



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240


The Honorable Brian Schatz
Chairman, Committee on Indian Affairs
United States Senate
Washington, DC 20510

Dear Chairman Schatz:

Enclosed are responses prepared by the National Park Service and Indian Affairs to the questions for the record submitted following the February 2, 2022, oversight hearing entitled "The Long Journey Home: Advancing the Native American Graves Protection and Repatriation Act's Promise After 30 Years of Practice".

Thank you for the opportunity to respond to you on this matter.

Sincerely,


for Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure

cc: The Honorable Lisa Murkowski
Vice Chairman

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves
Protection and Repatriation Act’s Promise After 30 Years of Practice”
February 2, 2022

Questions from Senator John Hoeven

Question 1: In your role as Associate Director for Cultural Resources Partnerships and Science, what successes have you seen with repatriating Native American human remains and other cultural items?

Response: As Congress envisioned, repatriations have resulted in a continuing dialogue and mutually beneficial relationship between Indian Tribes and Native Hawaiian organizations and some museums and Federal agencies. All parties have found the benefits of repatriation extend well beyond the transfer of a specific item or collection. Since 1990, the National Park Service has published almost 4,000 notices, allowing for the repatriation of over 84,000 Native American ancestral remains and over 1.5 million funerary objects. Nationwide, over 20% of museums and Federal agencies have completed the work to repatriate all of the Native American human remains in their collections. In some states, like North Dakota, Alaska, and Hawaii, a majority of the ancestral remains removed from the state have been repatriated (88% in North Dakota; 82% in Alaska; and 97% in Hawai‘i).

Question 2: What challenges still remain?

Response: Despite a number of success stories, less than half of the Native American ancestors in collections have been returned to their traditional caretakers, largely due to identification of those ancestors as “culturally unidentifiable.” Over 117,576 Native American individuals are still in museum and Federal agency collections, and 94% of those have not been culturally affiliated with any present-day Indian Tribe or Native Hawaiian organization. Under the current regulations, museums and Federal agencies are not required to move the regulatory process forward unless requested by Indian Tribes or Native Hawaiian organizations.

The Department is also aware that some collections subject to NAGPRA remain unreported. Many Federal agencies are still trying to locate extensive collections in non-Federal repositories in order to complete the NAGPRA compliance process. Likewise, museums are continuing to discover previously unknown or unreported collections subject to NAGPRA that should be returned to their traditional caretakers. In addition to repatriation of collections, the current regulations, which are repetitive and at times confusing, have led to inconsistent implementation of NAGPRA by Federal land managers. The Department looks forward to working with stakeholders on revising the current regulations to simplify, improve, and bring more consistency to the regulatory process.

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves
Protection and Repatriation Act’s Promise After 30 Years of Practice”
February 2, 2022

Question 3: Under the proposed revised regulations for NAGPRA, is tribal consultation emphasized as an important part of the repatriation process?

Response: In the Act and the existing regulations, consultation is at the center of all repatriation activities. The Department, however, has heard repeatedly from Indian Tribes and Native Hawaiian organizations that meaningful consultation is a continual challenge in repatriation efforts. The Department believes changes to the regulations will help make consultation on repatriation more meaningful and robust. The Department has proposed adding to the regulations a definition of consultation. It also proposes to shift the burden of initiating consultation from Indian Tribes and Native Hawaiian organizations to museums and Federal agencies. The Department is committed to emphasizing in the revised regulations deference to Native American customs, traditions, and the traditional knowledge of lineal descendants, Indian Tribes, and Native Hawaiian organizations, whenever possible in the repatriation process.

Question 4: What is the role of the Tribe when there is an inadvertent discovery or planned excavation of Native American cultural items on federal or tribal lands?

Response: On all Tribal lands in Alaska and the continental United States, the Act requires certain actions be taken by the appropriate official for the Indian Tribe (including Alaska Native villages) when there is a discovery or excavation of Native American human remains or cultural items.

On all Federal lands in the United States, the Act requires certain actions be taken by the appropriate official for the Federal land managing agency when there is a discovery or excavation of Native American human remains or cultural items. The existing regulations require consultation with the Tribe after a discovery is made. In revising the regulations, the Department is committed to strengthening, to the maximum extent possible, the requirement for consultation with Indian Tribes, Alaskan Native Villages, and Native Hawaiian organizations on any discovery or excavation on Federal lands. The Department will propose, in revising the regulations, a maximum number of days before an activity could resume, allowing the appropriate official time to consult with Indian Tribes and Native Hawaiian organizations.

Questions from Chairman Schatz

Question 1: Why does the NAGPRA Review Committee report for 2018-2019 not include specific, complete, and up-to-date numbers related to the status of NAGPRA civil and criminal compliance?

Response: The NAGPRA Review Committee does not have any responsibilities under the Act, the regulations, or its charter for civil penalties. Therefore, the NAGPRA Review Committee report does not include specific information regarding civil and criminal compliance.

The Secretary of the Interior has the responsibility for assessing penalties. On behalf of the Secretary, the National NAGPRA Program reports annually on the number of allegations received (0 in 2019, 0 in 2020, 1 in 2021) and the amount of funds collected for penalties (\$59,111 since 1990). These statistics are appended to the Review Committee report to Congress (for 2018-2019, see page 10). The National NAGPRA Program is working to develop new reporting methods for civil enforcement activities and expects to provide additional statistical information in the NAGPRA Program Report for FY 2022.

Question 2: To date, how many total allegations of failure to comply with NAGPRA has the National Park Service (NPS) received?

Response: The National Park Service has received 142 allegations of failure to comply with NAGPRA. Some allegations involve multiple museums and are counted as more than one allegation. In other cases, an allegation against one museum might result in an affirmation, in part, and a determination of no failure, in another part, and those allegations are counted separately. One allegation may result in multiple violations but are still reported here as only one allegation. As a result of how allegations are counted, the figures reported below differ from what has been previously reported by the National Park Service. Previous reports on enforcement counted the number of letters received, the number of entities involved, and the number of violations determined. The National Park Service is developing new reporting methods for enforcement activities based on the number of allegations as described below.

a.1 How many were affirmed?	26 allegations were affirmed.
a.2 Of those affirmed, how many civil penalties have been issued?	15 allegations resulted in a penalty. 4 allegations settled by other means. 7 allegations resulted in a finding that a penalty was not an appropriate remedy.
b. How many were determined not to be a failure?	52 allegations were determined not to be a failure.
c. How many were not investigated?	64 allegations were evaluated but not investigated. See Question 3.

Question 3: Is there a backlog of allegations pending investigation?

Response: There are currently 17 allegations that have been referred for investigation; 42 allegations that do not require an investigation but that do require further evaluation after an initial determination was made; and 5 allegations that do not require investigation and can be administratively closed.

a. How many allegations are currently pending investigation?	17 allegations are currently pending investigation.
b. What is the date of the oldest allegation still pending investigation?	Chronology of oldest allegation: 1999 - Allegation received; 2004 - Referred for investigation; 2010 - Investigated in part; 2013 - Investigated in part.
c. What is the average age of the allegations still pending investigation?	Average age of allegations still pending investigation is 11 years.
d. Where in the administrative process are these allegations still pending investigation?	In order of priority: 1 allegation is actively being investigated; 2 allegations have not been investigated; 4 allegations have been investigated in part; 2 allegations relate to previously resolved cases; 7 allegations relate to already repatriated items; 1 allegation investigation on hold.

Question 4: We understand the NAGPRA Review Committee is currently reviewing the draft proposed rule. Will you share comments made by Tribes, Native Hawaiian Organizations, and their representatives with the Review Committee to ensure it can fulfill its statutory responsibility to advise the Secretary in the development of the regulations? What other steps will you take to ensure robust participation by the Review Committee?

Response: The Department plans on publishing direct responses to all comments received from Indian Tribes and Native Hawaiian organizations during consultation. This document will include a summary of all comments received while protecting the anonymity of each commentor. Once a proposed rule is published, the Department will conduct additional nation-to-nation consultation with Indian Tribes and Native Hawaiian organizations. In July of 2021, the Secretary (through the Designated Federal Official) requested that the Review Committee review the draft regulations publicly available and develop written recommendations for consideration. Since then, the Review Committee has scheduled 37 hours of public meetings and has devoted nearly 50% of that time to discussing the revised regulations. The Department appreciates the input provided by the Review Committee on the draft regulations.

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves
Protection and Repatriation Act’s Promise After 30 Years of Practice”
February 2, 2022

Question 5: How would moving NAGPRA enforcement to the Bureau of Indian Affairs impact implementation of the law? What other impacts would such a move have?

Response: Under the Act, the Secretary has the authority to delegate administrative responsibilities for NAGPRA. The Department has identified this as an issue and sought input from Indian Tribes and Native Hawaiian organizations during consultation on the NAGPRA regulations. The Department received 43 comments on the placement of the NAGPRA Program during recent consultation and is still considering how to implement any changes to the current delegations of authority. Enforcement and implementation responsibilities would remain consistent regardless of whether those duties were performed by the National Park Service or the Bureau of Indian Affairs.

Question 6: Does NAGPRA apply to private museums that receive funding through the CARES Act, the American Rescue Plan Act, or other recent Congressional funding bills? If so, how will you ensure these museums comply with NAGPRA, and what role will the new civil penalties investigator play?

Response: NAGPRA applies to any institution that receives Federal funds and has possession or control of Native American human remains or cultural items. Receipt of Federal funds may be direct or indirect and is determined on a case-by-case basis. The revised regulations propose to include additional information to assist institutions in determining if NAGPRA applies. The goal of increasing enforcement activities is to encourage museums to come into compliance before an allegation is made or an investigation is required.

Question 7: Is Interior looking into application of NAGPRA to Indian boarding school burial sites as part of its Federal Indian Boarding School Initiative? What is the status of the Federal Indian Boarding School Initiative’s investigation and report?

Response: The application of NAGPRA to Indian boarding school burial sites depends largely on where the cemetery is located. NAGPRA applies to intentional excavations on Federal or Tribal land, including cemeteries. Questions about the application of NAGPRA to Indian boarding schools were raised during both NAGPRA and Federal Indian Boarding School Initiative consultations. In revising the NAGPRA regulations, the Department cannot modify the definition of “Federal lands” as provided in the Act, but the Department does encourage the custodians of boarding school burial sites and related records to fully consult with Indian Tribes and NHOs on identification, disinterment, and repatriation of Native American children. The Department stands ready to fully assist Indian Tribes and NHOs in that process to the fullest extent of its authority.

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves
Protection and Repatriation Act’s Promise After 30 Years of Practice”
February 2, 2022

The Federal Indian Boarding School Initiative report, Volume 1, was published on May 11, 2022.

Question 8: During the hearing, you stated that the 2020-2021 NAGPRA Review Committee Report to Congress was finalized at the end of November 2021 and is currently being prepared for transmittal to Congress. Please submit a copy of that report to the Committee at your earliest opportunity for the hearing record. Additionally, Congress did not receive the NAGPRA Review Committee’s Report for 2018-2019 until January of 2022. Can you commit the Department to timely submissions of the Review Committee Report to Congress in the future?

Response: We transmitted the 2020-2021 report in June of this year. Unique circumstances led to the delayed transmission of the 2018-2019 report. On June 28, 2021, the Review Committee requested the National Park Service distribute the FY 2019 report as prepared in October 2019 as a separate report instead of combining it with a FY 2020 report. The 2018-2019 report was transmitted electronically to members of Congress in December 2021.

Question 9: Have NAGPRA consultations been impacted by concerns about the confidentiality of culturally sensitive information, and the lack of protection from disclosure under the Freedom of Information Act? Would adding Freedom of Information Act protections to the statute make repatriation a more efficient and effective process for all parties?

Response: The Freedom of Information Act (FOIA) does not protect sensitive cultural information on its own. Specific statutes such as Archaeological Resources Protection Act or National Historic Preservation Act include exemptions under FOIA, but NAGPRA does not. NAGPRA does not require sensitive information to be recorded during consultation, but some museums and Federal agencies record cultural information that might be sensitive with NAGPRA records submitted to the Department. As a result, the Department must release that information when requested under FOIA. The Department will likely propose revisions in the regulations to clarify that submissions should not contain any information that might be sensitive. Furthermore, the current regulations and proposed regulations require museums and Federal agencies to protect sensitive information identified by consulting parties after completing a repatriation.

Questions for the Record
Senate Committee on Indian Affairs
Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves
Protection and Repatriation Act’s Promise After 30 Years of Practice”
February 2, 2022

Questions from Senator Ben Ray Luján

Question 1: I am grateful to see that the National Park Service has hired David Barland-Liles as a full-time civil penalties investigator to ensure museums comply with the law. Under the current NAGPRA regulations, there are civil penalties if museums violate any of 9 specific actions. However, under the proposed NAGPRA regulations, civil penalties for museums extend to any violation of NAGPRA. How will Mr. Barland-Liles’ civil penalty investigation work change if the proposed NAGPRA regulations are adopted?

Response: The Department believes changes to the regulations for civil penalties will decrease the burden on the complainant who alleges the failure as well as the investigator who must identify relevant facts. Currently, the civil penalty process requires additional time and resources in the initial phase for the complainant to identify which of the specific 9 ways a museum has failed to comply and the investigator to enumerate violations accordingly. By removing the limitations on how a museum might fail to comply, a broad allegation may lead the investigator to discover facts that show specific failures to comply, which can be enumerated as individual violations.

Question 2: How does the National Park Service investigate allegations of criminal violations?

Response: The National Park Service does not have jurisdiction over any criminal violations of NAGPRA. Criminal violations are under the jurisdiction of the appropriate land managing agency or the Department of Justice.

Question 3: Given that the National Park Service responds to every NAGPRA inquiry, but its role in enforcing NAGPRA can be limited depending on jurisdiction, how does the National Park Service coordinate with other federal agencies to resolve pending inquiries?

Response: The National Park Service has long established relationships with relevant programs in the Department of Justice and with land managing agencies. The new full-time investigator for the National NAGPRA Program is tasked with continuing and strengthening those relationships, as well as developing new partnerships, specifically with state and local law enforcement that might also have jurisdiction.

Questions for the Record

Senate Committee on Indian Affairs

Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves Protection and Repatriation Act’s Promise After 30 Years of Practice”

February 2, 2022

Question 4: I understand that in many instances, the National Park Service does not have the resources to monitor all auction sales and can rely on requests from Tribes and individuals to intercede on their behalf. How does the National Park Service consider or refer NAGPRA requests that do not go through the official process, such as requests to intercede on behalf of a pot or treaty being sold at private auction? To reform the way these requests are handled by the administration, would new legislation amending NAGPRA be necessary? Does the statute need a new mechanism to help facilitate the return of NAGPRA items and remains held by private parties?

Response: The National Park Service regularly receives information related to auctions of Native American cultural items. Any potential criminal violations are referred to the proper authorities with jurisdiction. When requested by Indian Tribes to assist, the Department provides information on the requirements of NAGPRA and an explanation on how repatriation under NAGPRA works. In several cases, this has proved useful in repatriations that occur voluntarily outside of the requirements of the Act. Additionally, the National Park Service can facilitate connections with museums, Indian Tribes, and Native Hawaiian organizations, which are already involved in repatriations under NAGPRA, who can often assist with private repatriations. Regarding legislative changes, the Department is happy to provide technical assistance.

Question 5: Another concern I have is the lack of oversight over social media sites, like Instagram and TikTok, where human bones are being bought and sold with no protections to deter potential traffickers of Native American remains. While some sites like Etsy, eBay and Facebook have tried to ban the sale of human remains, these are poorly enforced. I know that the National Park Service has had several referrals such as these and would be interested to hear how it coordinates with other agencies to improve oversight. Given the growing online market for human remains, has there been any thought to how the new draft NAGPRA regulations will handle circumstances like the sale of Native American remains on social media sites? How does the National Park Service currently refer such allegations and work with other federal agencies to investigate? In addition, right now, the criminal standard requires an individual to “know” they are violating 18 USC 1170, as opposed to “should have known.” Do you recommend changing the criminal standard?

Response: The National Park Service, National NAGPRA Program, does not have jurisdiction over any criminal violations of NAGPRA. Criminal violations are under the jurisdiction of the appropriate land managing agency or the Department of Justice. Criminal activities detected by National NAGPRA Program staff beyond our jurisdiction and authority are referred to the appropriate investigation and interdiction entity on a case-by-case basis. The criminal standard is a burden of proof that requires specific intent and changes to that language would likely impact prosecution of trafficking violations.

Question 6: In consultations last summer, the National Park Service estimated that 90 to 95 percent of human remains recorded under NAGPRA could be geographically affiliated to one or more Tribes, which would make them available to Tribes to request repatriation. I am concerned that current law incentivizes museums and Federal agencies to identify remains as “culturally unidentifiable,” even when a geographical origin is known. This allows the institution to retain possession and places the burden on Tribes to request items, show evidence of removal from their Tribal lands, or prove affiliation by a preponderance of the evidence. These procedures create an unjust balance of powers whereby museums do not have to explain their positions and place a higher burden on Tribes to reclaim what is rightfully theirs. How do the new draft regulations strengthen Tribes’ authority in the repatriation process? Please specify how the new regulations clarify the standard of proof for establishing cultural affiliation, and how the replacement of “culturally unidentifiable” with “geographically affiliated” will expand timely consultation, repatriation of objects and remains, and remove any incentive for museums and Federal agencies to label remains and objects as “culturally unidentifiable”? And how do you anticipate these revised changes to the regulations will play out in New Mexico?

Response: After over 30 years, less than half of the Native American ancestors in collections have been returned to their traditional caretakers, largely due to identification of those ancestors as “culturally unidentifiable.” Museums and Federal agencies still wield a significant amount of power in determining what will be repatriated. The Department believes this imbalance can be largely corrected with revisions to the regulations.

One of the biggest challenges with NAGPRA are differences of interpretation. For example, cultural affiliation, which the Act identifies simply as a relationship between past and present people, has been a major barrier to effective and efficient repatriation. Specifically, the regulatory changes will shift the burden off Indian Tribes and Native Hawaiian organizations to make requests to consult and require museums and Federal agencies to not only initiate the process for consultation but complete the regulatory steps and make nearly all the ancestors in collections available to Indian Tribes for repatriation.

The revised regulations as being drafted do not impose any new requirements on Indian Tribes, nor do they remove a Tribe’s ability to make requests. Rather, the revisions will likely propose to shift the burden of initiating consultation from the Tribe to the museum. The Department recognizes and will reaffirm in the regulatory process that Tribal sovereignty means there is no requirement for an Indian Tribe or Native Hawaiian organization to act under NAGPRA unless the Tribe or Native Hawaiian organization chooses to do so. After consultation and notice by a museum, the Tribe would respond in its discretion, per usual, but with greater information before committing resources to the matter.

In New Mexico, specifically, about 70% of the Native American human remains removed from New Mexico have completed the regulatory process for repatriation. The remaining 30% number

Questions for the Record

Senate Committee on Indian Affairs

Oversight Hearing: “The Long Journey Home: Advancing the Native American Graves Protection and Repatriation Act’s Promise After 30 Years of Practice”

February 2, 2022

just over 3,000 individual ancestors still in collections awaiting return to Indian Tribes and Pueblos of New Mexico. Only about 32% of those ancestors (976 individuals) are in museums in New Mexico. Another 27% (848 individuals) are held by Federal agencies and the remaining 41% (1,268 individuals) are held by museums in other states. Revisions to the regulations would mean that museums in other states, as well as Federal agencies and museums in New Mexico, would be required to complete the process to repatriate all individuals known to be from the Indian Tribes and Pueblos in New Mexico.

Question 7: During the week of January 17, 2022, the Bureau of Land Management reported vandals sprayed graffiti over the La Cieneguilla Petroglyphs, some 8,000 years old, in Santa Fe County, New Mexico. The All Pueblo Council of Governors, who represent 20 Pueblos in New Mexico and Texas, quickly condemned this desecration and called for the Bureau of Land Management and U.S. Forest Service to investigate and respond to the incident. In addition, just last year, the National Park Service had to investigate damage at the Petroglyph National Monument outside Albuquerque caused by visitors making cairns (mounds of rock) out of rocks from archaeological sites. Despite these continued threats, in 2018 National Park Service officials stated that data on NAGPRA crimes had not been collated since 2011, despite agencies individually collecting this data. In addition, there is no federal requirement that agencies track NAGPRA violations and create a central repository for nationwide data. How is the National Park Service responding to the GAO report on data collection and best practices to improve coordination across agencies and NAGPRA enforcement? What is the status of that response?

Response: The National Park Service will report best practices related to data collection to help improve protection of Native American archeological resources. This voluntary data collection (the Secretary of the Interior has no legal authority to require data from other federal agencies) will focus on gathering information about Archeological Resources Protection Act (ARPA) violations and will be compiled by the Department Consulting Archeologist (DCA), who also serves as the Bureau Archeologist for the National Park Service. This data collection effort aimed at improving protection of Native American archeological resources will be compiled and distributed by the DCA at the end of FY 2022.

Question 8: The Bureau of Land Management, which manages the lands on which the La Cieneguilla Petroglyphs are located, received a request for Pueblos to be more involved in land management and called for the Bureau to initiate Tribal consultations in light of the damage that occurred to these petroglyphs. There is a lot of variation across federal agencies interpret NAGPRA and engage in coordination and consultation with Tribes and Pueblos. Has the National Park Service engaged in similar collaboration and consultation with Tribes around its land management practices to ensure greater compliance with NAGPRA and data collection? In addition, how has Tribal co-management of federal lands through agency management plans improved NAGPRA enforcement and the management of those lands?

Response: The National Park Service has the authority to enter into collaborative management agreements with Indian Tribes. These types of agreements are encouraged through Secretary’s Order 3342: Identifying Opportunities for Cooperative and Collaborative Partnerships with Federally Recognized Indian Tribes in the Management of Federal Lands and Resources. This Order defines “co-management,” as “a situation where there is a specific legal basis that requires the delegation of some aspect of Federal decision-making or that makes co-management otherwise legally necessary.” Co-management provides opportunities for greater Tribal involvement in land-management decision-making. National Park Service managers consult with Indian Tribes and Native Hawaiian organizations to develop comprehensive agreements that address land management activities that could result in excavation or discovery of Native American human remains and cultural items on National Park Service lands. These agreements, which are managed at the local level, establish a process for effectively carrying out the requirements of NAGPRA.

Question 9: As of April 2021, GAO reported that the National Park Service and the Bureau of Indian Affairs had not implemented this recommendation. What steps has National Park Service taken thus far to implement GAO’s recommendation and what is the status of those efforts? Once implemented, how will this recommendation enable the National Park Service to better prevent and respond to instances of cultural resource theft and damage on federal lands? GAO recommended in its 2021 report that the Department of the Interior should direct the National Park Service to identify and obtain information to target efforts to protect Native American cultural resources and identify risks.

Response: The National Park Service is compiling, per the GAO report, “promising practices” to better protect Native American archeological sites. The Bureau Archeologist is working with Law Enforcement to improve data collection to track ARPA and NAGPRA violations. The National Park Service is developing training for law enforcement officers on ARPA that will be promoted across the Department of Interior. This training provides Law Enforcement officers tools to identify, document, and create prosecutable cases of archeological resource violations.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

The Honorable Alan Lowenthal
Chair, Natural Resources Subcommittee
on Energy and Mineral Resources
U.S. House of Representatives
Washington, DC 20515

Dear Chair Lowenthal:

Enclosed are responses prepared by the Department of the Interior to the questions for the record submitted following the February 17, 2022, oversight hearing entitled, "Securing the Future of Climate Adaptation Science at the United States Geological Survey." We apologize for the delay in our response.

Thank you for the opportunity to respond to you on this matter.

Sincerely,

for Christopher P. Salotti
Legislative Counsel
Office of Congressional and
Legislative Affairs

Enclosure
cc: The Honorable Pete Stauber
Ranking Member

Questions for the Record
Subcommittee on Energy and Mineral Resources
House Natural Resources Committee
Legislative Hearing: “Securing the Future of Climate Adaptation Science at the United States Geological Survey”
February 17, 2022

Questions from Ranking Member Bruce Westerman

Question 1: One of the topics discussed at the hearing was the question of overhead costs. Could you please provide a detailed breakdown of overhead and administrative costs 1) currently associated with the Climate Adaptation Science Center (CASC) program, both at the national CASC and each of the nine regional CASCs, and 2) how these costs will change under the increased funding provided by H.R. 6654?

Response: To clarify, we define “overhead costs” as what the DOI CASC network charges when we receive funding from other agencies/bureaus and “administrative costs” as the percent of our overall appropriated budget used to operate the network. Currently, the CASC network charges 12.6% when we receive funding from other agencies/bureaus. Our current federal administrative cost to operate the National and Regional DOI CASCs is approximately 18% of the overall appropriated budget. We do not anticipate any major changes in our overhead and administrative costs as a result of increased funding.

Question 2: The FY22 budget request was for \$84.4 million, which more than doubles the appropriated level in FY21 of \$41.3 million. The bill text increases that even more, starting at \$97 in FY23, going up to \$145 million by FY27.

a. Why is such a large increase for this program needed, and what specifically is new funding planned for – staffing, more projects per year, or something else?

Response: Based on responses to our annual call for proposals, we typically are only able to fund about 50% of the high-quality proposals we receive. The increased funding would allow us to address more science topics regionally each year to better meet the climate adaptation science needs. For example, in the West we could fund more projects related to post-fire vegetation recovery and forest management. We also have seen a substantial increase in demand for scientists to provide services and expertise to help our partners use and interpret climate information and model outputs. Based on current funding, we have limited capability to support these requests, which generally come from state, tribal and local governments. Many of these requests for support go unfulfilled. Increased funding would expand our capacity to respond to external support requests.

As mentioned above, we will continue to keep administrative and overhead at about current rates, putting most of the funding into additional on-the-ground projects through university agreements and with existing USGS capabilities. We do not anticipate a large staffing increase as part of increased funding.

Questions for the Record
Subcommittee on Energy and Mineral Resources
House Natural Resources Committee
Legislative Hearing: "Securing the Future of Climate Adaptation Science at the United States Geological Survey"
February 17, 2022

b. How were these funding levels determined precisely, and why do they need to continually increase?

Response: The President's FY 2022 Budget, in addition to expanding current science capabilities, included new requests to support administration priorities, such as support for tribal nations, development of climate adaptation services capabilities and assessment of biodiversity and climate change. The FY 2023 Budget continues these requests. Our nine regional centers would be expected to receive approximately an equal share of the proposed increases. The increased funding would allow us to address more science topics regionally each year to better meet the climate adaptation science needs. Additional resources enable the USGS to keep up with the increasing demand for new research, provide expertise to our partners to interpret climate information and model outputs and expand our capacity to respond to external support requests. The USGS was not involved in determining the authorization funding levels of H.R. 6654.

Questions 3: Could you expand upon the process of project selection, including but not limited to any national and/or regional priority ranking systems, the composition of the technical review panels as mentioned at the hearing, and which individual(s) make the final decisions about which projects are funded?

Response: The National CASC sets an overall broad direction based on the original mission of providing climate adaptation science in support of land and water management. The broad direction is also informed by the Administration's priorities for climate adaptation science. The regional centers work with stakeholders and partners from federal, state and tribal governments to identify specific science topics annually. We put out a call for proposals each year depending on the availability of funds for eligible university and federal partners. Each region convenes a technical review panel consisting of scientific experts from regional federal, state, academic, and tribal organizations to review and score each proposal based on established technical review criteria. Each technical expert signs a conflict-of-interest statement prior to serving on the panel. Ranked proposals are then provided to the USGS regional CASC director for final decision for funding.

Question 4: How do you determine funding levels for each region in any particular year? Does each regional CASC need to provide a competitive proposal to the national center to make their case for a certain amount of funding? If so, how does that process work?

Response: The nine regional centers receive approximately equal funding each year. There are slight differences between regional centers' allocations based on the differences in the basic agreement funding amounts for each university annually and the number of staff and pay differences in each center. Some centers have vacancies, for example, and the Alaska and Pacific Islands regional centers receive slightly larger travel allocations given the added expense of traveling in these regions.

Questions for the Record

Subcommittee on Energy and Mineral Resources

House Natural Resources Committee

Legislative Hearing: "Securing the Future of Climate Adaptation Science at the United States Geological Survey"

February 17, 2022

Question 5: Could you explain the internal and external review processes? Who performs these reviews and what are the measures of success? Are only the host universities subject to review, or the regional centers themselves reviewed as well?

Response: Host universities and their partner institutions are funded on 5-year Cooperative Agreements. As part of these agreements, we have created a statement of objectives that outlines expectations of activities (measures of success) to be completed during the agreement period. Internal reviews are conducted annually by the National Climate Adaptation Science Center staff and focus on both the federal and university components of each center. Additionally, the federal component of the regional CASCs is reviewed as part of the annual employee performance evaluation. Prior to the end of the cooperative agreements, USGS retains an external consulting firm (through a competitive process) to oversee a review of the host universities' activities as related to the statement of objectives. The final report gives guidance to the National Center in executing the next series of agreements.