



United States Department of the Interior

OFFICE OF THE SECRETARY

U.S. Department of the Interior

Proposed Regulation Development to Implement the Safeguard Tribal Objects of Patrimony (STOP) Act of 2021, Pub. L. No. 117-258

FREQUENTLY ASKED QUESTIONS

1. Why are we developing regulations to implement the STOP Act?

The U.S. Congress directed the U.S. Department of the Interior to develop regulations, in coordination with the Departments of State, Justice, and Homeland Security, on how the federal agencies will:

- Regulate export of Native American cultural items;
- Facilitate voluntary repatriation of Native American human remains and cultural items from overseas back to Tribes and Native Hawaiian organizations in the United States, and
- Operate a program (authorized up to \$3 million annually) to carry out core functions of issuing export certificates, consulting with Tribes and Native Hawaiian organizations, managing databases and workflows, collecting fees and fines, coordinating interagency and Native committees, training, temporary holding (repository) and other operational requirements.

2. What are the purposes of the STOP Act?

- To carry out the trust responsibility of the United States to Indian Tribes;
- To increase the maximum penalty for actions taken in violation of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as amended by that Act), in order to strengthen deterrence;
- To stop the export, and facilitate the international repatriation, of cultural items prohibited from being trafficked by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);
- To create an export certification system; and confirming the authority of the President to request from foreign nations agreements or provisional measures to prevent irremediable damage to Native American cultural heritage;
- To establish a Federal framework in order to support the voluntary return by individuals and organizations of items of tangible cultural heritage; and

- To establish an interagency working group to ensure communication between Federal agencies to successfully implement the STOP Act.

3. How can I obtain a copy of the STOP Act?

To assist you with providing input on the development of regulations to implement the STOP Act, links to the following STOP Act legislative documents are provided below.

- Pub. L. No. 117-258 (STOP Act) - <https://www.congress.gov/117/plaws/publ258/PLAW-117publ258.pdf>
- House Committee Report 117-196 (STOP Act) - <https://www.congress.gov/congressional-report/117th-congress/house-report/196/1>.
- Congressional Budget Office (CBO) cost estimates for the STOP Act - <https://www.cbo.gov/publication/57587>

4. What Offices in the Department of the Interior are currently engaged in assisting Tribes and Native Hawaiian organizations with international repatriation efforts and what are their respective duties?

- National Park Service (National NAGPRA Office)
 - i. Provides technical expertise on international repatriation efforts involving Tribes and Native Hawaiian organizations.
 - ii. Participates in Department-wide working groups on international repatriation.
 - iii. Supports Tribal and Native Hawaiian organization international repatriation efforts as requested.
- Assistant Secretary for Indian Affairs
 - i. Oversees and assists in carrying out the Department's roles and responsibilities for assisting Tribes with international repatriation efforts.
 - ii. Liaises with Tribal leaders and cultural resource practitioners.
- Assistant Secretary for Insular and International Affairs (Office of International Affairs)
 - i. Assists Tribes and Native Hawaiian organizations (NHO) in their efforts to repatriate certain Native American cultural items offered in foreign auctions and held in foreign museums, including ancestral remains, sacred objects, and objects of cultural patrimony as defined under the Native American Graves Protection and Repatriation Act.
 - ii. Participates in the White House Council on Native American Affairs Subcommittee on International Repatriation and facilitating interagency coordination.

- Assistant Secretary for Policy, Management, and Budget (Office of Native Hawaiian Relations)
 - i. Provides technical expertise on international repatriation efforts involving the Native Hawaiian Community.
 - ii. Participates in Department-wide working groups on international repatriation.
 - iii. Supports Native Hawaiian international repatriation efforts as requested.

5. What are the current responsibilities of the following agencies in assisting Tribes and Native Hawaiian organizations with international repatriation?

- Department of the Interior
 - i. Facilitates communication with other agencies such as the Department of State, as well as with Tribes, Alaska Native communities, and the Native Hawaiian Community.
 - ii. Provides expertise on cultural heritage laws (NAGPRA, the Antiquities Act, and the Archaeological Resources Protection Act), federal Indian law, and domestic cultural resource programs.
 - iii. Participates in an interagency staff-level working group on protection of Native American cultural resources, along with the Department of State, the Department of Justice, and the Department of Homeland Security.
 - iv. Maintains a DOI-wide staff-level working group for international repatriation of Native American cultural heritage.
 - v. Consults with Tribes, the Alaska Native community, and Native Hawaiian organizations about how to improve U.S. government support for international repatriation efforts.
 - vi. Responds to requests from Congress for input on proposed legislation addressing international repatriation and the protection of Native American cultural heritage.
- State Department
 - i. Through its Cultural Heritage Center (CHC) and Office of the Legal Adviser, DOS provides expertise to the working group on the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transport of Ownership of Cultural Property (1970 Convention). The CHC draws upon other Department bureaus and offices, as well as the Department's Native American Foreign Affairs Council employee affinity group, as resources on matters related to programming and Tribal engagement, when appropriate. Consistent with its overarching mission to represent U.S. interests overseas, DOS endeavors to dampen the international market and encourage foreign governments to use all available tools to

discourage the sale and promote the repatriation of Native American cultural heritage.

- ii. Upon request from Tribes and NHOs, the CHC works with U.S. embassies to facilitate engagement between foreign governments or foreign museums and Tribal representatives. Additionally, the CHC provides guidance to foreign museums on best practices for international repatriation and facilitates exchange programs between foreign museum personnel and Tribal officials. DOS provides official U.S. governmental communication, when necessary, to appropriate foreign offices and officials regarding cultural items and ancestral remains requested for repatriation by Tribes and NHOs. DOS raises awareness overseas and educates foreign publics about the damage to Native American communities when sacred items are bought and sold.
- Department of Homeland Security
 - i. The subject matter experts within the DHS's Office of the Chief Readiness Support Officer's Sustainability and Environmental Programs and Office of Partnership and Engagement's Tribal Affairs program provide Tribal and Native Hawaiian Community consultation and cultural resource program oversight and policy, primarily in the context of compliance with EO 13175, NAGPRA, ARPA, the National Historic Preservation Act, and other relevant statutes, regulations, and EOs. These offices also maintain lists of Tribal leadership and Tribal Historic Preservation Officers and appropriate subject matter experts at various museums and universities, provide training, and hold regular working group meetings comprised of DHS and Component representatives. DHS components that have a direct nexus to the international repatriation of Native American cultural items and ancestral remains include the U.S. Custom and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the Office of the Chief Readiness Support Officer, and the Office of Partnership and Engagement.
 - Department of Justice
 - i. DOJ is the federal government's principal law enforcement agency and generally coordinates legal efforts between multiple jurisdictions, including Tribes and foreign countries. Within DOJ, the FBI may investigate violations of federal law, including the theft and trafficking of Native American cultural heritage.

6. I am not able to attend or submit all of my comments at the scheduled consultation sessions, so where should I send my comments and by when?

All comments should be emailed to consultation@bia.gov. To be considered, comments must be received by no later than 60 days from the date of publication of the official regulation in the Federal Register. Once published, the official regulation will contain the actual written comment period end date. In addition, we will post that same date on the BIA Tribal Consultation webpage: <https://www.bia.gov/service/tribal-consultations/safeguard-tribal-objects-patrimony-stop-act-notice-proposed>.