



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240



SEP 28 2010

The Honorable Gene Dodaro
Acting Comptroller General of the
United States
Government Accountability Office
Washington, D.C. 20548

Dear Mr. Dodaro:

Thank you for providing the Department of the Interior an opportunity to respond to the recommendations of the Government Accountability Office final report entitled, *NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act* (GAO-10-768).

The Department acknowledges the work of the Government Accountability Office (GAO) team that prepared the report and brought attention to the Native American Graves Protection and Repatriation Act (NAGPRA). We appreciate the continuing interest in NAGPRA by Congress. Please be aware of the Department's continuing concern that NAGPRA requires an ongoing process by Federal Agencies and other stakeholders.

Please find enclosed the actions that have already been taken and are underway to address GAO's recommendations. A similar letter is being sent to the Senate Committee on Homeland Security and Governmental Affairs; the Senate and House Committees on Appropriations; the Senate and House Appropriations Subcommittees on Interior, Environment, and Related Agencies; the Senate Committee on Energy and Natural Resources; the Senate Committee on Indian Affairs, the House Committee on Natural Resources; the House Committee on Oversight and Government Reform; the Comptroller General of the GAO; and the Director of the Office of Management and Budget.

For additional information, please contact the National NAGPRA Program Manager, Sherry Hutt, at (202)354-1479.

Sincerely,

Rhea Suh
Assistant Secretary
Policy, Management and Budget

Enclosures

Enclosure 1

Department of the Interior
Statement of Actions on the Government Accountability Office Report
NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT: After
Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act
(GAO-10-768)

Recommendation 1: The Secretary of the Interior should direct the cultural resource management programs to develop and provide to Congress a needs assessment listing specific actions, resources, and time needed to complete the inventories and summaries required by NAGPRA sections 5 and 6 for their historical collections.

Response: This work is underway in DOI bureaus and offices. Although each of the DOI bureaus and offices with NAGPRA responsibilities have accomplished a tremendous amount of work to complete inventories of Native American human remains and associated funerary objects and summaries of unassociated funerary objects, sacred objects, and objects of cultural patrimony, additional work remains for some bureaus and offices. As the GAO report identifies, there is a correlation between levels of effort and accomplishment of tasks, and having established policy, procedures staff and funding resources.

DOI will issue a directive that each DOI bureau and office that has possession or control over Native American human remains, funerary objects, sacred objects, and/or objects of cultural patrimony in their collections prepare a needs assessment listing specific actions, resources, and time needed to complete the inventories and summaries. DOI will also request that bureaus/offices identify key issues that impede compliance and propose solutions to overcome these challenges, as well as identify opportunities for efficiencies to be gained by bureaus collaborating together.

Completion of inventories and summaries of collections held in non-DOI repositories is an issue that overlaps with the recent DOI Office of the Inspector General's report entitled, *Department of the Interior Museum Collections: Accountability and Preservation (C-IN-MOA-0010-2008)*. Bureaus/offices will be encouraged to coordinate their respective needs assessments with the DOI Action Plan addressing the OIG audit recommendation number 9, regarding identification and inventory of collections held by non-DOI repositories.

Lastly, inventories must be completed in consultation with affected American Indian tribes. Successful and meaningful tribal consultation is a priority issue for DOI leadership, and bureaus/offices will be required to identify strategies for effective, responsive consultation in their respective needs assessments.

Responsible Official: Rhea Suh, Assistant Secretary, Policy Management and Budget (AS-PMB)

Target Date: AS-PMB will issue a memorandum to DOI bureau and office heads by November 30, 2010 requiring submission of needs assessments to the Department by June 30, 2011.

Recommendation 2: The Secretary of the Interior direct the cultural resource management programs to develop and provide to Congress a timetable for the expeditious publication in the *Federal Register* of notices of inventory completion for all remaining Native American human remains and associated funerary objects that have been culturally affiliated in inventories.

Response: The GAO report identified several specific instances where DOI bureaus had determined the cultural affiliation of Native American human remains and funerary objects, but had not published Notices of Inventory Completion in the *Federal Register*, which would allow for repatriation. The applicable DOI bureaus and offices are the Bureau of Reclamation, the Fish and Wildlife Service, the Indian Arts and Crafts Board, and the National Park Service.

Responsible Official: Rhea Suh, Assistant Secretary, Policy Management and Budget
Target Date: AS-PMB will issue a memorandum to DOI bureau and office heads by November 30, 2010 requiring submission of a timetable for the publication of Federal Register notices. DOI will provide a consolidated timetable of its bureaus and offices to Congress by June 30, 2011.

Recommendation 3: To clarify which entities are eligible under NAGPRA, the National NAGPRA in conjunction with Interior's Office of the Solicitor, reassess whether Alaska Native Claims Settlement Act (ANCSA) corporations should be considered as eligible entities for the purposes of carrying out NAGPRA given the Solicitor's opinion and BIA policy concerning the status of ANCSA corporations.

Response: The Department of the Interior Office of the Solicitor is reviewing this question of law and will produce an opinion by March 31, 2011. The National NAGPRA Program will abide by the opinion of the Solicitor's Office and adjust program activities to be consistent with that opinion.

Responsible Official: Sherry Hutt, National NAGPRA Program Manager
Target Date: March 31, 2011

Recommendation 4: To improve the confidence in the Review Committee and its support among NAGPRA practitioners, the Secretary of the Interior should direct National NAGPRA to strictly adhere to the nomination process prescribed in the Act and, working with Interior's Office of the Solicitor as appropriate, ensure that all review committee nominations are properly screened to confirm that the nominees and nominating entities meet statutory requirements.

Response: The National NAGPRA Program will document the nomination review process, and request the Office of the Solicitor to review these procedures. The Designated Federal Officer will also continue to work through the NPS Office of Policy, the White House Liaison in the Department of the Interior and the Office of the Secretary of the Interior throughout the appointment process.

Responsible Official: David Tarler, Designated Federal Officer to the Review Committee

Target Date: September 30, 2011

Recommendation 5: To provide policymakers with information to assess the overall effectiveness of the Act and to provide Indian tribes and Native Hawaiian organizations readily accessible information on items available for repatriation, the Secretary of the Interior direct the cultural resource management programs to report their repatriation data to National NAGPRA on a regular basis, but no less than annually, for each notice of inventory completion they have published or plan to publish. Furthermore, National NAGPRA should make this information readily available to Indian tribes and Native Hawaiian organizations and the Review Committee should publish the information in its annual report to Congress.

Response: The GAO report measures the success of NAGPRA on the completion of repatriations. However, currently, Federal agencies do not submit information on repatriations that occur subsequent to publication of notices of inventory completion or intent to repatriate in the Federal Register. This recommendation has two parts: a) direction that Federal cultural resource programs report repatriation data to National NAGPRA; and, b) that National NAGPRA make this information readily available.

- a) In an effort to provide accessible information on the completion of repatriations as well as human remains and cultural items available for repatriation, the Secretary will issue a memorandum to all bureau and office heads requesting that they begin reporting to the National NAGPRA Program on repatriations completed in FY 2011 and annually thereafter. The AS-PMB will direct all DOI bureaus and offices to initiate this internally and to develop a data collection procedure in a timely manner. The National NAGPRA held an inter-agency meeting on September 16, 2010 to solicit input on the structure and content of the new reporting requirement.

In addition, DOI will evaluate whether the regulations that implement NAGPRA (43 CFR Part 10) need to be revised to incorporate this reporting requirement. A solicitor's opinion may be necessary.

Responsible Official: Rhea Suh, Assistant Secretary, Policy Management and Budget

Target Date: September 30, 2011

- b) When agencies submit information on completed repatriations, the National NAGPRA Program will update their publically accessible Culturally Unidentifiable Native American Inventories (CUI) Database and their Culturally Affiliated Native American Inventories Database to reflect the status of human remains and cultural items. In addition, the National NAGPRA Program will incorporate information on repatriations for the NAGPRA Review Committee's Annual Report to Congress. This activity will commence in FY 2011 in order for all agencies to develop a data collection procedure.

Responsible Official: Sherry Hutt, National NAGPRA Program Manager
Target Date: September 30, 2011

Enclosure 2

IDENTICAL LETTERS SENT TO:

**The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510**

**The Honorable Susan M. Collins
Ranking Minority Member
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510**

**The Honorable Daniel Inouye
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510**

**The Honorable Thad Cochran
Ranking Minority Member
Committee on Appropriations
United States Senate
Washington, DC 20510**

**The Honorable Dianne Feinstein
Chairman
Subcommittee on Interior
and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510**

**The Honorable Lamar Alexander
Ranking Minority Member
Subcommittee on Interior
and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510**

**The Honorable Nick J. Rahall II
Chairman
Committee on Natural Resources
House of Representatives
Washington, DC 20515**

**The Honorable Doc Hastings
Ranking Minority Member
Committee on Natural Resources
House of Representatives
Washington, DC 20515**

**The Honorable David Obey
Chairman
Committee on Appropriations
House of Representatives
Washington, DC 20515**

**The Honorable Jerry Lewis
Ranking Minority Member
Committee on Appropriations
House of Representatives
Washington, DC 20515**

**The Honorable James P. Moran
Chairman
Subcommittee on Interior, Environment
and Related Agencies
Committee on Appropriations
House of Representatives
Washington, DC 20515**

**The Honorable Michael K. Simpson
Ranking Minority Member
Subcommittee on Interior, Environment,
and Related Agencies
Committee on Appropriations
House of Representatives
Washington, DC 20515**

**The Honorable Edolphus Towns
Chairman
Committee on Oversight
and Government Reform
House of Representatives
Washington, DC 20515**

**The Honorable Darrell Issa
Ranking Minority Member
Committee on Oversight
and Government Reform
House of Representatives
Washington, DC 20515**

**The Honorable Gene Dodaro
Acting Comptroller General
United States Government
Accountability Office
Washington, DC 20548**

**The Honorable Jeffrey D. Zients
Acting Director
Office of Management and Budget
Old Executive Office Building
Washington, DC 20503**

**The Honorable Byron Dorgan
Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510**

**The Honorable John Barrasso
Vice Chairman
Committee on Indian Affairs
United States Senate
Washington, DC 20510**