



441 G St. N.W.
Washington, DC 20548

B-329243

November 9, 2017

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

Subject: *Laws Authorizing Payment of Financial Rewards for Providing Information about Antiquities Trafficking*

Dear Senator Wyden:

This responds to your request for us to identify federal statutes that address antiquities trafficking and to address whether those statutes authorize federal agencies to pay financial rewards to individuals who provide information about such trafficking.¹ In July 2017, a national retail chain agreed to forfeit to the federal government thousands of ancient Iraqi artifacts that had recently been imported in violation of federal law.² That same month, state law enforcement officers obtained a warrant to seize an ancient vase from a New York art museum that reportedly had been illegally excavated in Italy in the 1970s.³ These cases illustrate the scope of antiquities trafficking affecting the United States today.

To respond to your request, we reviewed the United States Code, law review articles, other scholarly articles, and prior GAO reports to identify statutes that specifically address antiquities trafficking.⁴ Because there is no definition of this term in the United States Code, we defined antiquities trafficking for purposes of this work as the illegal transport, transfer, and sale of historic, human-made objects, such as statues, jewelry, and artifacts. We then analyzed these laws to determine whether they authorize federal agencies to pay rewards to persons other than confidential informants who voluntarily provide information about violations.⁵ We also met with

¹ Letter from Senator Ron Wyden, Ranking Member, Senate Committee on Finance, to Comptroller General, GAO (Sept. 14, 2016). As you are aware, in response to your request, GAO is also conducting a review of the Department of Commerce, National Marine Fisheries Service's and the Department of the Interior, U.S. Fish and Wildlife Service's use of financial rewards to persons providing information about illegal trafficking of plants, fish, and wildlife. We expect to report on the results of that review in early 2018.

² Stipulation of Settlement and Decree of Forfeiture between Hobby Lobby Stores, Inc. and United States, *United States v. Approximately 450 Ancient Cuneiform Tablets et al.*, No. 17-3980 (E.D.N.Y., filed July 5, 2017).

³ Affidavit and Warrant, *In the Matter of an Application for a Warrant to Search the Premises Located at the Metropolitan Museum of Art, 1000 Fifth Avenue, New York, New York 10028* (N.Y. Sup. Ct., issued July 24, 2017).

⁴ We reviewed the United States Code by searching for terms such as "antiquity," "antiquities," "cultural property," and "cultural item."

⁵ Confidential informants provide information and take action at the direction of law enforcement agencies to further investigations. GAO, *Confidential Informants: Updates to Policy and Additional Guidance Would Improve Oversight*

officials from the Departments of Homeland Security (DHS), Justice (DOJ), and State to obtain their understandings of these laws and of other applicable rewards provisions we identified through our review.

SUMMARY OF FINDINGS

First, our review identified six federal statutes that specifically address one or more aspects of antiquities trafficking—four statutes containing criminal trafficking provisions and two civil customs statutes. Only one of these statutes—the Archaeological Resources Protection Act of 1979—explicitly authorizes payment of rewards to persons providing information about antiquities trafficking. However, rewards also may be offered for information about violations of the two customs statutes—the Convention on Cultural Property Implementation Act and the Regulation of Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals Act—pursuant to the general statutory rewards authority of the DHS’s United States Customs and Border Protection (CBP). The six statutes that specifically address antiquities trafficking are:

- the Archaeological Resources Protection Act of 1979;
- the Antiquities Act of 1906;
- the Native American Graves Protection and Repatriation Act;
- the Theft of Major Artwork Act;
- the Convention on Cultural Property Implementation Act; and
- the Regulation of Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals Act.

These laws vary in scope and specific terminology; one statute applies to “archeological resources,” for example, while another applies to “cultural property.” Enclosure I provides details of the trafficking prohibitions of and rewards provisions potentially applicable to these six laws.

Second, our review identified more general statutes that may be used to address antiquities trafficking as well. In particular, DOJ told us that prosecutors evaluate the statutory options for criminal prosecution of antiquities traffickers and those options may include statutes that do not specifically address such trafficking but are nevertheless applicable.⁶ For example, DOJ told us⁷ that prosecutors might charge defendants with violating the mail and wire fraud statutes,⁸

by DOJ and DHS Agencies, [GAO-15-807](#) (Washington, D.C.: Sept. 15, 2015). We do not know the extent to which confidential informants are used in antiquities trafficking cases. GAO has previously reported on the use of confidential informants by law enforcement agencies in the Departments of Justice and Homeland Security. [GAO-15-807](#); see also GAO, *Confidential Informants: Status of the U.S. Drug Enforcement Administration’s Efforts to Address a GAO Recommendation*, [GAO-17-265R](#) (Washington, D.C.: Nov. 30, 2016).

⁶ Telephone conversation of Senior Attorney, GAO, with Special Counsel to the Chief, Human Rights and Special Prosecutions Section, Criminal Division, DOJ (Aug. 2, 2017).

⁷ *Id.*

⁸ 18 U.S.C. §§ 1341, 1343.

the National Stolen Property Act,⁹ or the smuggling statutes.¹⁰ None of these statutes includes a rewards provision, and title 18 of the United States Code, which contains most federal criminal laws, does not have a general provision authorizing DOJ to pay rewards for information leading to arrests or convictions.¹¹ According to CBP officials, however, if charges under the smuggling statutes or the false-classification-of-item statute¹² lead to the imported antiquity's forfeiture under 19 U.S.C. § 1595a, CBP's general rewards authority could be used to pay a reward for any information provided about the trafficked antiquity that meets statutory requirements.¹³

Moreover, according to CBP officials, CBP's general rewards authority can be used to pay rewards for information about violations of any other laws it enforces.¹⁴ For example, CBP officials said, if the requirements for a reward are met, its general rewards authority can be used to pay rewards for information about failures to declare antiquities imports, which would violate 19 U.S.C. § 1497.¹⁵ CBP's rewards authority also can be used to pay for information about violations of the sanctions that the Department of the Treasury's Office of Foreign Assets Control has imposed on the import of certain Iraqi cultural property, because CBP enforces those sanctions.¹⁶

Finally, as detailed in Enclosure II, the Department of State operates two rewards programs—the Rewards for Justice (RFJ) program and the Transnational Organized Crime Rewards program—that may pay rewards to persons who furnish information about antiquities trafficking under certain circumstances.¹⁷ For example, in September 2015, State announced that its RFJ program would offer up to a \$5 million reward for information leading to the significant disruption of the sale and/or trade of antiquities by, for, on behalf of, or to benefit the Islamic State of Iraq

⁹ 18 U.S.C. §§ 2314-2315. This act criminalizes, among other things, the transport or transfer in interstate or foreign commerce of any stolen good valued at \$5,000 or more that is known to have been stolen, converted, or taken by fraud.

¹⁰ 18 U.S.C. §§ 541-546.

¹¹ There is a specific provision in title 18, 18 U.S.C. § 3071, that authorizes the Attorney General to pay rewards for information concerning terrorist acts and espionage, but this would not apply to antiquities trafficking.

¹² 18 U.S.C. § 542. This act criminalizes, among other things, introduction into the United States commerce of any imported merchandise by means of false or fraudulent invoices, statements, or declarations.

¹³ Telephone conversation of Senior Attorney, GAO, with Attorney Advisors, CBP (Aug. 29, 2017) (CBP Conversation). According to DOJ and DHS officials, persons who import stolen cultural property into the United States, or who import what they believe to be stolen cultural property, generally seek to avoid detection and targeting by CBP by making false statements regarding the description, value, and country of origin of the goods in their shipments. See Verified Complaint In Rem, *United States v. Approximately 450 Ancient Cuneiform Tablets et al.*, No. 17-3980 (E.D.N.Y., filed July 5, 2017) at 6; GAO, *Iraqi and Syrian Cultural Property: U.S. Government Committee Should Incorporate Additional Collaboration Practices*, [GAO-17-716](#) (Washington, D.C.: Sept. 19, 2017) at 15-16.

¹⁴ CBP Conversation.

¹⁵ *Id.*











¹⁶ The Office of Foreign Assets Control's sanctions on Iraqi cultural property are identified at 31 C.F.R. § 576.208. Pursuant to 19 C.F.R. § 161.2(a)(3), CBP may enforce those sanctions. Those who violate the sanctions also are subject to civil and criminal penalties. See 31 C.F.R. § 576.701(a).

¹⁷ Both rewards programs are authorized by 22 U.S.C. § 2708.

and the Levant (ISIL).¹⁸

The applicability of the foregoing provisions and programs is depicted in Table 1.

Table 1: Rewards Potentially Available Under Federal Law for Providing Information about Antiquities Trafficking

	Law	Rewards Potentially Available for Information	Rewards Authority
Federal Statutes Specifically Applicable to Antiquities Trafficking	Archaeological Resources Protection Act of 1979 (ARPA) (criminal trafficking provision)		Explicit authority in ARPA
	Antiquities Act of 1906 (criminal trafficking provision)		
	Native American Graves Protection and Repatriation Act (criminal trafficking provision)		
	Theft of Major Artwork Act (criminal trafficking provision)		
	Convention on Cultural Property Implementation Act (civil customs statute)		General rewards authority of U.S. Customs & Border Protection
	Regulation of Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals Act (civil customs statute)		General rewards authority of U.S. Customs & Border Protection
General Federal Statutes Potentially Applicable to Antiquities Trafficking	Additional criminal statutes		
	Additional civil customs statutes		General rewards authority of U.S. Customs & Border Protection
	Other statutes enforced by U.S. Customs & Border Protection		General rewards authority of U.S. Customs & Border Protection
	Department of State rewards program statute includes Rewards for Justice Program (RFJ) and Transnational Organized Crime Rewards Program (TOCRP)		Explicit authority in 22 U.S.C. § 2708



Indicates that rewards are potentially available for information provided to federal agencies about violations of the listed statute(s).



Indicates that rewards are not potentially available for providing information to federal agencies about violations of the listed statute(s).

Source: GAO. | B-329243

If you have any questions regarding these matters, please contact me at (202) 512-6417 or SawtelleS@gao.gov. Assistant General Counsel Gregory Marchand and Senior Attorney Jeanette Soares also made key contributions to this correspondence.

Sincerely yours,



Susan D. Sawtelle
 Managing Associate General Counsel

Enclosures

¹⁸ See U.S. Dep't of State, *Trafficking in Oil and Antiquities Benefitting the Islamic State of Iraq and the Levant (ISIL)*, Rewards for Justice, available at https://rewardsforjustice.net/english/trafficking_oil_and_antiquities.html (last visited October 19, 2017) (*Trafficking in Oil and Antiquities Benefitting ISIL*).

FEDERAL CRIMINAL AND CUSTOMS STATUTES SPECIFICALLY ADDRESSING ANTIQUITIES TRAFFICKING

Our review identified six federal statutes that specifically address one or more aspects of antiquities trafficking—four statutes containing criminal trafficking provisions and two civil customs statutes. Only one of these statutes, the Archaeological Resources Protection Act of 1979, explicitly authorizes payment of rewards to persons providing information about antiquities trafficking. However, rewards also may be offered for information about violations of the two customs statutes pursuant to the general statutory rewards authority of the Department of Homeland Security’s (DHS) United States Customs and Border Protection (CBP).

A. Criminal Trafficking Provisions

Archaeological Resources Protection Act of 1979 (ARPA)¹⁹

Among other things, the Archaeological Resources Protection Act of 1979 prohibits trafficking in archaeological resources, the excavation or removal of which is wrongful under federal, state, or local law.²⁰ Specifically, ARPA prohibits the sale, purchase, exchange, transport, receipt, or offer to sell, purchase, or exchange any archaeological resources excavated or removed from public or Indian lands without authorization.²¹ ARPA also prohibits the trafficking in interstate or foreign commerce of archaeological resources, the excavation, removal, sale, purchase, exchange, transportation or receipt of which is wrongful under state or local law.²²

ARPA contains a reward provision. It directs the Secretary of the Treasury to pay rewards, upon certification of the relevant federal land manager, to any person who furnishes information that leads to the finding of a civil violation or criminal conviction.²³ The amount of the reward is equal to one-half of penalties or fines collected but cannot exceed \$500.²⁴

¹⁹ Pub. L. No. 96-95, 93 Stat. 721 (Oct. 31, 1979) (*codified as amended at* 16 U.S.C. §§ 470aa-470mm).

²⁰ 16 U.S.C. §§ 470ee(b)-(c). The regulations implementing ARPA define an “archaeological resource” as any material remains of past human life or activities which are at least 100 years of age and of archaeological interest. 43 C.F.R. § 7.3(a). “Of archaeological interest” means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation. 43 C.F.R. § 7.3(a)(1). “Material remains” means physical evidence of human habitation, occupation, use or activity, including the site, location, or context in which such evidence is situated. 43 C.F.R. § 7.3(a)(2).

²¹ 16 U.S.C. § 470ee(b). “Public lands” mean lands that are owned and administered by the United States as part of the national park system, national wildlife refuge system, or national forest system and all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands that are under the jurisdiction of the Smithsonian Institute. 16 U.S.C. § 470bb(3). The term “Indian lands” means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or individual. 16 U.S.C. § 470bb(4).

²² 16 U.S.C. § 470ee(c).

²³ 16 U.S.C. § 470gg(a). The federal land manager is the Secretary of the department or head of any other agency or instrumentality with primary management authority over the land. 16 U.S.C. § 470bb(2).

²⁴ 16 U.S.C. § 470gg(a).

Antiquities Act of 1906²⁵

Among other things, the Antiquities Act of 1906 criminalizes the appropriation or excavation, without permission, of any historic or prehistoric ruin or monument or any other “object of antiquity” situated on land owned or controlled by the federal government.²⁶ The law does not contain a rewards provision.

Native American Graves Protection and Repatriation Act (NAGPRA)²⁷

Among other things, the Native American Graves Protection and Repatriation Act makes it a crime to knowingly sell, purchase, use for profit, or transport for sale or profit any Native American cultural item—human remains, associated funerary objects, unassociated funerary objects, sacred objects, and objects of cultural patrimony²⁸—obtained in violation of the act.²⁹ NAGPRA also prohibits the intentional removal from, or excavation of, Native American cultural items from federal or tribal lands unless a permit has been issued and other requirements are met.³⁰ NAGPRA does not contain a rewards provision.

²⁵ Act of June 8, 1906, 34 Stat. 225 (codified as amended at 18 U.S.C. § 1866; 54 U.S.C. §§ 320301-320303). The criminal penalty provision of the Antiquities Act of 1906 was originally codified at 16 U.S.C. § 433. In 2014, the provision was transferred to title 18, which includes other crimes and criminal procedures. Pub. L. No. 113-287, § 4(a)(1) (Dec. 19, 2014).

²⁶ 18 U.S.C. § 1866. In 1974, a federal appeals court ruled that the provision’s undefined terms such as “object of antiquity” were unconstitutionally vague and violated the Constitution’s Due Process Clause. *United States v. Diaz*, 499 F.2d 113 (9th Cir. 1974). (At that time, the provision was codified at 16 U.S.C. § 433.) The case involved Apache face masks made a few years earlier and left in a cave after being used in a religious ceremony. However, in 1979, a different federal appeals court, addressing items considerably older than those involved in *Diaz*, ruled that the provision was not unconstitutionally vague because it gives a person of ordinary intelligence a reasonable opportunity to know that excavating prehistoric Indian burial grounds and appropriating 800-900 year old artifacts is prohibited. *United States v. Smyer*, 596 F.2d 939, 940-41 (10th Cir. 1979).

²⁷ Pub. L. No. 101-601, 104 Stat. 3048 (Nov. 16, 1990) (codified as amended at 18 U.S.C. § 1170, 25 U.S.C. §§ 3001-3013).

²⁸ 25 U.S.C. § 3001(3). In general, “associated funerary objects” are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the remains and object are currently in the possession or control of a federal agency or another institution, state, or local government that receives federal funds. 25 U.S.C. §§ 3001(3)(A), (8). “Unassociated funerary objects” are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the federal agency or another institution, state, or local government that receives federal funds and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains, or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe. 25 U.S.C. §§ 3001(3)(B), (8). “Sacred object” means specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents. 25 U.S.C. § 3001(3)(C). “Cultural patrimony” means an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual. 25 U.S.C. § 3001(3)(D).

²⁹ 18 U.S.C. § 1170(b).

³⁰ 25 U.S.C. § 3002(c). “Federal lands” are defined as any land other than tribal lands which are controlled or owned by the United States, including lands selected by but not yet conveyed to Alaska Native corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971. 25 U.S.C. § 3001(5). “Tribal land” is

Theft of Major Artwork Act³¹

The Theft of Major Artwork Act criminalizes, among other things, stealing or obtaining by fraud any object of cultural heritage from the care, custody, or control of a museum located in the United States.³² The act's definition of "objects of cultural heritage" includes objects that are over 100 years old and worth in excess of \$5,000.³³ The act does not contain a rewards provision.

B. Customs Law Provisions

Convention on Cultural Property Implementation Act (CPIA)³⁴

In 1970, the United Nations Educational, Scientific and Cultural Organization (UNESCO) adopted the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970 UNESCO Convention). This Convention defines cultural property to mean property that, on religious or secular grounds, is specifically designated by each state party as being of importance for archaeology, prehistory, history, literature, art or science and which belongs to one of eleven specified categories.³⁵

Certain provisions of the 1970 UNESCO Convention were implemented in 1983 by enactment of the Convention on Cultural Property Implementation Act (CPIA).³⁶ CPIA prohibits the importation of cultural property documented as belonging to a museum, religious or secular public monument, or similar institution in any state that is a party to the convention and stolen

defined as all lands within the exterior boundaries of any Indian reservation, all dependent Indian communities, and any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920. 25 U.S.C. § 3001(15).

³¹ Pub. L. No. 103-322, § 320902, 108 Stat. 1796, 2123 (Sept. 13, 1994) (*codified as amended at* 18 U.S.C. §§ 668, 3294).

³² 18 U.S.C. § 668.

³³ 18 U.S.C. § 668(a)(2)(A).

³⁴ Pub. L. No. 97-446, title III, 96 Stat. 2329, 2350-2363 (Jan. 12, 1983) (*codified as amended at* 19 U.S.C. §§ 2601-2613).

³⁵ UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, Nov. 17, 1970, 823 U.N.T.S. 231. The eleven categories of cultural property specified are: (1) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest; (2) property relating to history, including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance; (3) products of archaeological excavations, including regular and clandestine, or of archaeological discoveries; (4) elements of artistic or historical monuments or archaeological sites which have been dismembered; (5) antiquities more than 100 years old, such as inscriptions, coins and engraved seals; (6) objects of ethnological interest; (7) property of artistic interest, including but not limited to original engravings, prints and lithographs; (8) rare manuscripts and incunabula, old books, documents and publications of special interest singly or in collections; (9) postage, revenue and similar stamps; (10) archives, including sound, photographic and cinematographic archives; and (11) articles of furniture more than 100 years old and old musical instruments.

³⁶ CPIA implements article 7(b) of the 1970 UNESCO Convention, which concerns cultural property stolen from museums and other institutions, and article 9, which addresses the pillage of archaeological and ethnological materials. CPIA uses the same categories of cultural property as the 1970 UNESCO Convention, although CPIA does not require the property to be specifically designated as such by the state party. 19 U.S.C. § 2601(6).

from such institution after a particular date.³⁷ In addition, CPIA authorizes the President to impose certain import restrictions on archaeological or ethnological material³⁸ of a state party to the 1970 UNESCO Convention by entering into agreements with such parties³⁹ or taking emergency action under 19 U.S.C. § 2603.⁴⁰ The United States currently has 16 such agreements⁴¹ and to date, emergency action has been taken for Iraqi and Syrian⁴² cultural property. Specifically, in 2004, Congress authorized the President to exercise this section 2603 authority, without having to meet certain CPIA requirements, with respect to certain Iraqi archaeological or ethnological material, and in 2016, Congress required the President to exercise this section 2603 authority with respect to Syrian archaeological or ethnological material, again without having to meet certain CPIA requirements.⁴³ CBP issues regulations restricting imports pursuant to these agreements or emergency actions and listing specific items designated as subject to import restrictions.⁴⁴ The CPIA itself does not contain a rewards

³⁷ 19 U.S.C. § 2607. The date is the later of April 12, 1983, which is CPIA's effective date, or the date the 1970 UNESCO Convention went into force for the state party. 19 C.F.R. § 12.104a(a).

³⁸ CPIA defines "archaeological or ethnological material" as certain objects, fragments, or parts thereof, first discovered within, and subject to export control by, a state party to the convention that has archaeological or ethnological interest. 19 U.S.C. § 2601(2). Objects of archaeological interest must be of cultural significance, at least 250 years old, and normally have been discovered as a result of scientific excavation, clandestine or accidental digging, or exploration on land or under water. 19 U.S.C. § 2601(2)(C)(i). The CBP regulations implementing the CPIA further define an object of archaeological interest as one meeting such standards as are generally acceptable as archaeological, such as, but not limited to, artifacts, buildings, parts of buildings, or decorative elements, without regard to whether the particular objects are discovered by exploration or excavation. 19 C.F.R. § 12.104(a)(1)(iv). Objects of ethnological interest must be the product of tribal or nonindustrial society and important to the cultural heritage of a people because of its distinctive characteristics, comparative rarity, or its contribution to the knowledge of the origins, development, or history of that people. 19 U.S.C. § 2601(2)(C)(ii).

³⁹ 19 U.S.C. § 2602(a)(2).

⁴⁰ CPIA authorizes the President to impose import restrictions under 19 U.S.C. § 2606 if the President determines that an emergency condition applies with respect to any archaeological or ethnological material of a state party to the 1970 UNESCO Convention. 19 U.S.C. § 2603(b). An emergency condition is defined in 19 U.S.C. § 2603(a).

⁴¹ The agreements are with Belize, Bolivia, Bulgaria, Cambodia, China, Colombia, Cyprus, Egypt, El Salvador, Greece, Guatemala, Honduras, Italy, Mali, Nicaragua, and Peru. Department of State *Bureau of Educational and Cultural Affairs, Bilateral Agreements in Force and Emergency Actions*, available at <https://eca.state.gov/cultural-heritage-center/cultural-property-protection/bilateral-agreements> (last visited October 19, 2017).

⁴² In August 2016, we reported on activities undertaken by U.S. agencies and the Smithsonian Institution to protect Iraqi and Syrian cultural property since 2011 and art market experts' suggestions for improving U.S. government activities. See GAO, *Cultural Property: Protection of Iraqi and Syrian Antiquities*, GAO-16-673 (Washington, D.C.: Aug. 15, 2016). In September 2017, we reported on actions the Departments of Homeland Security and Justice have taken to enforce laws and regulations restricting importation of Iraqi and Syrian cultural property and the extent of interagency collaboration. GAO-17-716.

⁴³ The Emergency Protection for Iraqi Cultural Antiquities Act of 2004 authorized the President to act under 19 U.S.C. § 2603 to impose import restrictions on archaeological or ethnological material of Iraq without the need to meet certain CPIA requirements, including the receipt of a formal request from the government of Iraq. Pub. L. No. 108-429, title III, § 3002, 118 Stat. 2434, 2599 (Dec. 3, 2004). In 2016, the Protect and Preserve International Cultural Property Act required the President to exercise his authority under 19 U.S.C. § 2603 to impose import restrictions on certain archaeological or ethnological material of Syria without the need to meet certain CPIA requirements, including determining that an emergency condition exists. Pub. L. No. 114-151, § 3, 130 Stat. 369, 369-370 (May 9, 2016). We did not separately include these 2004 and 2016 statutes in our list of statutes specifically addressing antiquities trafficking because they authorized or required emergency actions under the CPIA.

⁴⁴ These regulations are codified at 19 C.F.R. §§ 12.104-12.104k.

provision. However, another customs law authorizes CBP to award compensation in certain circumstances to those who provide information about customs law violations.⁴⁵ Specifically, CBP is authorized to pay rewards to persons who furnish original information to specified government officials concerning violations of customs laws, or violations of other laws that CBP enforces, when such information leads to any fine, penalty, forfeiture of property, or recovery of import duties not paid.⁴⁶ CBP can award compensation of up to 25 percent of the net amount of any withheld import duties that are recovered, fine, penalty, forfeited property, or value of forfeited property not sold, with a limit of \$250,000 per person for any case.⁴⁷ According to CBP attorneys, violation of import restrictions imposed under the CPIA is a violation of custom laws—specifically, 19 U.S.C. § 2606 or 19 U.S.C. § 2607—and therefore a person providing information about such a violation would be eligible for a reward if the other statutory requirements are met.⁴⁸

Regulation of Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals Act⁴⁹

Under this law, pre-Columbian monumental or architectural sculptures or murals exported from their country of origin after June 1, 1973 may not be imported into the United States unless the country of origin certifies in writing that such exportation was not in violation of its laws.⁵⁰ “Pre-Columbian monumental or architectural sculpture or mural” means any stone carving or wall art that is the product of a pre-Columbian Indian culture of Belize, Bolivia, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Peru, or Venezuela.⁵¹ The law does not include a rewards provision but, as explained above, CBP has authority to pay rewards to those who provide information about violations of customs laws.

⁴⁵ 19 U.S.C. §§ 1619(a)-(c); 19 C.F.R. § 161.12.

⁴⁶ 19 U.S.C. § 1619(a). The information regarding a customs laws violation must be furnished to a United States attorney, the Secretary of the Treasury, or any customs officer. 19 U.S.C. § 1619(a)(1)(B).

⁴⁷ 19 U.S.C. §§ 1619(a)(2), (c).

⁴⁸ CBP Conversation. For example, employees and officers of the United States are not eligible for these rewards. 19 U.S.C. § 1619(a)(1).

⁴⁹ Pub. L. No. 92-587, title II, 86 Stat. 1296, 1297 (Oct. 27, 1972) (*codified at* 19 U.S.C. §§ 1202, 2091-2095).

⁵⁰ 19 U.S.C. § 2091(a); 19 C.F.R. §§ 12.106-12.107.

⁵¹ 19 C.F.R. § 12.105(a).

**DEPARTMENT OF STATE REWARD PROGRAMS THAT MAY BE USED
TO ADDRESS ANTIQUITIES TRAFFICKING**

The Department of State operates two reward programs that may, in certain circumstances, pay rewards of up to \$25 million to people who furnish information about antiquities trafficking: the Rewards for Justice (RFJ) program and the Transnational Organized Crime Rewards Program (TOCRP).⁵²

Under the RFJ program, which is administered by State's Bureau of Diplomatic Security, the Secretary of State may pay rewards for information that leads to, among other things, the disruption of the financing of a foreign terrorist organization.⁵³ In September 2015, the RFJ program offered up to a \$5 million reward for information leading to the significant disruption of the sale and/or trade of antiquities by, for, on behalf of, or to benefit ISIS.⁵⁴ As of September 2017, no reward had been paid.⁵⁵

Under the TOCRP, which is administered by State's Bureau of International Narcotics and Law Enforcement Affairs, the Secretary of State may pay rewards for information that leads to: (1) the arrest or conviction of anyone who participates in, conspires or attempts to participate in, or aids in the participation of transnational organized crimes; (2) the prevention of transnational organized crimes; (3) the identification or location of a key leader in a transnational organized crime group; or (4) the disruption of the financing of a transnational organized crime group.⁵⁶ The TOCRP has not yet offered or paid a reward for information about antiquities trafficking by a transnational organized crime group.⁵⁷

RFJ and TOCRP rewards offers originate with proposals made by entities outside the programs, such as United States embassies or other federal intelligence and law enforcement agencies, but both programs can pay rewards to sources who provide unsolicited information that meets the statutory requirements. Generally, United States embassies or other agencies, such as the Central Intelligence Agency (CIA) or the Federal Bureau of Investigation (FBI), draft and submit rewards offer proposals to RFJ and TOCRP. The draft rewards offers are then reviewed within

⁵² The Secretary of State can pay a reward in excess of \$25 million if he personally determines that it is necessary to combat terrorism or defend the country against terrorist acts. 22 U.S.C. § 2708(e)(1). Officers and employees of federal, state, local or foreign governments who furnish information while in the performance of their official duties are not eligible for rewards. 22 U.S.C. § 2708(f).

⁵³ 22 U.S.C. § 2708(b)(7).

⁵⁴ *Trafficking in Oil and Antiquities Benefitting ISIL*.

⁵⁵ E-mail from GAO Coordinator, State, to Analyst, GAO, *Subject: Re: GAO 101657: Request for Follow-Up Meeting with INS [International Narcotics and Law Enforcement Affairs] and DS [Diplomatic Security]* (Oct. 4, 2017) (State E-mail).

⁵⁶ A transnational organized crime group is a group of persons that includes one or more citizens of foreign countries, exists for a period of time, and acts in concert with the aim of engaging in (1) racketeering activity that involves at least one jurisdiction outside the United States or (2) any other criminal offense punishable by a term of imprisonment of at least 4 years under federal, state, or local law that involves at least one jurisdiction outside of the United States and that is intended to obtain, directly or indirectly, a financial or other material benefit. 22 U.S.C. §§ 2708(k)(5)-(6).

⁵⁷ State E-mail.

the State Department and by the relevant Interagency Rewards Committee.⁵⁸ RFJ and TOCRP rewards offers are then sent to the Secretary of State for approval.

Once rewards offers are approved by the Secretary of State, they are advertised.⁵⁹ Both programs post the rewards offers on their websites and RFJ also advertises their rewards offers as appropriate in foreign media, including newspapers, television and radio, and on billboards, as well as in flyers and on social media such as Facebook and Twitter. According to State officials, sources usually respond to these rewards offers by contacting a U.S. embassy or working with other agencies—such as the CIA, FBI or DOD—which determine whether to nominate the source to receive a reward.⁶⁰ Nominations are submitted to the RFJ or TOCRP and evaluated by the State Department and the relevant Interagency Rewards Committee. The Secretary of State has the sole discretion to determine whether to pay a reward to a nominated source but must obtain the prior approval of the Attorney General if there is federal jurisdiction over the crime.⁶¹

⁵⁸ The Interagency Rewards Committee for the RFJ program consists of representatives from State, the CIA, the FBI, the Departments of Homeland Security and Defense, the National Counterterrorism Center, the National Security Council, Treasury, DOJ, and the National Security Agency. The Interagency Rewards Committee for the TOCRP program consists of representatives from the CIA, the FBI, the Departments of Homeland Security and Defense, the National Security Council, Treasury, DOJ, the Drug Enforcement Agency, Immigration and Customs Enforcement/Homeland Security Investigations, the Internal Revenue Service, and the Office of the Director of National Intelligence.

⁵⁹ State E-mail. RFJ contacts the nominating entity to determine the appropriate publicity strategy for a rewards offer. TOCRP follows the publication strategy the nominating entity included in the rewards offer proposal. *Id.*

⁶⁰ State E-mail.

⁶¹ 22 U.S.C. §§ 2708(b), (c)(2).