

NATIONAL ASSOCIATION OF TRIBAL HISTORIC PRESERVATION OFFICERS

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TRIBAL CULTURAL PRESERVATION NEEDS IN FY2017

Testimony to the House Appropriations Subcommittee on the Interior, Environment and Related Agencies Budget, Fiscal Year 2017

The National Association of Tribal Historic Preservation Officers (NATHPO) is pleased to submit testimony to the House Appropriations Subcommittee on Interior, Environment and Related Agencies regarding Fiscal Year 2017 budgetary needs for tribal cultural preservation activities. Each of the recommended line item amounts are discussed in detail below.

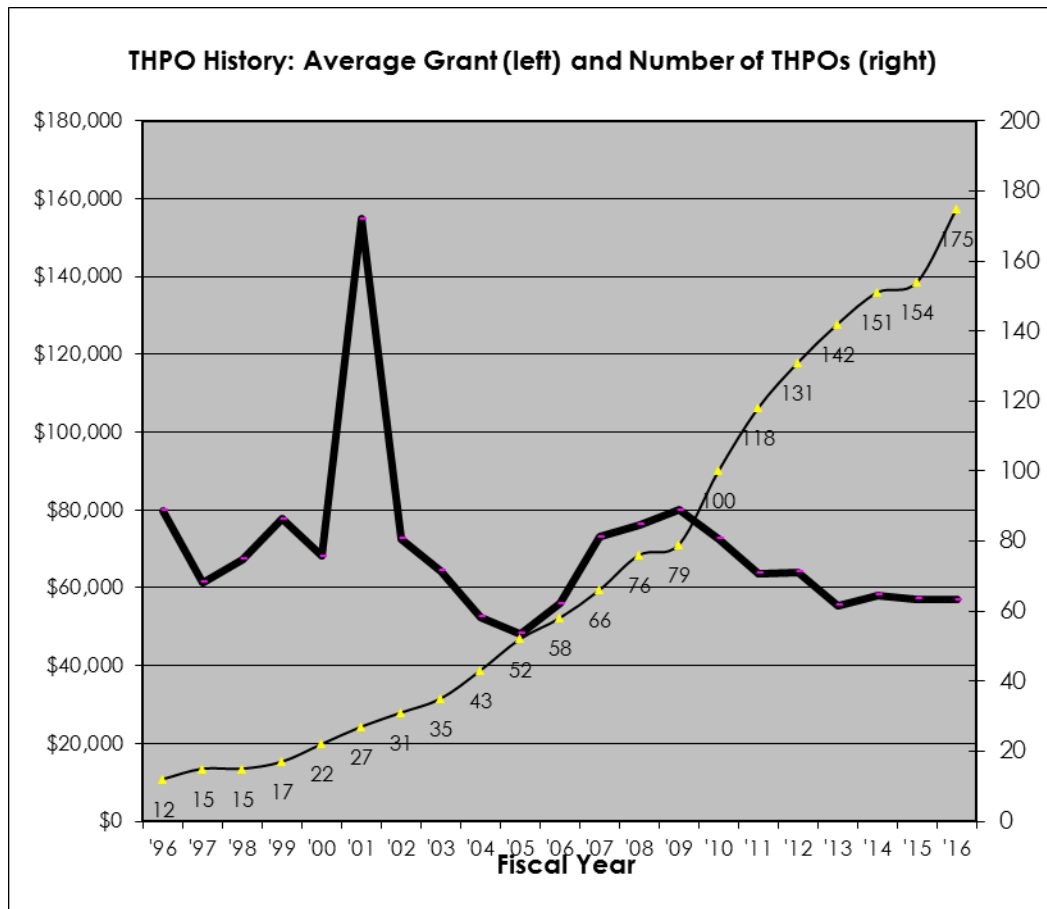
1. National Park Service, Historic Preservation Fund, Tribal line item (\$11.985 million)
 2. Office of International Affairs, for a national study on trafficking (\$1 million)
 3. National Park Service, National NAGPRA Program:
 - a. Exclusively for NAGPRA Grants (\$2.331 million)
 - b. Program administration (\$1 million for Program/Alternative Use)
 4. 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)
 5. Smithsonian Institution: For repatriation activities, including Review Committee and repatriation office (\$1.25 million)
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1. National Park Service, Historic Preservation Fund – Tribal line item (\$11.985 million)

As of March 8, 2016, there are 167 National Park Service (NPS)-recognized Tribal Historic Preservation Officers (THPOs). Each THPO represents an affirmative step by an Indian tribe to assume the responsibilities of the State Historic Preservation Officers (SHPOs) for their respective tribal lands, as authorized by Congress in the 1992 amendments to the National Historic Preservation Act (NHPA). Collectively, these THPOs exercise responsibilities over a land base exceeding 30 million acres in 30 states. The Historic Preservation Fund (HPF) is the sole source of federal funding for THPOs and the main source of funding to implement the nation's historic preservation programs and its revenues are generated from oil and gas development on the outer Continental Shelf.

What is at stake without additional funds for Indian tribes? Without an increase in FY2017 to take into account 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. For the past several years, each THPO program has been asked to conduct important federal compliance work mandated by the NHPA with an artificially low and inadequate level of financial resources. In the first year of congressional funding support for THPOs (FY1996), the original 12 THPOs each received an average of \$83,000 per THPO. There are currently 167 THPOs in FY16 and there is an expectation that there will be at least 175 THPOs in FY17. If 175 Tribes each received the average \$83,000 per THPO received in FY 1996, Congress would need to appropriate much more than the current level of funding.

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. This chart demonstrates the program growth and an unmet funding need:



Additional National Park Service Programs, Historic Preservation Fund:

In addition to the Tribal line item in the Historic Preservation Fund, NATHPO supports FY2017 appropriations for other line items of the Historic Preservation Fund:

- \$55 million for State Historic Preservation Officers
- \$25 million to assist in documenting and protecting historic properties related to the Civil Rights Movement and the African American experience (new grant program)
- \$3 million for Historically Black Colleges and Universities
- \$500,000 underrepresented communities in the historic preservation movement grant program

2. Office of International Affairs, Interior Department (\$1 million)

Over the past few years, overseas auctions of sacred objects and objects of cultural patrimony have been occurring at an alarming rate. To date there is no definitive resource of information on these items for sale. NATHPO calls upon the Office of International Affairs to conduct a national study to determine the scope of illegal trafficking in tribal cultural items domestically and internationally and to identify, in consultation with Indian tribes, Alaska Natives, and Native Hawaiian organizations, recommendations to end illegal trafficking and export of tribal cultural items and secure repatriation to the respective entity.

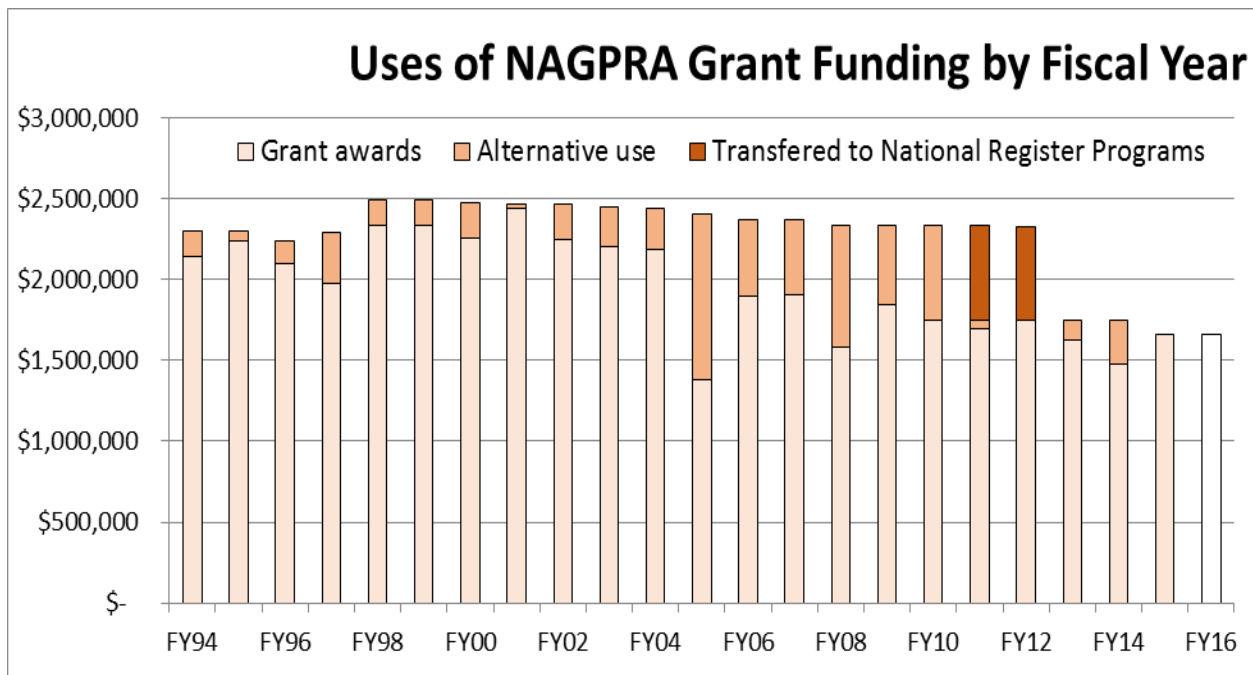
3. National Park Service, National NAGPRA Program

The Native American Graves Protection and Repatriation Act (NAGPRA) provides for the disposition of Native American cultural items¹ removed from Federal or tribal lands, or in the possession or control of museums or federal agencies, to lineal descendants, Indian tribes, or Native Hawaiian organizations based on descent or cultural or geographic affiliation. NAGPRA prohibits trafficking of Native American cultural items and created a grants program exclusively for Indian tribes, Native Hawaiian organizations, and public museums.

NAGPRA Grants Program:

a. \$2.331 million to be used exclusively for NAGPRA Grants to Indian tribes, Native Hawaiian organizations, and museums. We recommend that the Committee restore the amount that the NAGPRA grants program received each year for most of its history prior to when the NPS began to divert a greater amount of funds for administrative use within the cultural resource division. Starting in FY2011, the NPS first "cut" the \$2.3 million NAGPRA grants program by transferring \$581,000 to fund NPS "cultural resources/National Register programs" via an "internal transfer or other non-policy/program change," and with other NPS reductions, only \$1.698 million was awarded in actual grants. NATHPO also requests that steps be taken to ensure that these moneys are used exclusively for grants to Indian tribes, Native Hawaiian organizations, and museums and not for continued internal transfers for other NPS purposes.

This chart demonstrates the diversion of NAGPRA Grants to NPS administration:



Administration of National NAGPRA Program:

b. \$1 million, additionally, for NAGPRA program administration, including the publication of Federal Register notices, grant administration, civil penalty investigations, and Review Committee costs.

¹ Cultural items include human remains, funerary objects, sacred objects, and objects of cultural patrimony.

4. Bureau of Indian Affairs – Create line items and support the following divisions:

The BIA has federally mandated responsibilities to work with Indian tribes and comply with the National Historic Preservation Act (NHPA), the National Environmental Policy Act (NEPA), and NAGPRA. Currently the BIA does not have any budget line items that are devoted to complying with these federal laws, nor does the BIA have resources dedicated to compliance with 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 per year. 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 and we urge the creation of a dedicated line item within the BIA. 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.

NATHPO recommends the BIA create line items and support the following divisions:

- a. To support Cultural Resource compliance at the 12 Regional BIA Offices (\$250,000 x 12 regional offices = \$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)

5. Smithsonian Institution, National Museum of the American Indian and the National Museum of Natural History Repatriation Programs

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

Background Information:

- ***What are Tribal Historic Preservation Officers (THPOs)?*** THPOs 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. They are actively involved with projects to improve Indian schools, roads, health clinics and housing. THPOs are also the first responders when a sacred site is threatened, when an ancestral home is uncovered, and when Native ancestors are disturbed by development. THPOs are also often responsible for their tribe’s oral history programs and operating tribal museums and cultural centers. They perform many functions and responsibilities in Indian country and, through their activities, represent an active expression and exercise of tribal sovereignty. For the past 15 years, these programs have become increasingly popular and successful with tribal governments.
- ***What is 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 Indian tribes that support our mission and goals.