



USET

SOVEREIGNTY PROTECTION FUND

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*Transmitted Electronically
To tribal.affairs@hq.dhs.gov*

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Brenda Abdelall
Assistant Secretary
Office of Partnership and Engagement
U.S. Department of Homeland Security
300 7th Street SW
Washington, DC 20024

Dear Assistant Secretary Abdelall,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Tribal Listening Session held on November 29, 2022. This Listening Session was for Department of Homeland Security (DHS) agencies, such as the Customs and Border Protection, Transportation, Transportation Security Administration, and the Federal Emergency Management Agency, to receive input on how agency personnel can respectfully handle sacred, ceremonial, and cultural items. Ensuring that our Tribal Leaders and cultural and religious leaders and the sacred items they carry are treated with respect when traveling is a significantly important issue. Strict protocols must be adhered to regarding the handling of our sacred, ceremonial, and cultural items and, unfortunately, federal agency employees are often ignorant or outright offensive when it comes to respecting these protocols. While USET SPF appreciates DHS' consideration of this vitally important issue, upon conclusion of the Listening Session it was apparent that more guidance and education is needed for DHS personnel that encounter our leaders and the sacred items they carry while in transit.

USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), , Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

DHS is Obligated to Protect and Respect Tribal Cultural Protocols and Responsibilities

The primary focus of the Listening Session was what DHS personnel should understand about Tribal religious and cultural leaders traveling with and carrying sacred items, what assistance staff should provide our religious and cultural leaders, and what educational opportunities staff should engage in, especially regarding regalia and sacred items. During the session, several Tribal Leaders and religious and cultural leaders expressed their stress when having to interact with DHS personnel during travel. For instance, when having to go through Transportation Security Administration (TSA) check points at airports many expressed how sacred, ceremonial, and cultural items were mishandled and disrespected during the screening process. These comments included the unpacking and handling of sacred items or the handling of bags or boxes containing sacred items. Additional comments highlighted the disrespectful handling of sacred items at Customs and Border Protection (CBP) check points when our leaders cross international boundaries to participate and perform in cultural and religious activities. Issues were also raised regarding the transportation of repatriated sacred items and ancestors and the processes and practices currently performed by TSA to examine these items.

These issues are extremely concerning and necessitate further action from DHS, especially in establishing mandatory reprimands to DHS personnel that repeatedly commit these disrespectful acts at TSA and CPB locations. Since this was a Listening Session, USET SPF recommends that formal Tribal consultation be initiated to develop enforceable guidelines for DHS personnel encountering Tribal religious and cultural leaders and sacred items at TSA and CPB locations. Due to the unique, political, and diplomatic relationship between Tribal Nations and the United States, DHS has an obligation to assist us in protecting our cultures and spirituality. We remind DHS that Listening Sessions do not constitute formal Tribal consultation and due to the comments raised during this session it is imperative that DHS move forward with initiating formal consultation. These consultation proceedings will assist DHS in developing formal guidelines for DHS personnel to refer and adhere to when encountering our religious and cultural leaders and our sacred items. Furthermore, DHS should focus on holding regional consultations since the protocols regarding the handling and transportation of sacred items and regalia are unique to every Tribal Nation.

Tribal Consultation Must be Conducted on a Nation-to-Nation Level

It is important that DHS recognize and respect the diplomatic, Nation-to-Nation relationship between DHS and sovereign Tribal Nations, and that Alaska Native Corporations (ANCs) do not possess the same sovereign governmental status. Any consultation regarding our recommendation to develop guidance on the handling of sacred items should be conducted between DHS, our Tribal Leaders, and our recognized/designated cultural and religious leaders. USET SPF reminds DHS that for-profit ANCs are not Tribal Nation governments, and therefore, do not enjoy a consultative relationship with the U.S. government—a sacred relationship that is founded in the mutual recognition of governmental status between consulting parties and the trust obligation to Tribal Nations.

Furthermore, USET SPF questions the appropriateness of seeking the input of for-profit ANCs on issues pertaining to the development of guidelines for the handling and transportation of sacred items and ancestors. Tribal Nations and our cultural and spiritual leaders are the only authority on our cultural and spiritual traditions, as well as the proper treatment of sacred items. If non-governmental or non-Tribal entities are to provide guidance to DHS on such sensitive issues as our cultural and spiritual practices, DHS must fully explain the purpose of seeking this type of input to Tribal Nations, and this type of input should only be obtained outside of the consultative process

Conclusion

An essential aspect of the federal trust obligation to Tribal Nations is the duty to protect, preserve, and restore our cultural heritage. Native peoples have endured many injustices as a result of federal policy, including federal actions that sought to terminate Tribal Nations, assimilate Native people, and erode our territories and cultures. The disrespectful handling of our sacred, ceremonial, and cultural items and ancestors is yet another affront to our cultural practices and protocols. Although DHS held this Tribal Listening Session to discuss these issues, it is utterly apparent that these disrespectful and harmful activities must be addressed by DHS through formal Tribal consultation on a Nation-to-Nation level. Furthermore, mandatory disciplinary actions must be developed and enforced to hold agency staff accountable and ensure our sacred items and ancestors receive the respect they deserve. We look forward to working with you to ensure that these issues are addressed. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 615-838-5906.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director