPS). To date, 1202 museums have provided a summary, inventory, and/or notice to the NPS. The collection of information requirements in this rule are prepared under the authorities granted in Secs. 5, 6, 7, and 8 of NAGPRA, 25 U.S.C. 3003, 3004, 3005, 3006. Collection of information during the conduct of administrative investigations of allegations of failure to comply under Sec. 9 of NAGPRA, 25 U.S.C. 3007, is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3518 (c)(1)(B)(ii)).

- 2. Show how, by whom, and for what purpose the information is to be used. Except for a new collection, show the actual use the agency has made of the information received from the current collection.**

The information collected under this rule is used by lineal descendants and affiliated Indian tribes and Native Hawaiian organizations to determine if the museum has possession or control of Native American cultural items that the individual, tribe, or organization may have a right to claim under provisions of NAGPRA. The information collected under this rule is used by the NPS to verify the content of notices prior to their publication in the Federal Register, prepare a list of culturally unidentifiable human remains and associated funerary objects, and document each museum's compliance with NAGPRA.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technical collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision of adopting that means of collection. Also, describe any consideration of using information technology to reduce the burden.**

The format for submitting a summary, inventory, or notice to a lineal descendant or affiliated

Indian tribe or Native Hawaiian organization is not specified in the regulations. Museums are required to submit the notice and a copy of the inventory to the NPS in both printed and electronic formats.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose(s) described in 2 above.

The issue of duplication arises only in those cases where Native American cultural items are in the physical custody of one institution, but are under the control of another institution. Technical assistance is provided to all museums to ensure that the controlling institution assumes responsibility for the information collection.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-1), describe the methods used to reduce the burden.

Of the 1202 museums that have complied with NAGPRA since 1990, 126 (10.4%) are believed to be “small entities.” Information collection requirements are the same for all museums within the scope of the rule, although alternatives to electronic submissions are specifically allowed for museums that are unable to meet this requirement. In addition, the burden of the collection of information requirements is likely to be reduced for most small museums whose collections generally include fewer cultural items with a limited geographic affiliation.

6. Describe the consequence to Federal program or policy activities if the collection is or is not conducted less frequently, and any technical or legal obstacles to reducing the burden.

The primary goal of NAGPRA’s information collection requirements is to provide lineal descendants and culturally affiliated Indian tribes and Native Hawaiian organizations with timely information and notification regarding cultural items that they may have a right to claim. The Act initially required all museums to complete summaries within three years of the date of statutory enactment, inventories within five years of statutory enactment, and notification within six months of inventory completion. Current information collection requirements are done on an as-needed basis, with summaries due within six months of either receipt of a new collection or acknowledgement of a new Indian tribe, and inventories due within two years of either receipt of a new collection or acknowledgement of a new Indian tribe. Institutions receiving Federal funds for the first time must follow the original deadlines of three years for a summary and five years for an inventory.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

Not applicable.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

Not applicable.

- **requiring respondents to submit more than an original and two copies of any document;**

Not applicable.

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

The regulations require museums to adopt internal procedures adequate to permanently document the content and recipients of all repatriations.

- **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

Not applicable.

- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**

Not applicable.

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

At the request of an Indian tribe or Native Hawaiian organization, museum officials may take steps considered necessary pursuant to applicable law to ensure that information of a particularly sensitive nature is not made available to the general public. Such a pledge of confidentiality is not required.

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can prove that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

Not applicable.

8. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8 (d), soliciting**

comments on the information collection before submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments specifically address comments received on cost and hour burdens.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, revealed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that mitigate against consultation in a specific situation. These circumstances should be explained.

The NPS will publish a 60-Day Notice in the Federal Register soliciting public comments on the information collection upon approval of the emergency request from the Office of Management and Budget (OMB).

9. Explain any decision to provide any payments or gift to respondents, other than reenumeration of contractors or grantees.

Not applicable. No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Not applicable. No elements of confidentiality are involved.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

Not applicable. No such information is required to be reported.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Show the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential**

respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burdens, and explain the reasons for the variance. General estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burdens estimates for each form and aggregate the hour burden in Item 13 of OMB Form 83-1.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

Our estimate of the burden hours for each information collection requirement is shown below. In calculating this estimate, the NPS makes the following assumptions based upon data presented in the regulatory analysis that accompanied the proposed rule:

- Approximately 1,202 museums are covered by these regulations. NPS is assuming that most of these museums are in compliance with the regulations and, as such, no estimate of burden is provided.
- During FY2008, 46 museums submitted new or updated summaries or inventories: 29 of these are state or local governments and 17 are private institutions. During CY2008, museums submitted 104 notices for publication in the Federal Register: 70 of these were submitted by state or local governments and 34 were submitted by private institutions. NPS is assuming that these figures provide a reasonable annual estimate for the foreseeable future.
- Public reporting burden for this collection of information is expected to average 100 hours for the exchange of summary/inventory information between a museum or Federal agency and an Indian tribe or Native Hawaiian organization and six hours per response for the notification to the Secretary, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collected information.
- Summaries, inventories, and notifications are generally prepared by a curator or similar museum professional, with limited clerical and museum chief executive involvement.

State and Local Governments Museums

Position- State/Local Governments	Hourly pay rate (\$/hr est.)	Hourly rate including benefits (1.5 x hourly rate)****	Percent of time spent on collection	Weighted average (\$hr)
Clerical	\$11*	\$17	9%	2
Curator	\$27**	\$41	90%	37
Chief	\$47***	\$71	1%	1

Executive				
Weighted Average (\$/hr)				40
*	Library Assistant, Clerical (Department of Labor 1998, http://www.bls.gov/oes/current/oes434121.htm).			
**	The mean hourly wage for a curator at a local government or college ranges from \$24.26 and \$26.99 per hour (Department of Labor 2008, http://www.bls.gov/oes/current/oes254012.htm#nat). The higher college curator rate of \$26.99 per hour has been used for this analysis.			
***	The mean hourly wage for a chief executive of a local or state government agency ranges from \$43.88 to \$46.91 per hour (Department of Labor 1998, http://www.bls.gov/oes/current/oes111011.htm#ind). The higher state chief executive rate of \$46.91 has been used for this analysis.			
****	Employer Costs for Employee Compensation-September 2007, Bureau of Labor Statistics, USDL 07-1883. http://www.bls.gov/news.release/archives/ecec_12112007.pdf			

Based on these assumptions, the estimate of burden hours for state or local governments is:

- 1) Total burden hours for summary or inventory completion (29 museums x 100 hours): 2,900 hours.
- 2) Total burden hours for notice submission (70 notices x 6 hours): 420 hours.
- 3) Total annual, recurring cost (2,900 hours for summary/inventory completion + 420 hours for notice submission x \$40): \$132,800.

Private Museums

Position-Private Institutions	Hourly pay rate (\$/hr est.)	Hourly rate including benefits (1.4 x hourly rate)****	Percent of time spent on collection	Weighted average (\$hr)
Clerical	\$11*	\$15	9%	1
Curator-Private	\$24**	\$31	90%	28
Chief Executive	\$47***	\$66	1%	1
Weighted Average (\$/hr)				30
*	Library Assistant, Clerical (Department of Labor 1998, http://www.bls.gov/oes/current/oes434121.htm).			
**	The mean hourly wage for a non-governmental curator ranges from \$22.62 to \$23.78 per hour (Department of Labor 2008, http://www.bls.gov/oes/current/oes254012.htm#nat). The higher civil/social organization curator rate of \$23.78 per hour has been used for this analysis.			
***	There is no separate rate for chief executives of non-profit organizations like museums. The state/local government chief executive rate of \$46.91			

has been used for this analysis (Department of Labor 1998, <http://www.bls.gov/oes/current/oes111011.htm#ind>).
 **** Employer Costs for Employee Compensation-September 2007, Bureau of Labor Statistics, USDL 07-1883.
http://www.bls.gov/news.release/archives/ecec_12112007.pdf

Based on these assumptions, the estimate of burden hours for private museums is:

- 1) Total burden hours for summary or inventory completion (17 museums x 100 hours): 1,700 hours.
- 2) Total burden hours for notice submission (34 notices x 6 hours): 204 hours.
- 3) Total annual, recurring cost (1,700 hours for summary/inventory completion + 204 hours for notice submission x \$30): \$57,120.

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

There are no non-hour costs.

14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.

Summaries, inventories, and notices are received by staff of the National NAGPRA Program. Summaries and inventories are logged in and filed. Notices are reviewed for publication and returned to the submitting museums for approval. A weighted average cost per hour of \$62 is calculated based on the following assumptions:

Position	Grade	Hourly pay rate (\$/hr est.)*	Hourly rate including benefits (1.5 x hourly rate)**	Percent of time spent on collection	Weighted average (\$hr)
Clerical (e.g. data processing)	GS-7, step 8	\$24	\$36	4%	1
Skilled, craft and technical	GS-13, step 1	\$42	\$63	95%	60
Management and professional	GS-15, step 1	\$58	\$87	1%	1

Executive	SES (\$140,000)	\$67	\$101	0%	0
Weighted Average (\$/hr)					62
*	Salary Table 2009-DCB. http://www.opm.gov/oca/09tables/pdf/salhr.pdf				
**	Employer Costs for Employee Compensation-September 2007, Bureau of Labor Statistics, USDL 07-1883. http://www.bls.gov/news.release/archives/ecec_12112007.pdf				

The cost of publishing each notice in the Federal Register, which averaged \$500 in FY2008, is paid by the NPS.

- 1) Total burden hours for logging in/filing summaries and inventories (50 summaries/inventories x 1 hour): 50 hours.
- 2) Total burden hours for publishing notices in the Federal Register (120 notices x 4 hours): 480 hours.
- 3) Total publication costs (120 notices x \$500): \$60,000.
- 4) Total annual, recurring cost (530 hours x \$62 + \$60,000): \$92,860.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

The downward adjustment of 850 responses and 47,776 hours of burden is due to the natural transition over time from a program startup situation to an on-going program situation.

16. For collections of information whose results will be published, outline plans for tabulations, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Not applicable.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-1.

Not applicable.