

Protection of sensitive tribal data

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Native American Religions and Traditional Cultures

- Traditional spiritual beliefs and cultural practices frequently tied to specific areas of land
- Types of sites are varied; examples include natural features, grave sites, places that relate to origin stories, important historic sites



Native American religions and traditional cultures (cont.)

- These sites are frequently sites where ceremonies are performed; some ceremonies can only be performed at a particular location.
- Most tribes are reluctant to reveal information about these sites. In some cases, there are specific religious prohibitions against revealing this information.



Native American Religions and Traditional Cultures (Cont.)

- Access to and use of pristine water is crucial for many Native American ceremonies



The Freedom of Information Act

5 U.S.C. § 552

- FOIA broadly provides for public access to government records.
- Exception for items exempted from disclosure by statute provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld



National Historic Preservation Act

- Federal law providing for the designation of historic properties to the National Register of Historic Places mandating certain planning by federal agencies to recognize and protect these properties, including involvement of State and Tribal Historic Preservation Offices.



National Historic Preservation Act (cont.)

- Provides for procedures (section 106 of Act) that must be following when federal undertakings potentially have an important upon properties that are on or eligible for the National Register
- Law specifically provides that places of religious or cultural importance to Indian tribes or Native Hawaiians may be eligible for listing on the Register



National Historic Preservation Act (cont.)

- Concept of traditional cultural properties (TCPs) has become part of the law
- TCPs are defined as eligible for inclusion in the NR because of association with cultural practices of a living community that are
 - Rooted in the community's history, and
 - Important in maintaining cultural identity



Archeological Resources Protection Act

- Section 9 (16 U.S.C. 470hh)
- Information regarding nature and location of archeological resources may not be made available to public by the federal agency under FOIA or any other law unless would further the purposes of ARPA or not create a risk of harm to the site or resources.
- Presumption is against disclosure



Park Service Bulletin 38 – traditional cultural places

- Keep nature and precise location of site secret
- Provide enough general information to allow planning to go forward

