



FEDERAL PRESERVATION PROGRAM NOTES

Base Realignment and Closure And Native American Graves Protection and Repatriation Act

What is NAGPRA?

The Native American Graves Protection and Repatriation Act (NAGPRA) provides a process for Federal agencies and museums to return (or repatriate) certain Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants, culturally affiliated Indian tribes, and Native Hawaiian organizations (hereafter referred to as “cultural items” as defined in NAGPRA). A copy of NAGPRA, its implementing regulations, and helpful material for NAGPRA compliance are available at: <http://www.cr.nps.gov/nagpra/MANDATES/INDEX.HTM>.

What are “cultural items?”

The term “cultural items” as defined in NAGPRA can be found on the National Park Service’s website at: <http://www.cr.nps.gov/nagpra/MANDATES/INDEX.HTM>

NAGPRA at DoD Installations

Installations with cultural items subject to the Native American Graves Protection and Repatriation Act (NAGPRA) must follow the requirements of NAGPRA. The ownership provisions of NAGPRA (25 USC 3002) and its implementing regulations at 43 CFR 10, apply only to tribal lands, Federal lands, or Federally controlled lands. In the event of new discoveries during the closure or realignment process the installation should consult with the appropriate tribe(s) or Native Hawaiian Organization(s) to determine the appropriate disposition of cultural items. In addition, an installation needs to determine whether or not it has a collection of NAGPRA cultural items in its possession and control, which are subject to the repatriation provisions of NAGPRA (25 USC 3007). If so, the installation should have submitted an inventory of human remains and associated funerary objects as early as 1996, to the National Park Service, and should have begun to consult with the appropriate tribe(s) or Native Hawaiian

Organization(s) on repatriation. Prior to closure, all culturally affiliated human remains in the collection should be reflected in published Federal Register notices. Other cultural items are the subject of summaries sent to tribes and Native Hawaiian Organizations and responsibility for consultation on repatriation claims is ongoing.

If an installation has cultural items that it cannot repatriate prior to closure, the DoD Component with jurisdiction over the installation must make appropriate arrangements for curation of these cultural items at an alternative facility until repatriation issues are resolved.

Who may claim Native American cultural items under NAGPRA?

NAGPRA recognizes claims by lineal descendants, Indian tribes, Native Alaskan villages and corporations, and Native Hawaiian organizations. See the definition of Indian Tribe, Native Alaskan Village, and Native Hawaiian Organization at: <http://www.cr.nps.gov/nagpra/MANDATES/INDEX.HTM>

Keys questions for BRAC installations

The following are key questions that installations slated for closure must address as early as possible:

1. Does the installation have any archaeological/Native American cultural collections at all?
2. If the installation has Native American collections, has a qualified professional examined all installation collections for the presence of cultural items as defined by Section 7 of NAGPRA?
3. If the installation has cultural items, has the installation attempted to determine cultural affiliation through consultation with potential lineal descendants, culturally affiliated Indian tribes, or Native Hawaiian organizations?
4. Has the installation attempted to respond to tribal requests for return of cultural items to those listed in 3 above in accordance with Section 7 of NAGPRA?
5. If there have been no attempts to repatriate cultural items, what are the reasons?
 - Unable to determine cultural affiliation, that is shared group identity between earlier group and present day tribe or Native Hawaiian organization?
 - No request for repatriation?
 - Competing requests for repatriation?
 - Unable to complete required consultation?
 - Other reasons?
6. Does the installation have a Native American reburial area within the boundaries of the installation?

7. Does the installation have any existing agreements with Indian tribes or Native Hawaiian Organizations to address cultural items held by the installation or which may be unearthed during an installation activity?
8. Will the installation be able to repatriate cultural items it holds prior to the scheduled date of closure? If not, has the installation planned for continued curation of the cultural items at another facility and for assignment of oversight responsibility?

The installation should consult with appropriate tribes early and often in the repatriation process. The installation should also obtain advice from the National Park Service and the National NAGPRA Program office to resolve any repatriation issues, particularly where cultural affiliation is in question. An up-to-date Integrated Cultural Resource Management Plan should include information on the existence of NAGPRA cultural items.

Parties to Consultation

Key parties to consult with when addressing cultural items include the following:

- The tribe(s) or Native Hawaiian Organization(s) that were prior occupants of the area or which may have an interest in the area where the BRAC installation is located
- Tribal Historic Preservation Officer, as appropriate.

June 21, 2006



NATIONAL CONFERENCE OF STATE
HISTORIC PRESERVATION OFFICERS

