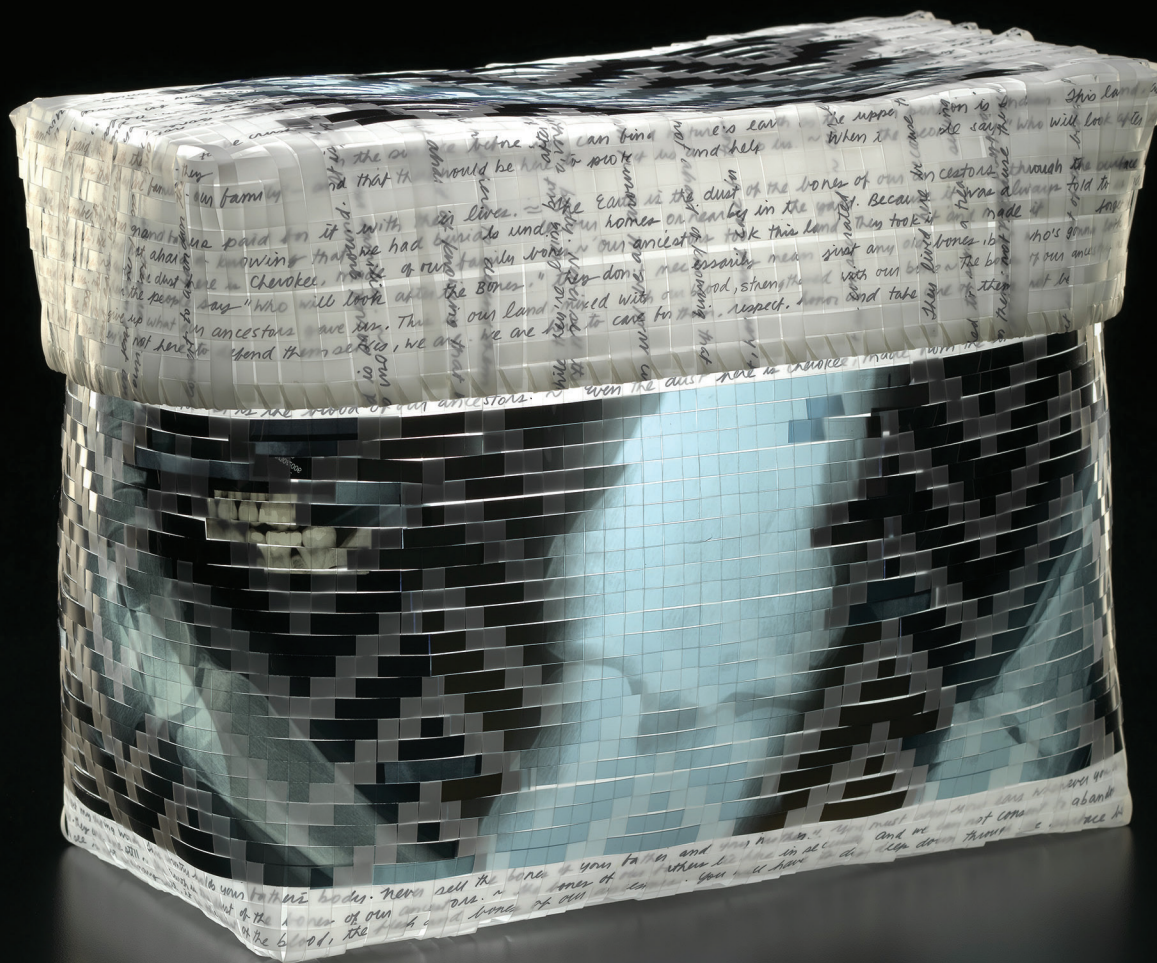


# A Step-by-Step Guide through the Repatriation Process

NATIONAL MUSEUM OF THE AMERICAN INDIAN | 2014



Smithsonian  
National Museum of the American Indian

REPATRIATION DEPARTMENT

# National Museum of the American Indian Mission Statement

The National Museum of the American Indian (NMAI) is committed to advancing knowledge and understanding of the Native cultures of the Western Hemisphere—past, present, and future—through partnership with Native people and others. The museum works to support the continuance of culture, traditional values, and transitions in contemporary Native life.

The NMAI's mission emphasizes partnerships with the Native cultures of the Western Hemisphere, recognizing our special responsibility to support and enhance the development, maintenance, and perpetuation of Native culture and community. This is accomplished through direct consultation, collaboration, and cooperation with contemporary Native peoples throughout the hemisphere who are culturally affiliated with the museum's diverse ethnographic and archaeological collections.

# Guidelines for Repatriation from the National Museum of the American Indian

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The NMAI Repatriation Department welcomes your interest in our repatriation program. We are a department within the NMAI's Museum Scholarship Group, located at the museum's Cultural Resources Center in Suitland, Maryland.

Repatriation is the process whereby certain types of Native American cultural items are returned to lineal descendants, culturally affiliated Indian tribes, Alaska Native villages and corporations, and Native Hawaiian organizations. Human remains, funerary objects, sacred objects, and objects of cultural patrimony are legally defined categories of items that may be considered for repatriation. Additionally, in accordance with longstanding Smithsonian policy, the NMAI may return any objects acquired by or transferred to the NMAI illegally.

This manual will guide you step by step through the repatriation process, from gathering the information needed to make a formal request to the successful repatriation of your cultural items.



NMAI Cultural Resources Center (CRC), Suitland, Maryland



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# The Collections of the National Museum of the American Indian

The museum was established in 1989 when Congress passed the National Museum of the American Indian (NMAI) Act (Public Law 101-185; see appendix F), creating the first national museum dedicated to Native cultures of the Western Hemisphere. In addition to forming the museum, the NMAI Act also included the first federal repatriation legislation for collections of Native American human remains and funerary objects in the country. The NMAI Act was expanded to include the repatriation categories of sacred objects and objects of cultural patrimony in the 1996 Amendment, Public Law 104-278.

Of the Smithsonian Institution's nineteen individual museums, nine research facilities, and the National Zoo, only the NMAI and the National Museum of Natural History (NMNH) hold collections to which the repatriation legislation applies. These two museums maintain separate repatriation programs with unique policies and procedures.

The core of the NMAI's current collections originates from the former Museum of the American Indian–Heye Foundation, established in New York City in 1916 by George Gustav Heye (1874–1957). During the first half of the twentieth century, Heye amassed some 800,000 objects from indigenous cultures throughout North, Central, and South America, creating what is still considered one of the most impressive collections of Native American objects in the world. After Heye's death, the fortunes of the museum declined. The future of the collection was uncertain until the 1980s, when a movement arose advocating for the transfer of the Museum of the American Indian's holdings to the Smithsonian Institution. In November of 1989 the NMAI Act became law, the collection's title moved to the Smithsonian, and the NMAI was born. Today, the NMAI is comprised of three facilities: the Cultural Resources Center (CRC), which houses the majority of the NMAI's collections, and the two museum buildings in New York and Washington, DC, that contain the NMAI's exhibition and educational spaces.

Repatriation of eligible materials within the NMAI collections is a five-step process initiated by tribes or lineal descendants. This guide will provide some assistance on these steps, as well as examples of letters required at key stages of the repatriation process.

# NMAI Repatriation Procedures

## STEP ONE: INFORMAL INQUIRY FOR REPATRIATION INFORMATION

The repatriation process usually begins with a request for a museum inventory of items related to the requesting tribe. The NMAI Repatriation Department welcomes inquiries from Native American tribes, Alaska Native villages and corporations, Native Hawaiian organizations, and lineal descendants about objects in the collection that may be eligible for repatriation. Details such as tribal names, geographical areas of interest (e.g. countries, states, counties, provinces, and sites) and particular objects of interest are helpful in guiding the Repatriation Department staff when preparing inventories. Lineal descendants requesting information may contact the Repatriation Department about objects in the museum's collections if there is a belief that descendancy can be established and the objects of interest pertain to a category addressed in the NMAI Act. Please refer to appendix B of this guide for examples of repatriation inquiry letters. Requests for information may be made by mail, telephone, fax, or e-mail to the Repatriation Department (see appendix A for contact information). In response, the Repatriation Department will provide a letter of acknowledgement and any requested collections inventories with related images.

## STEP TWO: REQUEST FOR CONSULTATION VISIT AND COLLECTIONS REVIEW

A visit to the CRC is an opportunity to initiate the consultation process with Repatriation Department staff, to identify items for potential claim, and to review the collections in person.

### ESTABLISHING TRIBAL AUTHORIZATION

It is at the consultation stage that a formal relationship is established between the NMAI and the tribal community or lineal descendant. Requests for consultation should be on official tribal letterhead, signed by the head of the Native community government. The letter should name the officially authorized repatriation representative and any individual who will accompany them during their visit. If the request is from a repatriation representative, it must be accompanied by either a tribal resolution or letter from the head of the Native community government designating the officially appointed repatriation representative. Please refer to appendix C of this guide for examples of letters designating authorization of tribal representatives and appendix D for examples of consultation request letters. Lineal descendants are not required to send a tribal authorization letter, but they should provide documentation establishing a relationship to the known individual whose remains, funerary objects, or sacred objects they intend to claim. Documentation may include genealogical information (e.g. census records, tribal rolls, and birth certificates) or other relevant family history. Once a consultation request is received, NMAI Repatriation Department staff will contact the potential claimant to make the necessary arrangements for a collections visit.

### VISITING THE COLLECTIONS

The NMAI will support two tribal representatives to visit to the CRC in Suitland, Maryland, for consultation, collections review, and documentation for up to two days. All visits for repatriation purposes must be arranged through the Repatriation Department. Additional representatives or repeat visits are always welcome, although their expenses must be covered by the tribe or the individual travelers.



## JOINT CONSULTATION WITH THE NATIONAL MUSEUM OF NATURAL HISTORY

Both the NMAI and NMNH museums hold significant collections of Native American materials; however, each museum operates its own repatriation program. If a requestor is interested in viewing objects in both museum collections, a jointly funded consultation may be coordinated. Pending funding availability, joint consultations typically take place over four days, with two days spent at each museum.

### PREPARING FOR YOUR VISIT

In preparation for your visit, please read the attached NMAI Repatriation Policy, located in appendix G of this guide. Please give careful consideration to the definitions of materials eligible for repatriation, outlined in section II.A. of the policy, because any objects claimed for repatriation must meet at least one of these definitions.

Be sure to review the museum's inventory sheets and images to identify objects that you think may have special significance. If the museum inventory for your area is large, we suggest you prioritize your selections to ensure enough time for examining objects that may be especially meaningful to you. Also consider including delegation members such as a traditional or religious leader and/or another expert who has the knowledge and skills to identify objects that may fit a repatriation category. Make sure to prepare any questions or concerns that we may be able to address during your visit.

Prior to your visit, the Repatriation Department staff member assigned to your consultation will send you a detailed itinerary, including travel and lodging information, a consultation schedule, map, and staff contact information.

### Travel Preparations

If the consultation visit is funded by the NMAI, the NMAI will pay for airfare, hotel, per diem, and some miscellaneous expenses (e.g., baggage fees, taxis, tolls, and parking fees). Repatriation Department staff will assist you in completing the required travel forms, examples of which are located in appendix I of this guide. Each member of the delegation supported by the NMAI will be required to complete these travel forms. If possible, inform staff of any special needs (e.g., wheelchair accessibility, lighting requirements, or filming requests) in advance of your visit. Please note that changes to the visiting delegation may only be made up to three weeks prior to the consultation date.

### Air Travel

Flight reservations will be booked and paid for by the NMAI. Electronic airline tickets will be issued and the confirmation number and itinerary will be e-mailed to you.

### Hotel

Your hotel rooms will be booked and paid for by the NMAI. Please note that the museum will not cover long-distance telephone calls, in-room movies, mini-bar charges, alcoholic beverages, or other incidentals.

### Per Diem

The NMAI provides a per diem for each day of your official travel. Per diem rates are set by the government and are sufficient to cover meals and incidental expenses. Rates are reduced by 25% on the arrival and departure days. Please refer to [www.gsa.gov](http://www.gsa.gov) for specific rate information for Washington, DC. Per diem may be sent by electronic funds transfer (EFT) or check prior to your visit, provided that your paperwork has had sufficient time for processing. Please note that an EFT is generally faster than issuing a paper check.

## Ground Transportation

You will be reimbursed for transportation to and from the local airport and your home. If you are using your personal vehicle, your mileage will be reimbursed according to the mileage rate set annually by General Services Administration.

We advise you to travel between the airport and your hotel by taxi. Your driver will not volunteer to give you a receipt, so you must ask for one before you leave the taxi if you want to track your expenses. Taxi rides for official business are reimbursable.

You may submit an itemized list of ground transportation expenses and mileage or provide receipts within two weeks of your visit. Please note that any individual expenses over \$75.00 require a receipt.

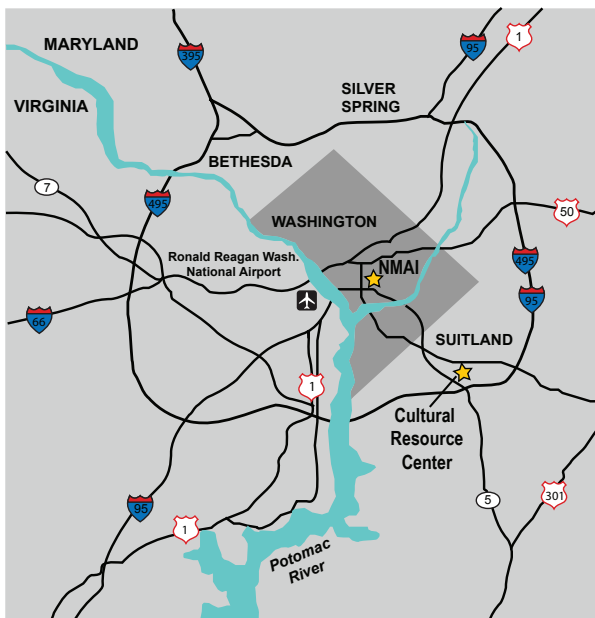
## Directions to the CRC from Downtown Washington, DC

### Via shuttle bus:

The Smithsonian Institution runs an hourly shuttle bus between the National Mall and the CRC. If prior arrangements are made, a NMAI Repatriation Department staff member will meet you at the shuttle stop located at the northwest corner of 4th Street and Independence Avenue, SW. The staff member will provide you with visitor passes and will escort you to the CRC, located on the Suitland campus.

### Via car or taxi:

- Take South Capitol Street southbound out of the city
- After about a mile, take a slight left towards Suitland Parkway. Continue straight onto Suitland Parkway.
- Go 4.3 miles and take the Silver Hill Road exit, westbound. Merge onto Silver Hill Road.
- The CRC is on your right.
- A security booth is located at the gate. Tell the guard you are visiting the NMAI Repatriation Department at the CRC and you will be directed to the right, heading toward the CRC parking lot. After parking, go to the main entrance to check in with security.



Washington, DC, Area Map



NMAI to CRC Shuttle Stop Location Map

## WHAT TO EXPECT DURING YOUR VISIT

A consultation visit begins with a welcome and orientation meeting at the CRC. At this meeting we will discuss your priorities and orient you to the repatriation process at the NMAI. Out of privacy and respect, any more spiritually significant items you requested in advance can be moved from the collections storage area to a private room for closer review.

The human remains and known associated funerary objects within the NMAI collections are stored off-site with other non-NMAI collections at the Smithsonian Institution Museum Support Center (MSC), also located in Suitland, Maryland, per the wishes of the communities who participated in the development and planning of the NMAI. If your delegation chooses to visit the MSC, this can be accommodated.

Repatriation Department staff will be available at all times to note any comments you may provide regarding the role of an item within your tribe, or instructions as to how an item should be stored or handled. We may have questions concerning your tribal history or the geographical areas that were considered primary territory at the time the objects were in use. Sharing this type of information may expedite research on the background of an object and its importance to your tribe. The notes taken during your visit will be treated as sensitive information and will only be shared with critical NMAI staff and the museum's board of trustees (also referred to herein as the board) in a report should a repatriation claim be asserted by the tribe or lineal descendant.

### Ceremonial Accommodation

Visitors who wish to smudge before and/or after the collection review may do so in our indoor or outdoor ceremonial areas.

### Photography and Filming

Photography is permitted during your consultation. Most people who visit the CRC for repatriation consultations bring cameras. The lighting in the collections storage area is low but adequate for photography and video. Images or videos that you may capture during your visit are to be used solely for purposes of presenting them to other tribal members, such as elders who cannot travel, and to aid in repatriation consultations. If you wish, repatriation staff will assist in photography and can provide a digital copy of photographs taken during the consultation visit. If you choose to document your visit using video, we ask that you fill out the visual media release form located in appendix J of this guide.

## STEP THREE: FORMAL REPATRIATION REQUEST

Federally recognized tribes wishing to pursue a repatriation claim must submit a formal written request on tribal letterhead, signed by the tribal representative authorized to act on repatriation matters for the tribe. Lineal descendants must also submit a formal written request, which does not need to be on a tribal letterhead. Examples of formal request letters for repatriating culturally affiliated objects can be found in appendix E of this guide.

A repatriation request should include information from the museum inventory listing, such as the object's catalog number and brief description, the repatriation category under which the object is claimed, why it is claimed under that category, and evidence of cultural affiliation. Repatriation requests should be sent by fax, mail, or e-mail to the repatriation manager (see appendix A for contact information).

After receiving the formal repatriation request, the repatriation manager will send a written acknowledgment to the requestor. The manager will also assess the validity of both the initial evidence provided by the claimant for cultural affiliation or lineal descent and the object's eligibility based on the legally defined repatriation categories. If the request is incomplete, the repatriation manager will contact the requesting tribe or individual for further information and clarification.



## STEP FOUR: REVIEW BY THE NMAI

### RESEARCH AND REPORT

Repatriation claims are assigned to a repatriation research specialist who gathers pertinent information and organizes it into a repatriation research report. The NMAI Act requires the use of the best scientific and historical documentation; the evidence that researchers use includes oral tradition, folklore, linguistics, geography, descent, kinship, archaeology, anthropology, historical patterns of ownership and/or control, expert opinion, and/or other relevant information.

During the research process, it may be determined that other parties may have an interest in the claim. In such cases, the Repatriation Department will notify the original claimant and potentially interested parties to expedite the process and maintain transparency. The potentially interested parties will be provided adequate time and instruction on how to express their interest for the items under claim. The Repatriation Department staff will do its best to facilitate any competing claim through consultation during the research phase, if possible. If competing claims are asserted and not resolved through the report, the NMAI will maintain stewardship until the claimants are able to resolve their differences at a tribal level.

### REVIEW

The final repatriation research report includes a recommendation as to whether the requested object(s) should be deaccessioned for repatriation. The process by which the report and its recommendations are examined, critiqued, and ultimately accepted or denied involves review by select NMAI staff, the Smithsonian's Office of General Counsel when needed, and the NMAI's director. The recommendation is then presented to the board of trustees for final determination.

### BOARD OF TRUSTEES

The board of trustees has the sole authority and formal responsibility for making decisions regarding repatriation of material in the museum's collections. Repatriation cases are heard when the full board convenes, which typically takes place at least twice a year. The NMAI will notify the claimant of the board's decision. If the claim is not approved, the claimant has the right to appeal the decision.

### IN THE EVENT OF AN APPEAL

If the board declines a repatriation claim, the claimant will be notified by letter of their decision. The claimant may appeal their decision by providing additional or new information to an appeals committee. This information will be reviewed and a decision rendered using the process outlined in the NMAI Repatriation Policy, section IV. There is no further appeal beyond the appeals committee.

## STEP FIVE: THE PROCESS OF RETURN

Once a deaccession has been approved by the board, the Repatriation Department will work with the Native community representatives or lineal descendant to make arrangements for the return.

The NMAI makes its best effort to minimize any financial burden on the claimants for the repatriation. This may involve the NMAI shipping and/or escorting material to a location designated by the tribal representatives, or funding two community representatives for up to two days to travel to the CRC for the transfer of objects.

Typically the museum will supply all packing materials and containers. Special wrappings or specific spiritually significant articles (for example, red cloth, sage, cedar, sweetgrass, or other similar materials) may be included at the tribe's or individual's expense.

The museum will not be responsible for any costs for special affairs, religious observances, or other materials or services that the requesting party may deem necessary upon completion of the transfer of repatriated objects to the tribe.

### PESTICIDE TREATMENT AND SAFE HANDLING OF OBJECTS

Some objects in the collection may have been treated with chemical pesticides, a preservation measure often used by museums in the past. Museum records associated with the objects may not indicate whether such treatment actually occurred, and there may be no apparent visual indication of chemical residue or treatment on the objects. Therefore, it is advised that skin protection (latex gloves and frequent skin washing) be used when handling potentially contaminated objects.

If requested by the tribal representative or lineal descendants, the NMAI may be able to test objects for the presence of certain heavy metals, depending on available funding. This testing involves non-invasive surface readings of heavy metals that were commonly used in the past by museums for pest management, namely lead, arsenic, and mercury. Please note that construction materials or environmental contamination may also produce a positive result for the presence of certain heavy metals, separate from possible pesticide applications. Test results will be provided to the tribal representatives.

As a matter of policy, the NMAI does not evaluate the test results for the health effects of any lead, mercury, and arsenic that may be detected on collections objects; we encourage tribes to contact a toxicologist or industrial hygienist for advice on the safety of objects that test positive for those contaminants. At present, the NMAI cannot test for organic pesticide applications or other inorganic pesticides.

Once it has been returned to the tribe, additional protective measures may be warranted, depending on the object's intended use. The elderly, very young, and expectant or nursing mothers should avoid direct skin contact with repatriated objects that have been treated with pesticides. Do not store repatriated objects that have been treated with pesticides near eating utensils or food supplies, or in areas where people regularly eat, sleep, or congregate. Promptly wash exposed skin with hot soapy water after handling or use of repatriated objects that have been treated with pesticides.

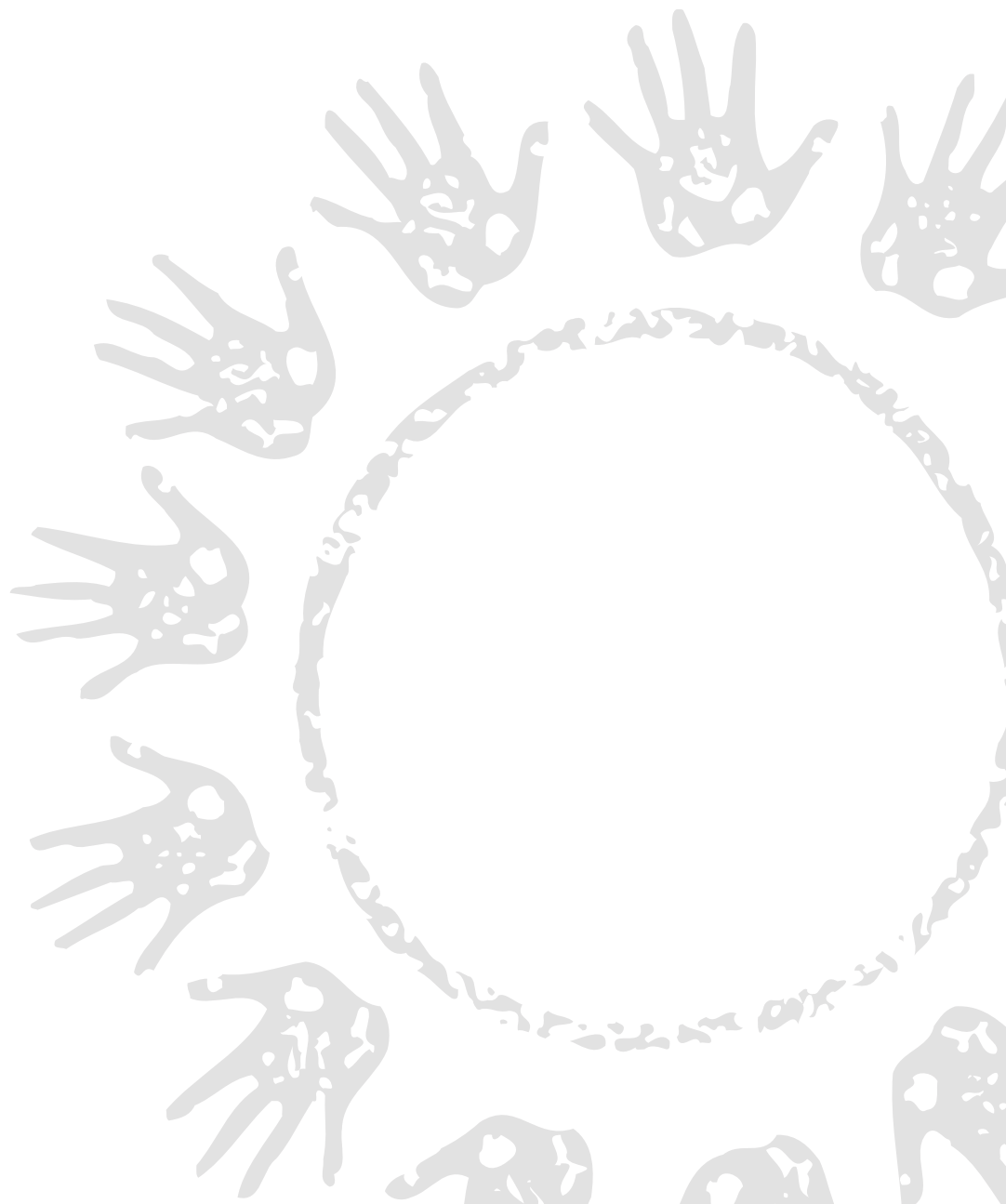
### INDIAN TRIBES THAT ARE NOT FEDERALLY RECOGNIZED AND INDIGENOUS COMMUNITIES OUTSIDE OF THE UNITED STATES

The NMAI Act and its 1996 amendment address repatriation only for federally recognized Native communities, Alaska Native Corporations, and Native Hawaiian organizations within the United States. However, due to the Western Hemispheric scope of NMAI collections and in recognition of the United Nations Declaration on the Rights of Indigenous Peoples, the museum has developed initiatives that expand upon the provisions outlined in the NMAI Act and its 1996 amendment. In the spirit of the domestic repatriation initiative, the NMAI

Repatriation Department actively pursues ways in which to facilitate international repatriation, and will consider repatriation requests for human remains, associated funerary objects, sacred objects, and objects of cultural patrimony by affiliated non-federally recognized United States tribes and indigenous communities outside of the United States. These cases will be evaluated on a case-by-case basis and will be subject to the same thorough research, reporting, and review process as domestic repatriation claims under the NMAI Act.

## THANK YOU

Repatriation is one of the founding tenets of our museum, and the NMAI is proud to be a part of the respectful return of human remains and deeply meaningful objects to their homelands and families. The NMAI hopes this guide assists you in understanding the repatriation process.





## APPENDIX A | NMAI Contact List

### REPATRIATION INQUIRIES MAY BE MADE BY MAIL, TELEPHONE, FAX, OR EMAIL TO:

Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863  
Repatriation Manager: 301-238-1548  
Repatriation Coordinator: 301-238-1554  
Fax: 301-238-3200  
Email: [NMAI-Repatriation@si.edu](mailto:NMAI-Repatriation@si.edu)  
Web: [AmericanIndian.si.edu/explore/collections/repatriation](http://AmericanIndian.si.edu/explore/collections/repatriation)

### NON-REPATRIATION INQUIRIES FOR COLLECTION VISITS OR INFORMATION ABOUT PARTICULAR COLLECTION OBJECTS MAY BE ADDRESSED TO:

Collections Management Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863  
Email (preferred): [NMAICollections@si.edu](mailto:NMAICollections@si.edu)  
Telephone: 301-238-1456  
Fax: 301-238-3210

### NON-REPATRIATION REQUESTS FOR PHOTOGRAPHS OR ARCHIVAL DOCUMENTS SHOULD BE DIRECTED TO:

Archives Center  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863  
Email: [NMAIArchives@si.edu](mailto:NMAIArchives@si.edu)  
Web: [AmericanIndian.si.edu/explore/collections/archive/](http://AmericanIndian.si.edu/explore/collections/archive/)

### PHOTO INQUIRIES/PERMISSION REQUESTS:

Email: [NMAIPhotos@si.edu](mailto:NMAIPhotos@si.edu)  
Telephone: 301-238-1400  
Fax: 301-238-3038

### FOR SAFE HANDLING MEASURES:

For assistance with safe handling measures such as cleaning or storage of repatriated objects, or for additional pesticide testing not available at the NMAI, a Native community may wish to contact a university or the conservation department of a museum. A Native community may also seek advice or referral at:

Office for Safety, Health, and Environmental Management  
Smithsonian Institution  
Capital Gallery Building  
600 Maryland Ave. SW, Suite 7106  
Washington, DC 20024  
Telephone: 202-633-2530  
Fax: 202-633-2683

## APPENDIX B | Request for Information Sample Letters

Tribal communities and lineal descendants who are interested in repatriation and would like to receive information about the NMAI's collections of affiliated materials may contact the Repatriation Department.

**Tribal requests for information should:**

- be addressed to the Repatriation Department;
- include the name of your tribe;
- include complete contact information for the recipient;
- include any variations of the tribal name(s) (e.g., Mewuk and Miwok);
- specify any particular type(s) of objects of interest by name, for ethnology inventories; and
- provide information on the counties/areas of interest to your tribe, or the specific site name(s) of interest, for archaeological inventories.

**Lineal descendant requests for information should:**

- be addressed to the Repatriation Department;
- include the complete name and contact information of the lineal descendant;
- provide the name and description of the object(s) being requested;
- identify how the lineal descendant is related to the person who owned or cared for the object(s); and
- include the applicant's tribal affiliation, if applicable.



## SAMPLE LETTER | Tribal Request for Information from Repatriation Officer

*Alphabet Tribe of South Dakota  
Alphabet Tribal Council Building  
123 Main Street  
Anytown, South Dakota 57000  
605-123-4567*

September 26, 2014

Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Repatriation Manager:

On behalf of the Alphabet Tribe, I am requesting any ethnographic and archaeological information for human remains and cultural objects affiliated with our tribe. Query searches may be done for “Alphabet Tribe” as well as “Letters Tribe,” which are other historical names for our tribe. Our ancestral and historic tribal territories include A, B, C, D, E, F, and G counties of South Dakota.

If you have questions please contact me at 605-123-4567 x 123 or by e-mail at [bluej@AlphabetTribeSD.gov](mailto:bluej@AlphabetTribeSD.gov).

Thank you for your assistance.

Sincerely,

Jane Blue, Repatriation Officer  
Alphabet Tribe of South Dakota

cc: George Black, Tribal Chair, Alphabet Tribe of South Dakota

## SAMPLE LETTER | Lineal Descendant Request for Information

September 26, 2014

Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Sir or Madam,

My name is Jack Doe and I am a member of the Alphabet Tribe of South Dakota. I have recently learned that the National Museum of the American Indian may be in possession of my great-grandfather's medicine pipe. My great-grandfather's name was John Doe. I respectfully request a full inventory of any items associated with John Doe from the Alphabet Tribe of South Dakota.

Sincerely,

Jack Doe  
4545 Pine Street  
Anytown, South Dakota 57000  
605-123-7890 home  
605-123-9870 cell  
JDoe@yahoo.com

## APPENDIX C | Official Designation of Tribal Repatriation Representative Sample Letter

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**Official Designation of Tribal Repatriation Representative should:**

- be on tribal letterhead and addressed to the Repatriation Department (alternatively, you may provide a copy of the tribal resolution that identifies a repatriation representative);
- be written by the head of the tribal government; and
- provide the name and title of the individual who may conduct repatriation business on behalf of the tribe.



## SAMPLE LETTER | Official Designation of Tribal Repatriation Representative

*Alphabet Tribe of South Dakota  
Alphabet Tribal Council Building  
123 Main Street  
Anytown, South Dakota 57000  
605-123-4567*

September 26, 2014

Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Repatriation Manager:

As Chair of the Alphabet Tribe of South Dakota, I have designated Jane Blue, Repatriation Officer, to represent our tribe in all matters pertaining to repatriation. She will be contacting you soon to inquire about the human remains and/or cultural objects in your collection affiliated with our tribe.

Thank you for your attention and assistance.

Sincerely,

George Black, Tribal Chair  
Alphabet Tribe of South Dakota

cc: Jane Blue, Repatriation Officer, Alphabet Tribe of South Dakota

## APPENDIX D | Request for Repatriation Consultation and Collection Review Sample Letters

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### **Tribal requests for a repatriation consultation and collection review should:**

- be submitted on official tribal letterhead by the head of the tribal government or designated tribal representative;
- be addressed to the Repatriation Department manager;
- include a list of the objects the representatives would like to review, indentifying the objects that you consider a priority for viewing, with their associated museum catalog numbers and/or highlighted inventory listings;
- include any protocols that should be observed (e.g., covered with muslin, male/female handling only, etc.);
- provide the name and best contact information for all representatives who have been designated to be part of the delegation;
- include a proposed date or date range for the consultation;
- list any special accommodations needed for consultation representatives; and
- include a request for a joint consultation with the NMNH, if applicable.

### **Lineal descendant requests should:**

- include a list of the objects the lineal descendant would like to review, identifying the objects that you consider a priority for viewing, with their associated museum catalog numbers and/or highlighted inventory listings;
- include any protocols that should be observed (e.g., covered with muslin, male/female handling only, etc.);
- provide the lineal descendant's best contact information;
- include a proposed date or date range for the consultation;
- list any special accommodations needed for the lineal descendant; and
- include a family genealogy and any other supporting documentation establishing the lineal descendant's relationship to the objects being considered, if not already provided.

## SAMPLE LETTER | Tribal Request for Repatriation Consultation and Collections Review

*Alphabet Tribe of South Dakota  
123 Main Street  
Anytown, South Dakota 57000  
605-123-4567*

September 26, 2014

Repatriation Manager  
Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Repatriation Manager:

On behalf of the Alphabet Tribe of South Dakota, I would like to request a repatriation consultation with the National Museum of the American Indian in mid-to-late December 2014. I will be accompanied by Joseph Green, traditional religious leader, to discuss the repatriation process and view objects affiliated with our tribe and traditional territory. We will be prepared to view all of the objects listed on the inventories previously sent. In addition, we would like to view the enclosed highlighted items in a ceremonial space if possible. Please contact me by phone at 605-123-4567 x 123 or by e-mail at [bluej@AlphabetTribeSD.gov](mailto:bluej@AlphabetTribeSD.gov) to confirm the dates or make other arrangements.

Thank you for your assistance.

Sincerely,

Jane Blue, Repatriation Officer  
Alphabet Tribe of South Dakota

Enclosure

cc: George Black, Chair, Alphabet Tribe of South Dakota

## SAMPLE LETTER | Lineal Descendant Request for Repatriation Consultation and Collections Review

September 26, 2014

Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Sir or Madam,

I would like to request a repatriation consultation with the National Museum of the American Indian to review the medicine pipe of my great-grandfather, John Doe, from the Alphabet Tribe. As requested, I have enclosed my family genealogy paperwork and an explanation of how I have been given the responsibility for carrying on the healing ceremony associated with this pipe. In addition, I have asked my brother, James Doe, to accompany me on this consultation to discuss the repatriation process for lineal descendants and to view the pipe in person.

Sincerely,

Jack Doe  
4545 Pine Street  
Anytown, South Dakota 57000  
605-123-7890 home  
605-123-9870 cell  
JDoe@yahoo.com

## APPENDIX E | Repatriation Claim Requests for Human Remains, Funerary Objects, Sacred Objects, or Objects of Cultural Patrimony Sample Letters

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### **Tribal claim letters should:**

- be submitted on official tribal letterhead by the head of the tribal government or designated tribal representative;
- be addressed to the Repatriation Department manager;
- include the best contact information for the designated repatriation representative, if not already provided;
- provide the specific catalog number and description of claimed object(s);
- include the evidence for cultural affiliation to the tribe;
- list the category under which the tribe is requesting repatriation (human remains, associated or unassociated funerary object, sacred object, object of cultural patrimony); and
- provide a detailed explanation of how and why each item meets the definition of its respective category.

### **Lineal descendant claim letters must include:**

- a family genealogy and any other supporting documentation establishing the lineal descendant's relationship to objects being considered, if this information has not already been provided;
- the specific catalog numbers and objects being requested; and
- the category under which the lineal descendant is requesting repatriation (human remains, associated or unassociated funerary object, or sacred object) with a detailed explanation for claiming each item under its respective category as a lineal descendant.



## SAMPLE LETTER | Tribal Request for Repatriation

*Alphabet Tribe of South Dakota  
123 Main Street  
Anytown, South Dakota 57000  
605-123-4567*

September 26, 2014

Repatriation Manager  
Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Repatriation Manager:

The Alphabet Tribe of South Dakota formally requests the repatriation of NMAI 123456.000, 234567.000, and 456789.0000 from the National Museum of the American Indian as sacred objects and objects of cultural patrimony:

Catalog Number	Object Name/Description	Claim Category
123456.000	Stone pipe with wooden stem	Cultural patrimony and sacred objects
234567.000	Stone pipe with wooden stem	Cultural patrimony and sacred objects
456789.000	Ceremonial staff	Cultural patrimony and sacred objects

These pipes and staff are all part of the traditional kit of one of the oldest men's societies of the Alphabet Tribe. The role of the society was to help boys grow to responsible manhood. It was active for over 200 years and declined when the reservations were established and many of our holiest possessions were taken from us. The items we are claiming could only have been taken from the tribe wrongfully because they were owned by the society as a whole, and not by any individual tribal member. The return of these sacred and patrimonial objects would allow us to continue the ceremonial responsibilities of this society.

Please direct any inquiries directly to me at 605-123-4567 x 123 or by e-mail at [bluej@AlphabetTribeSD.gov](mailto:bluej@AlphabetTribeSD.gov). Thank you for your attention to our request.

Sincerely,

Jane Blue, Repatriation Officer  
Alphabet Tribe of South Dakota

Enclosure

cc: George Black, Chair, Alphabet Tribe of South Dakota

## SAMPLE LETTER | Lineal Request for Repatriation

September 26, 2014

Repatriation Manager, Repatriation Department  
National Museum of the American Indian  
Smithsonian Institution  
Cultural Resources Center  
4220 Silver Hill Road  
Suitland, MD 20746-2863

Dear Repatriation Manager:

Please consider this a formal repatriation request for the medicine pipe of my great-grandfather, John Doe, from the Alphabet Tribe of South Dakota. I am requesting NMAI 123456.000, a medicine pipe, as a sacred object, used by my great-grandfather as part of a medicine rite.

It is well known in the Doe family that my great-grandfather's medicine pipe was sold by an individual who did not have the right to sell it upon his death. After consultation with the Repatriation Department staff and viewing of the pipe, I have verified that this is my great-grandfather's pipe. NMAI archival records have confirmed that Mr. John Smith collected material from the Alphabet tribe and purchased this pipe while he was visiting the reservation. He eventually sold his entire collection to George Gustav Heye in 1945.

I have inherited the rights to conduct this healing ceremony and it is important to me and to my family that my great-grandfather's pipe is returned so that I can continue to conduct these healing ceremonies.

Please contact me at the information below if you have any questions.

Sincerely,

Jack Doe  
4545 Pine Street  
Anytown, South Dakota 57000  
605-123-7890 home  
605-123-9870 cell  
JDoe@yahoo.com

## APPENDIX F | The National Museum of the American Indian Act and Amendment

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Public Law 101-185  
101st Congress

An Act

Nov. 28, 1989  
[S. 978]

To establish the National Museum of the American Indian within the Smithsonian Institution, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Museum of the American Indian Act”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas;

(2) although the Smithsonian Institution sponsors extensive Native American programs, none of its 19 museums, galleries, and major research facilities is devoted exclusively to Native American history and art;

(3) the Heye Museum in New York, New York, one of the largest Native American collections in the world, has more than 1,000,000 art objects and artifacts and a library of 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(4) the Heye Museum is housed in facilities with a total area of 90,000 square feet, but requires a minimum of 400,000 square feet for exhibition, storage, and scholarly research;

(5) the bringing together of the Heye Museum collection and the Native American collection of the Smithsonian Institution would—

(A) create a national institution with unrivaled capability for exhibition and research;

(B) give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans;

(C) provide facilities for scholarly meetings and the performing arts;

(D) make available curatorial and other learning opportunities for Indians; and

(E) make possible traveling exhibitions to communities throughout the Nation;

(6) by order of the Surgeon General of the Army, approximately 4,000 Indian human remains from battlefields and burial sites were sent to the Army Medical Museum and were later transferred to the Smithsonian Institution;

(7) through archaeological excavations, individual donations, and museum donations, the Smithsonian Institution has acquired approximately 14,000 additional Indian human remains;

(8) the human remains referred to in paragraphs (6) and (7) have long been a matter of concern for many Indian tribes,

National  
Museum of the  
American  
Indian Act.  
Public buildings  
and grounds.  
Historic  
preservation.  
District of  
Columbia.  
New York.  
20 USC 80q note.  
20 USC 80q.

including Alaska Native Villages, and Native Hawaiian communities which are determined to provide an appropriate resting place for their ancestors;

(9) identification of the origins of such human remains is essential to addressing that concern; and

(10) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) is reserved for the use of the Smithsonian Institution and is available for construction of the National Museum of the American Indian.

**SEC. 3. NATIONAL MUSEUM OF THE AMERICAN INDIAN.**

20 USC 80q-1.

(a) **ESTABLISHMENT.**—There is established, within the Smithsonian Institution, a living memorial to Native Americans and their traditions which shall be known as the “National Museum of the American Indian”.

(b) **PURPOSES.**—The purposes of the National Museum are to—

(1) advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life;

(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest;

(3) provide for Native American research and study programs; and

(4) provide for the means of carrying out paragraphs (1), (2), and (3) in the District of Columbia, the State of New York, and other appropriate locations.

**SEC. 4. AUTHORITY OF THE BOARD OF REGENTS TO ENTER INTO AN AGREEMENT PROVIDING FOR TRANSFER OF HEYE FOUNDATION ASSETS TO THE SMITHSONIAN INSTITUTION.**

20 USC 80q-2.

The Board of Regents is authorized to enter into an agreement with the Heye Foundation, to provide for the transfer to the Smithsonian Institution of title to the Heye Foundation assets. The agreement shall—

(1) require that the use of the assets be consistent with section 3(b); and

(2) be governed by, and construed in accordance with, the law of the State of New York.

The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over any cause of action arising under the agreement.

Courts, U.S.

**SEC. 5. BOARD OF TRUSTEES OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN.**

20 USC 80q-3.

(a) **IN GENERAL.**—The National Museum shall be under a Board of Trustees with the duties, powers, and authority specified in this section.

(b) **GENERAL DUTIES AND POWERS.**—The Board of Trustees shall—

(1) recommend annual operating budgets for the National Museum to the Board of Regents;

(2) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum;

(3) adopt bylaws for the Board of Trustees;

(4) designate a chairman and other officers from among the members of the Board of trustees; and



## Reports.

(5) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other appropriate matters.

## Gifts and property.

(c) **SOLE AUTHORITY.**—Subject to the general policies of the Board of Regents, the Board of Trustees shall have the sole authority to—

(1) lend, exchange, sell, or otherwise dispose of any part of the collections of the National Museum, with the proceeds of such transactions to be used for additions to the collections of the National Museum or additions to the endowment of the National Museum, as the case may be;

(2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the National Museum; and

(3) specify criteria for use of the collections of the National Museum for appropriate purposes, including research, evaluation, education, and method of display.

(d) **AUTHORITY.**—Subject to the general policies of the Board of Regents, the Board of Trustees shall have authority to—

(1) provide for restoration, preservation, and maintenance of the collections of the National Museum;

(2) solicit funds for the National Museum and determine the purposes to which such funds shall be applied; and

(3) approve expenditures from the endowment of the National Museum for any purpose of the Museum.

(e) **INITIAL APPOINTMENTS TO THE BOARD OF TRUSTEES.**—

(1) **MEMBERSHIP.**—The initial membership of the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents;

(C) 8 individuals appointed by the Board of Regents; and

(D) 15 individuals, each of whom shall be a member of the board of trustees of the Heye Museum, appointed by the Board of Regents from a list of nominees recommended by the board of trustees of the Heye Museum.

(2) **SPECIAL RULE.**—At least 7 of the 23 members appointed under subparagraphs (C) and (D) of paragraph (1) shall be Indians.

(3) **TERMS.**—The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. The terms of the trustees appointed under subparagraph (C) or (D) of paragraph (1) shall be 3 years, beginning on the date of the transfer of the Heye Foundation assets to the Smithsonian Institution.

(4) **VACANCIES.**—Any vacancy shall be filled only for the remainder of the term involved. Any vacancy appointment under paragraph (1)(D) shall not be subject to the source and recommendation requirements of that paragraph, but shall be subject to paragraph (2).

(f) **SUBSEQUENT APPOINTMENTS TO THE BOARD OF TRUSTEES.**—

(1) **MEMBERSHIP.**—Upon the expiration of the terms under subsection (e), the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents; and

(C) 23 individuals appointed by the Board of Regents from a list of nominees recommended by the Board of Trustees.

(2) **SPECIAL RULE.**—A least 12 of the 23 members appointed under paragraph (1)(C) shall be Indians.

(3) **TERMS.**—The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. Except as otherwise provided in the next sentence, the terms of members appointed under paragraph (1)(C) shall be 3 years. Of the members first appointed under paragraph (1)(C)—

(A) 7 members, 4 of whom shall be Indians, shall be appointed for a term of one year, as designated at the time of appointment; and

(B) 8 members, 4 of whom shall be Indians, shall be appointed for a term of 2 years, as designated at the time of appointment.

(4) **VACANCIES.**—Any vacancy shall be filled only for the remainder of the term involved.

(g) **QUORUM.**—A majority of the members of the Board of Trustees then in office shall constitute a quorum.

(h) **EXPENSES.**—Members of the Board shall be entitled (to the same extent as provided in section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses for each day (including travel time) during which they are engaged in the performance of their duties.

#### SEC. 6. DIRECTOR AND STAFF OF THE NATIONAL MUSEUM.

20 USC 80q-4.

(a) **IN GENERAL.**—The Secretary of the Smithsonian Institution shall appoint—

(1) a Director who, subject to the policies of the Board of Trustees, shall manage the National Museum; and

(2) other employees of the National Museum, to serve under the Director.

(b) **OFFER OF EMPLOYMENT TO HEYE FOUNDATION EMPLOYEES.**—Each employee of the Heye Museum on the day before the date of the transfer of the Heye Foundation assets to the Smithsonian Institution shall be offered employment with the Smithsonian Institution—

(1) under the usual terms of such employment; and

(2) at a rate of pay not less than the rate applicable to the employee on the day before the date of the transfer.

(c) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The Secretary may—

(1) appoint the Director, 2 employees under subsection (a)(2), and the employees under subsection (b) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

(2) fix the pay of the Director and such 2 employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates; and

(3) fix the pay of the employees under subsection (b) in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, subject to subsection (b)(2).

#### SEC. 7. MUSEUM FACILITIES.

20 USC 80q-5.

(a) **NATIONAL MUSEUM MALL FACILITY.**—The Board of Regents shall plan, design, and construct a facility on the area bounded by

Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia to house the portion of the National Museum to be located in the District of Columbia. The Board of Regents shall pay not more than  $\frac{2}{3}$  of the total cost of planning, designing, and constructing the facility from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(b) NATIONAL MUSEUM HEYE CENTER FACILITY.—

(1) LEASE OF SPACE FROM GSA.—

(A) TERMS.—Notwithstanding section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j)), the Administrator of General Services may lease, at a nominal charge, to the Smithsonian Institution space in the Old United States Custom House at One Bowling Green, New York, New York, to house the portion of the National Museum to be located in the city of New York. The lease shall be subject to such terms as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution. The term of the lease shall not be less than 99 years.

(B) REIMBURSEMENT OF FEDERAL BUILDINGS FUND.—The Administrator of General Services may reimburse the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) for the difference between the amount charged to the Smithsonian Institution for leasing space under this paragraph and the commercial charge under section 210(j) of such Act which, but for this paragraph, would apply to the leasing of such space. There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subparagraph for fiscal years beginning after September 30, 1990.

(2) CONSTRUCTION.—

(A) MUSEUM FACILITY.—The Board of Regents shall plan, design, and construct a significant facility for the National Museum in the space leased under paragraph (1).

(B) AUDITORIUM AND LOADING DOCK FACILITY.—The Administrator of General Services shall plan, design, and construct an auditorium and loading dock in the Old United States Custom House at One Bowling Green, New York, New York, for the shared use of all the occupants of the building, including the National Museum.

(C) SQUARE FOOTAGE.—The facilities to be constructed under this paragraph shall have, in the aggregate, a total square footage of approximately 82,500 square feet.

(3) REPAIRS AND ALTERATIONS.—After construction of the facility under paragraph (2)(A), repairs and alterations of the facility shall be the responsibility of the Board of Regents.

(4) REIMBURSEMENT OF GSA.—The Board of Regents shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services incurred with respect to the space leased under paragraph (1) and the full cost of any repairs or alterations made by the General Services Administration at the request of the Smithsonian Institution with respect to the space.

(5) COST SHARING.—

Appropriation  
authorization.

(A) **GENERAL RULES.**—The Board of Regents shall pay  $\frac{1}{3}$  of the costs of planning, designing, and constructing the facility under paragraph (2)(A) from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(B) **RESPONSIBILITIES OF NEW YORK CITY AND STATE.**—Of the costs which are required to be paid from non-Federal sources under this paragraph, the city of New York, New York, and the State of New York have each agreed to pay \$8,000,000 or an amount equal to  $\frac{1}{3}$  of the costs of planning, designing, and constructing the facility under paragraph (2)(A), whichever is less. Such payments shall be made to the Board of Regents in accordance with a payment schedule to be agreed upon by the city and State and the Board of Regents.

(C) **LIMITATION ON OBLIGATIONS OF FEDERAL FUNDS.**—Federal funds may not be obligated for actual construction of a facility under paragraph (2)(A) in a fiscal year until non-Federal sources have paid to the Board of Regents the non-Federal share of such costs which the Board of Regents estimates will be incurred in such year.

(6) **DESIGNATION.**—The facility to be constructed under paragraph (2)(A) shall be known and designated as the “George Gustav Heye Center of the National Museum of the American Indian”.

(c) **MUSEUM SUPPORT CENTER FACILITY.**—The Board of Regents shall plan, design, and construct a facility for the conservation and storage of the collections of the National Museum at the Museum Support Center of the Smithsonian Institution.

(d) **MINIMUM SQUARE FOOTAGE.**—The facilities to be constructed under this section shall have, in the aggregate, a total square footage of at least 400,000 square feet.

(e) **AUTHORITY TO CONTRACT WITH GSA.**—The Board of Regents and the Administrator of General Services may enter into such agreements as may be necessary for planning, designing, and constructing facilities under this section (other than subsection (b)(2)(B)). Under such agreements, the Board of Regents shall transfer to the Administrator, from funds available for planning, designing, and constructing such facilities, such amounts as may be necessary for expenses of the General Services Administration with respect to planning, designing, and constructing such facilities.

(f) **LIMITATION ON OBLIGATION OF FEDERAL FUNDS.**—Notwithstanding any other provision of this Act, funds appropriated for carrying out this section may not be obligated for actual construction of any facility under this section until the 60th day after the date on which the Board of Regents transmits to Congress a written analysis of the total estimated cost of the construction and a cost-sharing plan projecting the amount for Federal appropriations and for non-Federal contributions for the construction on a fiscal year basis.

#### SEC. 8. CUSTOM HOUSE OFFICE SPACE AND AUDITORIUM.

20 USC 80q-6.

(a) **REPAIRS AND ALTERATIONS.**—The Administrator of General Services shall make such repairs and alterations as may be necessary in the portion of the Old United States Custom House at One Bowling Green, New York, New York, which is not leased to the Board of Regents under section 7(b) and which, as of the date of the enactment of this Act, has not been altered.

(b) **AUTHORIZATION OF APPROPRIATION.**—There is authorized to be appropriated to the Administrator of General Services \$25,000,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) to carry out this section and section 7(b)(2)(B).

20 USC 80q-7.

**SEC. 9. AUDUBON TERRACE.**

(a) **IN GENERAL.**—The Board of Regents shall—

(1) assure that, on the date on which a qualified successor to the Heye Foundation at Audubon Terrace first takes possession of Audubon Terrace, an area of at least 2,000 square feet at that facility is accessible to the public and physically suitable for exhibition of museum objects and for related exhibition activities;

(2) upon written agreement between the Board and any qualified successor, lend objects from the collections of the Smithsonian Institution to the successor for exhibition at Audubon Terrace; and

(3) upon written agreement between the Board and any qualified successor, provide training, scholarship, technical, and other assistance (other than operating funds) with respect to the area referred to in paragraph (1) for the purposes described in that paragraph.

(b) **DETERMINATION OF CHARGES.**—Any charge by the Board of Regents for activities pursuant to agreements under paragraph (2) or (3) of subsection (a) shall be determined according to the ability of the successor to pay.

(c) **DEFINITION.**—As used in this section, the terms “qualified successor to the Heye Foundation at Audubon Terrace”, “qualified successor”, and, “successor” mean an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code, that, as determined by the Board of Regents—

(1) is a successor occupant to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York;

(2) is qualified to operate the area referred to in paragraph (1) for the purposes described in that paragraph; and

(3) is committed to making a good faith effort to respond to community cultural interests in such operation.

20 USC 80q-8.

**SEC. 10. BOARD OF REGENTS FUNCTIONS WITH RESPECT TO CERTAIN AGREEMENTS AND PROGRAMS.**

(a) **PRIORITY TO BE GIVEN TO INDIAN ORGANIZATIONS WITH RESPECT TO CERTAIN AGREEMENTS.**—In entering into agreements with museums and other educational and cultural organizations to—

(1) lend Native American artifacts and objects from any collection of the Smithsonian Institution;

(2) sponsor or coordinate traveling exhibitions of artifacts and objects; or

(3) provide training or technical assistance;

the Board of Regents shall give priority to agreements with Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Such agreements may provide that loans or services to such organizations may be furnished by the Smithsonian Institution at minimal or no cost.

(b) **INDIAN PROGRAMS.**—The Board of Regents may establish—



- (1) programs to serve Indian tribes and communities; and
- (2) in cooperation with educational institutions, including tribally controlled community colleges (as defined in section 2 of the Tribally Controlled Community College Assistance Act of 1978), programs to enhance the opportunities for Indians in the areas of museum studies, management, and research.

Schools and colleges.

(c) **INDIAN MUSEUM MANAGEMENT FELLOWSHIPS.**—The Board of Regents shall establish an Indian Museum Management Fellowship program to provide stipend support to Indians for training in museum development and management.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$2,000,000 for each fiscal year, beginning with fiscal year 1991, to carry out subsections (b) and (c).

**SEC. 11. INVENTORY, IDENTIFICATION, AND RETURN OF INDIAN HUMAN REMAINS AND INDIAN FUNERARY OBJECTS IN THE POSSESSION OF THE SMITHSONIAN INSTITUTION.**

20 USC 80q-9.

(a) **INVENTORY AND IDENTIFICATION.**—The Secretary of the Smithsonian Institution, in consultation and cooperation with traditional Indian religious leaders and government officials of Indian tribes, shall—

(1) inventory the Indian human remains and Indian funerary objects in the possession or control of the Smithsonian Institution; and

(2) using the best available scientific and historical documentation, identify the origins of such remains and objects.

(b) **NOTICE IN CASE OF IDENTIFICATION OF TRIBAL ORIGIN.**—If the tribal origin of any Indian human remains or Indian funerary object is identified by a preponderance of the evidence, the Secretary shall so notify any affected Indian tribe at the earliest opportunity.

(c) **RETURN OF INDIAN HUMAN REMAINS AND ASSOCIATED INDIAN FUNERARY OBJECTS.**—If any Indian human remains are identified by a preponderance of the evidence as those of a particular individual or as those of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the descendants of such individual or of the Indian tribe shall expeditiously return such remains (together with any associated funerary objects) to the descendants or tribe, as the case may be.

(d) **RETURN OF INDIAN FUNERARY OBJECTS NOT ASSOCIATED WITH INDIAN HUMAN REMAINS.**—If any Indian funerary object not associated with Indian human remains is identified 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, the Secretary, upon the request of the Indian tribe, shall expeditiously return such object to the tribe.

(e) **INTERPRETATION.**—Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate Indian human remains or Indian funerary objects to Indian tribes or individuals; or

(2) delaying actions on pending repatriation requests, denying or otherwise affecting access to the courts, or limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

20 USC 80q-10. SEC. 12. SPECIAL COMMITTEE TO REVIEW THE INVENTORY, IDENTIFICATION, AND RETURN OF INDIAN HUMAN REMAINS AND INDIAN FUNERARY OBJECTS.

(a) **ESTABLISHMENT; DUTIES.**—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Smithsonian Institution shall appoint a special committee to monitor and review the inventory, identification, and return of Indian human remains and Indian funerary objects under section 11. In carrying out its duties, the committee shall—

(1) with respect to the inventory and identification, ensure fair and objective consideration and assessment of all relevant evidence;

(2) upon the request of any affected party or otherwise, review any finding relating to the origin or the return of such remains or objects;

(3) facilitate the resolution of any dispute that may arise between Indian tribes with respect to the return of such remains or objects; and

(4) perform such other related functions as the Secretary may assign.

(b) **MEMBERSHIP.**—The committee shall consist of five members, of whom—

(1) three members shall be appointed from among nominations submitted by Indian tribes and organizations; and

(2) the Secretary shall designate one member as chairman. The Secretary may not appoint to the committee any individual who is an officer or employee of the Government (including the Smithsonian Institution) or any individual who is otherwise affiliated with the Smithsonian Institution.

(c) **ACCESS.**—The Secretary shall ensure that the members of the committee have full and free access to the Indian human remains and Indian funerary objects subject to section 11 and to any related evidence, including scientific and historical documents.

(d) **PAY AND EXPENSES OF MEMBERS.**—Members of the committee shall—

(1) be paid the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General schedule under section 5332 of title 5, United States Code; and

(2) be entitled (to the same extent as provided in section 5703 of such title, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses;

for each day (including travel time) during which they are engaged in the performance of their duties.

**Regulations.**

(e) **RULES AND ADMINISTRATIVE SUPPORT.**—The Secretary shall prescribe regulations and provide administrative support for the committee.

(f) **REPORT AND TERMINATION.**—At the conclusion of the work of the committee, the Secretary shall so certify by report to the Congress. The committee shall cease to exist 120 days after the submission of the report.

(g) **NONAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the committee.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$250,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

**SEC. 13. INVENTORY, IDENTIFICATION, AND RETURN OF NATIVE HAWAIIAN HUMAN REMAINS AND NATIVE HAWAIIAN FUNERARY OBJECTS IN THE POSSESSION OF THE SMITHSONIAN INSTITUTION.**

20 USC 80q-11.

(a) **IN GENERAL.**—The Secretary of the Smithsonian Institution shall—

(1) in conjunction with the inventory and identification under section 11, inventory and identify the Native Hawaiian human remains and Native Hawaiian funerary objects in the possession of the Smithsonian Institution;

(2) enter into an agreement with appropriate Native Hawaiian organizations with expertise in Native Hawaiian affairs (which may include the Office of Hawaiian Affairs and the Malama I Na Kupuna O Hawai'i Nei) to provide for the return of such human remains and funerary objects; and

Contracts.

(3) to the greatest extent practicable, apply, with respect to such human remains and funerary objects, the principles and procedures set forth in sections 11 and 12 with respect to the Indian human remains and Indian funerary objects in the possession of the Smithsonian Institution.

(b) **DEFINITIONS.**—As used in this section—

(1) the term “Malama I Na Kupuna O Hawai'i Nei” means the nonprofit, Native Hawaiian organization, incorporated under the laws of the State of Hawaii by that name on April 17, 1989, the purpose of which is to provide guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues; and

(2) the term “Office of Hawaiian Affairs” means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

**SEC. 14. GRANTS BY THE SECRETARY OF THE INTERIOR TO ASSIST INDIAN TRIBES WITH RESPECT TO AGREEMENTS FOR THE RETURN OF INDIAN HUMAN REMAINS AND INDIAN FUNERARY OBJECTS.**

20 USC 80q-12.

(a) **IN GENERAL.**—The Secretary of the Interior may make grants to Indian tribes to assist such tribes in reaching and carrying out agreements with—

(1) the Board of Regents for the return of Indian human remains and Indian funerary objects under section 11; and

(2) other Federal and non-Federal entities for additional returns of Indian human remains and Indian funerary objects.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years for grants under subsection (a).

**SEC. 15. GRANTS BY THE SECRETARY OF THE INTERIOR TO ASSIST INDIAN ORGANIZATIONS WITH RESPECT TO RENOVATION AND REPAIR OF MUSEUM FACILITIES AND EXHIBIT FACILITIES.**

20 USC 80q-13.

(a) **GRANTS.**—The Secretary of the Interior may make grants to Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives, for renovation and repair of museum facilities and exhibit facilities to enable

such organizations to exhibit objects and artifacts on loan from the collections of the Smithsonian Institution or from other sources. Such grants may be made only from the Tribal Museum Endowment Fund.

(b) INDIAN ORGANIZATION CONTRIBUTION.—In making grants under subsection (a), the Secretary may require the organization receiving the grant to contribute, in cash or in kind, not more than 50 percent of the cost of the renovation or repair involved. Such contribution may be derived from any source other than the Tribal Museum Endowment Fund.

(c) TRIBAL MUSEUM ENDOWMENT FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a fund, to be known as the “Tribal Museum Endowment Fund” (hereinafter in this subsection referred to as the “Fund”) for the purpose of making grants under subsection (a). The Fund shall consist of (A) amounts deposited and credited under paragraph (2), (B) obligations obtained under paragraph (3), and (C) amounts appropriated pursuant to authorization under paragraph (5).

Gifts and  
property.

(2) DEPOSITS AND CREDITS.—The Secretary of the Interior is authorized to accept contributions to the Fund from non-Federal sources and shall deposit such contributions in the Fund. The Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from sale and redemption of, obligations held in the Fund.

(3) INVESTMENTS.—The Secretary of the Treasury may invest any portion of the Fund in interest-bearing obligations of the United States. Such obligations may be acquired on original issue or in the open market and may be held to maturity or sold in the open market. In making investments for the Fund, the Secretary of the Treasury shall consult the Secretary of the Interior with respect to maturities, purchases, and sales, taking into consideration the balance necessary to meet current grant requirements.

(4) EXPENDITURES AND CAPITAL PRESERVATION.—Subject to appropriation, amounts derived from interest shall be available for expenditure from the Fund. The capital of the Fund shall not be available for expenditure.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund \$2,000,000 for each fiscal year beginning with fiscal year 1992.

(d) ANNUAL REPORT.—Not later than January 31 of each year, the Secretary of the Interior, in consultation with the Secretary of the Treasury, shall submit to the Congress a report of activities under this section, including a statement of—

(1) the financial condition of the Fund as of the end of the preceding fiscal year, with an analysis of the Fund transactions during that fiscal year; and

(2) the projected financial condition of the Fund, with an analysis of expected Fund transactions for the six fiscal years after that fiscal year.

20 USC 80q-14. SEC. 16. DEFINITIONS.

As used in this Act—

(1) the term “Board of Regents” means the Board of Regents of the Smithsonian Institution;

(2) the term “Board of Trustees” means the Board of Trustees of the National Museum of the American Indian;

(3) the term “burial site” means a natural or prepared physical location, whether below, on, or above the surface of the earth, into which, as a part of a death rite or ceremony of a culture, individual human remains are deposited;

(4) the term “funerary object” means an object that, as part of a death rite or ceremony of a culture, is intentionally placed with individual human remains, either at the time of burial or later;

(5) the term “Heye Foundation assets” means the collections, endowment, and all other property of the Heye Foundation (other than the interest of the Heye Foundation in Audubon Terrace) described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation, dated May 8, 1989, and the schedules attached to such memorandum;

(6) the term “Heye Museum” means the Museum of the American Indian, Heye Foundation;

(7) the term “Indian” means a member of an Indian tribe;

(8) the term “Indian tribe” has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act;

(9) the term “National Museum” means the National Museum of the American Indian established by section 3;

(10) the term “Native American” means an individual of a tribe, people, or culture that is indigenous to the Americas and such term includes a Native Hawaiian; and

(11) the term “Native Hawaiian” means a member or descendant of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

#### SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

20 USC 80q-15.

(a) **FUNDING.**—There is authorized to be appropriated to the Board of Regents to carry out this Act (other than as provided in sections 7(b)(1)(B), 8, 10, 11, 12, 14, and 15(c)(5))—

(1) \$10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each succeeding fiscal year.

(b) **PERIOD OF AVAILABILITY.**—Funds appropriated under subsection (a) shall remain available without fiscal year limitation for any period prior to the availability of the facilities to be constructed under section 7 for administrative and planning expenses and for the care and custody of the collections of the National Museum.

Approved November 28, 1989.

#### LEGISLATIVE HISTORY—S. 978 (H.R. 2668):

HOUSE REPORTS: No. 101-340, Pt. 1 (Comm. on Public Work and Transportation) and Pt. 2 (Comm. on House Administration).

SENATE REPORTS: No. 101-143 (Select Comm. on Indian Affairs and Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 135 (1989):

Oct. 3, considered and passed Senate.

Nov. 13, H.R. 2668 considered and passed House; proceedings vacated and S. 978, amended, passed in lieu.

Nov. 14, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):

Nov. 28, Presidential statement.





Public Law 104–278  
104th Congress

An Act

To amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes.

Oct. 9, 1996  
[S. 1970]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; REFERENCES.**

(a) **SHORT TITLE.**—This Act may be cited as the “National Museum of the American Indian Act Amendments of 1996”.

(b) **REFERENCES.**—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the National Museum of the American Indian Act (20 U.S.C. 80q et seq.).

National  
Museum of the  
American Indian  
Act Amendments  
of 1996.  
20 USC 80q note.

**SEC. 2. BOARD OF TRUSTEES.**

Section 5(f)(1)(B) (20 U.S.C. 80q–3(f)(1)(B)) is amended by striking “an Assistant Secretary” and inserting “a senior official”.

**SEC. 3. INVENTORY.**

(a) **IN GENERAL.**—Section 11(a) (20 U.S.C. 80q–9(a)) is amended—

- (1) by striking “(1)” and inserting “(A)”;
- (2) by striking “(2)” and inserting “(B)”;
- (3) by inserting “(1)” before “The Secretary”; and
- (4) by adding at the end the following new paragraphs:

“(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

“(3) For purposes of this subsection, the term ‘inventory’ means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 11(f) (20 U.S.C. 80q–9(f)) is amended by striking “to carry out this section” and inserting “to carry out this section and section 11A”.

**SEC. 4. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.**

The National Museum of the American Indian Act (20 U.S.C. 80q et seq.) is amended by inserting after section 11 the following new section:

20 USC 80q-9a.

**“SEC. 11A. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.**

“(a) SUMMARY.—Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)), based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 6 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3004).

“(b) REPATRIATION.—Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a), or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

“(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

“(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

“(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

“(c) STANDARD OF REPATRIATION.—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

“(d) MUSEUM OBLIGATION.—Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this Act.

“(e) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution,



from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this Act.

“(f) NATIVE HAWAIIAN ORGANIZATION DEFINED.—For purposes of this section, the term ‘Native Hawaiian organization’ has the meaning provided that term in section 2(11) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(11)).”.

**SEC. 5. SPECIAL COMMITTEE.**

Section 12 (20 U.S.C. 80q–10) is amended—

(1) in the first sentence of subsection (a), by inserting “and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 11A” before the period; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “five” and inserting “7”;

(B) in paragraph (1)—

(i) by striking “three” and inserting “4”; and

(ii) by striking “and” at the end;

(C) by redesignating paragraph (2) as paragraph (3);

and

(D) by inserting after paragraph (1) the following:

“(2) at least 2 members shall be traditional Indian religious leaders; and”.

Approved October 9, 1996.

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**LEGISLATIVE HISTORY—S. 1970:**

SENATE REPORTS: No. 104–350 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 142 (1996):

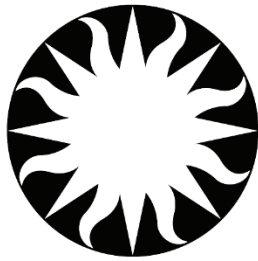
Sept. 5, considered and passed Senate.

Sept. 26, considered and passed House.



## APPENDIX G | NMAI Repatriation Policy

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Smithsonian  
*National Museum of the American Indian*

# REPATRIATION POLICY

**February 2014**  
(updated February 2017)

# NATIONAL MUSEUM OF THE AMERICAN INDIAN

## Resolution 01-13

### Approving the NMAI Repatriation Policy

**WHEREAS**, the history and cultures of the Indigenous Peoples of the Western Hemisphere are represented in collections of the National Museum of the American Indian (NMAI), and

**WHEREAS**, the cultures of Indigenous Peoples of the Western Hemisphere, both those practiced in the past and those of the present, and the collections that reflect those cultures, provide both a context for and a rich part of the activities of the NMAI, and

**WHEREAS**, within the collections of the NMAI are materials that are eligible for repatriation, namely human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony, and

**WHEREAS**, the deaccession and repatriation of human remains and the funerary objects associated with those remains to the Indigenous Peoples or communities of origin, regardless of geography or socio-political borders, is a high priority of the NMAI, and

**WHEREAS**, the NMAI's policy is that the utmost care and respect will be accorded to the materials within the collections, particularly the human remains, funerary objects, sacred objects, and objects of cultural patrimony; and all research, scientific study, exhibitions and other educational programs are to be conducted in a like manner; and that culturally specific information that may be known or may become known relating to the materials in the collections is to be accorded the same consideration, and

**WHEREAS**, the NMAI Board of Trustees desires to give appropriate guidance as to policies and procedures surrounding its repatriation program and therefore has developed the NMAI Repatriation Policy, and

**WHEREAS**, in developing the NMAI Repatriation Policy, the Board of Trustees affirms NMAI's commitment to:

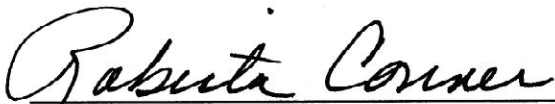
- support the continuation of ceremonial and ritual life of Indigenous Peoples,
- foster the study by Indigenous Peoples of their own traditions, and
- forge an understanding through open and consistent dialog between the NMAI and Indigenous Peoples so that the interests of each are understood and respected.


**WHEREAS**, the NMAI Repatriation Policy has been designed so that Indigenous Peoples have broad access to information pertaining to the collections in order to ensure that informed decisions are made regarding the care and disposition of materials to be repatriated.

**THEREFORE, BE IT RESOLVED**, that the Board of Trustees of the National Museum of the American Indian hereby adopts the NMAI Repatriation Policy as revised and dated December, 2013, and

**BE IT FURTHER RESOLVED**, that the NMAI Repatriation Policy be carried out to the extent practicable in accordance with the applicable treaties and international agreements with respect to Indigenous Peoples of the Western Hemisphere.

NATIONAL MUSEUM OF THE AMERICAN INDIAN

  
\_\_\_\_\_  
Roberta Conner  
Chair

  
\_\_\_\_\_  
Lynn Valbuena  
Secretary

The foregoing resolution was adopted at a duly convened meeting of the Board of Trustees of the National Museum of the American Indian, a quorum being present this 6<sup>th</sup> day of December 2013.

# **NMAI REPATRIATION POLICY**

## **NATIONAL MUSEUM OF THE AMERICAN INDIAN POLICY GOVERNING THE REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS AND CULTURAL MATERIALS**

### **Introduction**

This policy governs the repatriation of Native American human remains, funerary objects (associated and unassociated), sacred objects, and objects of cultural patrimony as set forth in the National Museum of the American Indian Act, 20 U.S.C. §80q (Public Law 101-185), as amended by the NMAI Act Amendment of 1996 (Public Law 104-278), Smithsonian and NMAI Collections Management policies, and other applicable laws, regulations, and policies.<sup>1</sup>

### **I. Authority**

The National Museum of the American Indian (NMAI) is governed by the Smithsonian Institution Board of Regents (“Board of Regents”), the Secretary of the Smithsonian, and the NMAI Board of Trustees (Board of Trustees). The Board of Regents has ultimate authority over and responsibility for the Smithsonian Institution collections. This responsibility is carried out through the Secretary and his/her designees. The Board of Trustees, established by the NMAI Act, has the sole authority, subject to the general policies of the Board of Regents, to: 1) lend, exchange, sell, or otherwise dispose of any part of the collections of the NMAI; 2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the NMAI; and 3) specify criteria for use of the collections of the NMAI for appropriate purposes, including research, evaluation, education, and method of display. The Board of Trustees maintains the authority and responsibility to review and approve collections-related policies, including the NMAI Repatriation Policy.

### **II. Repatriation Policy**

The NMAI shall receive, review, and decide repatriation claims in a respectful manner. As a matter of policy, the NMAI does not use destructive testing on human remains in its collection.

#### **A. Eligible Materials**

The claimant must establish that the specific materials requested for return are eligible for repatriation. In evaluating each claim, the NMAI will use its best efforts to gather all relevant information from the claimant, the NMAI’s collections and records, and any

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<sup>1</sup> The Smithsonian Institution is excluded from the coverage of the Native American Graves Protection and Repatriation Act (NAGPRA), see 25 USC 3001 (definition of “federal agency”) and, therefore, is not subject to the NAGPRA regulations promulgated by the National Park Service (NPS). However, the NMAI Act Amendment of 1996 added provisions for the inventory and repatriation of unassociated funerary objects, sacred objects, and objects of cultural patrimony. These terms are defined in Section 2(3) of NAGPRA. In addition, the NMAI may voluntarily consult the NAGPRA regulations where appropriate for guidance.

other person or entity with information pertinent to the claim, and will consult, as appropriate, with interested parties. Relevant information will include, but not necessarily be limited to, oral tradition, geography and place, descent and kinship, archaeology, anthropology, linguistics, folklore, history, expert opinion, or other information. The results will be documented in a repatriation report that will be provided to the Board of Trustees to render a decision.

The categories of eligible materials are as follows:

## **1. Human remains**

- a. *Human remains* mean the physical remains of a human body of a person of Native American ancestry. For purposes of this policy, it is assumed that all human remains in the collection are of Native American ancestry unless otherwise known. The term does not include remains or portions of remains that may reasonably be determined to have been freely given or naturally shed by the individual from whose body they were obtained, such as hair made into ropes or nets. For purposes of this policy, human remains do not include culturally modified human remains as defined in Section II.1.e.
- b. *Culturally Affiliated Human Remains and Human Remains Requested by Lineal Descendants*. Upon request of an eligible claimant (as defined in Section II (B)) that has established lineal descent or cultural affiliation with the human remains, the NMAI will repatriate human remains to the lineal descendant, Indian Tribe or Native Hawaiian Organization.
- c. *Culturally Unaffiliated Human Remains*. If the NMAI cannot determine cultural affiliation by a reasonable basis, but where some information is available to establish a relationship to an Indian Tribe or Native Hawaiian Organization, the NMAI will use its best efforts to identify the appropriate Indian Tribe or Native Hawaiian Organization with which to consult regarding cultural affiliation or responsibility for the final disposition of the human remains. The NMAI will first seek to establish cultural affiliation as set forth in Section II (B) below, but if there is not a reasonable basis to establish such affiliation, the NMAI will consider repatriation to Indian Tribes or Native Hawaiian Organizations that can demonstrate a relationship to the ancestral, historic, or aboriginal territories from where the human remains were collected.
- d. *Culturally Unknown Human Remains*. If no information is available through which cultural affiliation can be established, the Board of Trustees will decide upon a plan for carrying out a respectful disposition of culturally unknown human remains.
- e. *Culturally Modified Human Remains*. A determination of an appropriate course of action for human remains that have been culturally modified (e.g., finger bone necklaces) will be decided by the Board of Trustees on a case-by-case basis after



consultation with Indian Tribes or Native Hawaiian Organizations to determine the appropriate course of action.

## **2. Funerary objects**

- a. *Associated funerary objects* are objects that, as a 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 human remains and associated funerary objects are presently in the possession or control of the NMAI.
- b. *Unassociated funerary objects* are objects that, as a 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 NMAI.
- c. *Culturally Affiliated Associated and Unassociated Funerary Objects.* Upon the request of a lineal descendant, Indian Tribe, or Native Hawaiian Organization as set forth in Section II (B) below, the NMAI will repatriate any associated or unassociated funerary object to the lineal descendant, Indian Tribe, or Native Hawaiian Organization.
- d. *Culturally Unaffiliated and Culturally Unknown Associated Funerary Objects.* If the NMAI cannot determine cultural affiliation but some information is available to establish a relationship with an Indian Tribe or Native Hawaiian Organization, the NMAI will use the best means possible to identify the appropriate Indian Tribes or Native Hawaiian Organizations with whom to consult regarding cultural affiliation or responsibility for the final disposition of the associated funerary objects. If no information is available through which cultural affiliation can be established, the Board of Trustees will decide upon a plan for carrying out the respectful disposition of the associated funerary objects.

## **3. Sacred Objects**

- a. *Sacred objects* are objects needed by traditional Native American religious leaders for the practice of Native American religions, including objects needed for the renewal of a religious practice.
- b. The NMAI will use its best efforts to determine whether an object is sacred by seeking the counsel of tribal claimants, tribal elders and experts, and other individuals who can provide relevant information, and by searching scholarly literature bearing on the issue.
- c. Upon the request of a lineal descendant, Indian Tribe, or Native Hawaiian Organization as set forth in Section II (B) below, the NMAI will repatriate any

sacred object to the lineal descendant, Indian Tribe, or Native Hawaiian Organization.

#### 4. Objects of Cultural Patrimony

- a. *Objects of cultural patrimony* are objects having ongoing historical, traditional, or cultural importance central to the Indian Tribe or Native Hawaiian Organization or culture, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian Tribe or Native Hawaiian Organization. The given object shall have been considered inalienable by the Indian Tribe or Native Hawaiian Organization at the time the object was separated from said group.
- b. Upon the request of an Indian Tribe or Native Hawaiian Organization as set forth in Section II (B) below, the NMAI will repatriate objects of cultural patrimony to the culturally affiliated Indian Tribe or Native Hawaiian Organization.

#### 5. Objects Acquired Illegally

In accordance with longstanding Smithsonian policy, the NMAI may repatriate, upon request, any materials acquired by or transferred to the NMAI illegally or under circumstances that render invalid the Museum's claim to them. Each request for materials so acquired will take into account all relevant evidence submitted by the requesting party, as well as NMAI's accession records.

### B. Cultural Affiliation

Cultural affiliation is defined as a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present-day Indian Tribe or Native Hawaiian Organization and identifiable earlier group.

### C. Eligible Claimants

The claimant must possess the requisite relationship to the eligible materials, either through establishment of lineal descent or through establishment of cultural affiliation.

1. **Lineal Descendant.** A lineal descendant is defined as an individual tracing his or her ancestry directly and without interruption by means of the traditional kinship system of the appropriate Indian Tribe or Native Hawaiian Organization or by the common law system of descent to a known Native American individual whose remains, funerary objects, or sacred objects are being claimed.
2. **Indian Tribe.** Indian Tribe is defined as any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional corporation (as defined in, or established pursuant to, the Alaska Native Claims

Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

3. **Native Hawaiian.** Native Hawaiian is defined as a descendant of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.
4. **Native Hawaiian Organization.** Native Hawaiian Organization means any organization that serves and represents the interests of Native Hawaiians, has a primary and stated purpose of the provision of services to Native Hawaiians, and has expertise in Native Hawaiian affairs.

#### **D. Burden of Proof**

1. **Reasonable Basis Standard.** The claimant bears the burden of proof with respect to a repatriation request. To meet this burden, the available evidence must be sufficient to establish a reasonable basis for believing the materials in question are eligible for repatriation and that the claimant is a lineal descendant or culturally affiliated with the materials under claim. In some cases, the burden of proof may be satisfied by reference to NMAI's inventory and accession records.
2. **Types of Evidence.** Where the written record bearing on an issue is inconclusive or unreliable, the claimant may satisfy its burden of proof through evidence derived from oral tradition, folklore, linguistics, geography, descent, kinship, archaeology, anthropology, historical patterns of ownership and/or control, expert opinion, or other relevant information.

### **III. Claims Process**

#### **A. Step One: Informal Inquiry for Repatriation Information**

1. Potential claimants may contact the NMAI and request inventories of ethnographic and archaeological materials to which they may be culturally affiliated.
2. The NMAI will respond in writing to the request.

#### **B. Step Two: Request for Consultation Visit and Collections Review**

1. Claimants may request a consultation visit. Prior to such a visit, claimants must provide authorization from the appropriate tribal government.
2. Lineal descendants must provide documentation establishing a relationship to the known individual whose remains, funerary objects, or sacred objects they intend to claim.

### **C. Step Three: Formal Repatriation Request**

1. Claimant must submit a written request for repatriation. In the case of an Indian Tribe or Hawaiian Native Organization, the request must be submitted on official letterhead.
2. The request must include catalog number(s), description(s), the category or categories under which repatriation is being requested, and pertinent information demonstrating cultural affiliation to the claimed material(s).

### **D. Step Four: Review by the NMAI**

1. The claimant must meet the burden of proof in establishing that:
  - a. The materials requested for repatriation fall within a category eligible for repatriation under Section II(A); and
  - b. The claimant is eligible to make a claim under the NMAI Act either as a lineal descendant or based on cultural affiliation with the requested materials as set forth in Section II (B).
2. NMAI will review and evaluate the claim, consult with the claimant as appropriate, seek expert advice as needed, conduct research into the basis for the claim, and prepare a report on the claim.
3. The Board of Trustees will review the report and will render a decision about the claim.
4. The NMAI will notify the claimant of the decision of the Board of Trustees. If the claim is not approved, the claimant may appeal the decision under Section IV below.

### **E. Step Five: The Process of Return**

1. If the repatriation request is approved, the NMAI will arrange for the return of the human remains or objects.

## **IV. Appeals of Repatriation Decisions**

- A.** In the event a decision rendered by the Board of Trustees is disputed by the claimant, an appeal will be heard by an Appeals Committee comprised of the Under Secretary for Museums and Research/Provost and two members of the Board of Trustees designated by the Board Chair.
- B.** The members of the Appeals Committee will recuse themselves from all discussions and votes on all repatriation matters presented to the Board of Trustees, thereby preserving their independence from the Board of Trustees repatriation decisions in the event an appeal is submitted.

- C. The Appeals Committee may seek the advice of the Circle of Elders of the NMAI, the Repatriation Review Committee of the National Museum of Natural History, or outside expertise as deemed appropriate by the Appeals Committee.
- D. There is no further level of appeal beyond the Appeals Committee.

**V. Access to Sensitive Information Received as Part of Repatriation Consultations, Sensitive or Restricted Collections, and Repatriation Reports**

- A. The NMAI is a public institution and its collections and related records are maintained for the benefit of the public as a general rule. The NMAI, in the course of addressing repatriation cases, has received and will receive sensitive cultural information with the expectation that this information will be kept confidential. Therefore, access to the collections and related records may be restricted in accordance with Smithsonian and NMAI Repatriation policies.
- B. Access to records containing collections information shall generally be granted, but subject to the following:
  - 1. Resource limitations;
  - 2. Security considerations;
  - 3. Intellectual property rights, including restrictions on archival or documentary materials placed on them by the donor, NMAI archivists, or tribal authorities;
  - 4. Concern for disclosing confidential or culturally or religiously sensitive information about a lineal descendant, Indian Tribe, or Native Hawaiian Organization; and
  - 5. Concern for the protection of exact location information involving reburial locations, incompletely excavated archaeological sites, or endangered species.
- C. Access to records containing sensitive information, such as donor and collector information, custody and physical location, collecting localities, protected cultural knowledge and intellectual property may be limited by the NMAI in accordance with applicable laws, privacy rights, third party rights, contractual restrictions, security considerations, and other reasons consistent with Smithsonian and NMAI Repatriation policies.
- D. Access to images and records concerning collection items that have been repatriated or fall under a valid, pending repatriation claim shall be allowed only with the explicit written permission of the appropriate lineal descendant or culturally affiliated Indian Tribe or Native Hawaiian Organization.

- E. With respect to requests for records, the Smithsonian has adopted a records disclosure policy, Smithsonian Directive 807 (Requests for Smithsonian Institution Records), which is based on the intent and spirit of the Freedom of Information Act. Requests for records, including but not limited to requests for copies of completed repatriation reports prepared by the NMAI, may be requested under Smithsonian Directive 807. In accordance with that policy, sensitive information may be redacted from the report and other records because of its cultural or religious nature. Appeals of decisions withholding disclosure of records may be made to the Smithsonian Office of General Counsel.
- F. Access to the physical collections by researchers and visitors shall be granted in accordance with the NMAI's Collections Management Policy, subject to compliance with sensitive collections protocols. No access to collections or information regarded as culturally sensitive or confidential will be granted without the express written permission of a lineal descendant, Indian Tribe, or Native Hawaiian Organization.
- G. Authorized tribal representatives may take photo/video images of human remains and associated funerary objects only with the express written permission of the lineal descendant, Indian Tribe or Native Hawaiian Organization to which the objects are culturally affiliated. The authorized tribal representative will be required to sign a Repatriation Filming Permission form. Permitting photo/video images of human remains or associated funerary objects is intended to aid tribal governments to pursue repatriation of the human remains and objects. These photo/video images may not be published or distributed for any non-repatriation related purpose without the express written permission of the NMAI and the appropriate lineal descendant, Indian Tribe, or Native Hawaiian Organization.

## **VI. Indian Tribes That Are Not Federally Recognized, Indigenous Communities Outside of the United States**

The NMAI Act and its 1996 amendment address repatriation only for federally recognized Indian Tribes and Native Hawaiian Organizations within the United States. However, in accordance with its mission and in recognition of the United Nations Declaration on the Rights of Indigenous Peoples, the NMAI will consider repatriation requests for human remains, associated funerary objects, sacred objects, and objects of cultural patrimony by Indian Tribes that are not federally recognized and Indigenous Communities outside of the United States on a case-by-case basis. Such considerations will be guided by the policies, processes, and requirements contained in the NMAI Repatriation Policy.

## APPENDIX H | United Nations Declaration on the Rights of Indigenous Peoples

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United Nations Declaration  
on the Rights of Indigenous Peoples



## Resolution adopted by the General Assembly

[without reference to a Main Committee (A/61/L.67 and Add.1)]

### **61/295. United Nations Declaration on the Rights of Indigenous Peoples**

*The General Assembly,*

*Taking note* of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,<sup>1</sup> by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

*Recalling* its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

*Adopts* the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

*107th plenary meeting  
13 September 2007*

#### **Annex**

### **United Nations Declaration on the Rights of Indigenous Peoples**

*The General Assembly,*

*Guided* by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

*Affirming* that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

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<sup>1</sup>See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 53 (A/61/53)*, part one, chap. II, sect. A.

*Affirming also* that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

*Affirming further* that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

*Reaffirming* that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

*Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

*Recognizing* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

*Recognizing also* the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

*Welcoming* the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

*Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

*Recognizing* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

*Emphasizing* the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social

progress and development, understanding and friendly relations among nations and peoples of the world,

*Recognizing in particular* the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

*Considering* that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

*Considering also* that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

*Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights<sup>2</sup> and the International Covenant on Civil and Political Rights,<sup>2</sup> as well as the Vienna Declaration and Programme of Action,<sup>3</sup> affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

*Bearing in mind* that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

*Convinced* that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

*Encouraging* States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

*Emphasizing* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

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<sup>2</sup>See resolution 2200 A (XXI), annex.

<sup>3</sup>A/CONF.157/24 (Part I), chap. III.

*Believing* that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

*Recognizing and reaffirming* that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

*Recognizing* that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

*Solemnly proclaims* the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

#### *Article 1*

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights<sup>4</sup> and international human rights law.

#### *Article 2*

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

#### *Article 3*

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

#### *Article 4*

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to

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<sup>4</sup>Resolution 217 A (III).

their internal and local affairs, as well as ways and means for financing their autonomous functions.

*Article 5*

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

*Article 6*

Every indigenous individual has the right to a nationality.

*Article 7*

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

*Article 8*

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
  - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
  - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
  - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
  - (d) Any form of forced assimilation or integration;
  - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

#### *Article 9*

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

#### *Article 10*

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

#### *Article 11*

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

#### *Article 12*

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.



#### *Article 13*

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

#### *Article 14*

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

#### *Article 15*

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

#### *Article 16*

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

#### *Article 17*

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

#### *Article 18*

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

#### *Article 19*

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

#### *Article 20*

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

#### *Article 21*

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

#### *Article 22*

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

#### *Article 23*

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

#### *Article 24*

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

#### *Article 25*

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

#### *Article 26*

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

#### *Article 27*

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

#### *Article 28*

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources

equal in quality, size and legal status or of monetary compensation or other appropriate redress.

*Article 29*

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

*Article 30*

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

*Article 31*

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

#### *Article 32*

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

#### *Article 33*

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

#### *Article 34*

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

#### *Article 35*

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

*Article 36*

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

*Article 37*

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

*Article 38*

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

*Article 39*

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

*Article 40*

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.



*Article 41*

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

*Article 42*

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

*Article 43*

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

*Article 44*

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

*Article 45*

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

*Article 46*

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law

and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.

## APPENDIX I | Consultation Travel Forms

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Dear Smithsonian Invitational Traveler:

If you are traveling to the Smithsonian Institution or to a Smithsonian-sponsored activity as an invited guest, we ask that you provide certain information necessary for us to enroll you in the Smithsonian's travel system.

All persons must complete Part I and Part II of the Smithsonian Institution Traveler Enrollment form, SI-3881. In addition, please follow the directions below which correspond to your situation (either 1, or 2, or 3).

1. IF YOU HAVE A SOCIAL SECURITY NUMBER OR INDIVIDUAL TAXPAYER IDENTIFICATION NUMBER (ITIN): In order for you to receive a payment from the Smithsonian, you must complete IRS Form W-9 and include the number in Part I.
2. IF YOU ARE A FOREIGN RESIDENT TRAVELING TO THE U.S. AND YOU DO NOT HAVE A SOCIAL SECURITY NUMBER OR ITIN: **If you are engaged in a trade or business in the United States and are required to file a U.S. tax return, or if you meet certain other tests, you may be required to obtain a U.S. Social Security Number or ITIN. For further information, see the instructions for completing the Smithsonian Institution Traveler Enrollment form which follows.**
3. IF YOU ARE A FOREIGN RESIDENT TRAVELING ENTIRELY OUTSIDE THE U.S.: You *do not* need to complete IRS Form W-9 or any other additional forms.

***ATTENTION: IN ORDER TO BE REIMBURSED FOR YOUR EXPENSES, YOU MUST SUBMIT RECEIPTS TO THE SMITHSONIAN WITHIN TWO WEEKS AFTER COMPLETION OF YOUR TRAVEL. FAILURE TO SUBMIT RECEIPTS MAY RESULT IN TAX LIABILITY TO YOU.***

In order to expedite the enrollment process, please return the completed forms to your Smithsonian contact as soon as possible.

SI Unit Contact Name:

Telephone Number:

[Secure] Fax Number:

Email:

## Smithsonian Institution Invitational Traveler Enrollment

(Type or Print clearly when completing this form)

### PART I

<b>Traveler Name</b> (as it appears on your government-issued travel ID)	Last:	First:	Middle:
<b>Traveler Information</b>	Date of Birth:	Gender: Male <input type="checkbox"/> Female <input type="checkbox"/>	
	SSN/TIN/ITIN:		

### Mailing Address

Street			
City			
State/Country	ZIP/Mail Code		
Email	Phone		

### PART II

#### SELECT PAYMENT METHOD:

- ☐ Electronic Funds Transfer ("EFT") to U.S. bank (EFT is generally required, please refer to instructions)
- ☐ Check (U.S. Treasury check will be sent to mailing address above)
- ☐ Other (e.g., wire transfer)

#### Complete the information below **ONLY** for EFT Payments

<b>FINANCIAL INSTITUTION INFORMATION FOR EFT</b>	Bank Name:			
	Address:			
	Routing Transit Number:			
	Account Number:			
	Account Type:	<input type="checkbox"/> Checking	<input type="checkbox"/> Savings	

### TRAVELER SIGNATURE (Required)

Traveler Signature	X
--------------------	---

### SMITHSONIAN INSTITUTION USE ONLY

SI Unit Contact Name			
Email			
Special Instructions to OC		Need By Date	



**INSTRUCTIONS FOR COMPLETING SMITHSONIAN INSTITUTION INVITATIONAL TRAVELER  
ENROLLMENT  
(SI-3881-Travel)**

1. **All Travelers:** Enter traveler's name exactly as it appears on your government-issued identification card (e.g., passport, driver's license or other official ID), address, date of birth and gender. Effective August 15, 2009, date of birth and gender are required by the United States Department of Homeland Security in order to purchase airline tickets for travel within or to/from the United States.
2. **Payment Method:**
  - a. To receive payment by Electronic Funds Transfer (direct deposit), select "EFT" and complete the required Financial Institution section. **Note: EFT payments can only be made to U.S. bank accounts. The Debt Collection and Improvement Act of 1996 requires payments be made electronically unless a waiver is granted. A waiver may be granted for first time travelers if Check payment method is selected. However, prior travelers will be required to provide EFT unless an appropriate waiver selection is made on the attached waiver letter.**
  - b. To receive payment by a U.S. Treasury check, the traveler must check the appropriate box in the Payment Method section.
  - c. To receive payment by wire transfer, money order, or other method, the traveler must check the "other" box in the Payment Method section and the Smithsonian will make arrangements for such payment method.
3. All travelers **must Sign** in the block designated **Traveler Signature**.
4. If traveler has a Social Security Number or Individual Taxpayer Information Number (ITIN), the traveler must also complete IRS Form W-9 and include the number in Part I.
5. Foreign residents who are traveling to the U.S. and do not have a Social Security Number or ITIN may be required to obtain one if the traveler is engaged in a trade or business in the U.S. and is required to file a U.S. tax return or meets certain other tests. Please refer to IRS Publication 519, Tax Guide for Aliens, [www.irs.gov/pub/irs-pdf/p519.pdf](http://www.irs.gov/pub/irs-pdf/p519.pdf) to determine whether you must apply for a Social Security Number or ITIN. To apply for a Social Security Number, complete Form SS-5, [www.ssa.gov/online/ss-5.pdf](http://www.ssa.gov/online/ss-5.pdf); to apply for an ITIN, complete IRS Form W-7, [www.irs.gov/pub/irs-pdf/fw7.pdf](http://www.irs.gov/pub/irs-pdf/fw7.pdf). Upon receipt of your Social Security Number or ITIN, complete Form W-9 and submit it and your enrollment form to the Smithsonian.
6. Foreign residents who are not travelling to, from, or within the U.S. are not required to obtain or provide either a Social Security Number or ITIN.

**SMITHSONIAN INSTITUTION USE ONLY:**

7. SI Unit will provide the **SI Unit Contact Name, Email, Phone Number and Need By Date**.
8. The SI Unit may provide any instructions pertinent to this particular traveler.

**Failure to provide complete information may delay processing and payment.**

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Smithsonian Institution  
Office of the Comptroller  
PO Box 37012, MRC 1203  
Washington, DC 20013-7012

Dear Sir/Madam:

I understand that the Smithsonian Institution has decided to pay all of its vendors using Electronic Funds Transfers (EFT). I hereby request you to exempt me from the application of Smithsonian Institution Policy and Department of the Treasury policy 31 CFT 208, requiring all Federal Payments after January 1, 1999 be made by electronic fund transfer (EFT), and authorize payment by check.

I understand the Debt Collection Improvement Act of 1996 makes allowances for waivers if I will face a hardship by receiving my payment electronically. A waiver is available to a recipient without an account at any financial institution or one who certifies that they have physical disabilities or confronts geographic barriers preventing them from receiving their payments electronically.

This waiver is being requested because:

- ☐ I do not have an account at any Financial Institution nor do I have a Financial Agent, and obtaining one will pose a hardship.
- ☐ I am physically disabled or confront geographic barriers
- ☐ I am a one-time vendor and will not provide further services to the Smithsonian
- ☐ I am a foreign vendor

Sincerely,

Vendor Name

Vendor Signature \_\_\_\_\_

SSN/TIN#

☐ Approved ☐ Not Approved



## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions):  Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

### Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

<b>Social security number</b>									
				-					
<b>Employer identification number</b>									
				-					

### Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here**      Signature of U.S. person ▶

Date ▶

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** The IRS has created a page on IRS.gov for information about Form W-9, at [www.irs.gov/w9](http://www.irs.gov/w9). Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity,
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust, and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

### Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* on page 1.

**What is FATCA reporting?** The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Partnership, C Corporation, or S Corporation.** Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulation section 301.7701-2(c)(2)(iii). Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

**Note.** Check the appropriate box for the U.S. federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

**Limited Liability Company (LLC).** If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the U.S. federal tax classification in the space provided. If you are an LLC that is treated as a partnership for U.S. federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation, as appropriate. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for U.S. federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

**Other entities.** Enter your business name as shown on required U.S. federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

## Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the *Exemptions* box, any code(s) that may apply to you. See *Exempt payee code* and *Exemption from FATCA reporting code* on page 3.

**Exempt payee code.** Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records from Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## APPENDIX J | Visual Media Release and Filming Permissions Forms

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# Smithsonian *National Museum of the American Indian*

## NMAI PHOTO AND AUDIO/VIDEO RELEASE

I understand that I am being recorded, audio and/or videotaped, filmed and/or photographed in connection with the Smithsonian's National Museum of the American Indian and the project identified below.

I hereby give the Smithsonian Institution, its employees, licensees and authorized representatives, permission to record audio and/or videotape, film and/or photograph me and my "Presentation" and to use and reproduce my Presentation and my name and/or tribal affiliation in association with such Presentation for standard non-commercial museum purposes including, but not limited to: exhibition, promotion, publicity, Web/internet broadcast or distribution on Smithsonian and NMAI websites and on third party websites on which the Smithsonian maintains a presence, television or radio broadcasts, archives, research, publications, educational materials and presentations.

I warrant and represent that the use of the Presentation, my name and/or tribal affiliation, will not violate any right of publicity or privacy of any person or otherwise be a violation of the law. I waive any right to inspect or approve use of the Presentation for the purposes set forth herein by the Smithsonian Institution or its authorized representatives.

I have read and fully understand this release form.

Print Name:

Address:

Email address:

Telephone:

Signature:

Date:

Identification:

(Tribal affiliation, title, organization, school, etc.)

NMAI Employee, Legal Representative or Agent:

Signature:

Date:

Print Name:

**Department/Project:**

† Photographs

† Audio interview

† Video interview

† Other



Smithsonian  
National Museum of the American Indian

**Repatriation Filming Permission Form**

*[Please complete, sign and return prior to filming]*

**Requestor Name:** \_\_\_\_\_

**Affiliation:** \_\_\_\_\_

**Address:** \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Country \_\_\_\_\_

**Phone :** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Purpose of Request:** To videotape certain Native American, Native Alaskan, or Native Hawaiian objects and discussions with National Museum of the American Indian staff regarding the objects for the sole purposes of providing a community resource regarding the repatriation consultation.

**Date of Visit:** \_\_\_\_\_

**Collections to be Viewed/Videotaped:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Museum staff to be videotaped [Please revise or complete during filming to ensure identification of all Smithsonian staff on camera]:**

\_\_\_\_\_

The Smithsonian Institution hereby grants you the right to videotape the objects described above and interview on camera the Smithsonian staff named above (hereinafter the "Recording"), solely for purposes of exhibiting the Recording to other tribal members to aid in consultations on repatriation. Any use of the Recording other than as authorized above and any use of the Smithsonian names and logos shall require the Smithsonian's advance written consent from the Office of Public Affairs.

Please coordinate all filming activities at the museum (including time(s) for bringing equipment onto the premises) with \_\_\_\_\_ [name/phone #/email]. It is your responsibility to provide all necessary personnel and equipment for the filming. As a general rule, only hand-held equipment (cameras, tripods, and lighting) may be used during regular business hours. The Smithsonian may prohibit any location of equipment or any other activity that may cause injury or damage to the visitors, employees, collection items, or property of the Smithsonian. You shall be liable for any damage or injury caused by your activity on the premises.

The signatory below is authorized to sign this permission form on behalf of the Native American group.

\_\_\_\_\_  
Requestor Signature/Title

Date: \_\_\_\_\_

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_







Cover photo: Shan Goshorn (Eastern Band of Cherokee, b. 1957), *Right to Remain(s)*, 2013. X-ray film, frosted vellum paper, archival ink, 13.25 x 7 x 9.5 in. Photo by Ernest Amoroso, NMAI. 26/9330

Native people are intrinsically tied to the land of their ancestors. Ancient oral tradition tells the Cherokee that the Creator placed us on the earth, in our mountain homeland. But we remain connected to the land in part because of our relationship to our ancestors who are buried there.

This piece comments on this relationship to our ancestors via their bones, specifically, how these bones give us the right to claim our sense of belonging to our homeland and the right for our ancestors to remain in the earth and not housed in museums and private collections. For this piece, the artist researched various quotes by Native people that speak of this sacred connection. These words were handwritten on vellum paper and, along with the X-rays, were cut into splints and woven together in a traditional Cherokee single-weave basketry technique. The pattern chosen for this basket is the mountain design; the shape of this lidded vessel is referred to as coffin-shaped.

Unlike other baskets by the artist, this piece was not created from archival materials; the expectation is that the film will darken and deteriorate over time, just as human remains return to dust after death. This degradation is part of the artistic statement.