

DRAFT
Consultation Plan for Revising ACHP's
"Policy Statement Regarding Treatment of Human Remains and Grave Goods"

Purpose of consultation plan:

In 2004, the Advisory Council on Historic Preservation (ACHP) formed a Task Force on archaeology, which after soliciting the views of State Historic Preservation Officers, Tribal Historic Preservation Officers, professional archaeological organizations, Indian tribes, and Native Hawaiian organizations, identified the need to update its *"Policy Statement Regarding Treatment of Human Remains and Grave Goods"* (1988). This document outlines how the ACHP's archaeology task Force will conduct consultation in order to develop a revised policy on the treatment of human remains and funerary objects.

This document contains two consultation plans. The first is designed to solicit the views and perspectives of Federal agencies, State Historic Preservation Officers, professional archaeological and museum organizations, and any others with an interest in how human remains and funerary objects are treated pursuant to Section 106 of the National Historic Preservation Act. The second plan is designed to solicit the views and perspectives of Indian tribes and Native Hawaiian organizations. These two plans are presented separately because of the requirement that Federal agency consultation with Federally-recognized Indian tribes be conducted within the framework of a government-to-government relationship.

I. Draft consultation plan for SHPOs, FPOs, archaeological and museum organizations, and other Section 106 stakeholders:

After mid-August 2005:

- A. Publish Working Principles document and invitation to comment in the *Federal Register*.
- B. Organizations whose views will be solicited on the Working Principles are listed in Appendix A of this document. The Task Force recognizes that there are other organizations and members of the public who may wish to participate in consultation that have not have been identified at this time.
- C. The ACHP's Executive Director will send letters accompanying the Working Principles document inviting comments from those parties listed in Appendix A, and others as they identify themselves for 60-day comment period. *All potential respondents will be advised that their comments, once submitted to the ACHP, become part of the public record.*
- D. Staff to develop a section of the ACHP website to highlight the work of Task Force with copy of the draft Working Principles document (subsequent draft documents also posted here) with general invitation to review and comment.
- E. Comments to be accepted in written or email form at ACHP Washington DC mailing address and at: archaeology@achp.gov.
- F. ACHP staff to provide Task Force members with copies of all comments in full. Staff will also use an electronic database to facilitate analysis of comments.

After mid-October 2005:

- G. Task Force review of comments following 60-day comment. Task Force to use the comments, observations and recommendations received on the policy working principles to guide development of first draft of a revised treatment of human remains and funerary objects policy.

January through May 2006:

- H. Distribute the first draft of a revised policy statement for consultation and comment.
1. Regional meetings to be held with Section 106 stakeholders (SHPOs, professional organizations, etc.). Purpose of these meetings is direct interaction and exchange of views. These consultation sessions are intended to offer an opportunity for face-to-face dialogue between the ACHP and stakeholders to augment and expand upon any written comments that they may provide.

2. ACHP representatives will attend the following meetings to provide for updates and face-to-face discussion:

NATHPO	August 2005	Lac du Flambeau, WI
National Trust for Historic Preservation	September 2005	Portland OR
American Cultural Resources Association	November 2005	Washington DC
Society for Historical Archaeology	January 2006	Sacramento CA
United South and Eastern Tribes	February 2006	Washington, DC
NCSHPO	March 2006	Washington DC
Society for American Archaeology	April 2006	San Juan Puerto Rico

3. Draft human remains policy posted on TF dedicated section of the ACHP website with a request for comments.
4. Email to consulting parties notifying them that ACHP website has draft human remains policy with request for comment
5. Publish first draft of revised policy in the *Federal Register* with an invitation to comment
6. Comments to be accepted in written or email form at ACHP Washington DC mailing address and at: archaeology@achp.gov.

- I. At close of comment & consultation period, Task Force reviews and analyzes all comments received.
- J. Task Force makes decision about next step, whether to finalize revised policy statement for review and adoption by ACHP membership, or solicit comments on second revised draft. If comments needed on second revised draft, they will be solicited as set out above.

Summer 2006 ACHP meeting (at earliest):

- K. Task Force Chair and full ACHP members of Task Force to consult with ACHP Chairman to determine whether initial draft of revised policy statement accurately reflects public interest and should be provided to full ACHP membership for vote on adoption. Final policy statement disseminated through ACHP website, emailing, and *Federal Register* notice.

II. Consultation Plan for Indian tribes and Native Hawaiian organizations:

Background to development of consultation plan: This section of the consultation plan has been approved by the Chairman of the ACHP. It was developed by the ACHP's Native American Program in accordance with the ACHP's *Consultation Process Pursuant to Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*, the ACHP's *Policy Statement Regarding the Council's Relationship with Indian Tribes* (2000), the National Historic Preservation Act and ACHP's regulations mandating consultation with Indian tribes and Native Hawaiian organizations (NHOs).

Given the significance of this issue to Native peoples, this plan is designed to encourage and accommodate participation by tribal and NHO representatives from across the country, and thus result in an optimal degree of input from Native peoples on ACHP's proposed policy revision.

After mid-August 2005:

- A. Initial Contact. The ACHP's Chairman will send a letter to each Indian tribal leader and to Native Hawaiian organizations initiating consultation and seeking comments within 60 days on the accompanying *Working Principles* document. *All potential respondents will be advised that their comments, once submitted to the ACHP, become part of the public record.*
- B. A copy of the Chairman's letter will be sent to the ACHP's tribal cultural resources staff contacts. The new ACHP-OFAP Native American Notification System, if available, will be used to disseminate information. Indian tribes and Native Hawaiian organizations will also be able to access updated information on the ACHP's web site.
- C. Inter-tribal organizations whose views will be solicited on the *Working Principles* are listed in Appendix B of this document. The Task Force recognizes that there may be other organizations who may wish to participate in consultation that have not have been identified at this time.

After mid-October 2005:

- D. In accordance with the overall consultation plan for the human remains policy, at the end of the 60 day comment period, the first draft of the policy will be developed taking into account all the comments received.

January through May 2006:

- E. Distribute the first draft of a revised policy statement for consultation and comment.
- F. Consultation on first draft of policy. The Chairman or his designees will conduct one-day consultation meetings with Indian tribes and Native Hawaiian organizations. At least one staff member will attend in a support capacity. Each meeting will be recorded.
- G. The locations of these regional government-to-government consultation meetings are based on tribal proximity, familiarity (many are situated near regional BIA offices), and/or convenience for tribal or Native Hawaiian representatives. The plan, where possible, combines some of the BIA regions and suggests a location that is between or near two regional offices. Ensuring accessibility is vital in order to fully demonstrate the ACHP's commitment to meaningful consultation on this sensitive issue.

H Meeting locations are as follows:

Eastern Region:	Nashville, TN
Midwest:	Minneapolis, MN
Great Plains:	Rapid City, SD
Oklahoma:	Shawnee, OK
Southwest:	Albuquerque, NM
Northwest:	Seattle, WA
Pacific:	Sacramento, CA
Alaska:	Anchorage
Hawai'i:	Honolulu/O'ahu*

* This meeting will be coordinated with the ACHP's initiatives in Hawai'i in FY 06.

- I. Consultations in Alaska and Hawai'i, while more distant geographically, are recommended based on the large number of tribes in Alaska and NHOs in Hawai'i, both of which would not have reasonable access to the other consultation meetings.
- J. At close of comment and consultation period, Task Force reviews and analyzes all tribal and other comments received.
- K. Task Force makes decision about next step, whether to finalize revised policy statement for review and adoption by ACHP membership, or carry out additional consultation on second revised draft. The ACHP's Native American Program will advise the Chairman and Task Force Chair regarding tribal and Native Hawaiian consultation at this stage of the process.
- L. Task Force Chair and full ACHP members of Task Force to consult with ACHP Chairman to determine whether initial draft of revised policy statement accurately reflects public interest and should be provided to full ACHP membership for vote on adoption. Final policy statement disseminated through ACHP website, emailing, and *Federal Register* notice. The ACHP will notify all tribal leaders and Native Hawai'ian organizations of the results of the process and provide a copy of the revised policy.

**Policy Statement
Regarding Treatment of Human Remains
and Grave Goods**

Adopted by the Advisory Council on Historic Preservation

September 27, 1988

Gallup, New Mexico

When human remains or grave goods are likely to be exhumed in connection with an undertaking subject to review under Section 106 of the National Historic Preservation Act, the consulting parties under the Council's regulations should agree upon arrangements for their disposition that, to the extent allowed by law, adhere to the following principles:

- Human remains and grave goods should not be disinterred unless required in advance of some kind of disturbance, such as construction;
- Disinterment when necessary should be done carefully, respectfully, and completely, in accordance with proper archaeological methods;
- In general, human remains and grave goods should be reburied, in consultation with the descendants of the dead.
- Prior to reburial, scientific studies should be performed as necessary to address justified research topics;
- Scientific studies and reburial should occur according to a definite, agreed-upon schedule; and,
- Where scientific study is offensive to the descendants of the dead, and the need for such study does not outweigh the need to respect the concerns of such descendants, reburial should occur without prior study. Conversely, where the scientific research value of human remains or grave goods outweighs any objections that descendants may have to their study, they should not be reburied, but should be retained in perpetuity for study.

APPENDIX A:

Organizations who have informed the ACHP (by the date of this writing) that they wish to receive information about and provide comments on revisions to the ACHP's human remains policy:

- All Federal agencies through their Federal preservation Officers
- American Cultural Resources Association (ACRA)
- National Association of State Archeologists (NASA)
- National Conference of State Historic Preservation Officers (NCSHPO)
- Register of Professional Archeologists (RPA)
- Society for American Archeology (SAA)
- Society for Historical Archeology (SHA)
- American Association of Museums
- TRB, Committee on Historic and Archaeological Preservation in Transportation (ADC50)
- AASHTO committee on the environment in response to FHWA comment
- National Trust for Historic Preservation

APPENDIX B:

Inter-tribal organizations who the ACHP will provide information to and solicit comments about revisions to the ACHP's human remains policy:

- United Southern and Eastern Tribes (USET)
- Affiliated Tribes of northwest Indians
- National Congress of American Indians (NCAI)
- National Association of Tribal Historic Preservation Officers (NATHPO)
- Alaska Federation of Natives
- Alaska Intertribal Council
- USDA Intertribal Agricultural Council

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