

NATIONAL ASSOCIATION OF TRIBAL HISTORIC PRESERVATION OFFICERS  
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### **Testimony to the House Interior Appropriations Subcommittee on the President's Fiscal Year 2013 Budget Request for Interior and Related Agencies**

The National Association of Tribal Historic Preservation Officers (NATHPO) is pleased to submit testimony to the House Appropriations Subcommittee on Interior and Related Agencies on the President's Fiscal Year 2013 Budget Request.

#### **The National Association of Tribal Historic Preservation Officers**

NATHPO is a national not-for-profit membership association of tribal governments that are committed to preserving, rejuvenating, and improving the status of tribal cultures and cultural practices by supporting Native languages, arts, dances, music, oral traditions, cultural properties, tribal museums and cultural centers, and tribal libraries. NATHPO assists tribal communities protect their cultural properties, whether they are naturally occurring in the landscape or are manmade structures. In addition to members who serve as the Tribal Historic Preservation Officer (THPO) for their respective tribe, our membership includes many other tribal government officials who support our mission and goals. NATHPO provides technical assistance, training, timely information, original research, and convenes a national conference of tribal representatives, preservation experts, and federal agency officials.

NATHPO respectfully submits comments on the following Interior bureaus (suggested dollar amount in parenthesis). NATHPO urges the Interior Department to place a higher priority on these programs, as the low to non-existent funding levels reflects the low priority and attention given to these programs within Interior.

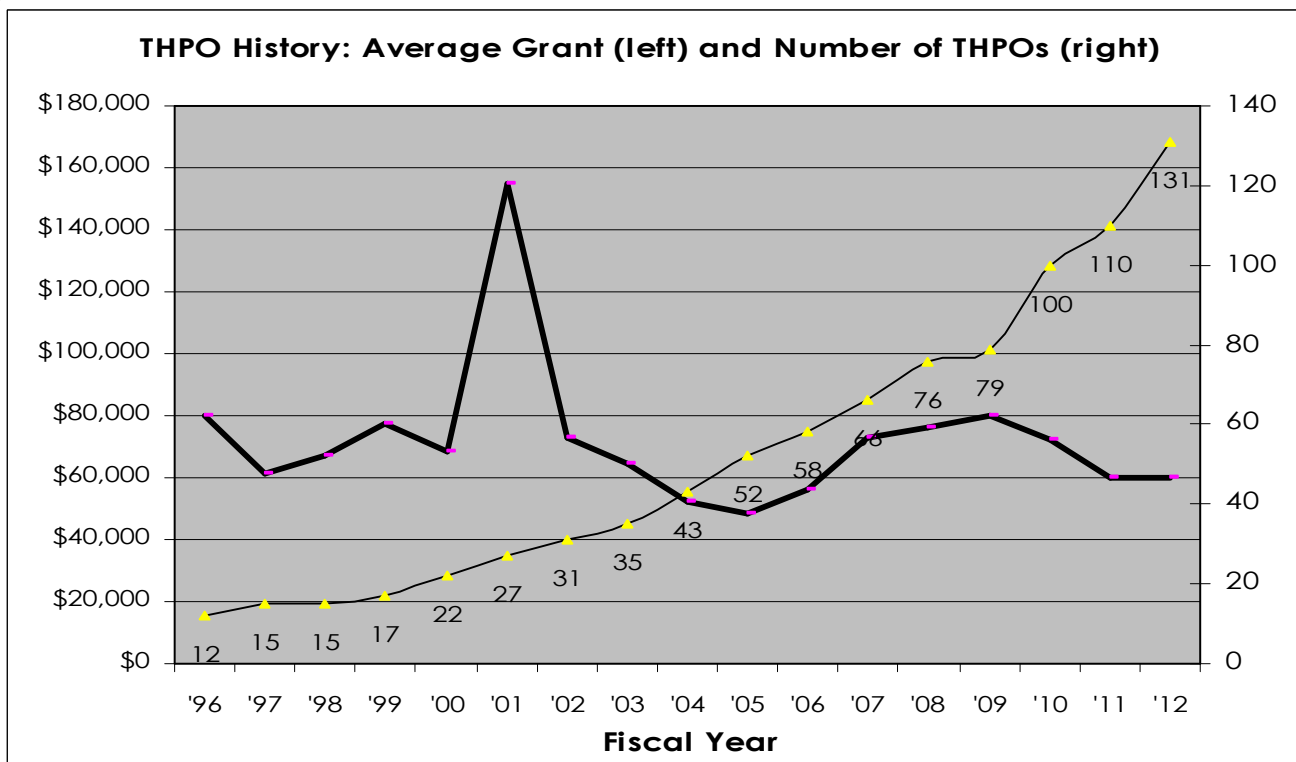
1. National Park Service, Historic Preservation Fund, Tribal line item (\$9.7 million)
2. National Park Service, National NAGPRA Program:
  - a. Exclusively for NAGPRA Grants (\$2.331 million)
  - b. Program administration (\$1 million for Program/Alternative Use)
3. Bureau of Indian Affairs – Create line items and support the following divisions:
  - a. 12 Regional Offices support for Cultural Resource compliance (\$3 million)
  - b. Central Office cultural resource efforts throughout the bureau (\$200,000)
  - c. NAGPRA compliance work (\$765,000)
  - d. To fight ARPA crimes on Indian reservations (\$200,000)

NATHPO also requests that the Smithsonian Institution receive \$1.25 million for its repatriation activities, including Review Committee and repatriation office.

**Historic Preservation Fund, National Park Service: \$9.7 million for Tribal line item**

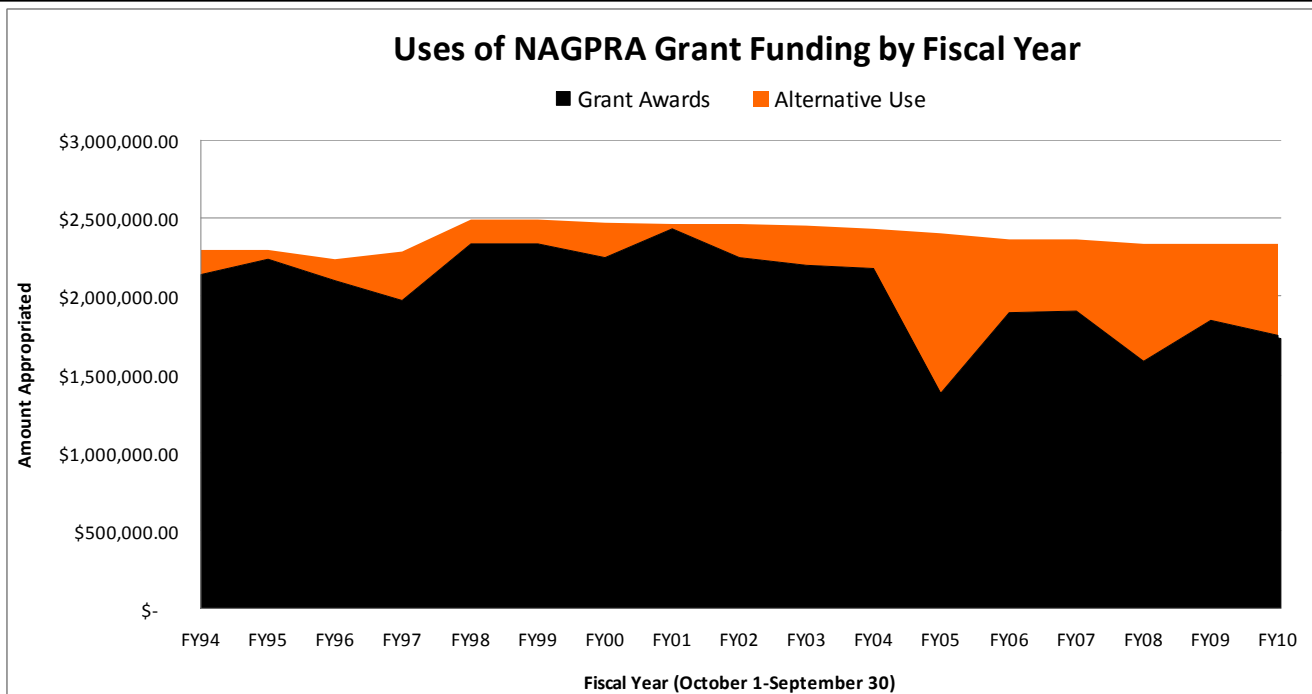
As of March 15, 2012, there are 131 NPS-recognized THPOs in the country. These Indian tribes have assumed the responsibilities of the State Historic Preservation Officers (SHPOs) for their respective tribal lands and have a land base exceeding 30 million acres in 30 states.

**What are Tribal Historic Preservation Officers?** Technically speaking, they are federally recognized tribal governments that have entered into an agreement with the Department of the Interior to assume the federal compliance role of the SHPO, as codified in 36 CFR Part 800. Thus, THPOs are actively involved with projects to improve Indian schools, roads, health clinics and housing. **What are THPOs in a general sense?** THPOs are the first responders when a sacred site is threatened, when an ancestral home is uncovered, and when Native ancestors are disturbed by development. They are also responsible for creating their tribe's oral history programs and operating tribal museums and cultural centers. They perform many functions and responsibilities in Indian country and are an active expression and exercise of tribal sovereignty. For the past 10 years, these programs have become very popular and successful with tribal governments. For the first time, they are recognized as the authentic representatives of cultures and societies that have been in existence for countless generations.



**What is at Stake?** Without an increase in FY2013 for the expected increase in the number of tribes participating in the THPO program, Native American cultural properties located on millions of acres of tribal lands are at risk. Each THPO program will be asked to perform important federal compliance work with fewer funds. It is essential that THPO programs be provided with adequate funding to meet the increasing needs and demands on their time to comply with federal, state, and tribal laws. Funding for THPO programs overall cannot remain static or decrease while the number of THPOs participating in the program continues to increase.

## National Park Service: Native American Graves Protection and Repatriation Act (NAGPRA)



NAGPRA provides for the disposition of Native American cultural items — human remains, funerary objects, sacred objects, and objects of cultural patrimony — removed from Federal or tribal lands, or in the possession or control of museums or federal agencies, to lineal descendants of Indian tribes or Native Hawaiian organizations based on cultural or geographic affiliation. NAGPRA also prohibits trafficking of Native American cultural items. The Secretary of the Interior has established and maintains the NAGPRA Review Committee to monitor and review the summary, inventory, and repatriation requirements of the Act.

### **NAGPRA Grants Program – NATHPO Recommends for FY2013:**

- **\$2.331 million** to be used **exclusively** for NAGPRA Grants to Indian tribes, Native Hawaiian organizations, and museums. The maximum amount of funds to be awarded in grants to Indian tribes and museums must be a priority, especially as all parties work to implement the Final rule of 43 CFR 10.11 that went into affect in 2010. One key provision of this rule on the disposition of culturally unidentifiable is that a museum or Federal agency that is unable to prove right of possession to culturally unidentifiable human remains **must** offer to transfer control of the human remains to the appropriate Indian tribe/s and Native Hawaiian organization/s.
- **\$1 million**, additionally, for NAGPRA program administration, including the publication of Federal Register notices, grant administration, civil penalty investigations, and Review Committee costs.

The President's budget proposes a 25% reduction in NAGPRA Grants, although upon closer examination, no actual savings would be achieved. Rather, the overall amount of funds expected from the U.S. Congress remains level funded from FY2010 at \$2.331 million, but the NPS proposes to move \$581,000 – or 25% of \$2.331 million – via an "internal transfer or other non-policy/program change" to fund NPS "cultural resources/National Register programs." NATHPO understands that in these difficult fiscal times, austerity measures must be considered, but reducing grants to Indian tribes and museums severely impairs their ability to comply with NAGPRA while no actual federal savings will be realized.

## **Bureau of Indian Affairs (BIA) - Interior**

Bureau of Indian Affairs – To create line items and support the following divisions:

1. To support Cultural Resource compliance at the 12 Regional BIA Offices (\$250,000 x 12 regional offices = \$3 million)
2. Central Office cultural resource efforts throughout the bureau (\$200,000)
3. NAGPRA compliance work (\$765,000)
4. To fight ARPA crimes on Indian reservations (\$200,000)

Currently the BIA does not have any budget line items that are devoted to complying with the National Historic Preservation Act, the Native American Graves Protection and Repatriation Act (NAGPRA), the Archaeological Resources Protection Act (ARPA), and executive orders and directives in the cultural resource field. Funds are not only needed for the BIA to comply with their internal development efforts, such as roads and forestry, but also to conduct project reviews of outside development projects, such as oil and gas development that are estimated to number over 7,000/year.

Because the BIA lacks funds in the cultural resource field, it is unable to comply with the federal Executive Order directing federal agencies to inventory the historic properties under their control. The BIA estimates that it may take up to \$1 million to complete their inventory of over 6,000 structures that have not yet been evaluated.

In 2010, the Government Accountability Office (GAO) released the results of their audit that included the BIA, “NAGPRA: After Almost 20 Years, Key Federal Agencies Still Have Not Fully Complied with the Act.” This report marked the first time that federal auditors have examined a major federal Indian law enacted to facilitate the return of Native American human remains and cultural objects. In order to comply with the GAO recommendations, the BIA needs to devote funds to comply with NAGPRA, but at this time, no line item is dedicated for this function.

Finally, ARPA crime on Indian reservations continues to be a major problem, as looters and traffickers continue to steal valuable cultural resources from tribal and federal lands. The BIA does not have any special agents or law enforcement forces to combat this uniquely destructive crime in Indian country. NATHPO urges the creation of a dedicated line item for this important function of the BIA.

## **Smithsonian Institution**

In June 2011, the GAO released their report, “Smithsonian Institution: Much Work Still Needed to Identify and Repatriate Indian Human Remains and Objects.” The GAO stated that the Smithsonian’s process to repatriate thousands of Native American human remains and funerary objects in its collections is lengthy and resource intensive and it may take several more decades to return items to tribes under its current system. In addition to supporting the GAO recommendations, NATHPO requests that the Smithsonian Institution receive \$1.25 million for its repatriation activities, including operation costs of the Review Committee and repatriation office, as originally authorized by the Congress.