

**Supporting Statement A**  
**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 necessitate the collection.**

The Native American Graves Protection and Repatriation Act (NAGPRA), enacted in 1990, requires museums to compile certain information (summaries, inventories, and notifications) 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, with a copy to the Secretary of the Interior. These regulations, first 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, private, state, and local museums have provided summaries, inventories, and published notices as applicable 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. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.**

The information collected under 43 CFR 10 is used by lineal descendants, 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 Native Hawaiian organization may have a right to receive under provisions of NAGPRA. The information collected is used by the NPS to verify the content of notices of inventory completion or notices of intent to repatriate prior to their publication in the Federal Register, prepare entries to the databases of inventory listings, 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 technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.**

The format for submitting a summary, inventory, or notice to a lineal descendant, 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 printed or electronic formats. To reduce the burden, museums may send in electronic copies of notices and other compliance documents.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 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, describe any methods used to minimize burden.**

Of the 1,202 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 regulation, although alternatives to electronic submissions are specifically allowed for museums that are unable to meet this requirement. When a small museum does not have the capacity to make an electronic submission, the National NAGPRA Program will assist in scanning in the document to an electronic form. 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. As of this date, information collection for most small entities is complete, unless they receive new collections, or a new tribe is recognized and requests copies of documents.

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

The primary goal of NAGPRA’s information collection requirements is to provide lineal descendants and Indian tribes and Native Hawaiian organizations with timely information and notification regarding cultural items that they may have a right to receive. The Act initially required all museums to complete summaries within 3 years of the date of statutory enactment, inventories within 5 years of statutory enactment, and notification within 6 months of inventory completion. Once initial requirements were complete, for most museums by 1995, new information collection requirements are done on an as-needed basis, with additions to summaries due within six months of either receipt of a new collection or acknowledgement of a new Indian tribe, and additions to inventories due within 2 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 3 years for a

summary and 5 years for an inventory. Summaries and inventories may be updated, upon new information regarding only the remaining collection, but are not periodic events requiring information collection where no new collections have been acquired or no new tribes have an interest in the collection.

**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 secrets, or other confidential information, unless the agency can demonstrate 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 prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**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, disclosed, 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 may preclude consultation in a specific situation. These circumstances should be explained.**

On March 2, 2012, we published a notice in the Federal Register (77 FR 12875) announcing our intent to request that OMB renew this information collection. In that notice, we solicited comments for 60 days, ending on May 1, 2012. Two public comments were received from large museums.

- The Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, Massachusetts described their considerable efforts, since the inception of NAGPRA, to comply with the statute to enable the repatriation of over 3,000 Native American human remains and their 10,000 or more funerary objects. The museum believes that the cost and time represented in the Federal Register notice is understated and not reflective of their total efforts. No estimation of costs, time, or salary information was indicated in the comment. The museum appreciates the grants program to defray some of the costs, but desires the grants to be increased and application expanded.
- The American Museum of Natural History, New York, New York, described their considerable efforts in the 22 years of NAGPRA compliance. The museum believes that the cost and time represented in the Federal Register notice is understated and not reflective of their total efforts. No estimation of costs, time, or salary information was indicated in the comment.

The NAGPRA Review Committee is a Federal advisory committee whose members represent the interests of museums, scientific organizations, and tribes who work with NAGPRA information collection activities. Twice yearly meetings of the NAGPRA Review Committee afford an ongoing forum for the receipt of comments from museums, tribes, and the public. The meeting materials, minutes, and transcribed verbatim transcripts are available on the National NAGPRA Program website. The comment period was open during the Review Committee meeting in New Mexico, of May 9-10, 2012. Present were over 100 attendees from museums, tribes, and Federal agencies. This afforded 3 days to answer questions and receive comments about information collection in NAGPRA, either within the meeting record or informally.

The webpage of the National NAGPRA Program is frequently visited by those interested in NAGPRA. The homepage is utilized on an ongoing basis to effectively communicate new items, such as training and meeting events. The homepage indicated the ability to comment on the information collection notice. There was a description of information collection, the process to make a comment, and a link to the published notice. The item remained on the homepage for the entire comment period.

Phone and in-person contact was received from one university and two large museums. Their contact was in the nature of questions concerning PRA and the notice and comment process. General statements were received that there are substantial costs in NAGPRA compliance, but no comments identified costs for that part of NAGPRA compliance which requires information collection. No issues or problems were raised concerning availability of data, frequency of collection, clarity of instructions, recordkeeping, disclosure, data elements reported or format. No input was received to better quantify time expended in formulation of collection items, other than the general expression of energies expended in sincere efforts to comply.

Based on these comments, we added burden associated with updating inventories/summaries and increased the hourly burden associated with preparing notices (see item 12).

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration 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:**

- **Indicate 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 burden, and explain the reasons for the variance. Generally, 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 burden estimates for each form and aggregate the hour burdens.**
- **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.**

We anticipate receiving approximately 609 responses totaling 6,080 annual burden hours for this information collection. NAGPRA initially required museums to complete summaries within 3 years of the date of statutory enactment, inventories within 5 years of statutory enactment, and notification within 6 months of inventory completion. Once initial requirements were complete, for most museums by 1995, information collection is on an as-needed basis, with additions to summaries due within 6 months of either receipt of a new collection or acknowledgement of a new Indian tribe, and additions to inventories due within 2 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 3 years for a summary and 5 years for an inventory. Summaries and inventories may be updated, upon new information regarding only the remaining collection, but are not periodic events requiring information collection where no new collections have been acquired or no new tribes have an interest in the collection. The table below displays estimates for ongoing information collection requirements required by 43 CFR 10. Completion times vary substantially depending on the activity. We estimate the total dollar value of the burden hours to be **\$226,168**.

Activity	Annual	Completion	Total	Hourly	\$ Value of
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	Number of Responses	Time per Response	Annual Burden Hours	Rate w/ Benefits	Annual Burden Hours
<b>New Summary/Inventory</b>					
- Private Sector	1	100 hours	100	\$34	\$ 3,400
- Govt	2	200 hours	200	40	8,000
<b>Update Summary/Inventory</b>					
- Private Sector	226	10 hours	2,260	34	76,840
- Govt	245	10 hours	2,450	40	98,000
<b>Notices</b>					
- Private Sector	41	10 hours	410	34	13,540
- Govt	64	10 hours	640	40	25,600
<b>Notify Tribes and Request Information</b>					
- Private Sector	4	30 minutes	2	34	68
- Govt	10	30 minutes	5	40	200
<b>Respond to Request for Information</b>					
- Govt	16	48 minutes	13	40	520
<b>Totals</b>	<b>609</b>		<b>6,080</b>		<b>\$226,168</b>

We estimated the hourly wage costs as follows:

#### 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	\$12*	\$18	9%	2
Curator	\$27**	\$41	90%	37
Chief Executive	\$51***	\$77	1%	1
Weighted Average (\$/hr)				\$40
<p>* Library Assistant, Clerical (Department of Labor May 2011, <a href="http://www.bls.gov/oes/current/oes434121.htm">http://www.bls.gov/oes/current/oes434121.htm</a>).</p> <p>** The mean hourly wage for a curator at a local government or college ranges from \$25.24 to \$27.73 per hour (Department of Labor 2011, <a href="http://www.bls.gov/oes/current/oes254012.htm#nat">http://www.bls.gov/oes/current/oes254012.htm#nat</a>). The higher college curator rate of \$27.73 per hour has been used to approximate \$27 for this analysis.</p> <p>*** The mean hourly wage for a chief executive of a local or state government agency ranges from \$48.32 to \$52.69 per hour (Department of Labor May 2011, <a href="http://www.bls.gov/oes/current/oes111011.htm#ind">http://www.bls.gov/oes/current/oes111011.htm#ind</a>). We used \$51 as an average rate for this analysis.</p> <p>**** Employer Costs for Employee Compensation-June 2012, Bureau of Labor Statistics, USDL 12-1830 <a href="http://www.bls.gov/news.release/pdf/ecec.pdf">http://www.bls.gov/news.release/pdf/ecec.pdf</a></p>				

## 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	\$12*	\$17	9%	2
Curator-Private	\$24**	\$34	90%	31
Chief Executive	\$51***	\$71	1%	1
Weighted Average (\$/hr)				\$34
<p>* Library Assistant, Clerical (Department of Labor 2011, <a href="http://www.bls.gov/oes/current/oes434121.htm">http://www.bls.gov/oes/current/oes434121.htm</a>).</p> <p>** The mean hourly wage for a non-governmental curator is \$24.52 (Department of Labor 2011, <a href="http://www.bls.gov/oes/current/oes254012.htm#nat">http://www.bls.gov/oes/current/oes254012.htm#nat</a>).</p> <p>*** There is no separate rate for chief executives of nonprofit organizations like museums. The local government chief executive rate of \$51.39 has been used for this analysis (Department of Labor 2011, <a href="http://www.bls.gov/oes/current/oes111011.htm#ind">http://www.bls.gov/oes/current/oes111011.htm#ind</a>).</p> <p>**** Employer Costs for Employee Compensation-June 2012, Bureau of Labor Statistics, USDL 12-1830 <a href="http://www.bls.gov/news.release/pdf/ecec.pdf">http://www.bls.gov/news.release/pdf/ecec.pdf</a></p>				

**13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)**

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

There are no nonhour costs.



**14. Provide estimates of 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), and any other expense that would not have been incurred without this collection of information.**

We estimate that the total annual cost to the Federal Government is **\$246,090**. 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 \$52 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	\$25	\$38	1%	1
Skilled, craft, and technical	GS-11, step 5	\$34	\$51	98%	50
Management and professional	GS-15, step 7	\$71	\$117	1%	1
Weighted Average (\$/hr)					\$52
* Salary Table 2012-DCB. <a href="http://www.opm.gov/oca/12tables/pdf/salhr.pdf">http://www.opm.gov/oca/12tables/pdf/salhr.pdf</a>					
** Employer Costs for Employee Compensation-June 2012, Bureau of Labor Statistics, USDL 12-1830 <a href="http://www.bls.gov/news.release/pdf/ecec.pdf">http://www.bls.gov/news.release/pdf/ecec.pdf</a>					

**Salary Costs - \$177,840** (3,420 hours x \$52)

- Logging/filing summaries/inventories (474 x 5 hours): 2,370 hours.
- Publishing notices in the Federal Register (105 x 10 hours): 1,050 hours.

**Publication Costs - \$68,250** (105 notices x \$650)

- Average cost to publish each notice in the Federal Register is \$650.

**15. Explain the reasons for any program changes or adjustments in hour or cost burden.**

We estimate that we will receive 609 responses annually totaling 6,080 burden hours. This is a net increase of 429 responses and 836 burden hours from our previous submission.

We are reporting an increase of 471 responses and 4,710 hours as program changes related to new ICs for updating summaries/inventories. This burden was not reported previously.

We are reporting a net decrease of 42 responses and 3,874 hours as adjustments:

- Decrease of 43 responses and 4,300 hours for new summary/inventory completion. Most museums have completed their inventories and we have reduced the number of responses accordingly.

- Increase of 1 response and 426 hours for submission of notices. Based on our outreach and experience in administering this collection, we increased the completion time for notices to 10 hours each.

**16. For collections of information whose results will be published, outline plans for tabulation 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 topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."**

Not applicable.