

**1SUPPORTING STATEMENT A FOR
PAPERWORK REDUCTION ACT SUBMISSION**

**Native American Graves Protection and Repatriation Regulations, 43 CFR 10
OMB Control Number 1024-0144**

Terms of Clearance: The agency received several comments through outside consultation that suggested improvements to the collection to improve its practical utility. The agency intends to make the improvements no later than fiscal year 2017.

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 of 1990 (NAGPRA or the Act; 25 U.S.C. 3001-3013) requires all public and private museums receiving Federal funds (other than the Smithsonian Institution) to compile certain information (summaries, inventories, and notices) regarding Native American cultural items in their possession or control and provide that information to lineal descendants, likely interested Indian tribes and Native Hawaiian organizations, and the National NAGPRA Program (acting on behalf of the Secretary of the Interior, housed in the National Park Service). Museums identify NAGPRA protected items in the collection through examination of museum records and from consultation with Indian tribes and Native Hawaiian organizations. In section 13 of the Act (25 U.S.C. 3011), Congress explicitly authorized the Secretary of the Interior to promulgate regulations implementing the Act.

Under NAGPRA and its implementing regulations, the National Park Service (NPS) National NAGPRA Program (the NAGPRA Program), on behalf of the Secretary, is mandated to collect information pertinent for determining the cultural affiliation and geographical origin of Native American human remains and cultural items, including descriptions, acquisition data, and records of consultation and it makes this information publicly available. Once the identity and cultural affiliation of human remains and cultural items are determined, the museum must send a written notice of the determination to the affected Indian tribes or Native Hawaiian organizations and the NAGPRA Program for publication in the Federal Register.

Under NAGPRA, a Federal advisory committee to the Secretary was established (the Review Committee) to monitor and review the implementation of the inventory and identification process and repatriation activities required under the Act. The Act requires the Review Committee have reasonable access to Native American cultural items and to all inventories produced under the Act. Under NAGPRA, the Secretary is responsible for the civil enforcement of the Act against museums that fail to comply and awarding grants to museums that must comply with the Act. The authority for this collection is under 43 CFR Part 10. The following authorities specify the information that museums must submit to the NAGPRA Program:

- 43 CFR 10.9(c)-(d) and 10.13 – *Inventory* – information pertinent for determining the cultural affiliation and geographic origin of Native American human remains and associated funerary objects in a holding or collection, including descriptions, acquisition data, and records of consultation.
- 43 CFR 10.9(e), 10.11(c)(1), and 10.13 – *Notice of Inventory Completion* – information, based on the museum’s completed inventory, to be published in the *Federal Register* as a notice of inventory completion.

- 43 CFR 10.8(e) and 10.13 – *Summary* – information pertinent for determining the cultural affiliation and identity of objects (as cultural items), including descriptions, acquisition data, and parties invited to consult about the objects.
- 43 CFR 10.8(f) – *Notice of Intent to Repatriate* – information, based on the museum's completed summary, available information, and consultation, to be published in the *Federal Register* as a notice of intent to repatriate cultural items.

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 collection requirements remains unchanged from our previous submission. The information collected under 43 CFR Part 10 will be:

Used By:	Used to:
Lineal descendants, Indian Tribes, and Native Hawaiian organizations	<ul style="list-style-type: none"> • determine whether to engage in active consultation with a museum or Federal agency, • identify the cultural affiliation and type of cultural items in a holding or collection, and • requesting the repatriation of cultural items;
The Review Committee	<ul style="list-style-type: none"> • monitor the inventory and identification process conducted • ensure a fair, objective consideration and assessment of all available relevant information and evidence, • consult with Indian Tribes and Native Hawaiian organizations, • consult with the Secretary of the Interior • develop of regulations, and reports to Congress
The Secretary (or the Assistant Secretary	<ul style="list-style-type: none"> • determine whether a museum has complied with the requirements of NAGPRA; • carry out the Secretary's responsibility for the civil enforcement of the Act against museums that fail to comply, and • determine a museum eligibility for grants under the Act.

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 electronic submission are preferred, however suggestion for alternatives modes are available from the NAGPRA Program. The NAGPRA Program also provides templates to prepare the notices the required *Federal Register* format.

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 information submitted to NPS from the museums is used for no other purpose than to comply with the requirements of NAGPRA. There is no duplication of effort because NPS is the

only federal agency mandated to collect this information on behalf of the Secretary.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The collection of information for purposes of this submission is restricted to “museums.” From 1990 to date, approximately 10% of the total number of responding museums could be characterized as small entities. The impact on these small entities to provide this information in an inventory is a part of their normal duties of collections management. The information in a notice is in addition to their normal duties. In an effort to reduce respondent burden, the NAGPRA Program provides templates and technical assistance to direct inquiries by phone and email. The NAGPRA Program assists many small entities directly with drafting and completing the notice requirements.

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.

Unless a museum has new information or requires changes to a previous determination, the information collected under 43 CFR Part 10 does not require more than one submission. If the information in an inventory, a summary, or a notice is not collected many lineal descendants, Indian Tribes, and Native Hawaiian organizations would not be able to determine their interest in repatriating cultural items. Without the information collected, the Review Committee would not be able to advise the Secretary or resolve disputes and the Secretary would not be able to determine if a museum failed to comply with the Act or if a museum is eligible to receive a grant under the Act. Finally, without the information collected, museums might be vulnerable to lawsuits alleging bad faith or a violation of due process in the repatriation of cultural items.

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;
- * requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- * requiring respondents to submit more than an original and two copies of any document;
- * requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;
- * 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;
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * 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;
- * 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.

The regulations at 43 CFR 10.10(f)(1) requires that museums adopt internal procedures to permanently document the content and recipients of all repatriations. This information is not collected or stored by the NAGPRA Program.

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 26, 2018, the National NAGPRA Program published in the Federal Register (83 FR 12960) a Notice of our intent to request that OMB renew approval for this information collection. In that Notice, we solicited comments for 60 days, ending on May 25, 2018. We did not receive any public comments in response to this Notice.

2016 Terms of Clearance *The agency received several comments through outside consultation that suggested improvements to the collection to improve its practical utility. The agency intends to make the improvements no later than fiscal year 2017.*

NPS Response: For 1024-0144 ICR, we received several suggestions for improving this collection and its practical utility. The changes made to this collection in response to comments received since the last renewal include:

- additional templates for required compliance documents
- simplified instructions for meeting the regulatory requirements
- direct technical assistance to respondents by Federal staff
- improvements to the program website providing additional information and instruction
- forthcoming improvements to the databases showing submitted information
- specific examples of the information requested
- reduction of the redundancy between the notices of inventory completion and the inventories when respondents must update the information
- allow for electronic communication for all collections
- forthcoming improvements to the databases will allow for auto-populating forms for summaries and inventories
- updated contact information for sending information to relevant Indian Tribes
- actively worked with respondents to review information previously collected and streamline the process for updating the information

We also proactively consulted with the nine (9) individuals identified in Table 8.1 who familiar with this collection of information in order to validate our time burden estimate and asked for comments on the questions below:

Table 8.1

Organization	Title
University of Denver Museum of Anthropology	Registrar/NAGPRA Coordinator
Cincinnati Museum Center Union Terminal	Curator of Archaeology
Office of the State Archaeologist Bio-archaeology Program, University of Iowa	
Peabody Museum of Natural History, Yale University	Senior Collections Manager
San Diego Museum of Man	Director of Cultural Resources
Heard Museum	Director/CEO
The University of Tulsa	Assoc. Professor of Anthropology
Oceanic Art and Culture Peabody Essex Museum	Curator
Indiana University	NAGPRA Director

Of these nine people, we received three comments of “no response.” In addition, five responses were received as indicated:

Registrar/NAGPRA Coordinator, University of Denver Museum of Anthropology, stated that National NAGPRA Program’s information collection is necessary to ensure compliance, transparency, and accountability. She requested that the Program provide templates and examples of the information they are requesting.

- Director of Cultural Resources, San Diego Museum of Man, stated that she believes the information collected by National NAGPRA is necessary and practical; however, there seems to be redundancy between the notices of inventory completion and the inventories themselves. She expressed the desire to have a clearer template for inputting inventory information that also streamlines the Federal Register notice of inventory completion process. She also expressed the desire to end the need for physical consultation letters and physical signatures for notices approved for publication, noting that electronic communications are more efficient.
- Registrar, Heard Museum, responded on behalf of David Roche, Director/CEO, Heard Museum. Ms. Moore said the information collection is necessary and gave time estimates for completing NAGPRA documents but had no further comments.
- Office of the State Archaeologist Bioarchaeology Program, University of Iowa, responded that an online submission system involving auto-populating forms for NAGPRA summaries and inventories would be more useful and efficient. She also suggested that NAGPRA generate a list of tribes by state that respondents could select from to add those that were applicable to their summary and/or inventory. She added that including each tribe’s appropriate contact information would be even more helpful.
- , NAGPRA Director, Indiana University, stated that amendments to NAGPRA inventories should be made even if consultation hasn’t been done and determinations of cultural affiliation haven’t been made, because having an accurate inventory online and available to all tribes is more important. She also stated the “cultural affiliation paperwork” required to be submitted with Notices of Inventory Completion is redundant.

- Despite multiple requests, no comment was received from The University of Tulsa. Multiple attempts were made to solicit feedback from the remaining individual via email and phone, but were unsuccessful.

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

We do not provide payments or gifts to respondents.

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

The information collection is not conducted in a manner that includes a pledge of confidentiality; therefore, we do not make any assurances of confidentiality.

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.

Pursuant to 43 CFR 10.10(f)(2) provide that, at the request of an Indian Tribe official, a museum may take such steps to ensure that information of a particularly sensitive nature is not made available to the general public.

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.**

Approximately 1,200 museums are covered by these regulations. NPS assume that most of these museums are in compliance with the regulations; therefore our estimate of the burden hours for each information collection requirement makes the following assumptions:

- The number of private, state and local museums ($n=3$) submitting new summaries or inventories on an annual basis is a relatively small number.
- The number of notices ($n=105$) that will be submitted assumes that individual museums

will submit multiple notices at one time, depending on geographic or cultural affiliation of the cultural items versus the previous practice of separate submissions. In FY2017, 62 institutions (state/local $n=22$ and private $n=40$) submitted 126 notices (state/local $n=58$ and private $n=68$) for publication in the Federal Register. The estimate is a reduction in the annual burden by 21 notices.

- Museums ($n=14$) are required to notify tribes and request information from tribes in preparing notices and facilitating repatriation. NPS is assuming that most museums conducted initial consultation and have fewer requirements for sharing information under the regulations.
- State and local governments ($n=16$) may be required to respond to requests for information under the regulations.

Based on these assumptions, 2e estimate that we will receive **448 responses** totaling **4,470 burden hours**. We estimate the annual dollar value of the burden hours is **\$192,806** (rounded).

We used the Bureau of Labor Statistics (BLS) News Release [USDL-18-1499](#), September 18, 2018, Employer Costs for Employee Compensation—June 2018, to calculate the total annual burden.

- Private Sector. Table 5 lists the hourly rate for all workers as \$34.19, including benefits.
- Government. Table 3 lists the hourly rate for all workers as \$49.23, including benefits.

Table 12.1. Total Annual Costs to Federal Government

Requirement	Average Number of Annual Responses	Average Completion Time per Response	Estimated Annual Burden Hours	Hourly Rate	\$ Value of Annual Burden Hours
<i>New Summary/Inventory</i>					
Private Museums	1	100 hours	100	\$ 34.19	\$ 3,419.00
State and Local Government Museums	2	100 hours	200	49.23	9,846.00
<i>Updated Summary/Inventory Data</i>					
Private Museums	130	10 hours	1,300	\$ 34.19	\$ 44,447.00
State and Local Government Museums	180	10 hours	1,800	49.23	88,614.00
<i>Notices</i>					
Private Museums	41	10 hours	410	\$ 34.19	\$ 14,017.90
State and Local Government Museums	64	10 hours	640	49.23	31,507.20
<i>Notify Tribes/Request Information</i>					
Private Museums	4	30 mins	2	\$ 34.19	\$ 68.38
State and Local Government Museums	10	30 mins	5	49.23	246.15
<i>Respond to Request for Information</i>					
State and Local Government Museums	16	48 mins	13	\$ 49.23	\$ 639.99
<i>Totals:</i>	448		4,470		\$ 192,805.62

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 non-hour cost burdens to respondents.

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 the annual cost to the government for this collection of information to average **\$188,912 (rounded)**.

Table 14.1 below shows the average weighted hourly rate of \$82.64 for the Federal staff associated with this information collection. We used the Office of Personnel Management Salary Table 2018-DCB to determine the hourly rates and multiplied the hourly rate by 1.59 to account for benefits in accordance with News Release [USDL-18-1499](#), September 18, 2018, Employer Costs for Employee Compensation—June 2018.

Table 14.1. Federal staff weighted hourly rate

Position	GS Level	Hourly Rate	Hourly Rate incl. benefits (1.59)	Estimated percent of time spent on collection work	Weighted average
Clerical	9/5	\$30.54	\$ 48.56	4%	\$ 1.94
Skilled/technical knowledge,	13/5	52.66	83.73	95%	79.54
Management/professional	15/5	73.20	116.38	1%	1.16
Total					\$ 82.64

The estimated operational costs of \$166,915 annually are based upon the following assumptions:

- Summaries, inventories, and notices submitted by museums are received by staff of the NAGPRA Program.
- Summaries and inventories are logged, entered into a database, and filed in both paper and electronic formats.

- Notices are logged, entered into a database, reviewed for publication, and returned to the submitting museums for approval.
- The number of museums submitting new summaries or inventories on an annual basis is a relatively small number.
- The number of museums updating data in a summary or inventory is relatively large and represents multiple submissions from a single museum because the data is usually updated on a case by case basis, depending on geographic or cultural affiliation.
- The number of notices published in a year is around 150. In FY2014, 154 notices were submitted for publication. Unlike the museums, each notice requires work by the NAGPRA Program staff and the figures below do not reflect the cost-savings associated with preparing and submitting multiple notices from a single institution.

Table 14.2. Total Annual Operational Costs to Federal Government

Activity	Annual Responses	Average Time/Response (hours)	Total Annual Burden (hours)	Weighted Hourly Rate	Value of Annual Gov't Burden
Salary Costs					
New Summaries and Inventories	3	2	6	\$ 82.64	\$ 495.84
Updated Summary and Inventory Data	471	1	471	82.64	38,923.44
Notices	154	5	770	82.64	63,632.80
Subtotal Salary Costs:					\$ 103,052.08
Operational Costs					
	Number of Notices	Number of Columns per notice	Total Number of Columns	Cost per column	Cost
Publication Costs	180	3	462	\$159	\$85,860.00
Subtotal – Operational Costs					\$ 85,860.00
TOTAL ANNUAL GOVERNMENT COST:					\$188,912.08

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

This is a renewal of a currently approved collection. The program changes include the following adjustments listed in the table below. Since the last approval of this information collection in 2015. The previous request anticipated that we would receive at least 471 updated summaries of inventory data from Private (n=226) and State/Local Gov't museums (n=245) that required at least 100 hours per submission to complete. However, due to the number of museums currently in compliance with NAGPRA the number of updates received have declined over the years. Therefore the net decrease (annual responses, n= -161; and annual burden hours, n = -1,610) is based upon a change due an adjustment in the Program's estimated of the anticipated number of updates submitted as a requirement of NAGPRA.

Respondent	Previously Approved		Current Request		Program Change due to Agency Estimate	
	Annual Number of Responses	Time Burden (hours)	Annual Number of Responses	Time Burden (hours)	Annual Number of Responses	Time Burden (hours)
Updated Summary/Inventory Data						
Private Museums	226	2,260	130	1,300	-96	-960
State and Local Govt Museums	245	2,450	180	1,800	-65	-650
TOTAL	0	0	0	0	0	0

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.

There are no intentions to seek approvals to not display the OMB expiration date on the forms and for this collection.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.