

(4) Services that are provided to inmates living in the secure custody of law enforcement and residing in a public institution. An individual is considered to be living in secure custody if serving time for a criminal offence in, or confined involuntarily to, public institutions such as State or Federal prisons, local jails, detention facilities, or other penal facilities. A facility is a public institution when it is under the responsibility of a governmental unit; or over which a governmental unit exercises administrative control. Rehabilitative services could be reimbursed on behalf of Medicaid-eligible individuals paroled, on probation, on home release, in foster care, in a group home, or other community placement, that are not part of the public institution system, when the services are identified due to a medical condition targeted under the State's Plan, are not used in the administration of other non-medical programs.

(5) Services provided to residents of an institution for mental disease (IMD) who are under the age of 65, including residents of community residential treatment facilities with more than 16 beds that do not meet the requirements at § 440.160 of this chapter.

(6) Room and board.

(7) Services furnished for the treatment of an individual who is not Medicaid eligible.

(8) Services that are not provided to a specific individual as documented in an individual's case record.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: March 22, 2007.

**Leslie V. Norwalk,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: July 12, 2007.

**Michael O. Leavitt,**

*Secretary.*

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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 43 CFR Part 10

#### **Consultation and Dialogue On Regulations Regarding The Disposition Of Unclaimed Native American Human Remains, Funerary Objects, Sacred Objects, Or Objects Of Cultural Patrimony Excavated Or Discovered On Federal Or Tribal Lands After November 16, 1990, Pursuant To Provisions Of The Native American Graves Protection And Repatriation Act (NAGPRA)**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of consultation.

**SUMMARY:** This notice of consultation announces three consultation meetings and a facilitated dialogue session (recommended by the Review Committee) that will be held to obtain additional oral and written recommendations on regulations to be drafted regarding the disposition of unclaimed Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony that are excavated or discovered on Federal or tribal lands after November 16, 1990. Previous consultation meetings were held November, 2005, and April, 2007.

#### **DATES:**

The four consultation/dialogue sessions are scheduled for October 14–16, 2007:

1. Tribal consultation: October 14, 2007, 8:30 a.m. to 10:30 a.m., Chaparral Suites Resort, 5001 North Scottsdale Rd., Scottsdale, AZ 85250. Authorized representatives of Indian tribes and Native Hawaiian organizations and traditional Native American religious leaders are invited to participate in this meeting. Tribal representatives wishing to make a public presentation at this session should submit a request to do so by October 8, 2007, including evidence that you are authorized to speak on behalf of an Indian tribe or Native Hawaiian organization.

2. Museum consultation: October 14, 2007, 10:45 a.m. to 12:45 p.m., Chaparral Suites Resort, 5001 North Scottsdale Rd., Scottsdale, AZ 85250. Authorized representatives of museums and national museum and scientific organizations are invited to participate in this meeting. Representatives wishing to make a public presentation at this session should submit a request to do so by October 8, 2007, including evidence that you are authorized to speak on

behalf of a museum or national museum or scientific organization.

3. Museum-Tribal Dialogue: October 14, 2007, 2:30 p.m. to 5:00 p.m., Chaparral Suites Resort, 5001 North Scottsdale Rd., Scottsdale, AZ 85250. This facilitated discussion, recommended by the Review Committee, will provide the authorized representatives of Indian tribes, Native Hawaiian organizations, museums, and national museum and scientific organizations with a forum to identify points of agreement regarding the disposition of unclaimed Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony. The results of the museum-tribal dialogue will be reported to the Review Committee at its October 15–16, 2007, meeting.

4. Review Committee consultation: October 15–16, 2007, 8:30 a.m. to 5:00 p.m., Heard Museum, 2301 North Central Ave., Phoenix, AZ 85004. Time will be scheduled during the Review Committee meeting for members of the public to provide oral and written recommendations. Members of the public wishing to make a public presentation at the Review Committee meeting should submit a request to do so by October 8, 2007.

Requests to make presentations or participate at any of the sessions should be faxed to (202) 371-5197 by October 8, 2007. Written comments should be postmarked or faxed to Sherry Hutt as indicated under **ADDRESSES** no later than December 1, 2007.

**ADDRESSES:** Written comments and requests for public presentations may be mailed to Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW, Washington, DC 20240. Comments may also be faxed to Sherry Hutt at (202) 371-5197.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment - including your personal identifying information - may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The consultation/dialogue sessions with Indian tribes, Native Hawaiian organizations, traditional Native American religious leaders, museums and national museum and scientific organizations on October 14, 2007 will be held at Chaparral Suites Resort, 5001 North Scottsdale Rd., Scottsdale, AZ

85250. The consultation session with the Native American Graves Protection and Repatriation Review Committee on October 15–16, 2007 will be held at Heard Museum, 2301 North Central Ave., Phoenix, AZ 85004.

**FOR FURTHER INFORMATION CONTACT:**

Sherry Hutt, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW, Washington, DC 20240, telephone: (202) 354–1479.

**SUPPLEMENTARY INFORMATION:** The purpose of the consultation/dialogue sessions is to provide Native American organizations, museums and the scientific community, and the Native American Graves Protection and Repatriation Review Committee with an opportunity to consult on forthcoming regulations regarding the disposition of unclaimed Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony excavated or discovered on Federal or tribal lands after November 16, 1990. Previous consultation meetings were held November 15–17, 2005, in Albuquerque, NM, and April 18–20, 2007, in Washington, DC.

The October 14, 2007, 8:30 a.m. to 10:30 a.m. consultation meeting supports the Secretary of the Interior's administrative policy on tribal consultation by encouraging maximum direct participation of representatives of tribal governments on important Departmental issues and processes.

The October 14, 2007, 10:45 a.m. to 12:45 p.m. consultation meeting supports the Secretary of the Interior's responsibility to consult with museums and the scientific community in the development of these regulations.

The October 14, 2007, 2:30 p.m. to 5:00 p.m. museum-tribal facilitated dialogue responds to a recommendation of the Review Committee.

The October 15–16, 2007 consultation meeting supports the Secretary of the Interior's responsibility to consult with the Review Committee regarding the development of regulations.

The Native American Graves Protection and Repatriation Act

provides criteria for determining the ownership of Native American cultural items that are excavated or discovered on Federal or tribal lands after November 16, 1990 [25 U.S.C. 3002 (a)]. The ownership or control of such items is, with priority given in the order listed:

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony.

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

(B) In the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) If the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe.

(i) In the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(ii) If it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph (i), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

The Act directs that Native American cultural items not claimed under subsection (a) shall be disposed of in accordance with regulations

promulgated by the Secretary of the Interior in consultation with the Review Committee, Native American groups, representatives of museums, and the scientific community [25 U.S.C. 3002 (b)]. One section of the regulations was reserved for procedures to effect the disposition of Native American cultural items that are not claimed [43 CFR 10.7].

Participants in the consultation meetings are requested to comment on the following issues:

(1) How should the regulations address distinctions between:

(a) human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which ownership or control is with a lineal descendant or an Indian tribe or Native Hawaiian organization on whose lands the cultural items were discovered?

(b) human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which an Indian tribe or Native Hawaiian organization has stated a claim based on cultural affiliation, aboriginal land, or cultural relationship?

(c) human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care for which a non-federally recognized Indian group has stated a claim based on a relationship of shared group identity?

(d) human remains and associated funerary objects remaining in Federal care for which no claim has been made?

(2) Do current regulations regarding the curation of Federally-owned and administered archaeological collections [36 CFR 79] adequately address the management, preservation, and use of human remains, funerary objects, sacred objects, or objects of cultural patrimony remaining in Federal care?

Dated: July 11, 2007.

**Sherry Hutt,**

*Manager, National NAGPRA Program.*

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