

**1SUPPORTING STATEMENT A
FOR PAPERWORK REDUCTION ACT SUBMISSION**

Export Certification System, 25 CFR 1194

OMB Control Number 1076-NEW

Terms of Clearance: None.

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

On December 21, 2021, Congress enacted the *Safeguard Tribal Objects of Patrimony Act of 2021 (STOP Act)*, Pub. L. 117-258, codified at 25 U.S.C. 3071 *et seq.*, to provide a framework to prevent the export for sale in foreign countries of Native American cultural items that are held in violation of current federal laws.

The Act requires the Secretary of the Interior (DOI) to promulgate regulations to implement the Act within one year of its enactment (i.e., by December 21, 2022). DOI published a proposed rule on October 25, 2024, at 89 FR 85078 under RIN 1076-AF78 for regulations at 25 CFR 1194.

Both the statute and regulations set out the creation of the following:

- STOP Act Native Working Group;
- export certification application and issuance procedures; and
- secure central Federal database information system for the purpose of making export certification applications available to Indian Tribes and Native Hawaiian organizations.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

The Department – in consultation with Indian Tribes and Native Hawaiian organizations – published guidance, and descriptions of items requiring Export certification, in the Federal Register on the following dates:

- MONTH XX, YEAR at XX FR XXXX.
- MONTH XX, YEAR at XX FR XXXX.

Export Certification System	
ITEMS THAT REQUIRE CERTIFICATION	ITEMS THAT <u>DO NOT</u> REQUIRE CERTIFICATION
<ul style="list-style-type: none">• Cultural item and archaeological resource	<ul style="list-style-type: none">• Cultural item and archaeological resource as described, characterized, or listed in Federal

<p>as described, characterized, or listed in Federal Register notice published by the Department as requiring certification to be exported from the United States.</p>	<p>Register notice published by the Department as not requiring certification to be exported from the United States.</p> <ul style="list-style-type: none"> • An item made solely for commercial purposes is presumed to not qualify as an Item Requiring Export Certification, unless an Indian Tribe or Native Hawaiian organization challenges that presumption. • In some circumstances, receipts or certifications issued by Indian Tribes or Native Hawaiian organizations with a cultural affiliation with an item may be used as evidence to demonstrate a particular item does not qualify as an Item Requiring Export Certification.
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Export Certification Application/Form	
<i>Elements:</i>	<ul style="list-style-type: none"> • Applicant information. <ul style="list-style-type: none"> ○ Name ○ Date of birth ○ Telephone number ○ Email address ○ Physical ○ Business, Tribe, Government entity. ○ Principle Officer ○ Federal Tax ID • Description of cultural item. • Picture of cultural item, each Item Requiring Export Certification that the applicant seeks to export. • Provenance and all available information regarding the cultural item. • Purpose and timeframe of the proposed export. • Applicant attestation – that, to the best of the knowledge and belief of the exporter, the exporter is not attempting to export an Item Prohibited from Exportation.
<i>Justification:</i>	Congressional mandate for elements, <i>see</i> Pub. L. 117-258.

Export Certification Database	
<i>Elements:</i>	<ul style="list-style-type: none"> • A secure information system for the purpose of making export certification applications available to Indian Tribes, Native Hawaiian organizations, and other Federal agencies, including the Departments of Homeland Security, Justice, and State – with access limited to users within Indian Tribes, Native Hawaiian organizations, and relevant Federal agencies. • On request by an Indian Tribe or Native Hawaiian organization,

	the Secretary shall delete an export certification application from the database.
<i>Justification:</i>	Congressional mandate for elements, <i>see</i> Pub. L. 117-258.

Voluntary Return of Tangible Cultural Heritage	
<i>Elements:</i>	<p>Voluntary Return:</p> <ul style="list-style-type: none"> • The process begins with the individual or organization wishing to return the items submitting a simple list of the items to the Department, with certain information concerning the items, to the extent that the individual or organization has that information. • The Department will then conduct the consultation required for it to determine which Indian Tribe(s) or Native Hawaiian organization(s) would potentially be culturally affiliated with the items. • Once the Department makes that determination, it will supply contact information and the list to the parties, and will provide assistance, as needed, to the parties to arrange for the return. The Departments of Homeland Security and State will facilitate both foreign and domestic transportation of the items, and at the request of the Indian Tribe or Native Hawaiian organization, the Interagency Working Group will explore funding mechanisms or use of in-kind resources to assist the Indian Tribe or Native Hawaiian organization. <p>Tax Documentation:</p> <ul style="list-style-type: none"> • In facilitating the voluntary return of tangible cultural heritage under this section, the Secretary shall include provision of tax documentation for a charitable gift to an Indian Tribe or Native Hawaiian organization that may be tax deductible if the requirements under 26 U.S.C. 170 and 26 CFR part 1 are satisfied, and if the recipient Indian Tribe or Native Hawaiian organization consents to the provision of tax documentation.
<i>Justification:</i>	Congressional mandate for elements, <i>see</i> Pub. L. 117-258.

STOP Act Native Working Group	
<i>Elements:</i>	<ul style="list-style-type: none"> • Information regarding nominee. • Provides recommendations regarding – <ul style="list-style-type: none"> ○ voluntary return of tangible cultural heritage by collectors, dealers, and other individuals and non-Federal organizations that hold such tangible cultural heritage; and ○ elimination of illegal commerce of cultural items and archaeological resources in the US and foreign markets.

	<ul style="list-style-type: none"> • May make formal requests to initiate certain agency actions. • Must consist of not fewer than 12 representatives of Indian Tribes and Native Hawaiian organizations with relevant expertise. • Members nominated by Indian Tribes and Native Hawaiian organizations
<i>Justification:</i>	Congressional mandate for elements, <i>see</i> Pub. L. 117-258.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

The Department permits the electronic submission of responses for the submission of any and all elements within this information collection. Individuals without electronic access may mail information to the Department.

Export Certification Application/Form: The exporter may submit all documents supporting the Application in the format(s) required for upload into the Export Certification Database established by § 1194.11 and disclosure between applicant and Tribe under § 1194.402.

STOP Act Native Working Group: Individuals may submit their nominations via the email and physical address listed in the Federal Register notice requesting nominations of individuals to serve.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The STOP Act establishes a Federal framework to support individuals and organizations with the voluntary return of tangible cultural heritage, including items covered by 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 added by that Act) and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.); the Archaeological Resources Protection Act of 1979 (16 U.S.C.).

The voluntary return provisions of the STOP Act apply to a specific item of tangible cultural heritage only to the extent that the repatriation provisions under section 7 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3005) do not apply to the item of tangible cultural heritage. The STOP Act, and its implementing regulations, apply primarily to items which a putative exporter seeks to take out of the United States prior to their exit from the country. The STOP Act does not contain mechanisms to persuade or obligate international governments or institutions to repatriate items. However, the existence of the STOP Act, including implementing regulations, may be influential under international mechanisms, such as

the UNESCO 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

The Native American Graves Protection and Repatriation Act (NAGPRA), enacted in 1990, requires museums to compile information regarding Native American cultural items in their possession or control and provide that information to lineal descendants, Indian tribes, and Native Hawaiian organizations using specific types of documentation (summaries, inventories, and notices) under information collection 1024-0144.

Archaeological Resources Protection Act of 1979 (ARPA) does apply on trust and restricted Indian land. The application for a STOP ACT Export Certification requires presentation of an ARPA permit authorizing export of the resource or attestation that ARPA does not apply.

The STOP Act and the Marine Mammal Protection Act (MMPA) exist in parallel and neither law exempts nor preempts the application of the other.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

Small businesses include Exporters, applying for certification, and Purchasers, completing a voluntary return. To reduce respondent burden, the Department provides templates, and Federal Register notices outlining characteristics typical of items requiring an export certification.

If an Indian Tribe or Native Hawaiian organization lacks sufficient resources to access the database or respond to agency communications in a timely manner, the Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, shall provide technical assistance to facilitate that access or response, as applicable.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

The information collection burden cannot be reduced any further because the information is required by the STOP Act and is collected only while appropriations are available. Without this information collection, DOI would not be able to meet the policy goals of the STOP Act.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **in connection with a statistical survey that is not designed to produce valid and**

- reliable results that can be generalized to the universe of study;
- * requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- * that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- * requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

This information collection does not involve any of these special circumstances.

8. If applicable, provide a copy and identify the date and page number of publication in the *Federal Register* of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

On October 25, 2024, the Department published a proposed rule (89 FR 85078) and requested comments on this information collection.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

- The Department of the Interior (Department) issued a Dear Tribal Leader Letter inviting input on the development of draft regulations for the STOP Act on April 22, 2023, and a Dear Native Hawaiian Community Leader Letter inviting input on the development of draft regulations for the STOP Act on July 20, 2023.
- The Department held five consultation sessions with Indian Tribes, and two consultation sessions with the Native Hawaiian Community.
- Following the consultation sessions, the Department accepted written comments until September 1, 2023.
- Thereafter, beginning on August 31, 2023, the Department convened multiple times per week with representatives of the Secretary of State, the Secretary of Homeland Security, and the Attorney General, to develop the proposed rule based on the feedback received in consultation.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

Facilitating the voluntary return of tangible cultural heritage: Upon a successful voluntary return, and with the consent of the Indian Tribe or Native Hawaiian organization, the Office will provide the individual or organization with tax documentation for a charitable gift to the Indian Tribe or Native Hawaiian organization that may be tax deductible if the requirements under 26 U.S.C. 170 and 26 CFR part 1 are satisfied.

Interagency Working Group: At the request of the Indian Tribe or Native Hawaiian organization, the Interagency Working Group may explore funding mechanisms to pay the expenses of the Indian Tribe or Native Hawaiian organization for the return of tangible cultural heritage. Assistance to the Indian Tribe or Native Hawaiian organization could also be in the form of in-kind resources.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Privacy Act: The Department will establish a Privacy Act system of records; and then submit a non-substantive change request in order to update the Privacy Act information within ROCIS.

- The Department will enter all “Applications for Export Certification” and supporting documents in a secure database information system for the purpose of making export certification applications available to Indian Tribes, Native Hawaiian organizations, and other Federal agencies, including the Departments of Homeland Security, Justice, and State. Access to the database will be limited to users within Indian Tribes, Native Hawaiian organizations, and relevant Federal agencies.

Freedom of Information Act: Under the STOP Act, the following information will be exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552:

- Information that a representative of an Indian Tribe or Native Hawaiian organization submits to a Federal agency pursuant to the STOP Act, an amendment made by the Act, or the regulations; and designates as sensitive or private according to Native American custom, law, culture, or religion; and
- Information that any person submits to a Federal agency pursuant to the Act or an amendment made by the Act or these regulations that relates to an item for which an Export Certification is denied under this Act.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not ask questions of a sensitive nature. Tribes may request to limit sensitive information from general view in the database, under 25 CFR 1194.11. If an Indian Tribe or Native

Hawaiian organization requests that the Secretary delete an application and supporting documents or any portion thereof from the database, the Secretary will immediately do so.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.**

The total annual estimated burden is 2,504 hours equivalent to **\$113,731**.

We used the Bureau of Labor Statistics news release USDL-24-0485, released March 13, 2024, Employer Costs for Employee Compensation—December 2023, to calculate the total annual burden (See <https://www.bls.gov/news.release/pdf/ecec.pdf>). Table 1 of that release lists the hourly rates for all civilian workers as \$45.42, including benefits.

IC element	Respondents (Annually)	Frequency of Response (Annually)	Time per Response (Hours)	Total Burden (Hours)	Hourly Rate (Dollars)	Sub Total
Export Certification Application/Form – <i>Reporting</i>	100	1	18	1,800	\$45.42	\$81,756
Export Certification Application/Form – <i>Disclosure between applicant and Tibe</i>		1	4	400	\$45.42	\$18,168
Export Certification Application/Form – <i>Recordkeeping</i>		1	2	200	\$45.42	\$9,084
Voluntary Return of Tangible Cultural Heritage	10	1	2	20	\$45.42	\$908

– Submission						
Voluntary Return of Tangible Cultural Heritage – Disclosure between submitter and Tibe		1	4	40	\$45.42	\$1,817
Voluntary Return of Tangible Cultural Heritage – Recordkeeping, tax documentation		1	2	20	\$45.42	\$908
STOP Act Native Working Group – Reporting	12	1	2	24	\$45.42	\$1,090
TOTAL	122			2,504		\$113,731

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * **The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation, maintenance, and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**
- * **If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**
- * **Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the Government, or (4) as part of customary and usual business or private practices.**

The Total Estimated Annual Nonhour Burden Cost is **\$50,044**. Respondents will be able to submit their applications electronically to the Department. Respondents may choose to complete a paper copy of the application, mailing costs for the application would be considered as usual and customary business expenses. The information collection will not require the purchase of

any capital equipment. Any computers and software used to complete this information collection are part of the respondent’s customary and usual business practices.

The STOP Act enables the Secretary to assess reasonable fees to process export certification applications. Federal, Tribal, State, and local government agencies and Native Hawaiian organizations are exempt from the processing fee. The current fee is \$500 per application, for those that are not exempt.

\$500 fee x 100 applicants = \$50,000 estimate.

Approximately 30 applicants mail the application form and supporting documentation, using two stamps, with a cost of .73 cents per stamp, (30 x \$1.46) for a cost of \$44.

\$1.46 cost x 30 = \$44 estimate.

14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

We estimate that the annual cost to the Federal Government to administer this information collection is **\$3,000,000**. To determine average hourly rates, we used Office of Personnel Management Salary Table 2024, located at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/RUS_h.aspx. The loaded rate incorporates a 1.6 multiplier for benefits.

Program	Grade, Step	Loaded Rate	Total Annual Responses	Completion Time per Response (Hours)	Total Annual Burden (Hours)	Value of Annual Burden Hours
Information Collection Clearance						
DOI staff	GS-14, Step 5	\$106.18	N/A	N/A	20	\$2,124
IA Administration of Information Collection						
Export Certification Application/Form	GS-13, Step 5	\$89.86	100	144	14,400	\$1,293,984
Voluntary Return of Tangible Cultural Heritage	GS-13, Step 5	\$89.86	10	40	400	\$35,944
STOP Act Native Working Group	GS-14, Step 5	\$106.18	12	72	864	\$91,740
Operational						
Export Certification Database						\$1,560,000
Printing, Mailing, Misc.						\$16,208
TOTAL						\$3,000,000

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

This is a new information collection, required by statute.

The Department will establish a Privacy Act system of records; and submit a non-substantive change request in order to update the Privacy Act information within ROCIS.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans for publication of the results of these information collections.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We will display the OMB Control Number and expiration date on appropriate materials.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.