



# Museum Accessioning and Registration of Collections Online Course

OKMuseums.org



Project made possible with funding from:



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HUMANITIES

## Module 1: Course Objectives

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Helpful Information

Oklahoma Museums Association

405.424.7757 <https://www.okmuseums.org/>

OMA offers online professional networks for members and serves as a resource for all Oklahoma museums and their staff, volunteers and board members.

Mountain-Plains Museums Association

303.979.9358 <https://www.mpma.net/>

American Alliance of Museums

202.289.1818 <https://www.aam-us.org/>

Institute of Museum and Library Services

202.606.8539 <https://www.ims.gov/>

American Association for State and Local History

615.320.3203 <https://www.aaslh.org/>

## OMA DISASTER RESPONSE TEAM

Team members have been trained in disaster response and recovery of museum collections. All members are prepared to provide advice and phone support regarding minimizing damage to museum objects during and after a disaster.

To contact the network, please email [drn@okmuseums.org](mailto:drn@okmuseums.org) and include your contact information (phone numbers with area code and email), name of institution and location of the disaster, a description of your situation including date and time of occurrence and any additional information which you believe would be helpful to the network member.

*updated 2023*

DRN Advisory Committee

Nancy Lowe-Clark

Jennifer Green

Jennifer Holt

Victoria Book Lupia

Melissa Owens

Jason Schubert

Helen Stiefmiller

Delaynna Trim

Karen Whitecotton

Jim Whitely

Another great resource is the National Heritage Responders hotline at 202.661.8068. Volunteers will provide advice and resources and help triage what other help they can provide. Other resources can be found on the emergency [resources and contact information webpage](https://www.okmuseums.org/emergencies/) at <https://www.okmuseums.org/emergencies/>

In addition, OMA connects museums to other available and timely resources from organizations such as [FEMA](https://www.fema.gov/) (Federal Emergency Management Authority), [American Red Cross](https://www.redcross.org/local/oklahoma/about-us/our-work.html) at <https://www.redcross.org/local/oklahoma/about-us/our-work.html> and others



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## Module 2: What is a Museum

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## **Exercise 1**

### **What is a museum?**

A museum is:

### **What is public trust?**

A public trust is:



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## Module 3: Mission Statement

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## **Sample Mission Statements**

### **Oklahoma Museums:**

#### **Sam Noble Oklahoma Museum of Natural History**

The Sam Noble Museum at The University of Oklahoma inspires minds to understand the world through collection-based research, interpretation and education.

#### **National Cowboy & Western Heritage Museum**

The National Cowboy & Western Heritage Museum preserves and interprets the evolving history and cultures of the American West for the education and enrichment of its diverse audiences of adults and children.

#### **Museum of the Red River**

Its mission is to preserve and celebrate the world's artistic heritage, while emphasizing the contributions made by Native American groups.

### **Non-Oklahoma Museums:**

#### **The Henry Ford**

The Henry Ford provides unique educational experiences based on authentic objects, stories, and lives from America's traditions of ingenuity, resourcefulness and innovation. Our purpose is to inspire people to learn from these traditions to help shape a better future.

#### **San Antonio Museum of Art**

The San Antonio Museum of Art enriches lives through exceptional experiences with art. Its mission is to collect, preserve, exhibit, and interpret significant works of art, representing a broad range of history and world cultures to strengthen our shared understanding of humanity.



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## Module 4: Exercise on Donating Objects

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

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## Exercise 2: Where Will The Objects Go?

Can you donate each object to an appropriate institution?

1. The Wharton Historical Society collects objects related to education in and around the Boston, Massachusetts area.
2. The mission of the Blakeslee Historical Society is to collect, exhibit, and preserve objects and archives from the Blakeslee Family of Oklahoma City, Oklahoma.
3. The S&P Museum was founded by Edgar Hogan who collected salt and pepper shakers from around the world from 1950-1978. The museum preserves and displays Mr. Hogan's collection.
4. Using its research library and web site, the Albany Historical Association makes information available about the architectural history of Albany, Georgia to visitors, citizens of the greater Albany community, and schools in the Albany County district.
5. The mission of the Coral County Art Museum is to exhibit works made by contemporary artists from the state of Florida.

- 
- A. A pair of salt and pepper shakers made by a folk artist from Florida.
  - B. A journal kept by Ms. Blakeslee, a teacher in the Boston, MA School District.
  - C. A collection of medals earned by Hugh Jones, husband of Amanda Blakeslee, who lived and worked in Albany, Georgia until his death in 2000.
  - D. A flag flown at the Oklahoma City courthouse during World War II.
  - E. A book about caring for historic properties.

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A. \_\_\_\_\_ B. \_\_\_\_\_ C. \_\_\_\_\_ D. \_\_\_\_\_ E. \_\_\_\_\_

Answers will be given in Module 4 video at <https://www.youtube.com/watch?v=jQ6AvEC2mo0>



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## Module 5: Ethics and Conflicts of Interest

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

**There are No Handouts for  
Module 5: Ethics and Conflicts of Interest**



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## Module 6: Codes of Ethics

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

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## **AAM Code of Ethics**

Adopted 1993 by the AAM Board of Directors and amended in 2000

**Please note that the Code of Ethics for Museums references the American Association of Museums (AAM), now called the American Alliance of Museums. Any future updates to the Code of Ethics can be found on the AAM website**

### **Introduction**

Ethical codes evolve in response to changing conditions, values, and ideas. A professional code of ethics must, therefore, be periodically updated. It must also rest upon widely shared values. Although the operating environment of museums grows more complex each year, the root value for museums, the tie that connects all of us together despite our diversity, is the commitment to serving people, both present and future generations. This value guided the creation of and remains the most fundamental principle in the following *Code of Ethics for Museums*.

### **Code of Ethics for Museums**

Museums make their unique contribution to the public by collecting, preserving, and interpreting the things of this world. Historically, they have owned and used natural objects, living and nonliving, and all manner of human artifacts to advance knowledge and nourish the human spirit. Today, the range of their special interests reflects the scope of human vision. Their missions include collecting and preserving, as well as exhibiting and educating with materials not only owned but also borrowed and fabricated for these ends. Their numbers include both governmental and private museums of anthropology, art history and natural history, aquariums, arboreta, art centers, botanical gardens, children's museums, historic sites, nature centers, planetariums, science and technology centers, and zoos. The museum universe in the United States includes both collecting and noncollecting institutions. Although diverse in their missions, they have in common their nonprofit form of organization and a commitment of service to the public. Their collections and/or the objects they borrow or fabricate are the basis for research, exhibits, and programs that invite public participation.

Taken as a whole, museum collections and exhibition materials represent the world's natural and cultural common wealth. As stewards of that wealth, museums are compelled to advance an understanding of all natural forms and of the human experience. It is incumbent on museums to be resources for humankind and in all their activities to foster an informed appreciation of the rich and diverse world we have inherited. It is also incumbent upon them to preserve that inheritance for posterity.

Museums in the United States are grounded in the tradition of public service. They are organized as public trusts, holding their collections and information as a benefit

for those they were established to serve. Members of their governing authority, employees, and volunteers are committed to the interests of these beneficiaries. The law provides the basic framework for museum operations. As nonprofit institutions, museums comply with applicable local, state, and federal laws and international conventions, as well as with the specific legal standards governing trust responsibilities. This *Code of Ethics for Museums* takes that compliance as given. But legal standards are a minimum. Museums and those responsible for them must do more than avoid legal liability, they must take affirmative steps to maintain their integrity so as to warrant public confidence. They must act not only legally but also ethically. This *Code of Ethics for Museums*, therefore, outlines ethical standards that frequently exceed legal minimums.

Loyalty to the mission of the museum and to the public it serves is the essence of museum work, whether volunteer or paid. Where conflicts of interest arise — actual, potential, or perceived — the duty of loyalty must never be compromised. No individual may use his or her position in a museum for personal gain or to benefit another at the expense of the museum, its mission, its reputation, and the society it serves.

For museums, public service is paramount. To affirm that ethic and to elaborate its application to their governance, collections, and programs, the American Association of Museums promulgates this *Code of Ethics for Museums*. In subscribing to this code, museums assume responsibility for the actions of members of their governing authority, employees, and volunteers in the performance of museum-related duties. Museums, thereby, affirm their chartered purpose, ensure the prudent application of their resources, enhance their effectiveness, and maintain public confidence. This collective endeavor strengthens museum work and the contributions of museums to society — present and future.

## **Governance**

Museum governance in its various forms is a public trust responsible for the institution's service to society. The governing authority protects and enhances the museum's collections and programs and its physical, human, and financial resources. It ensures that all these resources support the museum's mission, respond to the pluralism of society, and respect the diversity of the natural and cultural common wealth.

Thus, the governing authority ensures that:

- \* all those who work for or on behalf of a museum understand and support its mission and public trust responsibilities
- \* its members understand and fulfill their trusteeship and act corporately, not as individuals
- \* the museum's collections and programs and its physical, human, and financial resources are protected, maintained, and developed in support of the museum's mission
- \* it is responsive to and represents the interests of society

- \* it maintains the relationship with staff in which shared roles are recognized and separate responsibilities respected
- \* working relationships among trustees, employees, and volunteers are based on equity and mutual respect
- \* professional standards and practices inform and guide museum operations
- \* policies are articulated and prudent oversight is practiced
- \* governance promotes the public good rather than individual financial gain.

## **Collections**

The distinctive character of museum ethics derives from the ownership, care, and use of objects, specimens, and living collections representing the world's natural and cultural common wealth. This stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal.

Thus, the museum ensures that:

- \* collections in its custody support its mission and public trust responsibilities
- \* collections in its custody are lawfully held, protected, secure, unencumbered, cared for, and preserved
- \* collections in its custody are accounted for and documented
- \* access to the collections and related information is permitted and regulated
- \* acquisition, disposal, and loan activities are conducted in a manner that respects the protection and preservation of natural and cultural resources and discourages illicit trade in such materials
- \* acquisition, disposal, and loan activities conform to its mission and public trust responsibilities
- \* disposal of collections through sale, trade, or research activities is solely for the advancement of the museum's mission. Proceeds from the sale of nonliving collections are to be used consistent with the established standards of the museum's discipline, but in no event shall they be used for anything other than acquisition or direct care of collections.
- \* the unique and special nature of human remains and funerary and sacred objects is recognized as the basis of all decisions concerning such collections
- \* collections-related activities promote the public good rather than individual financial gain
- \* competing claims of ownership that may be asserted in connection with objects in its custody should be handled openly, seriously, responsively and with respect for the dignity of all parties involved.

## **Programs**

Museums serve society by advancing an understanding and appreciation of the natural and cultural common wealth through exhibitions, research, scholarship, publications, and educational activities. These programs further the museum's mission and are responsive to the concerns, interests, and needs of society.

Thus, the museum ensures that:

- \* programs support its mission and public trust responsibilities
- \* programs are founded on scholarship and marked by intellectual integrity
- \* programs are accessible and encourage participation of the widest possible audience consistent with its mission and resources
- \* programs respect pluralistic values, traditions, and concerns
- \* revenue-producing activities and activities that involve relationships with external entities are compatible with the museum's mission and support its public trust responsibilities
- \* programs promote the public good rather than individual financial gain.

### **Promulgation**

This *Code of Ethics for Museums* was adopted by the Board of Directors of the American Association of Museums on November 12, 1993. The AAM Board of Directors recommends that each nonprofit museum member of the American Association of Museums adopt and promulgate its separate code of ethics, applying the *Code of Ethics for Museums* to its own institutional setting.

A Committee on Ethics, nominated by the president of the AAM and confirmed by the Board of Directors, will be charged with two responsibilities:

- \* establishing programs of information, education, and assistance to guide museums in developing their own codes of ethics
- \* reviewing the *Code of Ethics for Museums* and periodically recommending refinements and revisions to the Board of Directors.

### **Afterword**

In 1987 the Council of the American Association of Museums determined to revise the association's 1978 statement on ethics. The impetus for revision was recognition throughout the American museum community that the statement needed to be refined and strengthened in light of the expanded role of museums in society and a heightened awareness that the collection, preservation, and interpretation of natural and cultural heritages involve issues of significant concern to the American people.

Following a series of group discussions and commentary by members of the AAM Council, the Accreditation Commission, and museum leaders throughout the country, the president of AAM appointed an Ethics Task Force to prepare a code of ethics. In its work, the Ethics Task Force was committed to codifying the common understanding of ethics in the museum profession and to establishing a framework within which each institution could develop its own code. For guidance, the task force looked to the tradition of museum ethics and drew inspiration from AAM's first code of ethics, published in 1925 as *Code of Ethics for Museum Workers*, which states in its preface:

Museums, in the broadest sense, are institutions which hold their possessions in trust for mankind and for the future welfare of the [human] race. Their value is in

direct proportion to the service they render the emotional and intellectual life of the people. The life of a museum worker is essentially one of service.

This commitment to service derived from nineteenth-century notions of the advancement and dissemination of knowledge that informed the founding documents of America's museums. George Brown Goode, a noted zoologist and first head of the United States National Museum, declared in 1889:

The museums of the future in this democratic land should be adapted to the needs of the mechanic, the factory operator, the day laborer, the salesman, and the clerk, as much as to those of the professional man and the man of leisure. . . . In short, the public museum is, first of all, for the benefit of the public.

John Cotton Dana, an early twentieth-century museum leader and director of the Newark Museum, promoted the concept of museum work as public service in essays with titles such as "Increasing the Usefulness of Museums" and "A Museum of Service." Dana believed that museums did not exist solely to gather and preserve collections. For him, they were important centers of enlightenment.

By the 1940s, Theodore Low, a strong proponent of museum education, detected a new concentration in the museum profession on scholarship and methodology. These concerns are reflected in *Museum Ethics*, published by AAM in 1978, which elaborated on relationships among staff, management, and governing authority.

During the 1980s, Americans grew increasingly sensitive to the nation's cultural pluralism, concerned about the global environment, and vigilant regarding the public institutions. Rapid technological change, new public policies relating to nonprofit corporations, a troubled educational system, shifting patterns of private and public wealth, and increased financial pressures all called for a sharper delineation of museums' ethical responsibilities. In 1984 AAM's Commission on Museums for a New Century placed renewed emphasis on public service and education, and in 1986 the code of ethics adopted by the International Council of Museums (ICOM) put service to society at the center of museum responsibilities. ICOM defines museums as institutions "in the service of society and of its development" and holds that "employment by a museum, whether publicly or privately supported, is a public trust involving great responsibility."

Building upon this history, the Ethics Task Force produced several drafts of a Code of Ethics for Museums. These drafts were shared with the AAM Executive Committee and Board of Directors, and twice referred to the field for comment. Hundreds of individuals and representatives of professional organizations and museums of all types and sizes submitted thoughtful critiques. These critiques were instrumental in shaping the document submitted to the AAM Board of Directors, which adopted the code on May 18, 1991. However, despite the review process, when the adopted code was circulated, it soon became clear that the diversity of the museum field prevented immediate consensus on every point.

Therefore, at its November 1991 meeting, the AAM Board of Directors voted to postpone implementation of the Code of Ethics for at least one year. At the same meeting an Ethics Commission nominated by the AAM president was confirmed. The newly appointed commission — in addition to its other charges of establishing educational programs to guide museums in developing their own code of ethics and establishing procedures for addressing alleged violations of the code — was asked to review the code and recommend to the Board changes in either the code or its implementation.

The new Ethics Commission spent its first year reviewing the code and the hundreds of communications it had generated, and initiating additional dialogue. AAM institutional members were invited to comment further on the issues that were most divisive — the mode of implementation and the restrictions placed on funds from deaccessioned objects. Ethics Commission members also met in person with their colleagues at the annual and regional meetings, and an ad hoc meeting of museum directors was convened by the board president to examine the code's language regarding deaccessioning.

This process of review produced two alternatives for the board to consider at its May meeting: (1) to accept a new code developed by the Ethics Commission, or (2) to rewrite the sections of the 1991 code relating to use of funds from deaccessioning and mode of implementation. Following a very lively and involved discussion, the motion to reinstate the 1991 code with modified language was passed and a small committee met separately to make the necessary changes.

In addition, it was voted that the Ethics Commission be renamed the Committee on Ethics with responsibilities for establishing information and educational programs and reviewing the Code of Ethics for Museums and making periodic recommendations for revisions to the board. These final changes were approved by the board in November 1993 and are incorporated into this document, which is the *AAM Code of Ethics for Museums*.

Each nonprofit museum member of the American Association of Museums should subscribe to the *AAM Code of Ethics for Museums*. Subsequently, these museums should set about framing their own institutional codes of ethics, which should be in conformance with the AAM code and should expand on it through the elaboration of specific practices. This recommendation is made to these member institutions in the belief that engaging the governing authority, staff, and volunteers in applying the AAM code to institutional settings will stimulate the development and maintenance of sound policies and procedures necessary to understanding and ensuring ethical behavior by institutions and by all who work for them or on their behalf.

With these steps, the American museum community expands its continuing effort to advance museum work through self-regulation. The *Code of Ethics for Museums* serves the interests of museums, their constituencies, and society. The primary goal of AAM is to encourage institutions to regulate the ethical behavior of members of their governing authority, employees, and volunteers. Formal adoption of an

institutional code promotes higher and more consistent ethical standards. To this end, the Committee on Ethics will develop workshops, model codes, and publications. These and other forms of technical assistance will stimulate a dialogue about ethics throughout the museum community and provide guidance to museums in developing their institutional codes.

**Link to AAM Code of Ethics:** <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/code-of-ethics-for-museums/>

# **AASLH STATEMENT OF STANDARDS AND ETHICS**

**Any future updates to the Code of Ethics can be found on the AASLH website**

(Revised 2018)

## **Introduction**

The American Association for State and Local History (AASLH) is a membership organization comprised of individuals, agencies, and organizations acting in the public trust, engaged in the practice of history, and representing many disciplines and professions. AASLH expects its members, employees, and elected officials to abide by the ethical and performance standards adopted by all appropriate discipline-based and professional organizations.

The association and its members are to comply with all laws, regulations, and applicable international conventions. The association and its members are expected to take affirmative steps to maintain their integrity so as to warrant public confidence. The following ethical statements and related professional standards are provided for the guidance of all AASLH members and those in the field of history organizations.

## **Diversity and Inclusion**

Everyone makes history. American History is inclusive history. Through staffing, training, collecting, programming, and marketing, history organizations should reflect the diverse communities they serve. History organizations should be attuned to issues and ideas reflective of the breadth of American experience, particularly those relevant to their local communities and should avoid bias in their documentation, collections, preservation, and interpretation.

## **Intellectual Freedom**

Historical scholarship and interpretation depend upon free and open exploration and interpretation of the human experience. History institutions must respect all legal, ethical, and cultural standards regarding individual privacy, human-based research and access to and use of sensitive cultural materials.

## **Historical Resources**

History organizations frequently have complex and varied collections. These historical resources—including collections of objects, documents, and other records;

built environments, cultural landscapes, historical viewsheds, archaeological sites, and other evidence of the past—are the tools through which history practitioners provide meaning to the past and are the bedrock upon which the practice of history rests.

A. In fulfillment of their public trust, association members must be responsible stewards, giving priority to the protection and management of the historical resources within their care and preserving the physical and intellectual integrity of these resources.

B. Institutions should manage their historical resources in accord with comprehensive policies officially adopted by their governing authorities. These policies should be reviewed regularly.

C. Historical resources should not be capitalized or treated as financial assets.

D. History organizations should detail the process for deaccessioning objects<sup>1</sup> from their collections in their collections management policy. Decisions to deaccession should be based upon the relationship of the object to the institution's mission, the object's cultural value (i.e., its ability to interpret a larger story), the physical condition of the object, and/or the ability of the institution to continue to care for the object. Under no circumstances should the decision to deaccession an object be made on the basis of its monetary value.

E. Funds from the sale of collections may be used for the acquisition of collections, or the direct care<sup>2</sup> or preservation of existing collections. Funds should not be used to provide financial support for institutional operations. In the case of institutions that accession their contributing buildings and landscapes (cultural and historical assets that are accessible to and interpreted for the public), funds acquired through deaccessioning can be used for direct care and preservation of objects, archives, buildings, archaeological sites, and cultural landscapes that provide public benefit as outlined/defined in their collections policy. Institutional policy should distinguish between building maintenance and building preservation.

F. Historical resources should be acquired, cared for, and interpreted with sensitivity to their cultural origins. All efforts should be made to be transparent about and representative of these origins.

G. The physical condition of historical resources, including a record of their past treatment, should be maintained and appropriate steps taken to mitigate potential hazards to people and property.

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<sup>1</sup> For the purposes of this statement, the word object is used broadly to refer to all items in an organization's accessioned or permanent collections.

<sup>2</sup> Direct care is an investment that enhances the life, usefulness or quality of a museum's collection. This definition was first introduced in the American Alliance of Museums' publication, *Direct Care of Collections: Ethics, Guidelines and Recommendations* (April 2016).

## **Access**

Access to historical resources gives preservation activities their meaning. Providing and promoting equitable access to historical resources through exhibitions, tours, educational programs, publications, electronic media, and research is critical in fulfilling the public trust and mission of history organizations. Access and limitations to access are governed by institutional policies and by applicable rights of privacy, ownership, cultural standards, and intellectual freedom.

## **Interpretation**

Historical interpretation may be presented in a variety of formats.

- A. All interpretation must be based upon sound scholarship and thorough research. Sound scholarship includes reference to and respect for community-based knowledge. Intellectually honest and scholarly rigorous interpretation reflects the cultural and temporal context and recognizes the potential for multiple perspectives.
- B. History organizations should demonstrate respect for all cultures and peoples, and they should strive to be socially responsible and inclusive in their programming and interpretation.
- C. Interpretation must use a method of delivery (historic marker, exhibit, book, program, etc.) appropriate for the intended audience.

## **Governance**

The primary responsibility for governance, institutional policies, financial stability, legal accountability, and safety of a historical organization rests with its governing authority.

- A. The governing authority has the responsibility to safeguard the organization's assets, including, but not limited to: the good name of the organization, its mission, its human and financial resources, collections, facilities, property, members and donors.
- B. The governing authority should ensure that the institution maintains accurate financial records and is managed in a fiscally sound manner.
- C. The governing authority should ensure that its organization has the financial and human resources necessary to fulfill the organization's mission.
- D. The governing authority should ensure proper delegation of responsibility.

E. The governing authority should establish policies that reflect current legal, ethical, and professional practices.

F. The governing authority should regularly review the organization's policies and ensure their application.

## **Human Resources**

Responsibility for the operation of a history organization rests with the staff, whether they are paid or volunteer.

A. All individuals in the service of history—employees, volunteers, or interns—deserve the respect and support of their peers, superiors, and institutions.

B. Individuals employed in the practice of history deserve pay and benefits commensurate with their training, performance, and contribution to the institution.

C. Volunteers should be held to clearly articulated performance objectives and offered the same respect as their paid colleagues.

D. While internships provide important training experience for students and new professionals, history organizations should strive to pay interns at a fair level reflecting the value of history work. The practice of unpaid internships disadvantages individuals who do not have access to familial or other resources that would allow them to work for little or no compensation.

E. Institutions should maintain personnel policies, adopted by the governing authority and distributed to all staff, documenting the terms of employment.

F. Institutions have the responsibility to engage personnel, including volunteers, who have appropriate training and expertise and to provide them with opportunities for additional training necessary to continue to meet their responsibilities.

G. If the governing authority employs an administrator, that person alone is responsible for the employment, discipline, and release of all other staff, subject to established personnel policies.

H. An employee or volunteer is never wholly separable from the institution, and actions by an employee or volunteer may reflect upon the organization or be attributed to it.

I. Institutions have the responsibility to respect the privacy of their members, volunteers, and employees and act in their best interests.

J. Institutions should not discriminate against anyone on the basis of race, color, creed, age, sex, religion, nationality, sexual orientation, disability, or gender identity.

K. Employers, staff, and volunteers shall not engage in or condone any type of harassment or discrimination.

L. Institutions and individuals working and volunteering in the history field should observe confidentiality and treat colleagues with respect, fairness, courtesy, and good faith, avoiding relationships with others which could compromise professional judgment or their reputation.

### **Revenue Producing Activities**

Activities that involve the marketing and sale of products, programs, services, and facilities are acceptable ways to produce revenue and increase public awareness of, and participation in, historical activities.

A. No revenue producing activities should violate or compromise the integrity of an institution's mission. These activities should not hamper the ability of an institution or individual to meet professional standards or endanger an institution's nonprofit status.

B. Control of the intellectual content of products (e.g., exhibitions, publications, collections, programs) should not be delegated to outside parties for the purpose of obtaining financial support.

### **Confidence and Trust**

History organizations exist to serve the public interest and must always act in such a way as to maintain public confidence and trust.

A. No governing authority member, employee, and/or volunteer should use their position, or the information and access acquired as a result of their position, for personal gain or for the benefit of other organizations. All proprietary information should remain confidential.

B. Board members, volunteers, and employees shall refrain from personal collecting when it conflicts with the collecting interests of their institution. Statements of personal collecting interests should be obtained prior to an individual joining an organization and updated on a regular basis. Collections should not be made available to any individual for personal use, either on or off the premises of the organization that owns the collections, or for any other purpose contrary to the adopted collections policies.

### **About the American Association for State and Local History**

The American Association for State and Local History (AASLH) is a national association that provides leadership and support for its members who preserve and interpret state and local history in order to make the past more meaningful. Visit [www.AASLH.org](http://www.AASLH.org) for more information about membership, continuing education, the association's resource center, and other programs and services.

**Link to AASLH Statement of Standards and Ethics:**

<http://download.aaslh.org/AASLH+Statement+of+Standards+and+Ethics+-+Revised+2018.pdf>



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## Module 7: Exercise on Museum Law and Ethics

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### **Exercise 3: Museum Law & Ethics**

1. You are the Director of a small historical society. The descendent of the museum's original benefactor arrives with a framed photo of a local Civil War soldier. She offers to donate the object, but wants it hung on the wall in the sunny entrance way. What would you do?
2. You are the curator of a small museum. The volume of unmarked, unidentified objects in the collection overwhelms you. When your institution has its annual silent auction, the board wants to include a few of these items in the sale. What do you do?
3. Your museum is located in a historic house that interprets the life of a prominent local family. The collection includes objects from the family and from city residents. A board member wants to have a fund-raising fashion show using costumes from the collection. What would you do?
4. Forty years after donating a tea set, the daughter of the donor wants the set returned to her, insisting it was a loan. Neither you nor she has documentation of the loan. What would you do?



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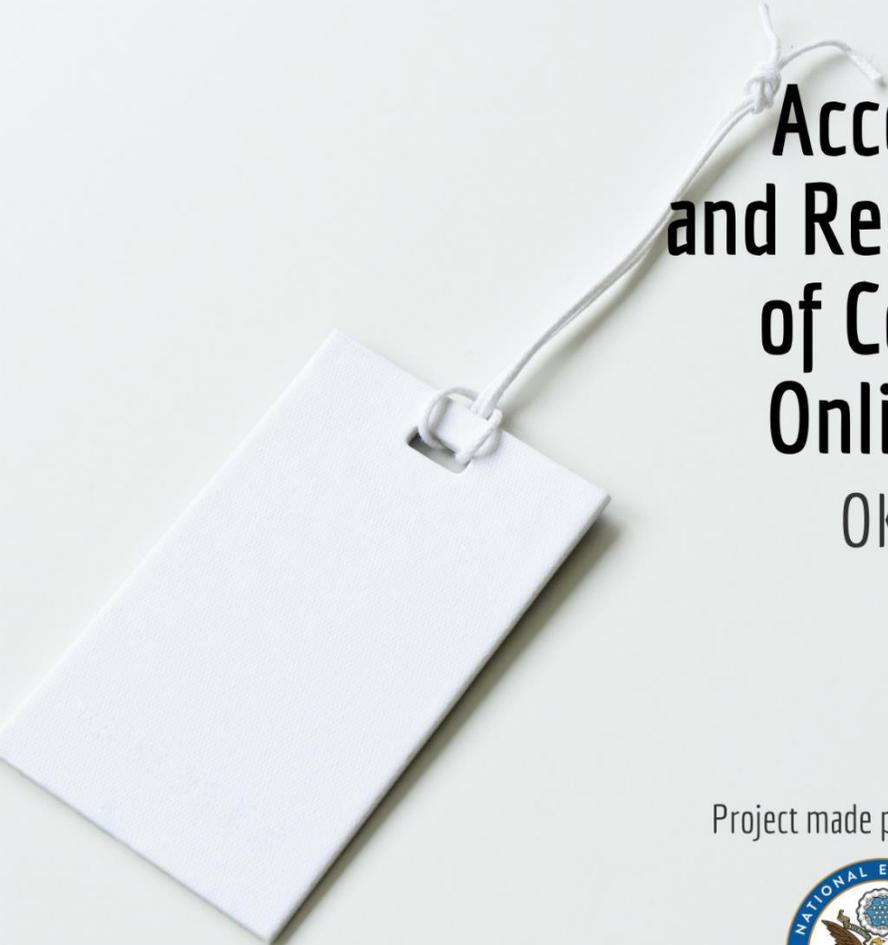
## Module 8: Exercise on Conflicts of Interest

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

### Exercise 4: Is This a Conflict of Interest?

Situation	Conflict	No Conflict
1. A board member who collects objects that fit the museum's mission.		
2. A staff member who works part-time in the evenings at Target.		
3. A museum curator who hires his brother-in-law to design an exhibition.		
4. A board member who is a partner in the insurance company used by the museum.		
5. A collections volunteer who asks to become a paid staff member.		
6. A local mechanic who asks for a free membership in exchange for use of his garage for storage.		
7. At an auction, a board member who bids on an object that she knows was deaccessioned from the museum's collection.		
8. A museum volunteer who sells quilts at craft shows to benefit the museum, and keeps money earned equivalent to her incurred expenses.		
9. A board member who appraises her mother's desk herself donates it to the museum and writes off its appraised value on her taxes.		



# Museum Accessioning and Registration of Collections Online Course

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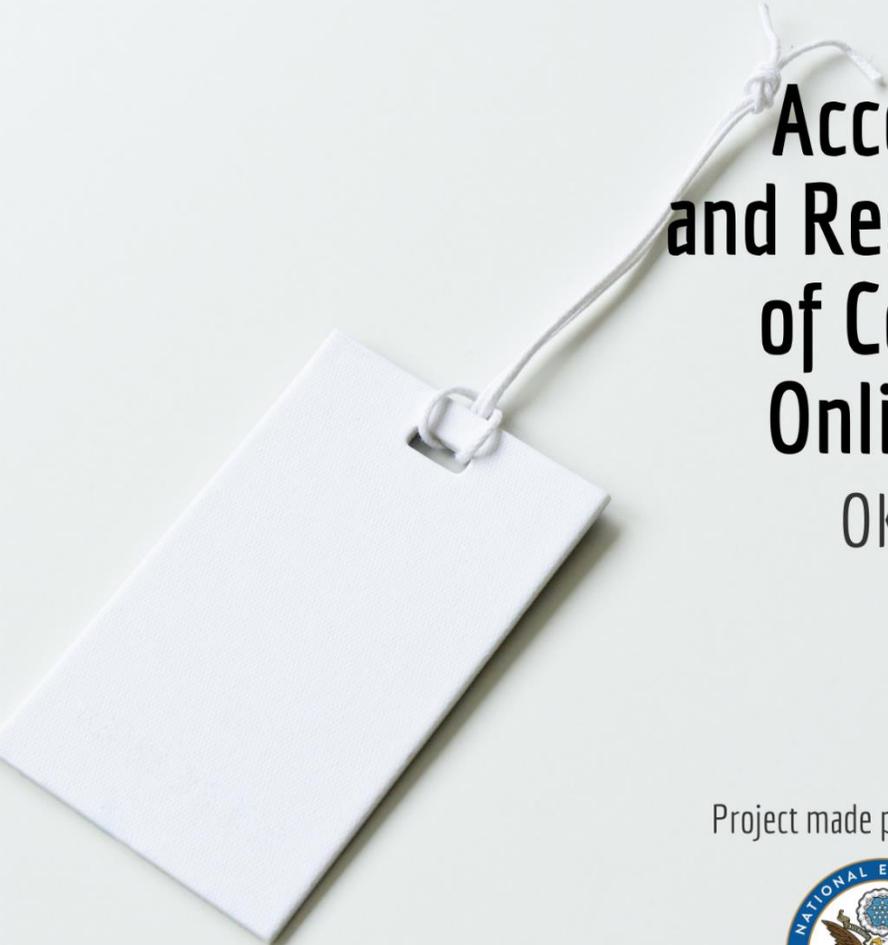
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## Module 9: Fundraising for Collections

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

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**There are No Handouts for  
Module 9: Fundraising for Collections**



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## Module 10: Time Management

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

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**There are No Handouts for  
Module 10: Time Management**



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## Module 11: Basic Definitions

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Basic Definitions

**Accession:** An accession is an object or a group of objects in the museum's permanent collection obtained at one time from a single source. The act of accessioning is taking possession and title to the object, placing it in the museum's permanent collection, and making a record of it.

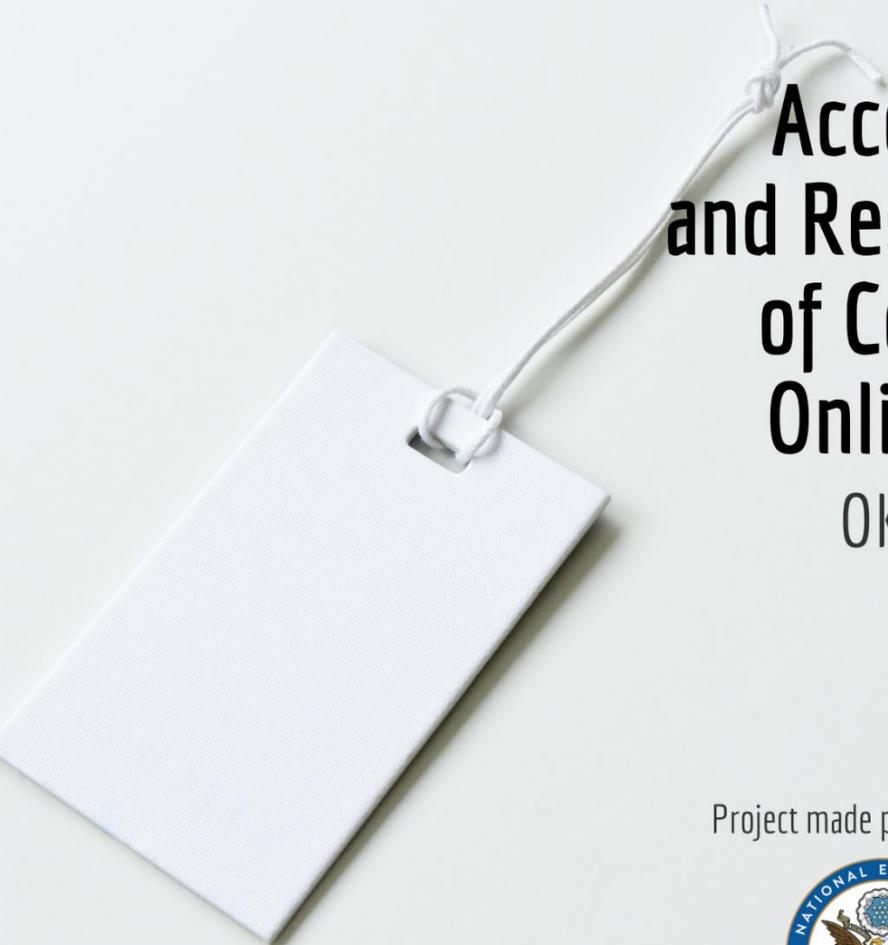
**Catalog/Collections Management System/Database:** A reference tool and organizational system where permanent collections records are created in a single searchable system.

**Deaccession:** (1) an object that has been removed permanently from the museum's permanent collection; as well as (2) the process of formal removal of accessioned objects from the museum's permanent collection.

**Deed of Gift/Gift Agreement:** A written instrument that transfers ownership of an object or objects from a donor to an institution. It must be signed and dated by the donor and contain a signature of acknowledgement of receipt of gift by the institution. An itemized list of the donation should accompany each Deed of Gift.

**Provenance:** The term used for the background and history of ownership for works of art and historical objects.

**Registration:** The whole process of creating, acquiring, and keeping the records for a museum's permanent collection.



# Museum Accessioning and Registration of Collections Online Course

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## Module 12: Collections Management

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## **Components of a Collections Management Policy**

### **Mission statement**

- Tells the public who you are and what you do

### **Scope of collections**

- A statement which defines the objects you collect

### **Statement of ethics**

- Shows the public that the museum values ethics and outlines acceptable actions

### **Acquisition**

- Outlines the museum's rules on accepting objects to the collection

### **Deaccession**

- How does the museum handle objects that will be removed from the collection?

### **Loans**

- Outlines the museum's incoming and outgoing loan policies

### **Conservation/care**

- Informs the reader on how the museum cares for its collection

### **Records and inventory**

- Outlines the museum's procedures for record keeping and inventory
- Not detailed, leave this for the Procedures Manual

### **Access**

- States who may have access to the collection and under what terms

### **Insurance**

- Lists what type of policy the museum has
- Do not list amounts or policy numbers -- the CMP is a public document

### **Reproduction and copyright**

- States copyright law and how the museum manages copyright issues

### **Compliance with state and federal laws**

- Section stating the museum compliance with any applicable laws, including NAGPRA

**Public disclosure**

- Brief statement supporting disclosure of the policy to the public

**Policy authorization**

- States who authorized and approved the policy, what date

These are basic components but not an exhaustive list. See examples from other institutions when starting your draft.

## **Sample Collections Management Policy**

### **Anywhere Museum Collections Management Policy**

#### Mission Statement of the Anywhere Museum

The mission of the Anywhere Museum is to establish a museum as a means to preserve and interpret the history of and the surrounding vicinities.

The purpose of the Anywhere Museum Collection Management Policy is to set forth the policies, procedures, guidelines and documentation for the Anywhere Museum Collection and to be in compliance with the highest standards of the museum profession.

#### I. Mission

The mission of the Museum Collection Department is to collect, preserve and interpret the history of the community.

#### II. Purpose

The Anywhere Museum Collection will include printed materials such as histories, directories, letters and diaries; illustrative objects including photographs, relic, maps, programs and the like; three dimensional objects illustrative of life, condition, events and activities of the past and present. The collection will be acquired by donation of objects or money.

#### III. Definitions

A. OBJECT: For the purpose of this policy, object is defined to include any artifact in the Anywhere Museum Collection.

B. ACQUISITION: The act of discovering, preliminarily evaluating, negotiating for, taking custody of, and documenting legal title to an object given by gift, bequest, purchase or conversion; discovering, negotiating for, recording information about borrowed objects. The mission statement and purpose of the Anywhere Museum Collection Policies shall be used to determine the acquisition of an object. Objects acquired by the museum may be used for the permanent collection, educational project, hands-on collection, library, research, transferred to another 501c3 entity, or sold as deemed appropriate by the Museum Collection Coordinator in consultation with the Executive Director.

C. REGISTRATION: The process of developing and maintaining an immediate, brief, and permanent means of identifying an object for which the institution has permanently or temporarily assumed responsibility. Registration has four aspects:

1. Accessioning: The act of recording/processing an addition to the permanent collection by assigning a unique number and compiling a file with all pertinent information.

2. Deaccessioning: The formal change in recorded status of an object. Criteria for deaccessioning include: not within scope or mission; beyond capability of museum to maintain; not useful for research, exhibition or educational program in foreseeable future; duplicate; poor or inauthentic example; physically deteriorated/hazardous material; originally acquired illegally or unethically; subject to legislative mandate; subject to contractual donor restrictions which can no longer be met. Upon reviewing written justification, the Board of Directors must approve the deaccession by a two-thirds majority vote. No deaccessioned item may be conveyed in any manner to a member of the Board, a member of the Collections Committee, or to any other office of trust or honor in the Society.

3. Lending/Borrowing: The process of contracting for the borrowing or lending, for temporary periods not to exceed three months, under terms of a loan agreement outlining respective responsibilities. If a loan requires a courier, the courier shall be a member of the Anywhere Museum staff or someone approved by the staff. Any cost incurred as a result of using a courier will be the responsibility of the borrower and shall be agreed to in writing before the loan is approved.

4. Inventorying: The process of locating and listing accessioned, loaned or borrowed objects to be done comprehensively every five (5) years, annually by specified location and/or object type and on spot check basis as needed.

E. MUSEUM REGISTRAR: The Museum Registrar is the person in charge of the museum's collection system, accepting the object, acknowledging the receipt of such object, and maintaining all records. There will be a Museum Collection Committee chaired by the Museum Registrar.

F. LOANS: The body of objects loaned or otherwise in the Society's possession for which the Society is legally responsible but is not part of the permanent collection for a period not to exceed three months, under terms of a written legal agreement outlining respective responsibilities.

G. OTHER PROPERTY: The following property owned by the society is not part of the museum permanent collection:

1. All real estate, including buildings and site improvements.
2. Equipment, supplies, and furnishings used in the day-to-day operations of the society. If, with the passing of time, these objects fulfill the collecting criteria of the society, they may be duly accessioned.
3. Library Collection
4. Education Collection
5. Hands-on Collection
6. Reference Materials

H. PERSONAL PROPERTY: Personally owned tools, books, equipment, etc., used in the day to day operations of the museum are not the responsibility of the Anywhere Museum.

I. APPRAISAL: Valuation of a property by the estimate of an authorized person. No staff member nor volunteer of the Anywhere Museum may appraise donated items nor become involved in arranging for an appraisal of donated items per IRS regulations. Signing a donee's acknowledgment of a donor's tax statement neither endorses nor validates the stated value.

Neither an employee, a volunteer, member of the Board, nor any other person associated with the Anywhere Museum shall be involved in activities which would financially benefit the individual or the individual's interests, professional or personal, as a result of the individual's position with the Anywhere Museum.

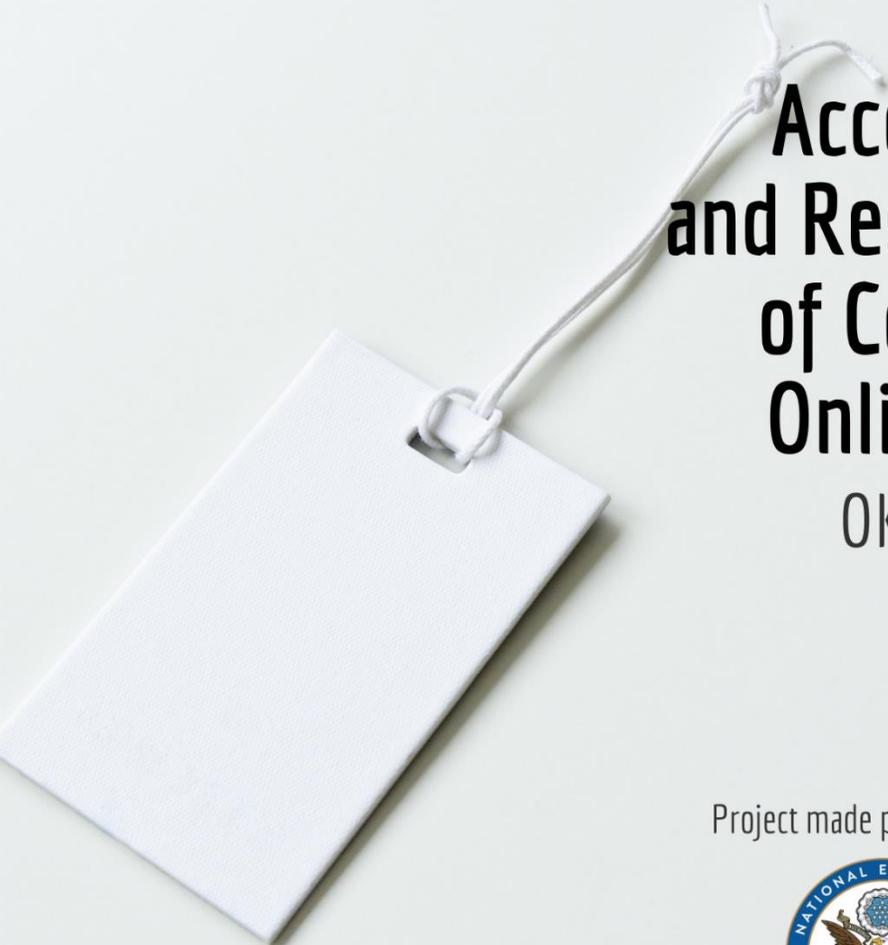
There will be review of the Anywhere Museum Collection Management Policy every three years or when necessary. With the Board of Directors approval, this document will be the museum collection policy.

The Museum Registrar will report monthly on all acquisitions to be accessioned for the Board's approval. At the monthly society board meeting, the coordinator will keep the board up-to-date on the state of the collection.

In pursuance of these policies, the museum collection department submits this document to the Board of Directors of the Anywhere Museum.

Adopted by the Board of Directors on this \_\_\_\_\_ day of \_\_\_\_\_,

Executive Director \_\_\_\_\_ Board President \_\_\_\_\_



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## Module 13: Exercise on Accepting Donations

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

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## Exercise 5: Three Roll Playing Scenarios

Take a moment to work through these scenarios by yourself or with a colleague. Remember to use your Collections Management Policy as backup!

**A. Person #1** You love to collect seashells from your vacation travels and you're starting to run out of room in your house for these fine treasures. So, you offer them to your local county historical society as part of its permanent collection. Along with the shells, you have five photographs of your great grandparents who helped found the town. You believe all of these items belong in the museum and you are asking the museum to accept the entire collection. You might even get so stubborn that you declare it's an "all or nothing" donation.

**A. Person #2** You were recently appointed Collections Chair at the all-volunteer local historical society. It is your job to talk with donors about their items and the museum's new collections policy. How will you go about tactfully explaining how the museum's Collections Management Policy applies to the seashells and the photographs?

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**B. Person #1** - You would like to donate an antique automobile to the local museum and the museum is very interested in having it. You are insisting that the museum help you complete the IRS forms you need in order to take a tax deduction and you want the museum to give you a signed receipt saying the car is worth \$75,000.

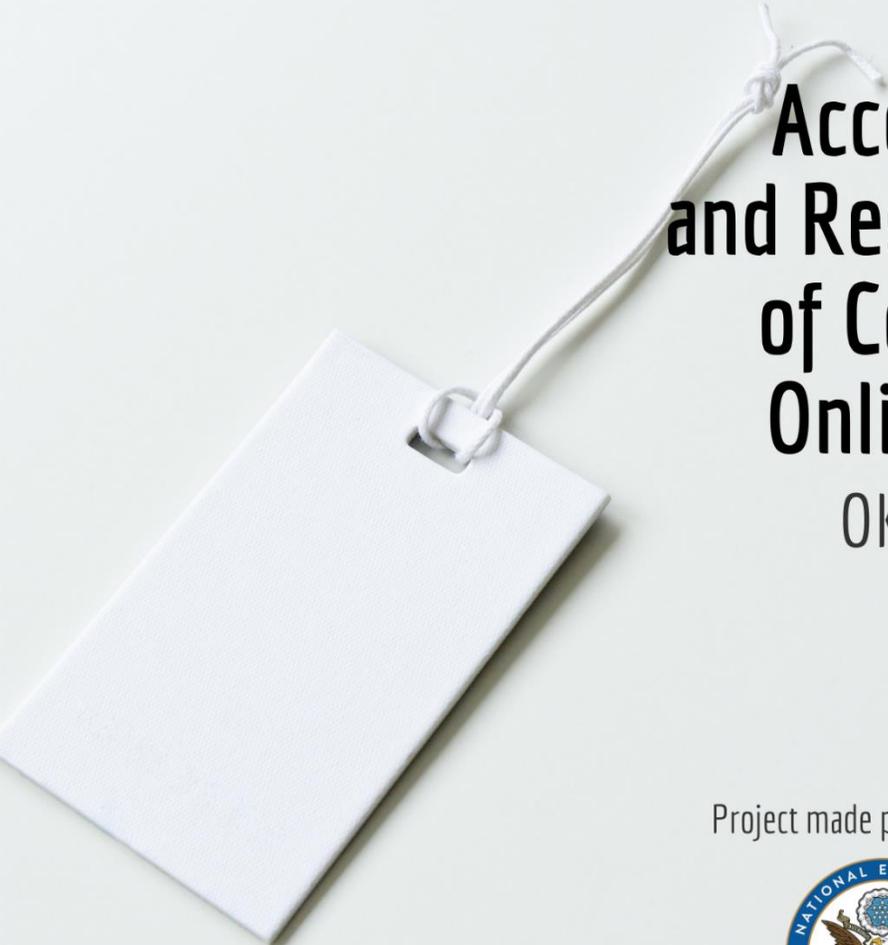
**B. Person #2** - You are the volunteer Collections Chair at the all-volunteer local historical society. It is your job to talk with donors and explain why the museum's collections policy prohibits you or anyone else connected with the museum to provide an appraisal. How will you handle this?

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**C. Person #1** - You and your two sisters recently inherited Aunt Jane's estate which includes a huge antique piano. None of you have room for it in your house, so you think the local museum would be very interested in exhibiting it/storing it for you until one your daughters gets married (the

daughters are ages 4-10). It seems perfectly logical to you that this loan is in the best interest of both your families and the museum.

C. Person #2 - You are the board president of the local museum and this proposal is presented to you as you are walking your dog one evening. Your board recently approved a new collections policy that addresses loans such as this. Is this potential loan in the best interest of your museum? Do you have the authority to tell this woman "yes" or "no"? How will you handle this?



# Museum Accessioning and Registration of Collections Online Course

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## Module 13b: Exercise on Museum Law and Ethics revisited

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

### **Exercise 3: Museum Law & Ethics**

1. You are the Director of a small historical society. The descendent of the museum's original benefactor arrives with a framed photo of a local Civil War soldier. She offers to donate the object, but wants it hung on the wall in the sunny entrance way. What would you do?
2. You are the curator of a small museum. The volume of unmarked, unidentified objects in the collection overwhelms you. When your institution has its annual silent auction, the board wants to include a few of these items in the sale. What do you do?
3. Your museum is located in a historic house that interprets the life of a prominent local family. The collection includes objects from the family and from city residents. A board member wants to have a fund-raising fashion show using costumes from the collection. What would you do?
4. Forty years after donating a tea set, the daughter of the donor wants the set returned to her, insisting it was a loan. Neither you nor she has documentation of the loan. What would you do?

# **Oklahoma Museums Association Guidelines Relating to Unclaimed, Undocumented, and Abandoned Property (September, 2012)**

**Download the Guidelines at** [https://www.okmuseums.org/wp-content/uploads/2022/11/OMA\\_Donated\\_Loaned\\_Abandoned\\_Property\\_Guidelines\\_9-26-2012\\_Final.pdf](https://www.okmuseums.org/wp-content/uploads/2022/11/OMA_Donated_Loaned_Abandoned_Property_Guidelines_9-26-2012_Final.pdf)

## **Background**

The Oklahoma Museums Association Abandoned Property Task Force developed these guidelines to assist museums in dealing with unclaimed property, undocumented property, and abandoned property. The Board of Directors of the Oklahoma Museums Association approved these guidelines on September 26, 2012. By creating these guidelines, the Oklahoma Museums Association hopes to establish uniform procedures for dealing with or disposing of unclaimed property, undocumented property, and abandoned property in museums.

This information is not intended to constitute legal or tax advice. A museum should consult with legal counsel for guidance as specific issues, concerns, or questions arise.

## **Definitions**

**Abandoned property** includes items deposited with, delivered to, or left on the premises of a museum without adequate documentation as to source and type of transfer under circumstances of apparent abandonment. Items of abandoned property are commonly referred to as doorstep donations.

**Loan (On Loan, Loaned)** refers to property held by, or maintained in the possession of a museum with the understanding that the lender intends to retain title to the property and that the museum must return physical possession of the property to the lender at some point in the future.

**Unclaimed property** includes loans of property made to a museum that the museum would like to return, but is unable to do so because of an inability to locate the lender or because the museum cannot for some other reason return the property to the lender. Items of unclaimed property are commonly referred to as **old loans**. They include temporary, short-term loans of property, as well as loans of property made to the museum without a specific date for returning the property.

**Undocumented property** includes property, materials, artifacts, and other items that became part of the museum collection without adequate documentation regarding acquisition and, as a result, legal title may not be clear, may be uncertain, or may become subject to dispute. Undocumented property is often referred to as property **found in collections** and may have been acquired by loan, gift, bequest, purchase, abandonment, or some other means.

## **Concerns – Unclaimed and Undocumented Property**

The legal arrangement between a museum and a lender of property to the museum is a **bailment**. Under this arrangement, the museum is generally obligated to take care of the property until the lender reclaims it. The museum must exercise reasonable care to prevent loss or damage to the property. This obligation could continue indefinitely.

A number of states have enacted laws enabling museums to resolve concerns relating to ownership, transfer, sale, or disposition of unclaimed and undocumented property. Oklahoma has not enacted laws that adequately address those concerns. As a result, museums in Oklahoma may face liability if the original owner, donor, contributor, or lender claims ownership and challenges the museum's claim of ownership. In many cases, unclaimed and undocumented property held by many Oklahoma museums has been maintained for decades. Also, in many instances the museum acquired the property before the now-customary use of donor agreements, loan agreements, temporary deposit receipts, or other documentation. With questionable legal title to unclaimed and undocumented property, museums can only make limited use of these items, while bearing the responsibility and cost of providing storage space, climate control, security, inventory control, insurance, conservation, records maintenance, and other services or resources.

In order to create certainty, promote uniformity, and manage the risks, responsibilities, and costs relating to unclaimed and undocumented property, museums should:

- Properly document every loan, gift, bequest, purchase, or other acquisition of property.
- Fairly allocate responsibilities between donors and lenders, on the one hand, and museums that are recipients of gifts and loaned items, on the other.
- Expediently resolve concerns relating to title and ownership of unclaimed and undocumented property left in their custody.

- When possible, work with the lender, donor, seller, or transferor to create documentation for property that is undocumented.

## **Legal Considerations**

The Oklahoma Uniform Unclaimed Property Act provides that property is unclaimed when there is a lack of activity generated by the owner of the property. If it remains unclaimed for a certain amount of time, then it is considered abandoned and must be reported to the State Treasurer. Museums operated by a nonprofit corporation primarily for educational, scientific, historic preservation, or aesthetic purposes are not subject to the provisions of the Act and, therefore, are not required to report unclaimed property in their possession. A museum may, however, take advantage of the provisions of the Unclaimed Property Act with respect to unclaimed property that it holds, if it files the required reports of unclaimed property and complies with the other requirements of the Unclaimed Property Act. Museums may report abandoned and unclaimed property without charge at [www.unclaimed.state.ok.us](http://www.unclaimed.state.ok.us).

Rather than relying on the Oklahoma Uniform Unclaimed Property Act, the Oklahoma Museums Association advocates following the guidelines in this document to address unclaimed property, undocumented property and abandoned property within a museum's collection held in public trust (or held for the benefit of the public).

The Native American Graves Protection and Repatriation Act requires museums that receive federal funds to complete inventories and summaries of Native American cultural items in their collections, publish notices in the Federal Register, and repatriate Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants and culturally affiliated Indian tribes. Museums that receive federal funds and that own, control, or have possession of those types of property or items should comply with the requirements of the Act. Information about the Act, including helpful answers to commonly-asked questions, can be found at <http://www.nps.gov/nagpra/mandates/index.htm>.

## **Museum's Obligations to a Lender**

**New Loans.** When a new loan is made to the museum, the museum should, at the time the loan is approved:

- Enter into a written loan agreement with the lender. The loan agreement should, at a minimum, contain the following:

- Lender's name, address, telephone number, email address, and other contact information;
- Description of the property loaned in sufficient detail for ready identification;
- A clear statement that the lender is providing the property on loan to the museum.
- The beginning date of the loan;
- The expiration date of the loan;
- Any requirements relating to the identification of the property loaned;
- Any restrictions relating to the property loaned;
- A requirement that the lender is responsible for notifying the museum of changes of address and changes of ownership of the property loaned.
- Inform the lender of all loan conditions;
- Provide the lender the museum's procedure for unclaimed property loaned to the museum;
- Provide the lender with a fully signed copy of the loan agreement;
- Retain a fully signed copy of the loan agreement in the museum's records;
- Inform the lender of these guidelines and provide the lender a copy of these guidelines upon request.

**Existing Loans.** Regardless of the date of the loan, the museum should:

- Update its records at least annually and whenever the lender informs the museum of a change of address or change in ownership;
- Update its records if the lender and museum negotiate a change in the duration or other terms of the loan;
- Prepare an updated loan agreement or an amendment to the loan agreement if any of the terms of the loan change; obtain the signatures of the lender and the museum; furnish a fully signed copy to the lender; and retain a fully signed copy in the museum's records.
- Inform the lender of these guidelines and provide the lender a copy of these guidelines upon request.

**Old Loans.** The museum should:

- Determine what the lender and the museum want to do with the loaned property;
- Provide museum contact information to the lender;

- If the museum decides to terminate the loan, notify the lender of the museum's intent to terminate the loan. The notification, which may be in the form of a letter, should include:
  - The name and address of the lender, if known;
  - The name of the museum;
  - The date of the loan or the approximate date on which the property came into the custody of the museum;
  - A description of property;
  - The name, address, phone number, email address, and other contact information of the museum staff member who the lender should contact for further information;
  - A statement that the museum is terminating the loan, along with a request that the lender contact the museum within 60 days.
  - Any other information that the museum considers pertinent or important.
- If the lender does not respond within 60 days, the museum should send a second letter with the same information as the first letter, again asking the lender to contact the museum within 60 days. If at the end of the second 60-day period, the lender has still not responded, the museum should consider sending a third letter, stating that the museum has determined, based on the lender's failure to respond to the two prior letters, that the lender has donated the property as of the date of the third letter and that the museum claims title to, and ownership of, the property.
- If the first letter is returned as undeliverable or if the museum cannot locate the lender after a reasonable search with no indication of the lender's whereabouts, the museum should consider the property as having been abandoned. [**CONSULT WITH LEGAL COUNSEL**]

## **Documentation**

### **Unclaimed and Undocumented Property - Found in Collections**

- The museum should document the length of time that the museum has held the property.
  - Documentation may include inventories, catalog records, dated photographs, correspondence, or other records of ownership, maintenance, or possession.
  - If the museum cannot find existing documentation, the museum should catalog the property with a tracking number and note in the museum's records the date on which the property was found

in the collection. This provides the museum a timeline to use later if the museum wants to claim ownership of the property. For example, by noting that undocumented property was found in the museum's collection in September 2012, the museum now has a record that it may proceed to claim title to the property in seven years, which would be September 2019.

- The museum should consider giving public notice of intent to claim title to the property, depending on the cost of publication, the nature of the property, and the value of the property.
  - Publish notice in a newspaper of general circulation in the area where the museum is located at least once a week for three consecutive weeks;
  - The notice should, at a minimum, contain:
    - The museum's name;
    - The date or approximate date of the museum's acquisition of the property, if known;
    - A description of property;
    - The name, address, and phone number of the museum staff member to contact for further information;
    - A statement that if written proof of claim is not presented to the museum by the current owner, and if the owner's right to receive the property is not established to the museum's satisfaction within 180 days after the date of the 3<sup>rd</sup> public notice, the museum will consider the property to have been abandoned and will claim ownership of the property.
  - Publish a similar notice on museum's website.

Oklahoma law does not provide certainty, and this procedure does not guaranty that the museum will acquire title to the property. Museums should consult with their own legal counsel for advice and direction in these circumstances.

### **Abandoned Property - Doorstep Donations**

- Document the abandonment of the property. This may include taking pictures of property in the location in which it was abandoned and recording pertinent data, such as where it was left, who found it, when it was found, any notes or information that was found with the property, and other information.
- Generally, the museum may presume that an unsolicited item of property left at a museum from an unknown source is a gift if no one claims ownership within a year.

- Decide whether the property should be held as part of the museum's permanent collection or whether the museum should dispose it.

## **Claims for Property**

### **Claims for Undocumented or Previously Unclaimed Property**

- In general, the museum should exercise due care to maintain and preserve any property it is given.
- If someone submits a claim of ownership of property that was previously unclaimed, that was undocumented, or that was previously considered abandoned, the museum must investigate the claim, unless it is clear to the museum that the claim is unsupported, unsubstantiated, and frivolous.
- The museum should verify the identity of the claimant and evaluate all aspects of the claim in an effort to determine whether the claimant was the original lender or donor.
- If the claimant does not claim to be the original lender or donor, the museum should establish the claimant's relationship to the lender or donor; ascertain the claimant's reasons and justification for the claim; and evaluate the claimant's authority for making the claim. The claimant must provide information satisfactory to the museum that the claimant is entitled to claim and take possession of the property.
- If multiple claims to ownership are submitted, the museum should defer a determination of ownership until the various claims are resolved by agreement or legal action. If the museum verifies that multiple claimants are joint owners, the museum should make sure all parties agree to the final disposition of the property before taking action.
- If the museum is satisfied that the claimant or claimants are entitled to take possession of the property, the museum should enter into an agreement with the claimant(s) relating to disposition of the property. Among other matters, the agreement should (a) identify all parties, (b) describe the property, (c) state the circumstances relating to the claim, (d) provide an authorization for the museum to make the property available for retrieval by a specific person, (e) include representations by the claimant(s) that they are entitled to direct the return of the property and to provide the authorizations in the agreement, (f) permit the museum to take and retain photographs and make copies of any written documentation that is being returned, (g) include an indemnification by the claimant(s) to protect the museum from

- claims by others for the same property, (h) release the museum from liability relating to its prior possession of the property, and (i) be signed by all claimants.
- If the museum would like to retain the property, the museum should suggest or encourage the claimant or claimants to donate it or to provide it on loan for a specific period of time. If the claimant(s) agree, the museum should document their agreement and donation.

### **No Claim Submitted after Notice, Inquiry**

- If no one claims the property, then the museum may wish to claim the property as having been abandoned. Oklahoma law does not provide certainty, so museums should consult with their own legal counsel for advice and direction in these circumstances.
- If the museum determines that the property has been abandoned, then the museum must decide whether to dispose of the property or to add it to its collection. If the museum chooses to dispose of the property, the museum should keep records, including descriptions of the property, method of disposition, and value at time of disposition.

### **Conservation Measures**

Unless a written loan agreement provides otherwise, a museum may apply conservation measures to, or dispose of, undocumented property or property on loan to the museum without the owner's permission if:

- Immediate action is required to protect the property; or
- The property has become a hazard to the health and safety of the public or to the museum's staff, due to one or more of the following:
  - The property poses an immediate risk of harm to the museum's staff or collection or to the general public, in which case the museum should promptly notify the owner or, if the museum is not able to locate the owner, the museum may dispose of the property without delay and undertake efforts to notify the owner of the action taken;
  - The museum is unable to reach the owner through available means of communication and is required to take immediate action; or
  - The museum contacts the owner, but the owner does not agree to the protective measures that the museum recommends and does not or is unable to terminate the loan and collect the

property within the time the museum determines the action is necessary.

When a conservation measure is undertaken, the museum:

- May claim a lien on the property in the amount of the costs incurred by the museum;
- Should generally not be liable to the owner for damage to, or loss of, the loaned property, as long as the museum acted properly and had a reasonable belief at the time the action was taken that the action was necessary due to an immediate risk of harm; and
- Should not be liable to the owner for damage to, or loss of, the property due to conservation measures applied, as long as the museum exercised reasonable care in choosing and applying such conservation measures.

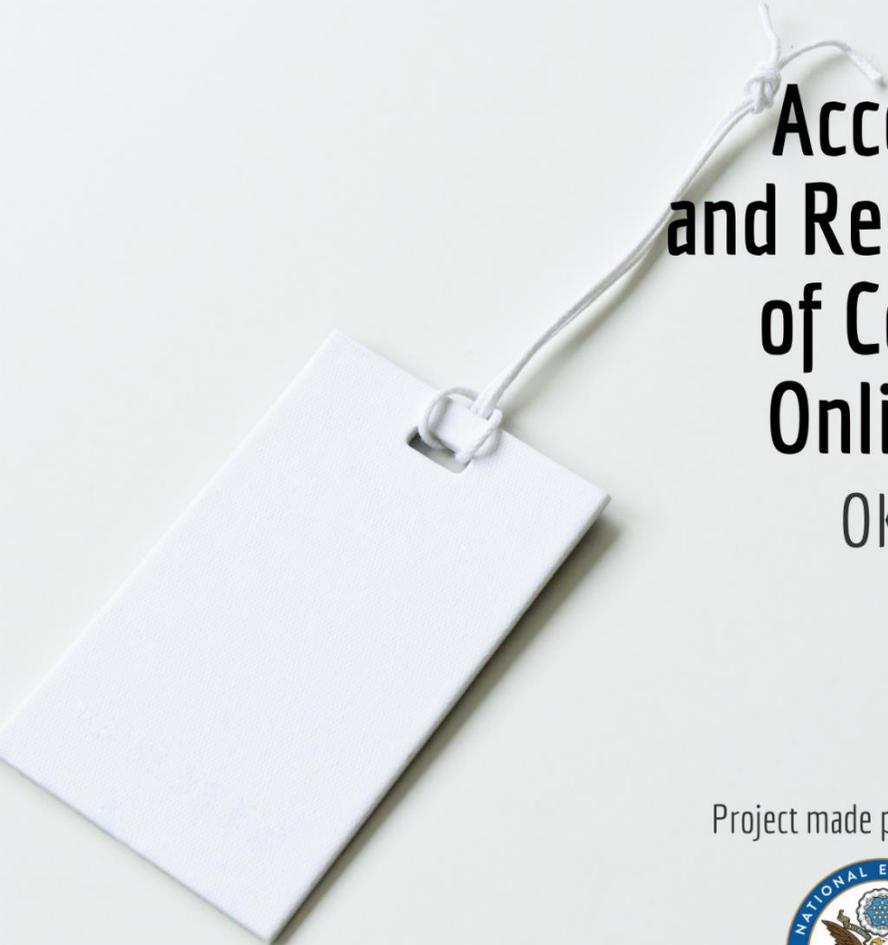
Again, Oklahoma law does not provide certainty in this area, and museums should consult with their own legal counsel for advice and direction in these circumstances.

## **Other Considerations**

**Legal Certainty** – This information is intended to serve as a guideline for museums. As noted, Oklahoma law does not provide certainty with respect to some of the matters described, and museums should consult with their own legal counsel for advice and direction, as necessary appropriate.

**Contractual Obligations** - A museum and lender can establish by contract a different process and different requirements relating to property donated or loaned.





# Museum Accessioning and Registration of Collections Online Course

OKMuseums.org



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NATIONAL  
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FOR THE  
HUMANITIES

## Module 14: Writing A Collections Plan

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## **Sample Collections Plan**

Anywhere Museum  
Collections Plan 2022-2025

### **Mission Statement**

The purpose of the Anywhere Museum will be to promote, preserve, and develop an appreciation for history, culture, and art in Anywhere, Oklahoma and the surrounding region. The center will accomplish its mission through the following means:

1. Acquisition of real and personal property including, but not limited to, buildings, papers, artwork, and historical objects, and;
2. Educational activities such as traveling, temporary and permanent exhibits, programs, events, publications, or any other means deemed appropriate to educate and inform the public about history, culture and art.

### **Vision Statement**

The Anywhere Museum will be a landmark institution that will energize the local economy and the community's interest in its cultural heritage.

### **Collecting Philosophy**

The museum seeks to improve the quality of its overall collection through the purchase and donation of objects that are identified from the list of Collecting Themes contained in this document.

### **Method of Acquisition**

Objects will be acquired through donation whenever possible. In the case of purchase, the Acquisitions Committee will recommend objects to the Board of Trustees for approval. The committee will recommend the source of funding at that time. The museum's Acquisition Committee, working closely with the museum's Executive Director, will be responsible for meeting on a quarterly basis to report on possible acquisitions to the collection.

Funds received from the deaccessioning of objects may be used to purchase additions to the collection pending board approval.

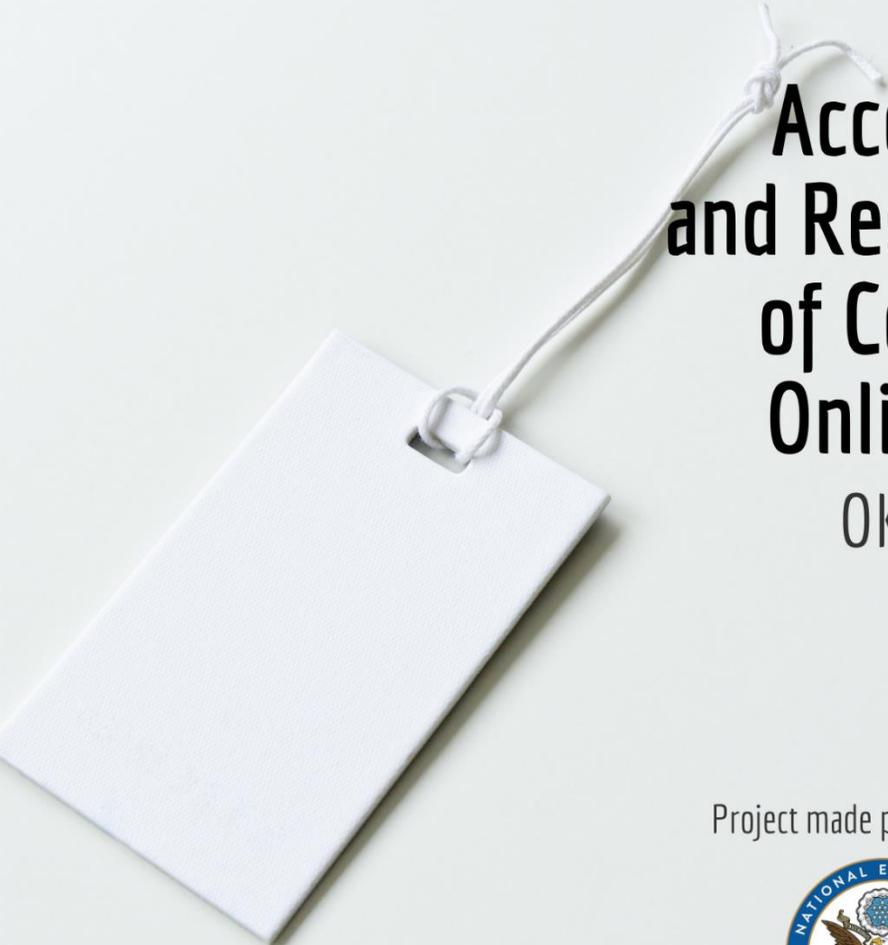
### **Collecting Themes**

The following themes will direct the museum's collecting efforts for the next five years. All objects acquired for the permanent collection will relate to the history and culture of the city of Anywhere, Oklahoma and its surrounding region.

- The rise of the oil industry
- Work by local contemporary artists
- Immigration of the late 20th/early 21st century

Objects outside of the scope of the above-stated collecting themes will be acquired on a case-by-case basis at the discretion of the Executive Director and the museum's Collections Committee.

Approved by the Board of Trustees, August 17, 2021



# Museum Accessioning and Registration of Collections Online Course

OKMuseums.org



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HUMANITIES

## Module 15: Exercise on Writing Your Museum's Collecting Plan

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Exercise 6: Writing Your Museum's Collecting Plan

Briefly summarize your museum's mission here:

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Strengths of the permanent collection

- 1.
- 2.
- 3.
- 4.
- 5.

Weaknesses of the permanent collection

- 1.
- 2.
- 3.
- 4.
- 5.

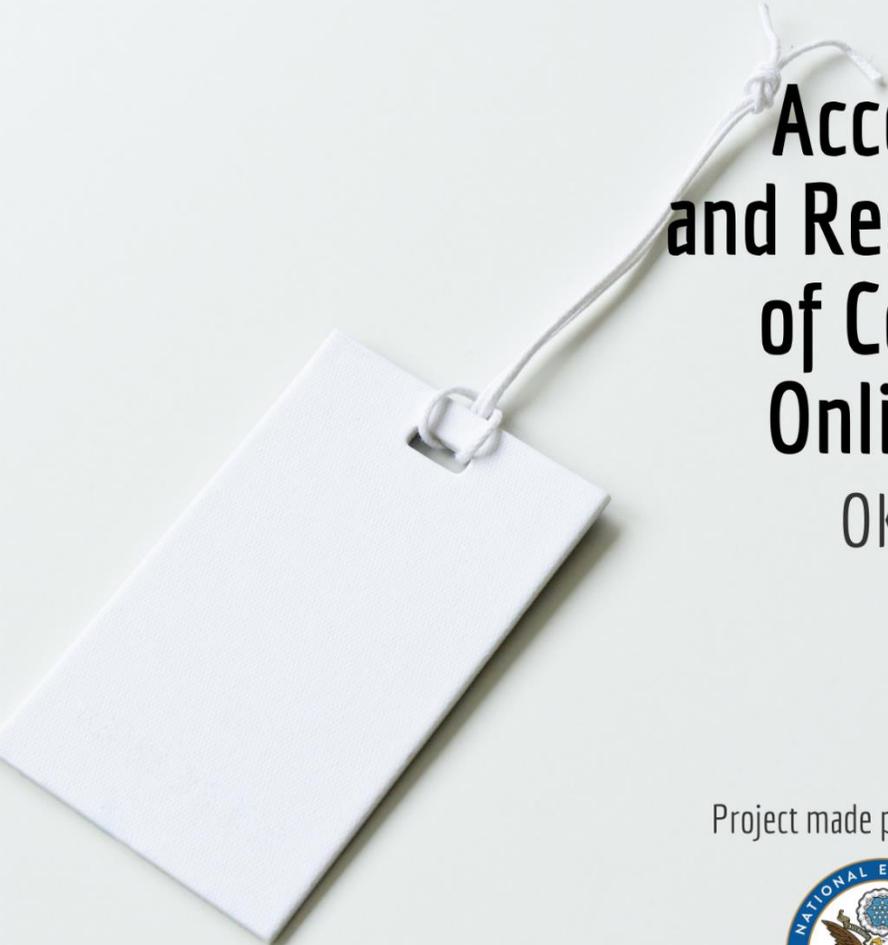
What are some possible collecting themes your museum could focus on for the next three to five years?

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# Museum Accessioning and Registration of Collections Online Course

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## Module 16: The Collections Committee

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

**There are No Handouts for  
Module 16: The Collections Committee**



# Museum Accessioning and Registration of Collections Online Course

OKMuseums.org



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HUMANITIES

## Module 17: Legal Issues

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Noncash Charitable Contributions

- ▶ Attach one or more Forms 8283 to your tax return if you claimed a total deduction of over \$500 for all contributed property.
- ▶ Go to [www.irs.gov/Form8283](http://www.irs.gov/Form8283) for instructions and the latest information.

OMB No. 1545-0074

Attachment  
Sequence No. **155**

Name(s) shown on your income tax return

Identifying number

**Note:** Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

**Section A. Donated Property of \$5,000 or Less and Publicly Traded Securities**—List in this section **only** an item (or a group of similar items) for which you claimed a deduction of \$5,000 or less. Also list publicly traded securities and certain other property even if the deduction is more than \$5,000. See instructions.

**Part I Information on Donated Property**—If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description and condition of donated property (For a vehicle, enter the year, make, model, and mileage. For securities and other property, see instructions.)
A		<input type="checkbox"/>	
B			
C			
D			
E			

**Note:** If the amount you claimed as a deduction for an item is \$500 or less, you do not have to complete columns (e), (f), and (g).

	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A						
B						
C						
D						
E						

**Section B. Donated Property Over \$5,000 (Except Publicly Traded Securities, Vehicles, Intellectual Property or Inventory Reportable in Section A)**—Complete this section for one item (or a group of similar items) for which you claimed a deduction of more than \$5,000 per item or group (except contributions reportable in Section A). Provide a separate form for each item donated unless it is part of a group of similar items. A qualified appraisal is generally required for items reportable in Section B. See instructions.

**Part Information on Donated Property**

2 Check the box that describes the type of property donated.

- |   |  |   |
|---|--|---|
| a <input checked="" type="checkbox"/> Art* (contribution of \$20,000 or more)   | e <input type="checkbox"/> Other Real Estate     | i <input type="checkbox"/> Vehicles                     |
| b <input checked="" type="checkbox"/> Qualified Conservation Contribution       | f <input type="checkbox"/> Securities            | j <input type="checkbox"/> Clothing and household items |
| c <input type="checkbox"/> Equipment  | g <input type="checkbox"/> Collectibles**        | k <input type="checkbox"/> Other                        |
| d <input checked="" type="checkbox"/> Art* (contribution of less than \$20,000) | h <input type="checkbox"/> Intellectual Property |   |

\* Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

\*\* Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

**Note:** In certain cases, you must attach a qualified appraisal of the property. See instructions.

3	(a) Description of donated property (if you need more space, attach a separate statement)	(b) If any tangible personal property or real property was donated, give a brief summary of the overall physical condition of the property at the time of the gift.	(c) Appraised fair market value
A			
B			
C			

	(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received	(h) Amount claimed as a deduction (see instructions)	(i) Date of contribution (see instructions)
A						
B						
C						



EXAMPLE ONLY

Name(s) shown on your income tax	<b>Identifying</b>
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**Part II Partial Interests and Restricted Use Property (Other Than Qualified Conservation Contributions)—**  
 Complete lines 4a through 4e if you gave less than an entire interest in a property listed in Section B, Part I.  
 Complete lines 5a through 5c if conditions were placed on a contribution listed in Section B, Part I; also  
 attach the required statement. See instructions.

- 4a** Enter the letter from Section B, Part I that identifies the property for which you gave less than an entire interest \_\_\_\_\_  
 If Section B, Part II applies to more than one property, attach a separate statement.
- b** Total amount claimed as a deduction for the property listed in Section B, Part I: **(1)** For this tax year \_\_\_\_\_  
**(2)** For any prior tax years \_\_\_\_\_
- c** Name and address of each organization to which any such contribution was made in a prior year (complete  
 only if different from the donee organization in Section B, Part V, below):  
 Name of charitable organization (donee) \_\_\_\_\_

Address (number, street, and room or _____)	City or town, state, and ZIP _____
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- d** For tangible property, enter the place where the property is located or kept \_\_\_\_\_
- e** Name of any person, other than the donee organization, having actual possession of the property \_\_\_\_\_

		Yes	No
<b>5</b> Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property? Did you give			
<b>a</b> to anyone (other than the donee organization or another organization participating with the donee organization in cooperative			
<b>b</b> fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote			
donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession,			
or right to acquire? . . . . .			
<b>c</b> Is there a restriction limiting the donated property for a particular use? . . . . .			

**Part III Taxpayer (Donor) Statement—**List each item included in Section B, Part I above that the appraisal identifies as having a value of \$500 or less. See instructions.

I declare that the following item(s) included in Section B, Part I above has to the best of my knowledge and belief an appraised value of not more than \$500 (per item). Enter identifying letter from Section B, Part I and describe the specific item. See instructions.

\_\_\_\_\_

Signature of taxpayer (donor) \_\_\_\_\_ Date \_\_\_\_\_

**Part IV Declaration of Appraiser**

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).

<b>Sign Here</b>	Appraiser signature  _____	Date  _____
	Appraiser name © _____	Title © _____

Business address (including room or suite no.) _____	Identifying number _____
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City or town, state, and ZIP code \_\_\_\_\_

**Part V Donee Acknowledgment**

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date    
 Furthermore, this organization affirms that in the event it sells, exchanges, or disposes of the property described in Section B, Part I (or any portion thereof) after the date of receipt, it will file **Form 8282**, Donee Information Return, EXAMPLE ONLY otherwise within 3 years

with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? . . . . . **Yes**  **No**

Name of charitable organization (donee)	<b>Employer identification number</b>	
Address (number, street, and room or suite no.)	City or town, state, and ZIP code	
Authorized signature	Title	Date

# Instructions for Form 8283 (12/2021)

## Noncash Charitable Contributions

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

Revised: 12/2021

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## General Instructions

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### Future Developments

Information about any future developments affecting Form 8283 (such as legislation enacted after we release it) will be posted at [IRS.gov/Form8283](https://www.irs.gov/Form8283).

### Purpose of Form

Use Form 8283 to report information about noncash charitable contributions.

Do not use Form 8283 to report out-of-pocket expenses for volunteer work or amounts you gave by check or credit card. Treat these items as cash contributions. Also, do not use Form 8283 to figure your charitable contribution deduction. For details on how to figure the amount of the deduction, see your tax return instructions and Pub. 526, Charitable Contributions.

### Who Must File

You must file one or more Forms 8283 if the amount of your deduction for each noncash contribution is more than \$500. You must also file Form 8283 if you have a group of similar items for which a total deduction of over \$500 is claimed. See [Similar Items of Property](#), later. For this purpose, “amount of your deduction” means your deduction before applying any income limits that could result in a carryover. The carryover rules are explained in Pub. 526. Make any required reductions to fair market value (FMV) before you determine if you must file Form 8283. See [Fair Market Value \(FMV\)](#), later.

Form 8283 is filed by individuals, partnerships, and corporations.

### Business Entities

**C corporations.** C corporations, other than personal service corporations and closely held corporations, must file Form 8283 only if the amount claimed as a deduction is more than \$5,000 per item or group of similar items. A personal service corporation or closely held corporation that claims a deduction for noncash gifts of more than \$500 must file Form 8283 with Form 1120 or applicable special return.

**Partnerships and S corporations.** A partnership or S corporation that claims a deduction for noncash gifts of more than \$500 must file Form 8283 (Section A or Section B) with Form 1065 or 1120-S.

If the total deduction for any item or group of similar items is more than \$5,000, the partnership or S corporation must complete Section B of Form 8283 even if the amount allocated to each partner or shareholder is \$5,000 or less.

The partnership or S corporation must give a completed copy of Form 8283 (Section A or Section B) to each partner or shareholder receiving an allocation of the contribution deduction shown in Section A or Section B of the Form 8283 of the partnership or S corporation.

**Partners and shareholders.** The partnership or S corporation will provide information about your share of the contribution on your Schedule K-1 (Form 1065 or 1120-S). If you received a copy of Form 8283 from the partnership or S corporation, attach a copy to your tax return. Use the amount shown on your Schedule K-1, not the amount shown on the Form 8283, to figure your deduction. Complete only column (h) of line 1 with your share of the contribution and enter "From Schedule K-1 (Form 1065 or 1120-S)" across columns (d)-(g).

## When To File

File Form 8283 with your tax return for the year you contribute the property and first claim a deduction and any carryover year described in section 170(d).

## Which Sections To Complete

Form 8283 has two sections. If you must file Form 8283, you must complete either Section A or Section B depending on the type of property donated and the amount claimed as a deduction.

Use Section A to report donations of property for which you claimed a deduction of \$5,000 or less per item or group of similar items (defined later). Also use Section A to report donations of publicly traded securities; certain intellectual property described in section 170(e)(1)(B)(iii); a qualified vehicle described in section 170(f)(12)(A)(ii) for which an acknowledgement under section 170(f)(12)(B)(iii) is provided; and inventory and other similar property described in section 1221(a)(1). Use Section B to report donations of property for which you claimed a deduction of more than \$5,000 per item or group of similar items.

In figuring whether your deduction for a group of similar items was more than \$5,000, consider all items in the group, even if items in the group were donated to more than one donee organization. However, you must file a separate Form 8283, Section B, for each donee organization.

**Example.** You claimed a deduction of \$2,000 for books you gave to College A, \$2,500 for books you gave to College B, and \$900 for books you gave to College C. You must report these donations in Section B because the total deduction was more than \$5,000. You must file a separate Form 8283, Section B, for the donation to each of the three colleges.

**Section A.** Include in Section A only the following items.

1. Items (or groups of [similar items](#) as defined later) for which you claimed a deduction of more than \$500 but not more than \$5,000 per item (or group of similar items).

2. The following items even if the claimed value was more than \$5,000 per item (or group of similar items):
  - a. Securities listed on an exchange in which quotations are published daily,
  - b. Securities regularly traded in national or regional over-the-counter markets for which published quotations are available,
  - c. Securities that are shares of a mutual fund for which quotations are published on a daily basis in a newspaper of general circulation throughout the United States,
  - d. Certain other securities even though the securities do not meet any of the criteria described in paragraphs 2.a through 2.c above (for more information, see Treasury Regulations section 1.170A-13(c)(7)(xi)(B)),
  - e. A vehicle (including a car, boat, or airplane) if your deduction for the vehicle is limited to the gross proceeds from its sale and you obtained a contemporaneous written acknowledgment,
  - f. Intellectual property (as defined later), or
  - g. Inventory or property held primarily for sale to customers in the ordinary course of your trade or business.

**Section B.** Include in Section B only items (or groups of similar items) for which you claimed a deduction of more than \$5,000. Do not include items reportable in Section A. Items reportable in Section B require a written qualified appraisal by a qualified appraiser. You must file a separate Form 8283, Section B, for each donee organization and each item of property (or group of similar items).

You must file Form 8283, Section B, if you are contributing a single article of clothing or household item that is not in good used condition or better and for which you are claiming a deduction of over \$500.

You must also file Form 8283, Section B, if you gave less than an entire interest in a property or conditions were placed on the use of the property.

## Similar Items of Property

Similar items of property are items of the same general category or type, such as coin collections, paintings, books, clothing, jewelry, nonpublicly traded stock, land, or buildings.

**Example.** You claimed a deduction of \$600 for inventory, \$7,000 for publicly traded securities (quotations published daily), and \$6,000 for a collection of 15 books (\$400 each). Report the inventory and securities in Section A and the books (a group of similar items) in Section B.

## Special Rule for Certain C Corporations

A special rule applies for deductions taken by certain C corporations under section 170(e)(3) or (4) for certain contributions of inventory or scientific equipment.

To determine if you must file Form 8283, use the difference between the amount you claimed as a deduction and the amount you would have claimed as cost of goods sold (COGS) had

you sold the property instead. This rule is only for purposes of Form 8283. It does not change the amount or method of figuring your contribution deduction.

If you do not have to file Form 8283 because of this rule, you must attach a statement to your tax return (similar to the one in the example below).

**Example.** You donated clothing from your inventory for the care of the needy. The clothing cost you \$500 and your claimed charitable deduction is \$800. Complete Section A instead of Section B because the difference between the amount you claimed as a charitable deduction and the amount that would have been your COGS deduction is \$300 (\$800 – \$500). Because the difference between the charitable deduction and the cost of goods sold is less than \$500, Form 8283 does not have to be filed:

**Deduction for Donation of Inventory**

Contribution deduction	\$800
COGS (if sold, not donated)	– 500
	= \$300

**Fair Market Value (FMV)**

Although the amount of your deduction determines if you have to file Form 8283, you also need to have information about the FMV of your contribution to complete the form.

FMV is the price a willing, knowledgeable buyer would pay a willing, knowledgeable seller when neither has to buy or sell.

You may not always be able to deduct the FMV of your contribution. Depending on the type of property donated, you may have to reduce the FMV to figure the deductible amount, as explained next.

**Reductions to FMV.** The amount of the reduction (if any) depends on whether the property is ordinary income property or capital gain property. Attach a statement to your tax return showing how you figured the reduction.

**Ordinary income property.** Ordinary income property is property that would result in ordinary income or short-term capital gain if it were sold at its FMV on the date it was contributed. Examples of ordinary income property are inventory, works of art created by the donor, and capital assets held for 1 year or less. The deduction for a gift of ordinary income property is limited to the FMV minus the amount that would be ordinary income or short-term capital gain if the property were sold.

**Capital gain property.** Capital gain property is property that would result in long-term capital gain if it were sold at its FMV on the date it was contributed. For purposes of figuring your charitable contribution, capital gain property also includes certain real property and depreciable property used in your trade or business and, generally, held more than 1 year. However, to the extent of any gain from the property that must be recaptured as ordinary income under section 1245, section 1250, or any other Code provision, the property is treated as ordinary income property.

You usually may deduct gifts of capital gain property at their FMV. However, you must reduce your deduction amount by the amount of any appreciation if any of the following apply.

- The capital gain property is contributed to certain private nonoperating foundations. This rule does not apply to qualified appreciated stock.
- You choose the 50% limit instead of the special 30% limit for capital gain property given to 50% limit organizations.
- The contributed property is [intellectual property](#) (as defined later).
- The contributed property is certain taxidermy property.
- The contributed property is tangible personal property that is put to an unrelated use (as defined in Pub. 526) by the charity.
- The contributed property is certain tangible personal property with a claimed value of more than \$5,000 and is sold, exchanged, or otherwise disposed of by the charity during the year in which you made the contribution, and the charity has not made the required certification of exempt use (such as on Form 8282, Donee Information Return, Part IV).

**Qualified conservation contribution.** A qualified conservation contribution is a donation of a qualified real property interest, such as an easement, exclusively for certain conservation purposes. The donee must be a qualified organization as defined in section 170(h)(3) and must have the resources to monitor and enforce the conservation easement or other conservation restrictions. To enable the organization to do this, you must give it documents, such as maps and photographs, that establish the condition of the property at the time of the gift.

If the donation has no material effect on the real property's FMV, or enhances rather than reduces its FMV, no deduction is allowable. For example, no deduction may be allowed if the property's use is already restricted, such as by zoning or other law or contract, and the donation does not further restrict how the property can be used.

The FMV of a conservation easement cannot be determined by applying a standard percentage to the FMV of the underlying property. The best evidence of the FMV of an easement is the sales price of a comparable easement. If there are no comparable sales, the before and after method may be used.

Attach a statement that:

- Identifies the conservation purposes furthered by your donation,
- Shows, if before and after valuation is used, the FMV of the underlying property before and after the gift,
- States whether you made the donation in order to get a permit or other approval from a local or other governing authority and whether the donation was required by a contract, and
- If you or a related person has any interest in other property nearby, describes that interest.

If an appraisal is required, it must be made by a qualified appraiser. See [Appraisal Requirements](#), later.

**Easements on buildings in historic districts.** You cannot claim a deduction for this type of contribution unless the contributed interest includes restrictions preserving the entire exterior of the building (including front, sides, rear, and height) and prohibiting any change to the exterior of the building inconsistent with its historical character. If you claim a deduction for this type of contribution, you must include with your return:

- A signed copy of a qualified appraisal,
- Photographs of the entire exterior of the building, and
- A description of all restrictions on the development of the building. The description of the restrictions can be made by attaching a copy of the easement deed.

If you donate this type of property and claim a deduction of more than \$10,000, your deduction will not be allowed unless you pay a \$500 filing fee. See Form 8283-V and its instructions.

For more information about qualified conservation contributions, see Pub. 526 and Pub. 561, Determining the Value of Donated Property. Also see section 170(h), Regulations section 1.170A-14, and Notice 2004-41. Notice 2004-41, 2004-28 I.R.B. 31, is available at [IRS.gov/irb/2004-28\\_IRB/ar09.html](http://IRS.gov/irb/2004-28_IRB/ar09.html).

**Intellectual property.** The FMV of intellectual property must be reduced to figure the amount of your deduction, as explained earlier. Intellectual property means a patent, copyright (other than a copyright described in section 1221(a)(3) or 1231(b)(1)(C)), trademark, trade name, trade secret, know-how, software (other than software described in section 197(e)(3)(A)(i)), or similar property, or applications or registrations of such property.

However, you may be able to claim additional charitable contribution deductions in the year of the contribution and later years based on a percentage of the donee's net income, if any, from the property. The amount of the donee's net income from the property will be reported to you on Form 8899, Notice of Income From Donated Intellectual Property. See Pub. 526 for details.

**Clothing and household items.** The FMV of used household items and clothing is usually much lower than when new. A good measure of value might be the price that buyers of these used items actually pay in consignment or thrift shops. You can also review classified ads in the newspaper or on the Internet to see what similar products sell for.

Generally, you cannot claim a deduction for clothing or household items you donate unless the clothing or household items are in good used condition or better. However, you can claim a deduction for a contribution of an item of clothing or a household item that is not in good used condition or better if your claimed value is more than \$500 and you substantiate that value with a qualified appraisal and Form 8283, Section B. Both must be included with your return.

## Qualified Vehicle Donations

A qualified vehicle is any motor vehicle manufactured primarily for use on public streets, roads, and highways; a boat; or an airplane. However, property held by the donor primarily for sale to customers, such as inventory of a car dealer, is not a qualified vehicle.

If you donate a qualified vehicle with a claimed value of more than \$500, you cannot claim a deduction unless you attach to Form 8283 a copy of the contemporaneous written acknowledgment you received from the donee organization. The donee organization may use Copy B of Form 1098-C as the acknowledgment. An acknowledgment is considered contemporaneous if the donee organization furnishes it to you no later than 30 days after the:

- Date of the sale, if the donee organization sold the vehicle in an arm's length transaction to an unrelated party; or
- Date of the contribution, if the donee organization will not sell the vehicle before completion of a material improvement or significant intervening use, or the donee organization will give or sell the vehicle to a needy individual for a price significantly below FMV to directly further the organization's charitable purpose of relieving the poor and distressed or underprivileged who need a means of transportation.

For a donated vehicle with a claimed value of more than \$500, you can deduct the smaller of the vehicle's FMV on the date of the contribution or the gross proceeds received from the sale of the vehicle, unless an exception applies as explained below. Form 1098-C (or other acknowledgment) will show the gross proceeds from the sale if no exception applies. If the FMV of the vehicle was more than your cost or other basis, you may have to reduce the FMV to figure the deductible amount, as described under [Reductions to FMV](#), earlier.

If any of the following exceptions apply, your deduction is not limited to the gross proceeds received from the sale. Instead, you generally can deduct the vehicle's FMV on the date of the contribution if the donee organization:

- Makes a significant intervening use of the vehicle before transferring it,
- Makes a material improvement to the vehicle before transferring it, or
- Gives or sells the vehicle to a needy individual for a price significantly below FMV to directly further the organization's charitable purpose of relieving the poor and distressed or underprivileged who need a means of transportation.

Form 1098-C (or other acknowledgment) will show if any of these exceptions apply. If the FMV of the vehicle was more than your cost or other basis, you may have to reduce the FMV to figure the deductible amount, as described under [Reductions to FMV](#), earlier.

**Determining FMV.** A used car guide may be a good starting point for finding the FMV of your vehicle. These guides, published by commercial firms and trade organizations, contain vehicle sale prices for recent model years. The guides are sometimes available from public libraries or from a loan officer at a bank, credit union, or finance company. You can also find used car pricing information on the Internet.

An acceptable measure of the FMV of a donated vehicle is an amount not in excess of the price listed in a used vehicle pricing guide for a private party sale of a similar vehicle. However, the FMV may be less than that amount if the vehicle has engine trouble, body damage, high mileage, or any type of excessive wear. The FMV of a donated vehicle is the same as the price listed in a used vehicle pricing guide for a private party sale only if the guide lists a sales price for a vehicle that is the same make, model, and year, sold in the same area, in the same condition, with the same or similar options or accessories, and with the same or similar warranties as the donated vehicle.

**Example.** Neal donates his car, which he bought new in 2015 for \$30,000. A used vehicle pricing guide shows the FMV for his car is \$9,000. Neal receives a Form 1098-C showing the gross proceeds from the sale of Neal's car for \$7,000. The Form 1098-C does not include certifications from the donee that it made material improvements or significant intervening use of Neal's car or transferred the car to a needy individual for significantly below fair market value in furtherance of the donee's charitable purpose. Neal claims a deduction of \$7,000 for the contribution but only if he completes Section A and attaches to his return either Form 1098-C, or other contemporaneous written acknowledgment that meets the requirements of section 170(f)(12)(B).

**More information.** For details, see Pub. 526 or Notice 2005-44. Notice 2005-44, 2005-25 I.R.B. 1287, is available at [IRS.gov/irb/2005-25\\_IRB/ar09.html](https://www.irs.gov/irb/2005-25_IRB/ar09.html).

## Additional Information

You may want to see Pub. 526 and Pub. 561. If you contributed depreciable property, see Pub. 544, Sales and Other Disposition of Assets.

## Specific Instructions

**Identifying number.** Individuals must enter their social security number. All other filers should enter their employer identification number.

## Section A

### Part I, Information on Donated Property

#### Line 1

**Column (b).** Check the box if the donated property is a qualified vehicle (defined earlier). If you are not attaching Form 1098-C (or other acknowledgment) to your return, enter the vehicle identification number (VIN) in the spaces provided below the checkbox.

You can find the VIN on the vehicle registration, the title, the proof of insurance, or the vehicle itself. Generally, the VIN is 17 characters made up of numbers and letters.

If the VIN has fewer than 17 characters, enter a zero in each of the remaining entry spaces to the left of the VIN. For example, if the VIN is "555555X55555," enter "0000555555X55555."

**Column (c).** Describe the property in sufficient detail. The greater the value of the property, the more detail you must provide. For example, a personal computer should be described in more detail than pots and pans.

If the donated property is a vehicle, give the year, make, model, condition, and mileage at the time of the donation (for example, “2018 Hyundai, Model M, fair condition, 60,000 miles”) regardless of whether you must attach either a Form 1098-C or other contemporaneous written acknowledgment. If you do not know the actual mileage, use a good faith estimate based on car repair records or similar evidence.

For securities, include the following.

- Company name,
- Number of shares,
- Kind of security,
- Whether a share of a mutual fund, and
- Whether regularly traded on a stock exchange or in an over-the-counter market.

For real or tangible personal property, include the condition of the property and whether the donee has certified the tangible personal property for its own use as an exempt organization.

**Column (d).** Enter the date you contributed the property. If you made contributions on various dates, enter each contribution and its date on a separate row.

**Note.** If the amount you claimed as a deduction for the item is \$500 or less, you do not have to complete columns (e), (f), and (g).

**Column (e).** Enter the approximate date you acquired the property. If it was created, produced, or manufactured by or for you, enter the date it was substantially completed.

If you are donating a group of similar items and you acquired the items on various dates (but have held all the items for at least 12 months), you can enter “Various.”

For publicly traded securities, enter only if you held the securities for more than 12 months.

If the property was created, produced, or manufactured by or for the donor, enter the date the property was substantially completed.

**Column (f).** State how you acquired the property. This could be by purchase, gift, inheritance, or exchange.

**Column (g).** Do not complete this column for publicly traded securities held more than 12 months, unless you elect to limit your deduction cost basis. See section 170(b)(1)(C)(iii). Keep records on cost or other basis.

**Note.** If you must complete columns (e), (f), and (g) but have reasonable cause for not providing the information required, attach an explanation.

**Column (h).** Enter the FMV of the property on the date you donated it. You must attach a statement if:

- You were required to reduce the FMV to figure the amount of your deduction, or
- You gave a qualified conservation contribution for which you claimed a deduction of \$5,000 or less.

See [Fair Market Value \(FMV\)](#), earlier, for the type of statement to attach.

**Column (i).** Enter the method(s) you used to determine the FMV.

Examples of entries to make include “Appraisal,” “Thrift shop value” (for clothing or household items), “Catalog” (for stamp or coin collections), or “Comparable sales” (for real estate and other kinds of assets). See Pub. 561.

## Section B

Include in Section B items (or groups of similar items) for which you are claiming a deduction of more than \$5,000. You must also file Form 8283, Section B, if you are contributing a single article of clothing or household item that is not in good used condition and for which you are claiming a deduction of more than \$500. Do not include property reported in Section A. File a separate Form 8283, Section B, for:

- Each donee; and
- Each item of property, except for an item that is part of a group of similar items.

## Part I, Information on Donated Property

You must get a written qualified appraisal from a qualified appraiser before completing Part I. However, see [Exceptions](#) below.

Generally, you do not need to attach the appraisals to your return but you should keep them for your records. But see [Art valued at \\$20,000 or more](#), [Clothing and household items not in good used condition](#), [Easements on buildings in historic districts](#), and [Deduction of more than \\$500,000](#), later.

**Exceptions.** You do not need a written appraisal if the property is:

1. A qualified vehicle (including a car, boat, or airplane) if your deduction for the vehicle is limited to the gross proceeds from its sale and you obtained a contemporaneous written acknowledgment;
2. [Intellectual property](#) (as defined earlier);
3. Publicly traded securities and certain securities considered to be publicly traded (as defined in [Which Sections To Complete](#), earlier); or
4. Inventory or property held primarily for sale to customers in the ordinary course of your trade or business.

**Art valued at \$20,000 or more.** If your deduction for art is \$20,000 or more, you must attach a complete copy of the signed appraisal to your return. For individual objects valued at \$20,000

or more, a photograph must be provided upon request. The photograph must be of sufficient quality and size (preferably an 8 x 10 inch color photograph) or a high-resolution digital image to fully show the object.

**Clothing and household items not in good used condition.** You must include with your return a qualified appraisal of any single item of clothing or any household item that is not in good used condition or better for which you are claiming a deduction of more than \$500. Attach the appraisal and Section B to your return. See [Clothing and household items](#), earlier.

**Easements on buildings in historic districts.** If you are claiming a deduction for a qualified conservation contribution of an easement on the exterior of a building in a registered historic district, you must include the qualified appraisal, photographs, and certain other information with your return. See [Easements on buildings in historic districts](#), under *Fair Market Value (FMV)*, earlier.

**Deduction of more than \$500,000.** If you are claiming a deduction of more than \$500,000 for an item (or group of similar items) donated to one or more donees, you must attach the qualified appraisal of the property to your return unless an exception applies. See [Exceptions](#), earlier.

## Appraisal Requirements

The appraisal must be prepared by a qualified appraiser (defined later) in accordance with the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation. It also must meet the relevant requirements of Regulations section 1.170A-17(a) and (b).

The appraisal must be signed and dated by a qualified appraiser not earlier than 60 days before the date you contribute the property. You must receive the appraisal before the due date (including extensions) of the return on which you first claim a deduction for the property. For a deduction you first claim on an amended return, you must obtain the appraisal before the date you file the amended return. See Regulations section 1.170A-17(a)(4), (a)(8).

A separate qualified appraisal and a separate Form 8283 are required for each item of property except for an item that is part of a group of similar items. Only one appraisal is required for a group of similar items contributed in the same tax year if it includes all the required information for each item. The appraiser may group similar items with a collective value appraised at \$100 or less.

If you gave similar items to more than one donee for which you claimed a total deduction of more than \$5,000, you must attach a separate form for each donee.

**Example.** You claimed a deduction of \$2,000 for books given to College A, \$2,500 for books given to College B, and \$900 for books given to a public library. You must attach a separate Form 8283 for each donee.

## Line 2

Check only one box on line 2 of each Form 8283. Complete as many separate Forms 8283 as necessary so that only one box has to be checked on line 2 of each Form 8283.

**Vehicles.** If you check box “i” to indicate the donated property is a vehicle and the claimed value for your donated vehicle (a) is more than \$5,000, and (b) not limited to the gross proceeds from its sale, you must also attach to your return a copy of Form 1098-C (or other contemporaneous written acknowledgment) you received from the donee organization. See [Which Sections To Complete](#) for instructions on whether to include your donated vehicle in Section A or Section B. Do not include donated vehicles reportable in Section A in Section B.

### Line 3

You must complete at least column (a) of line 3 (and column (b) if applicable) before submitting Form 8283 to the donee. You may then complete the remaining columns.

**Column (a).** Provide a detailed description so a person unfamiliar with the property could be sure the property that was appraised is the property that was contributed. The greater the value of the property, the more detail you must provide.

For a qualified conservation contribution, describe the easement terms in detail, or attach a copy of the easement deed.

A description of donated securities should include the company name and number of shares donated. Do not include donated securities reportable in Section A.

**Column (b).** If any tangible personal property or real property was donated, give a brief summary of the overall physical condition of the property at the time of the gift.

**Column (c).** Include the FMV from the appraisal.

**Column (d).** If you are donating a group of similar items and you acquired the items on various dates (but have held all the items for at least 12 months), you can enter “Various.”

**Columns (d)–(f).** If you have reasonable cause for not providing the information in column (d), (e), or (f), attach an explanation so your deduction will not automatically be disallowed.

For a qualified conservation contribution, indicate whether you are providing information about the underlying property or about the easement.

**Column (g).** A bargain sale is a transfer of property that is in part a sale or exchange and in part a contribution. Enter the amount received for bargain sales.

**Column (h).** Complete column (h) only if you were not required to get an appraisal, as explained earlier.

**Column (i).** Complete column (i) only if you were not required to get an appraisal, as explained earlier.

## Part II, Partial Interests and Restricted Use Property

If Part II applies to more than one property, attach a separate statement. Give the required information for each property separately. Identify which property listed in Section B, Part I the information relates to.

### Lines 4a Through 4e

Complete lines 4a–4e only if you contributed less than the entire interest in property listed in Section B, Part I. On line 4b, enter the amount claimed as a deduction for this tax year and in any prior tax years for gifts of a partial interest in the same property. Line 4c is completed if the prior year donee organization is different from the organization in Section B, Part V.

### Lines 5a Through 5c

Complete lines 5a–5c only if you attached restrictions to the right to the income, use, or disposition of the donated property. An example of a “restricted use” donation includes a contribution of an item to a museum on the condition that the latter does not sell the item for a specified period following the donation. Attach a statement explaining (1) the terms of any agreement or understanding regarding the restriction, and (2) whether the property is designated for a particular use.

## Part III, Taxpayer (Donor) Statement

Complete Section B, Part III, for each item included in Section B, Part I, that has an appraised value of \$500 or less. Because you may not have to show the individual value of these items in Section B, Part I, of the donee's copy of Form 8283, clearly identify them for the donee in Section B, Part III. Then, the donee does not have to file Form 8282 for the items valued at \$500 or less. See the [Note](#), under *Part V, Donee Acknowledgment*, for more details about filing Form 8282.

The amount of information you give in Section B, Part III, depends on the description of the donated property you enter in Section B, Part I. If you show a single item as “Property A” in Part I and that item is appraised at \$500 or less, then the entry “Property A” in Part III is enough. However, if “Property A” consists of several items and the total appraised value is over \$500, list in Part III any item(s) you gave that is valued at \$500 or less.

All shares of nonpublicly traded stock or items in a set are considered one item. For example, a book collection by the same author, components of a stereo system, or six place settings of a pattern of silverware are one item for the \$500 test.

**Example.** You donated books valued at \$6,000. The appraisal states that one of the items, a collection of books by author “X,” is worth \$400. On the Form 8283 that you are required to give the donee, you decide not to show the appraised value of all of the books. But you also do not want the donee to have to file Form 8282 if the collection of books is sold within 3 years after the donation. If your description of Property A on line 3 includes all the books, then

specify in Part III the “collection of books by X included in Property A.” But if your Property A description is “collection of books by X,” the only required entry in Part III is “Property A.”

In the above example, you may have chosen instead to give a completed copy of Form 8283 to the donee. The donee would then be aware of the value. If you include all the books as Property A on line 3, and enter \$6,000 in column (c), you may still want to describe the specific collection in Part III so the donee can sell it without filing Form 8282.

## **Part IV, Declaration of Appraiser**

If you are required to get an appraisal, you must get it from a qualified appraiser. A qualified appraiser is an individual who meets all the following requirements as of the date the individual completes and signs the appraisal.

1. The individual either:
  - a. Has earned a recognized appraiser designation from a generally recognized professional appraiser organization for demonstrated competency in valuing the type of property being appraised, or
  - b. Has met certain minimum education requirements and has 2 or more years of experience in valuing the type of property being appraised. To meet the minimum education requirements, the individual must have successfully completed professional or college-level coursework in valuing the type of property and the education must be from:
    - i. A professional or college-level educational organization,
    - ii. A generally recognized professional trade or appraiser organization that regularly offers educational programs, or
    - iii. An employer as part of an employee apprenticeship or education program similar to professional or college-level courses.
2. The individual regularly prepares appraisals for which he or she is paid.
3. The appraiser makes a declaration in the appraisal that, because of his or her experience and education, he or she is qualified to make appraisals of the type of property being valued.
4. The appraiser specifies in the appraisal the appraiser’s education and experience in appraising the type of property being valued.

In addition, the appraiser must complete Part IV of Form 8283. See section 170(f)(11)(E) and Regulations section 1.170A-16(d)(4) for details.

If you use appraisals by more than one appraiser, or if two or more appraisers contribute to a single appraisal, all the appraisers must sign the appraisal and Part IV of Form 8283.

Persons who cannot be qualified appraisers are listed in Part IV of Section B—the Declaration of Appraiser. Generally, a party to the transaction in which you acquired the property being appraised will not qualify to sign the declaration. But a person who sold, exchanged, or gave the property to you may sign the declaration if the property was donated within 2 months of the date you acquired it and the property’s appraised value did not exceed its acquisition price.

An appraisal is not a qualified appraisal if you either fail to disclose or misrepresent facts to your appraiser and a reasonable person would expect this failure or misrepresentation to cause the appraiser to misstate the value of the property you contributed.

Appraisal fees cannot be based on a percentage of the appraised value. See Regulations section 1.170A-17(a)(9).

**Identifying number.** The appraiser's taxpayer identification number (social security number or employer identification number) must be entered in Part IV.

## **Part V, Donee Acknowledgment**

The donee organization that received the property described in Part I of Section B must complete Part V. Before submitting Section B of Form 8283 to the donee for acknowledgment, complete at least your name, identifying number, and description of the donated property (line 3, column (a)). If real property or tangible personal property is donated, also describe its physical condition (line 3, column (b)) at the time of the gift. Complete Part III, if applicable, before submitting the form to the donee. See the instructions for Part III.

The person acknowledging the gift must be an official authorized to sign the tax returns of the organization, or a person specifically designated to sign Form 8283. When you ask the donee to fill out Part V, you should also ask the donee to provide you with a contemporaneous written acknowledgment required by section 170(f)(8).

After completing Part V, the organization must return Form 8283 to you, the donor. You must give a copy of Section B of this form to the donee organization. You may then complete any remaining information required in Part I. Also, the qualified appraiser can complete Part IV at this time.

In some cases, it may be impossible to get the donee's signature on Form 8283. The deduction will not be disallowed for that reason if you attach a detailed explanation of why it was impossible.

**Note.** If it is reasonable to expect that donated tangible personal property will be used for a purpose unrelated to the purpose or function of the donee, the donee should check the "Yes" box in Part V. In this situation, your deduction will be limited. In addition, if the donee (or a successor donee) organization disposes of the property within 3 years after the date the original donee received it, the organization must file Form 8282 with the IRS and send a copy to the donor. (As a result of the sale by the donee, the donor's contribution deduction may be limited or part of the prior year's contribution deduction may have to be recaptured. See Pub. 526.) An exception applies to items having a value of \$500 or less if the donor identified the items and signed the statement in Section B, Part III, of Form 8283. See the instructions for Part III.

## **Failure To File Form 8283**

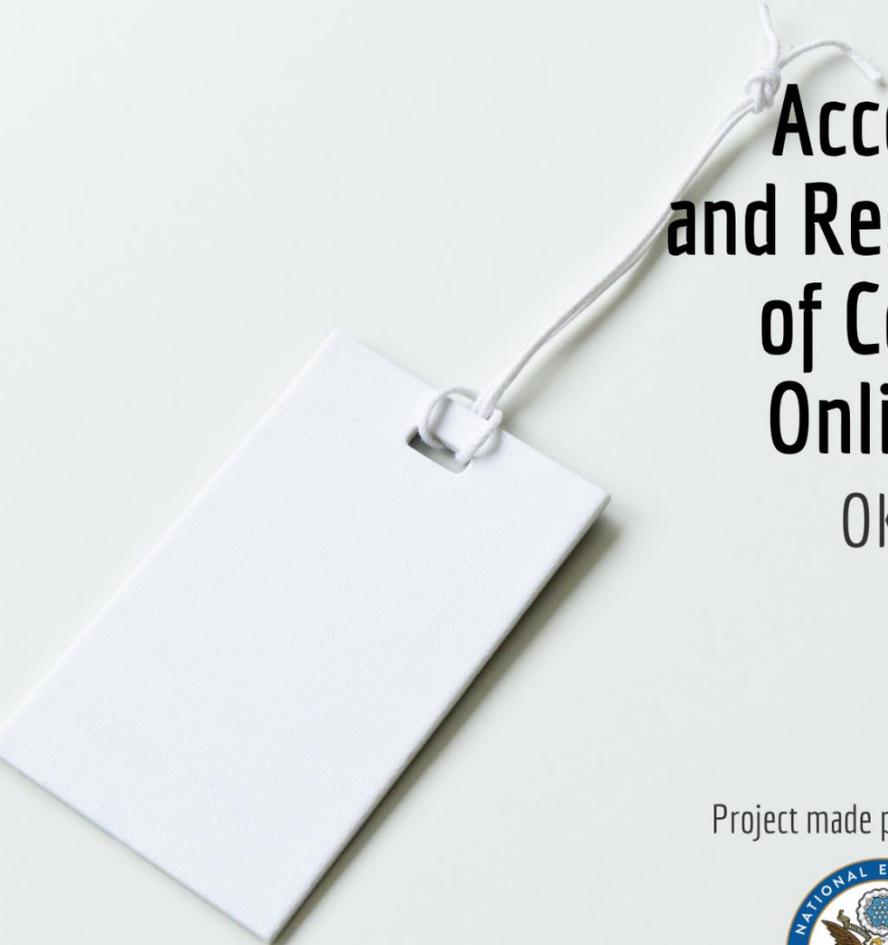
Your deduction generally will be disallowed if you fail to:

- Attach a required Form 8283 to your return,
- Get a required appraisal and complete Section B of Form 8283, or
- Attach to your return a required appraisal of clothing or household items not in good used condition, an easement on a building in a registered historic district, or property for which you claimed a deduction of more than \$500,000.

Your deduction will not be disallowed if your failure was due to reasonable cause and not willful neglect or was due to a good-faith omission.

## **Noncash Contributions Carried Over to Later Year**

If your noncash contribution was subject to one or more limits based on your adjusted gross income, and your unused charitable deduction from a previous year may be claimed in the present year, you must attach a completed Form 8283 from the previous year. A copy of the original Form 8283 from the previous year should be submitted with the completed Form 8283 for the current year. If an appraisal was required to be attached to the previous return, submit a copy of the appraisal. Separate Forms 8283 need to be submitted for each contribution that is carried over from the previous year to the present year.



# Museum Accessioning and Registration of Collections Online Course

OKMuseums.org



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NATIONAL  
ENDOWMENT  
FOR THE  
HUMANITIES

## Module 18: NAGPRA

### Native American Graves Protection and Repatriation Act

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

NAGPRA information including government agencies and departments can be found at <https://www.nps.gov/subjects/nagpra/index.htm>

PUBLIC LAW 101-601--NOV. 16, 1990

NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

[104 STAT. 3048 PUBLIC LAW 101-601--NOV. 16, 1990]

Public Law 101-601  
101st Congress

An Act

Nov.16,1990

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[H.R. 5237]

To provide for the protection of Native American graves, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Native American Graves Protection and Repatriation Act. Hawaiian Natives. Historic preservation.  
25 USC 3001

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Graves Protection and Repatriation Act".

#### SEC. 2. DEFINITIONS.

For purposes of this Act, the term-

- (1) "burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.
- (2) "cultural affiliation" means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group.
- (3) "cultural items" means human remains and-
  - (A) "associated funerary objects" which shall mean 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 a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.
  - (B) "unassociated funerary objects" which shall mean 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 Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe,

(C) "sacred objects" which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) "cultural patrimony" which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native

[PUBLIC LAW 101-601--NOV. 16, 1990 104 STAT. 3049]

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 and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

(4) "Federal agency" means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution.

(5) "Federal lands" means any land other than tribal lands which are controlled or owned by the United States, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971.

(6) "Hui 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, for the purpose of providing guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues.

(7) "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (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.

(8) "museum" means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.

(9) "Native American" means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

(10) "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(11) "Native Hawaiian organization" means any organization which--

(A) serves and represents the interests of Native Hawaiians,

(B) has as a primary and stated purpose the provision of services to Native Hawaiians, and

(C) has expertise in Native Hawaiian Affairs, and shall include the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei.

(12) "Office of Hawaiian Affairs" means the Office of Hawaiian Affairs established by the constitution of the State of Hawaii.

(13) "right of possession" means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as

[104 STAT. 3050 PUBLIC LAW 101-601--NOV. 16, 1990]

applied in section 7(c), result in a Fifth Amendment taking by the United States as determined by the United States Claims Court pursuant to 28 U.S.C. 1491 in which event the "right of possession" shall be as provided under otherwise applicable property law. The original acquisition of Native American human remains and associated funerary objects which were excavated, exhumed, or otherwise obtained with full knowledge and consent of the next of kin or the official governing body of the appropriate culturally affiliated Indian tribe or Native Hawaiian organization is deemed to give right of possession to those remains.

(14) "Secretary" means the Secretary of the Interior.

(15) "tribal land" means-

(A) all lands within the exterior boundaries of any Indian reservation;

(B) all dependent Indian communities;

(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920, and section 4 of Public Law 86-3.

25 USC 3002.

### SEC 3. OWNERSHIP.

(a) NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.--The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after the date of enactment of this Act shall be (with priority given in the order listed)-

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony--

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

#### Claims.

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe--

(1) in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph

(1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

#### Regulations.

(b) UNCLAIMED NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.--Native American cultural items not claimed under subsection

[PUBLIC LAW 101-601--NOV. 16,-1990 104 STAT. 3051]

(a) shall be disposed of in accordance with regulations promulgated by the Secretary- in consultation with the review committee established under section 8,-Native American groups, representatives of museums and the scientific community.

(c) INTENTIONAL EXCAVATION AND REMOVAL OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.--The intentional removal from or excavation of Native American cultural items from Federal or tribal lands for purposes of discovery, study, or removal of such items is permitted only if--

(1) such items are excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979 (93 Stat. 721; 16 U.S.C. 470aa et seq.) which shall be consistent with this Act;

(2) such items are excavated or removed after consultation with or, in the case of tribal lands, consent of the appropriate (if any) Indian tribe or Native Hawaiian organization;

(3) the ownership and right of control of the disposition of such items shall be as provided in subsections (a) and (b); and

(4) proof of consultation or consent under paragraph (2) is shown.

(d) INADVERTENT DISCOVERY OF NATIVE AMERICAN REMAINS AND OBJECTS.--(1) Any person who knows, or has reason to know, that such person has discovered Native American cultural items on Federal or tribal lands-after the date of enactment of this Act shall notify, in writing, the Secretary of the Department, or head of any other agency or instrumentality of the United States, having primary management authority with respect to Federal lands and the appropriate Indian tribe or Native Hawaiian organization with respect to tribal lands, if known or readily ascertainable, and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971, the appropriate corporation or group. If the discovery occurred in connection with an activity, including (but not limited to) construction, mining, logging, and agriculture, the person shall cease the activity in the area of the discovery, make a reasonable effort to protect the items discovered before resuming such activity, and provide notice under this subsection. Following the notification under this subsection, and upon certification by the Secretary of the department or the head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification.

(2) The disposition of and control over any cultural items excavated or removed under this subsection shall be determined as provided for in this section.

(3) If the Secretary of the Interior consents, the responsibilities (in whole or in part) under paragraphs (1) and (2) of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary with respect to any land managed by such other Secretary or agency head.

(e) RELINQUISHMENT.--Nothing in this section shall prevent the governing body of an Indian tribe or Native Hawaiian organization from expressly relinquishing control over any Native American human remains, or title to or control over any funerary object, or sacred object.

[104 STAT. 3052 PUBLIC LAW 101-601--NOV. 16, 1990]

#### SEC. 4. ILLEGAL TRAFFICKING.

(a) ILLEGAL TRAFFICKING.--Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

" 1170. Illegal Trafficking in Native American Human Remains and Cultural Items

"(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

"(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title, imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both."

(b) TABLE OF CONTENTS.--The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1170. Illegal Trafficking in Native American Human Remains and Cultural Items."

Museums.  
25 USC 3003.

SEC. 5. INVENTORY FOR HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS.

(a) IN GENERAL.--Each Federal agency and each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects shall compile an inventory of such items and, to the extent possible based on information possessed by such museum or Federal agency, identify the geographical and cultural affiliation of such item.

(b) REQUIREMENTS.--(1) The inventories and identifications required under subsection (a) shall be--

(A) completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders;

(B) completed by not later than the date that is 5 years after the date of enactment of this Act, and

(C) made available both during the time they are being conducted and afterward to a review committee established under section 8.

(2) Upon request by an Indian tribe or Native Hawaiian organization which receives or should have received notice, a museum or Federal agency shall supply additional available documentation to supplement the information required by subsection (a) of this section. The term "documentation" means a summary of existing museum or Federal agency records, including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American human remains and associated funerary objects subject to this section. Such term does not mean, and this Act shall not be

[PUBLIC LAW 101-601--NOV. 16, 1990 104 STAT. 3053]

construed to be an authorization for, the initiation of new scientific studies of such remains and associated funerary objects or other means of acquiring or preserving additional scientific information from such remains and objects.

(c) EXTENSION OF TIME FOR INVENTORY.--Any museum which has made a good faith effort to carry out an inventory and identification under this section, but which has been unable to complete the process, may appeal to the Secretary for an extension of the time requirements set forth in subsection (b)(1)(B). The Secretary may extend such time requirements for any such museum upon a finding of good faith effort. An indication of good faith shall include the development of a plan to carry out the inventory and identification process.

(d) NOTIFICATION--(1) If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the Federal agency or museum concerned shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations.

(2) The notice required by paragraph (1) shall include information--

(A) which identifies each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition;

(B) which lists the human remains or associated funerary objects that are clearly identifiable as to tribal origin; and

(C) which lists the Native American human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with that Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the remains or objects, are determined by a reasonable belief to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.

(3) A copy of each notice provided under paragraph (1) shall be sent to the Secretary who

Federal Register, publication

shall publish each notice in the Federal Register.

(e) INVENTORY.--For the purposes of this section, the term "inventory" means a simple itemized list that summarizes the information called for by this section.

25 USC 3004.

## SEC. 6. SUMMARY FOR UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

Museums.

(a) IN GENERAL.--Each Federal agency or museum which has possession or control over holdings or collections of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony shall provide a written summary of such objects based upon available information held by such agency or museum. The summary shall describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable.

(b) REQUIREMENTS.-- (1) The summary required under subsection (a) shall be--

(A) in lieu of an object-by-object inventory;

(B) followed by consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders; and

[104 STAT. 3054 PUBLIC LAW 101-601--NOV. 16, 1990]

(C) completed by not later than the date that is 3 years after the date of enactment of this Act.

(2) Upon request, Indian Tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner to be agreed upon by all parties.

25 USC 3005.

#### SEC. 7. REPATRIATION.

(a) REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS POSSESSED OR CONTROLLED BY FEDERAL AGENCIES AND MUSEUMS.--

(1) If, pursuant to section 5, the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the Federal agency or museum, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to subsections (b) and (e) of this section, shall expeditiously return such remains and associated funerary objects.

(2) If, pursuant to section 6, the cultural affiliation with a particular Indian tribe or Native Hawaiian organization is shown with respect to unassociated funerary objects, sacred objects or objects of cultural patrimony, then the Federal agency or museum, upon the request of the Indian tribe or Native Hawaiian organization and pursuant to subsections (b), (c) and (e) of this section, shall expeditiously return such objects.

(3) The return of cultural items covered by this Act shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of such items.

(4) Where cultural affiliation of Native American human remains and funerary objects has not been established in an inventory prepared pursuant to section 5, or the summary pursuant to section 6, or where Native American human remains and funerary objects are not included upon any such inventory, then, upon request and pursuant to subsections (b) and (e) and, in the case of unassociated funerary objects, subsection (c), such Native American human remains and funerary objects shall be expeditiously returned where the 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.

(5) Upon request and pursuant to subsections (b), (c) and (e), sacred objects and objects of cultural patrimony shall be expeditiously returned where--

(A) the requesting party is the direct lineal descendant of an individual who owned the sacred object;

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

(C) the requesting Indian tribe or Native Hawaiian organization can show that the sacred object was owned or controlled by a member thereof, provided that in the case where a sacred object was owned by a member thereof, there are no identifiable

[PUBLIC LAW 101-601--NOV. 16, 1990 104 STAT. 3055]

lineal descendants of said member or the lineal descendent, upon notice, have failed to make a claim for the object under this Act.

(b) SCIENTIFIC STUDY.--If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the Federal agency or museum shall expeditiously return such items unless such items are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed.

(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 Federal agency or museum did not have the right of possession, then such agency or museum shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) SHARING OF INFORMATION BY FEDERAL AGENCIES AND MUSEUMS.--Any Federal agency or museum shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in making a claim under this section.

(e) COMPETING CLAIMS.--Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this Act, the Federal agency or museum cannot clearly determine which requesting party is the most appropriate claimant, the agency or museum may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this Act or by a court of competent jurisdiction.

(f) MUSEUM OBLIGATION.--Any museum 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 breach of fiduciary duty, public trust, or violations of state law that are inconsistent with the provisions of this Act.

25 USC 3006.

#### SEC. 8. REVIEW COMMITTEE.

(a) ESTABLISHMENT.--Within 120 days after the date of enactment of this Act, the Secretary shall establish a committee to monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 5, 6 and 7.

(b) MEMBERSHIP--(1) The Committee established under subsection (a) shall be composed of 7 members,

(A) 3 of whom shall be appointed by the Secretary from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders with at least 2 of such persons being traditional Indian religious leaders;

(B) 3 of whom shall be appointed by the Secretary from nominations submitted by national museum organizations and scientific organizations; and

(C) 1 who shall be appointed by the Secretary from a list of persons developed and consented to by all of the members appointed pursuant to subparagraphs (A) and (B).

[104 STAT 3056 PUBLIC LAW 101-601--NOV. 16, 1990]

- (2) The Secretary may not appoint Federal officers or employees to the committee.
- (3) In the event vacancies shall occur, such vacancies shall be filled by the Secretary in the same manner as the original appointment within 90 days of the occurrence of such vacancy.
- (4) Members of the committee established under subsection (a) shall serve without pay, but shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule for each day (including travel time) for which the member is actually engaged in committee business. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) RESPONSIBILITIES.--The committee established under subsection a) shall be responsible for-

- (1) designating one of the members of the committee as chairman;
  - (2) monitoring the inventory and identification process conducted under sections 5 and 6 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;
  - (3) upon the request of any affected party, reviewing and making findings related to-
    - (A) the identity or cultural affiliation of cultural items, or
    - (B) the return of such items;
  - (4) facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;
  - (5) compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;
  - (6) consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;
  - (7) consulting with the Secretary in the development of regulations to carry out this Act;
  - (8) performing such other related functions as the Secretary -may assign to the committee; and
  - (9) making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated.
- (d) Any records and findings made by the review committee pursuant to this Act relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 15 of this Act.

(e) RECOMMENDATIONS AND REPORT.--The committee shall make the recommendations under paragraph (c)(5) in consultation with Indian tribes and Native Hawaiian organizations and appropriate scientific and museum groups.

(f) ACCESS.--The Secretary shall ensure that the committee established under subsection (a) and the members of the committee have reasonable access to Native American cultural items under review and to associated scientific and historical documents.

(g) DUTIES OF SECRETARY.--The Secretary shall--

Regulations.

- (1) establish such rules and regulations for the committee as may be necessary, and

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(2) provide reasonable administrative and staff support necessary for the deliberations of the committee.

(h) ANNUAL REPORT.--The committee established under subsection (a) shall submit an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

(i) TERMINATION.--The committee established under subsection (a) shall terminate at the end of the 120-day period beginning on the day the Secretary certifies, in a report submitted to Congress, that the work of the committee has been completed.

Museums.

#### SEC. 9. PENALTY.

25 USC 3007.

(a) PENALTY.--Any museum that fails to comply with the requirements of this Act may be assessed a civil penalty by the Secretary of the Interior pursuant to procedures established by the Secretary through regulation. A penalty assessed under this subsection shall be determined on the record after opportunity for an agency hearing. Each violation under this subsection shall be a separate offense.

(b) AMOUNT OF PENALTY.--The amount of a penalty assessed under subsection (a) shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors--

- (1) the archaeological, historical, or commercial value of the item involved;
- (2) the damages suffered, both economic and noneconomic, by an aggrieved party, and
- (3) the number of violations that have occurred.

Courts

(c) ACTIONS TO RECOVER PENALTIES.--If any museum fails to pay courts. an assessment of a civil penalty pursuant to a final order of the Secretary that has been issued under subsection (a) and not appealed or after a final judgment has been rendered on appeal of such order, the Attorney General may institute a civil action in an appropriate district court of the United States to collect the penalty. In such action, the validity and amount of such penalty shall not be subject to review.

(d) SUBPOENAS.--In hearings held pursuant to subsection (a), subpoenas may be issued for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

25 USC 3008.

#### SEC. 10. GRANTS.

(a) INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS.--The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

(b) MUSEUMS.--The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under sections 5 and 6.

25 USC 3009.

SEC. 11. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to--

(1) limit the authority of any Federal agency or museum to--

(A) return or repatriate Native American cultural items to Indian tribes, Native Hawaiian organizations, or individuals, and

[104 STAT. 3058 PUBLIC LAW 101--601--NOV. 16, 1990]

(B) enter into any other agreement with the consent of the culturally affiliated tribe or organization as to the disposition of, or control over, items covered by this Act;

(2) delay actions on repatriation requests that are pending on the date of enactment of this Act;

(3) deny or otherwise affect access to any court;

(4) limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

(5) limit the application of any State or Federal law pertaining to theft or stolen property.

25 USC 3010.

SEC. 12. SPECIAL RELATIONSHIP BETWEEN FEDERAL GOVERNMENT AND INDIAN TRIBES.

This Act reflects the unique relationship between the Federal Government and Indian tribes and Native Hawaiian organizations and should not be construed to establish a precedent with respect to any other individual, organization or foreign government.

25 USC 3011.

SEC. 13. REGULATIONS.

The Secretary shall promulgate regulations to carry out this Act within 12 months of enactment.

25 USC 3012.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

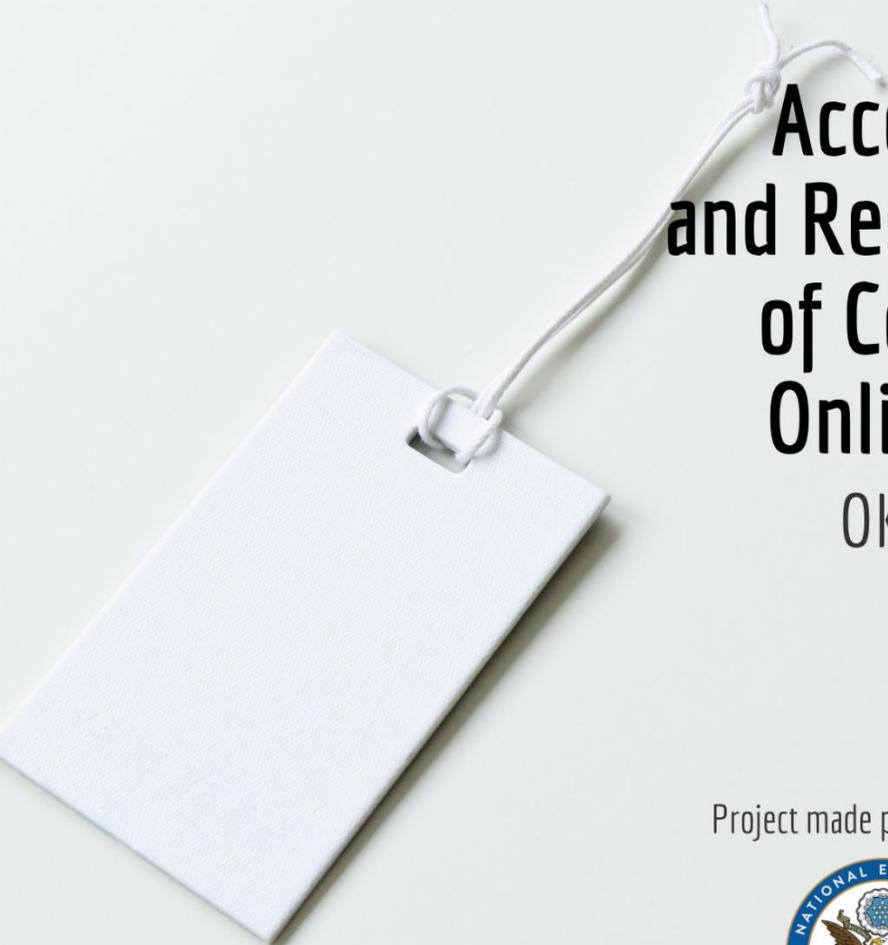
There is authorized to be appropriated such sums as may be necessary to carry out this Act.

25 USC 3013.

Courts

SEC. 15. ENFORCEMENT.

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.



# Museum Accessioning and Registration of Collections Online Course

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## Module 19: Exercise on The Museum & NAGPRA

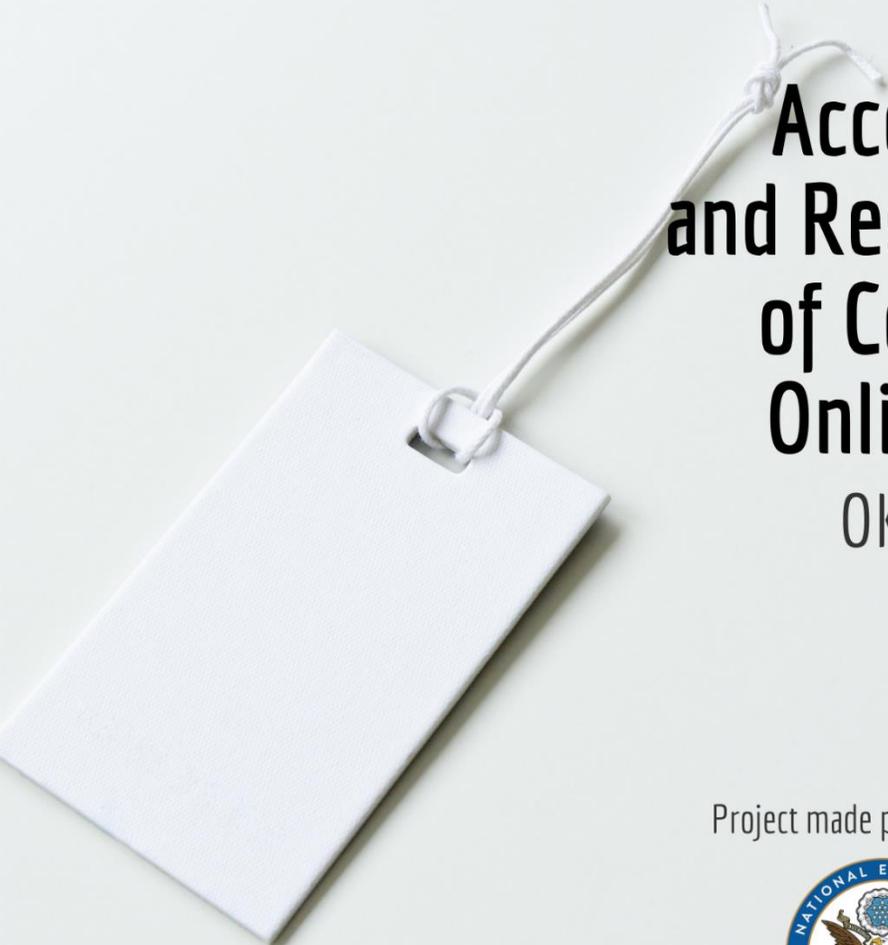
Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

NAGPRA information including government agencies and departments can be found at <https://www.nps.gov/subjects/nagpra/index.htm>

### **Exercise 7: The Museum & NAGPRA**

1. The Walter E. Sanborn museum owns human skeletal remains that were found while building a house in the 1880s. Locals believed the remains to be those of a young woman who was missing in the area during the 1850s. What do you do?
  - A. Call local police authorities.
  - B. Call a funeral home to have the remains cremated.
  - C. Report the remains to the federal government under NAGPRA.
  
2. Several local collectors have donated projectile points to your museum in the past. No one knows where the points were found. You:
  - A. Report them in your NAGPRA inventory.
  - B. Leave them in storage. Cultural affiliation cannot be determined without knowing the location where the points were found.
  - C. Deaccession them before you start your NAGPRA inventory.
  
3. In the 1920s, the museum was given two Native American skulls that were found with burial objects. The museum does not receive, and never has received, federal funds. What do you do?
  - A. Begin the NAGPRA process anyway.
  - B. Leave them in the collection and ignore NAGPRA.
  - C. Offer them to a nearby university.
  
4. The museum has reported all of its Native American objects to the federal government. It has been seven years and no one has contacted the museum. You:
  - A. Wait until someone contacts you.
  - B. Deaccession the objects and sell them at auction.
  - C. Send out new letters to new contacts.



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## Module 20: Copyright Law

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

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# Copyright Law

Copyright Basics can be found at

<https://www.copyright.gov/circs/circ01.pdf>

Copyright terms and the public domain chart can be found at

<https://guides.library.cornell.edu/copyright/publicdomain>

## **HOW LONG COPYRIGHT PROTECTION ENDURES**

### **Works Originally Created on or after January 1, 1978**

A work that is created (fixed in tangible form for the first time) on or after January 1, 1978, is automatically protected from the moment of its creation and is ordinarily given a term enduring for the author's life plus an additional 70 years after the author's death. In the case of "a joint work prepared by two or more authors who did not work for hire," the term lasts for 70 years after the last surviving author's death. For works made for hire, and for anonymous and pseudonymous works (unless the author's identity is revealed in Copyright Office records), the duration of copyright will be 95 years from publication or 120 years from creation, whichever is shorter.

### **Works Originally Created before January 1, 1978, But Not Published or Registered by That Date**

These works have been automatically brought under the statute and are now given federal copyright protection. The duration of copyright in these works will generally be computed in the same way as for works created on or after January 1, 1978: the life-plus-70 or 95/120-year terms will apply to them as well. The law provides that in no case will the term of copyright for works in this category expire before December 31, 2002, and for works published on or before December 31, 2002, the term of copyright will not expire before December 31, 2047.

### **Works Originally Created and Published or Registered before January 1, 1978**

Under the law in effect before 1978, copyright was secured either on the date a work was published with a copyright notice or on the date of registration if the work was registered in unpublished form. In either case, the copyright endured for a first term of 28 years from the date it was secured. During the last (28th) year of the first term, the copyright was eligible for renewal. The Copyright Act of 1976 extended the renewal term from 28 to 47 years for copyrights that were subsisting on January 1, 1978,

or for pre-1978 copyrights restored under the Uruguay Round Agreements Act (URAA), making these works eligible for a total term of protection of 75 years. Public Law 105-298, enacted on October 27, 1998, further extended the renewal term of copyrights still subsisting on that date by an additional 20 years, providing for a renewal term of 67 years and a total term of protection of 95 years.

Public Law 102-307, enacted on June 26, 1992, amended the 1976 Copyright Act to provide for automatic renewal of the term of copyrights secured between January 1, 1964, and December 31, 1977. Although the renewal term is automatically provided, the Copyright Office does not issue a renewal certificate for these works unless a renewal application and fee are received and registered in the Copyright Office.

Public Law 102-307 makes renewal registration optional. Thus, filing for renewal registration is no longer required in order to extend the original 28-year copyright term to the full 95 years. However, some benefits accrue from making a renewal registration during the 28th year of the original term.

*Accessed @ <http://www.copyright.gov>*

## **Useful Web Sites for Copyright and Licensing**

United States Copyright Office

<https://www.copyright.gov/>

The Library of Congress Online Catalog

<https://catalog.loc.gov/>

Cornell Library Copyright Resources

<https://guides.library.cornell.edu/copyright>

Checklist for Conducting a Fair Use Analysis Before Using  
Copyrighted Materials

[https://guides.library.cornell.edu/ld.php?content\\_id=63936868](https://guides.library.cornell.edu/ld.php?content_id=63936868)

Visual Artists Rights Act (VARA), 1990

<https://www.copyright.gov/reports/exsum.html>

World Intellectual Property Organization

<https://www.wipo.int/portal/en/index.html>

National Initiative for a Networked Cultural Heritage (NINCH)

<https://www.ninch.org/>

Berne Convention for the Protection of Literary Works

<https://www.wipo.int/treaties/en/ip/berne/>

Association Littéraire Artistique Internationale

<https://www.alai.org/en/>

American Library Association

<https://www.ala.org/>

Professor Laura Gasaway's Publications on Copyright

<https://law.unc.edu/people/laura-n-gasaway/>

Researching U.S. Treaties and Agreements – Marci Hoffman

<https://www.llrx.com/2001/05/features-researching-u-s-treaties-and-agreements/>

Crash Course in Copyright – Georgie Harper

<https://www.loc.gov/item/2006619996/>

Artists Rights Society  
<http://www.arsny.com>

ASCAP  
<http://www.ascap.com>

BMI  
<http://www.bmi.com>

National Music Publishers Association  
<http://www.nmpa.org>

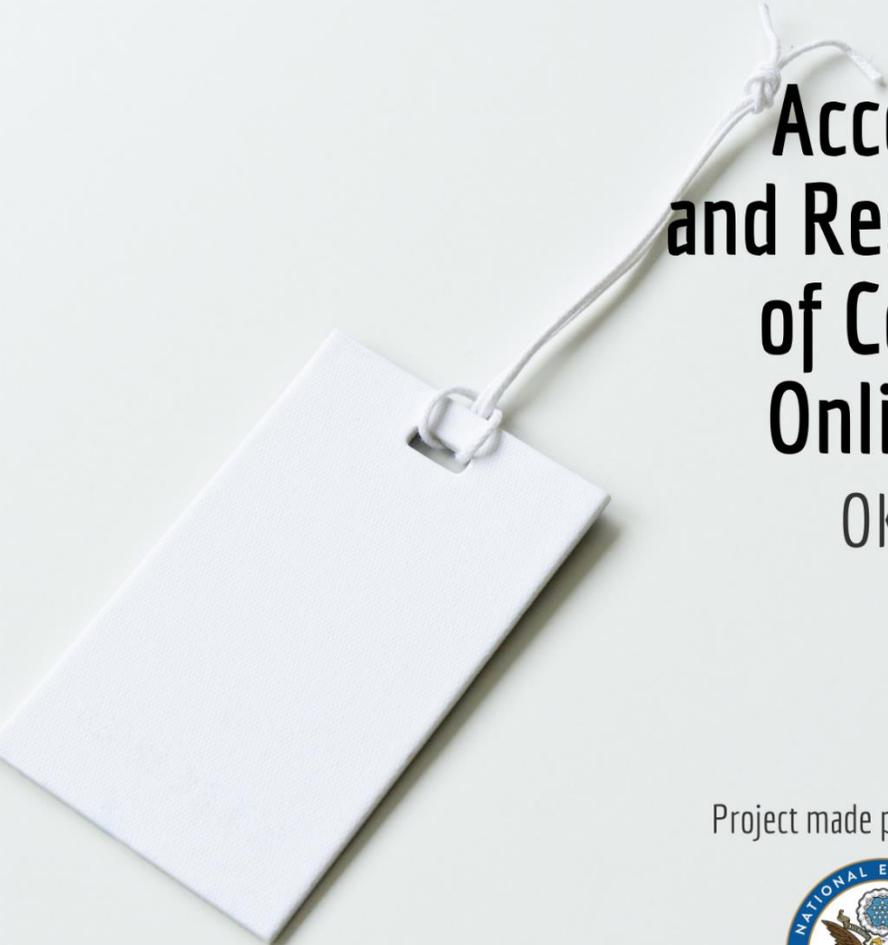
Movie Archive  
<http://www.moviearchive.org>

Motion Picture Licensing Corporation  
<https://www.mplc.org/>

Creative Commons  
<http://www.creativecommons.org>

Getty Images  
<https://www.gettyimages.com/>

What is Fair Use? Stanford Libraries  
<https://fairuse.stanford.edu/overview/fair-use/what-is-fair-use/>



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## Module 21: Other Laws Pertaining to Museum Collections

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## Other Laws Pertaining to Museum Collections

Aside from copyright law, NAGPRA, and IRS charities law, there are *primarily* three federal statutes that deal with historic resources within the United States that should be of concern to museums (*source: [A Legal Primer on Managing Museum Collections](#) by Marie Malaro*):

**The U.S. Antiquities Act of 1906.** Domestic antiquities cannot be removed from lands owned or controlled by the government without the permission of the Secretary of the department who has jurisdiction over the land in question.

**The Archaeological Resources Protections Act of 1979 (ARPA).** An expansion of the U.S. Antiquities Act, it provides for the protection of archaeological materials on federal land.

**The National Historic Preservation Act of 1966.** Established the national register and provides for financial assistance for preservation projects and mandatory review of proposed changes to properties on the National Register.

## Laws Pertaining to Animal and Plants

There are laws pertaining to plants and wildlife that museums need to be aware of. These laws impact potential acquisitions and scientific specimen field work. Artifacts containing parts of specimens (such as a Native American artifact, a feather found on the side of a road, or a necklace made of beetle shells purchased abroad and donated to the museum), could be subject to these laws. The laws include:

**The Endangered Species Act.** Prohibits the importation and exportation, and the sale, trade, or shipment in interstate and foreign commerce, of listed endangered or threatened species, their parts, and products made from them.

**The Migratory Bird Treaty Act.** Makes it unlawful to kill, capture, collect, possess, buy, sell, ship, import, or export most migratory game and non-game birds, including their nests or eggs, unless an appropriate federal permit is obtained. **Museums MUST have federal permits to possess bird parts, including feathers, that fall under this act.**

<https://www.fws.gov/service/3-200-7-migratory-bird-and-eagle-scientific-collecting>

The Bald and Golden Eagle Protection Act. Makes it unlawful to take bald or golden eagles or to sell, purchase, or barter their parts (including feathers) or products made from them. **Museums MUST have federal permits to possess Bald or Golden Eagle parts, including feathers.**  
<https://www.fws.gov/service/eagle-exhibition>

**The African Elephant Conservation Act.** The law prohibits the import of raw ivory from any non-ivory producing country. It also requires that raw or worked ivory imported from any ivory producing country be verified that it was not exported in violation of CITES or that foreign country's laws. Any imports containing personal effects made from ivory must be certified that they were derived from legal sources. The law also prohibits the export of any raw ivory from the United States.

**Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).** Is an international agreement between governments that aims to ensure that international trade in specimens does not threaten the survival of species. This impacts imports/exports and permits are required.  
If you need help applying for permits, contact your regional USFWS office.  
The

To note:

When importing any animal part, a separate USFWS border filing, called an Electronic Declaration (eDecs) is required. It is recommended that a knowledgeable Customs Broker who deals with museum collections is used to assist with this filing.  
<https://edecs.fws.gov/>

## **Other Laws Pertaining to Museum Collections**

**1968 Gun Control Act.** Makes it illegal for any individual or organization to have a machine gun not registered with a permit.

**UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property, 1970 (implemented in the United States by P.L. 97-446 in 1983, 19 USC 2601).** Signatory nations agree to work to prevent the import of and trade in archaeological and ethnographic materials (when requested) and in stolen cultural collections. As of 2000, Bolivia, Cambodia, Canada, Cyprus, El Salvador, Guatemala, Mali, and Peru have requested other signatories not import archaeological and ethnographic materials that originated in their nations.

**Pre-Columbian Act of 1972.** Prohibits importation of pre-Columbian material without a permit.

**Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954.** Protects property during wartime and looting. Aims to protect cultural property, such as monuments of architecture, art or history, archaeological sites, works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, as well as scientific collections of any kind regardless of their origin or ownership.

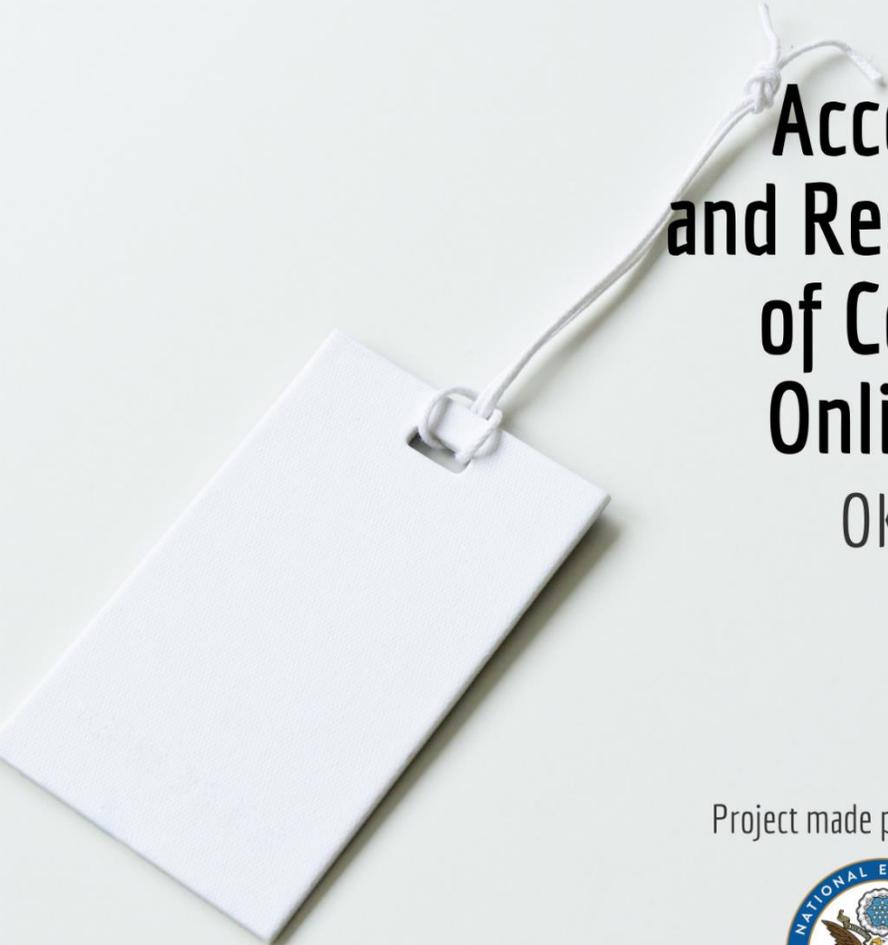
<https://en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention>

This is not an all-encompassing list of laws that pertain to museum collections.

**Helpful resources:**

*A Legal Primer on Managing Museum Collections.* Marie C. Malaro and Ildiko DeAngelis, 2012 (3rd edition)

*Museum Law: A Guide for Officers, Directors, and Counsel.* Marilyn Phelan, 2014 (4th edition)



# Museum Accessioning and Registration of Collections Online Course

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## Module 22: Insurance

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**Oklahoma Museums Association**  
**TECHNICAL BULLETIN 39**

(updated 2022 to include updated CAP program information as well as updates to the American Alliance of Museums name)

**Risk Management and Insurance for Nonprofits, Part II**

Patricia L. Miller, Executive Director, Illinois Heritage Association

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*(Technical Insert No.108, Nov.—Dec. 2000)*

Part one of this technical insert (see *MUSENEWS* summer 2001 issue) addressed how nonprofit organizations can establish a good risk management program prior to contracting for insurance. Such a program involves good record keeping; adequate security for people, facilities, and possibly collections; and emergency preparedness and disaster planning.

There are two primary kinds of insurance that nonprofit organizations should consider: property and liability. Within these categories, there are several types of insurance, some quite specialized. Because of this, it may not be possible to place all insurance with the same carrier. The advantage of having all of the insurance with one company is that if there was a liability claim, it would be more readily absorbed by the package of insurance coverage and therefore less likely to affect the cost of insurance premiums. However, the needs of certain nonprofits may warrant their obtaining some insurance from companies with expertise in specialized areas, making it unlikely that one policy could cover everything. Factors that could affect the choice of carriers include whether the organization is open to the public, if it owns buildings, if it owns historic buildings, if it owns a collection, if it loans and borrows objects, or if it sells food or products on a regular basis.

An important first step in selecting insurance carriers is to determine whether to work with a company agent, an independent agent, or a broker. There are pros and cons for each. A company agent works for a particular insurance company and owes allegiance to that company. An independent agent represents a number of companies and helps a client select the best choice among them. A broker works for the client and shops around to get the best insurance for the client's needs. Agents and independent agents have contracts with certain insurance companies and can write binding policies for them. A broker usually has no binding authority. Thus, if an organization has insurance

through an agent or independent agent and wants to add insurance—perhaps for a special event or for an exhibition—the organization has only to contact the agent for the extra coverage. If the organization works through a broker, the broker probably would have to contact the insurance company to get the additional coverage.

Be sure to ask the agent the rating of the carrier he or she is recommending. Three rating agencies rank the financial stability and paying record of insurers. These agencies are A.M. Best (ranked on a scale of A++ to F); Standard and Poor's (AAA to CCC); and Moody's (AAA to C). Local libraries usually have information on these companies' ratings.<sup>1</sup> General industry information is available from the Insurance Information Institute in New York City or from the American Insurance Institute in Washington, DC.

An insurance underwriter works for an insurance company and reviews the risks in an insurance proposal, following the company's guidelines. It is crucial to present to the underwriter the most accurate picture possible of your organization's risk management in order to get the best insurance rates. An agent or a broker will help a client do this and also may have suggestions to improve the risk management program. The agent or broker should come to the property and make a thorough inspection. It is to everyone's advantage to prevent a loss. Some insurance companies will send a loss-control agent to inspect your facility.

As mentioned in part 1 of this insert, good record keeping is essential for all nonprofits. Computerized records, such as spreadsheets of an inventory, can help to present organized information to underwriters that may lower insurance premiums. For museums, on-site consultations such as the Conservation Assessment Program (CAP), administered through IMLS and The Foundation for Advancement in Conservation (FAIC), or the Museum Assessment Program (MAP) Collections Management Assessment, administered through the American Alliance of Museums, can also help provide useful advice on good risk management practices. These programs, funded through grants from the Institute of Museum and Library Services, are designed to help smaller museums meet professional standards.

### **Property Insurance**

Many organizations contract for a commercial fire policy to cover fire damage or loss to buildings or property. These policies typically use Insurance Services Office (ISO) forms, which define what is covered and what is excluded. The forms are kept current by the ISO, a nonprofit insurance service, and have been tested in court. A package insurance policy may combine insurance for buildings and contents, as well as business auto and some forms of liability.

Nonprofits tend to have a low loss ratio, or number of claims. For this reason, pooled insurance, or group insurance, may be an attractive option. Seeking insurance with a group of other nonprofit organizations may be a cost-saving move because the similarity of coverage and the low incidence of loss may reduce premiums.

Pooled property insurance for organizations with collections should be in effect with an underwriter for similar types of institutions. Museums, archives, and other collecting institutions also need to consider that even though their loss ratio is low, the severity of the event may be high. That is to say, the number of incidents may be small, but when they occur, the cost is high. These factors may affect the insurance premiums. Here is where the professionalism of the organization and its level of security can help to mitigate the risks. A museum accredited by the American Alliance of Museums, for instance, might be viewed more favorably because it would adhere to certain standards of care. A property listed on the National Register of Historic Places might also be expected to adhere to certain standards regarding the physical structure. With pooled insurance, however, one might be at the mercy of other institutions whose losses might affect others if they do not hold to equally high standards.

There are several types of insurance policies designed especially for historic properties. You can get replacement cost on an older building that has been rehabilitated. These “old house” policies cover circumstances that ordinary homeowners (HO) policies do not, even those with special endorsements for guaranteed replacement cost or an agreed amount of insurance. The National Trust for Historic Preservation and others sponsor a historic house insurance program that offers this type of insurance. There are also policies for historic houses in urban areas and historic houses in rural areas.<sup>2</sup> Organizations that are housed in historic properties might want to look into this kind of coverage.

Organizations with collections might decide to contract for commercial property insurance or to insure through a company with inland marine fine arts coverage. The former will be less expensive, but the latter will offer more complete coverage. You will get what you pay for. If the collection is rare and not easily replaced, it may be advisable to get fine arts insurance through an inland marine policy. (Inland marine insurance is generally purchased to insure specialty or unique properties, including fine arts.) Fine arts insurers also have the expertise to handle complicated claims from collections losses, which may involve knowledge of conservation and restoration. In looking at fine arts insurance policies, it's important to pay close attention to policy valuation clauses, exclusions, and warranties.

Fine arts insurance is in what is known as an “uncontrolled class,” so premiums can vary widely and will be dependent on the underwriter's view of the likely risks involved. Insurance companies may be wary of writing claims. If the underwriter feels the risks are high, the premium will reflect it. Some small institutions may not be eligible for fine arts insurance. The insurer may require guards in the institution or other security measures that are beyond the capacity of a small museum or archives. In collections insurance, the keys to keeping your premium low are your fire suppression readiness and the security of your location.

The book *The New Museum Registration Methods, 5<sup>th</sup> edition* describes a number of provisions in inland marine policies that need to be understood and carefully delineated. All specifics concerning the ownership of objects, including loans, promised gifts, and

bequests, should be covered in the policy. (There may be separate limits on owned and non-owned objects.) All categories of objects in the collections should be described in the policy. Excluded property (such as equipment) should be specified; this might be covered in a separate policy.

One cannot insure property for more than it is worth. Valuation of property, whether blanket (unscheduled), scheduled, or fair market value, must be specified. An organization might opt for a blanket policy covering an estimate of total value (loss limit) agreed upon by the insurance company and the insured, based on the probable maximum loss (PML). The PML is an estimate of the potential total destruction of the highest valued area of an insured location. This means that the insured does not have to insure for the full value of all of the property, which could be very expensive. For a small organization, the PML might be the entire building, but for a larger one, it might be a storage area, a wing, or a separate building with the highest value. If the items are scheduled, a value on each object must be conveyed to the insurance company on a regular basis. If objects are insured for fair market value, the amount will be determined by an appraisal after a loss. With historical objects, a fair market value may be difficult to determine. An organization might contract for a combination of a blanket policy and a scheduled policy, with only a few objects singled out for special coverage on a scheduled basis, where each object is insured for its own individual amount.<sup>3</sup>

A policy that covers “all risks” is preferable to one that covers “named perils.” The former covers everything not specifically excluded. The latter covers only the items listed. Fine arts policies, typically “all risk,” describe the circumstances under which losses are not covered. These are known as exclusions. Standard exclusions include: acts of war, nuclear reaction, vermin, inherent vice (a weakness in construction or an unremitting deterioration in an object), ordinary wear and tear, insurrection, rebellion, government seizure, perils of customs quarantine, and illegal transportation. Exclusions may affect the loan of objects. A common exclusion in named perils is termed “lost in inventory” or a “mysterious” disappearance. Museums may wish to add coverage for “mysterious” disappearance, but this may be contingent upon how current their inventory records are. Insurance companies do not want to insure for losses that may have occurred years ago.<sup>4</sup> Other common exclusions for which museums may desire coverage are breakage, employee dishonesty, or changes in temperature, heat, or humidity. Many exclusions are negotiable for a named perils policy and are not specified in an all-risks policy. In some situations, however, such as low security, a high incidence of loss, or a lack of environmental control, the cost of coverage for certain exclusions may be prohibitive. A policy called Differences in Conditions (DIC) may be added as supplemental inland marine insurance to provide extended coverage. This fills in gaps and offers coverage for risks such as floods and earthquakes.

Special attention should be paid to any warranties outlined in insurance policies. Violation of these specifically listed requirements, which might involve security or collections care, could void the policy.

The terms “wall to wall,” “nail to nail,” or “door to door” coverage applies to objects on loan, from removal at one location to installation at another location, including transit. Owners of items on loan and temporary borrowers of objects may be added to existing insurance policies as “additional insured.” On an all-risk collection policy, lenders are insured automatically as an added-insured, whereas in a named perils policy and in an ordinary fire policy the institution has to make a specific request (and sometimes is charged an additional amount) to add a new insured to its policy.

One element of insurance policies that is flexible is the amount assigned to deductibles. This is an amount that the insured agrees to pay before a claim is made for insurance. Generally speaking, the higher the deductible, the lower the premium. If a loss is fairly low, the insured may prefer to pay the loss rather than to file a claim, in order to maintain a low loss record and, therefore, keep lower premiums. Insurance policies often limit payment to an amount not paid by any other insurance company. The insured may have more than one policy but cannot collect the same amount twice for the same loss. If there are two insurance companies covering the same piece of property, each will pay its portion of a loss. Also, it's normal for an all-risks policy to waive any deductibles that apply to loss to an object that you borrow from others. Normally, the borrower provides insurance, but when lending objects, a museum often signs a waiver of subrogation. This tells the borrowing institution that the lender's insurance company will not sue the borrower's company in order to recoup expenses from a loss.<sup>5</sup> This agreement must be signed prior to the loan.

If an item is totally destroyed and the insured receives full value for it, the item then belongs to the insurance company. Some policies will allow a buy-back by the insured. If part of a set of items is destroyed, the insured may be able to give up the rest of the set and receive full value.

Some collecting institutions do not insure collections at all. The premise is that the items are irreplaceable, and if they are lost, there is no possible recovery. However, in the face of a major catastrophe, it might help an organization to have the ability to purchase other items that would help to tell its story. Also, funds from an insurance claim might help to repair damaged items. In addition, there is the question of fiduciary responsibility. The law requires that non-profit board members exercise the same care as a prudent person would do in the same circumstance. Of course, a board might decide that for its situation, it would be more prudent to allocate funds for the care and protection of collections rather than to spend money for insurance. As Marie Malaro points out in *A Legal Primer on Managing Museum Collections*, the important thing is not the decision to insure or not to insure, but that the board study the matter and make a good-faith effort to make an informed choice. When an organization loans its collection materials, it has less control over their security. Therefore, carrying insurance on loans may seem the most prudent course. Also, when the museum borrows objects that are owned by others, it may be required to carry insurance on objects loaned to it.

Self-insurance is another option. By this means, an organization sets aside funds to cover a potential loss. The problem that can arise in this case is that there is always the

temptation to reallocate the funds to meet other needs. Then, if a disaster occurs, the funds are not available to cover the loss.

### **Liability Insurance**

Liability insurance covers a third party for bodily injury or property damage due to your negligence. Both personal injury and property damage may be covered in a package. We live in a litigious society. In the commercial world, most litigation involves employment practices, and this type of lawsuit is becoming more and more prevalent in the nonprofit world as well. In some cases insurance to protect against these actions is required, and in others it may be highly desirable. The National Council on Compensation Insurance (NCCI) is an advisory board for insurance companies. It establishes and maintains NCCI forms that are used in liability insurance.

Any organization that is a place of public accommodation, open to the public on a regular basis, should have a Commercial General Liability (CGL) policy. These policies provide for coverage for claims of bodily injury or damage to tangible property and arise from an "occurrence" as defined in the policy. Typically, an occurrence is defined as an accident, which cannot be expected or intended.<sup>7</sup> The CGL policy is the primary insurance that covers any kind of injury to the public. It can be extended to cover employees, as well. In addition to the primary coverage, an organization might want to add medical payments insurance. This insurance would provide coverage if there was an accident in which the institution was not liable but wanted to pay the medical bills. There are a number of kinds of coverage that can be added on to the general liability policy. One supplement is the "broad form endorsement." This adds coverage for exposures such as blanket contractual liability coverage; non-owned watercraft coverage; coverage for libel, slander, and other personal injury offenses; host liquor liability coverage; limited worldwide coverage; and others that may not be included in a general liability policy. If an insurance company does not wish to cover to the limits desired, an additional umbrella policy or excess policy can provide an additional layer of coverage. This policy should be as broad as or broader than the primary policy, and the dates of inception and termination should correspond with the primary policy. Once you have a primary policy, the costs of increasing limits are modest.<sup>8</sup> The policy may be based on an "occurrence" or on a "claims made" basis. Look into which would be better for your organization.

In most states, organizations with any part-time or full-time employees must pay worker's compensation, which provides liability coverage for injury to employees. This is regulated by state compensation acts. Federal employees are covered by the Federal Employees Compensation Act. Workman's compensation insurance is based on the premise that workplace accidents are the responsibility of the employer. If an employee is injured at work, he or she will receive payment for some period of weeks according to a fixed schedule. The employee files a claim to get the benefits and may also go to court if there is a dispute.<sup>9</sup>

An organization also may buy coverage on its liability policy on an "if any" basis to cover independent contractors. There is an increasing practice of outsourcing tasks such as

Web site design, computerization, exhibit development, and digitization of collections to independent contractors. One should be aware that the Internal Revenue Service looks closely at the classification of independent contractors because some organizations use it to avoid paying employee benefits. Some of the factors that determine if a person is an employee or an independent contractor are: whether the task is ongoing or short term, whether the person works at home or at the organization, whether the person works exclusively for the organization or for additional agencies, and who supplies the tools and equipment. The IHA has more information on determining if a person is an employee or an independent contractor.

An organization with paid staff may want to purchase an Employment Practices Liability Insurance (EPLI) policy. While this coverage may be provided in CGL insurance, many CGL policies have an employment practices exclusion. Employment practices insurance would cover alleged wrongful acts of: discrimination in the workplace; sexual harassment; wrongful discharge; breach of employment contract; violation of state laws, including defamation; invasion of privacy; intentional infliction of emotional distress; failure to promote; wrongful discipline; failure to grant tenure; retaliation; and various forms of negligent supervision or management. Be aware of exclusions, which vary widely. Also, it is advisable to get a policy that includes "prior act" coverage. Before contracting for this type of insurance, the carrier will expect to examine personnel policies and handbooks, training programs, and other human resource compliances.<sup>10</sup>

States vary on definitions of "employee." Know your state laws in this regard. A person who receives "compensation," for instance, may be considered an employee, not a volunteer. Compensation may not necessarily be monetary. The degree of control the organization has over a volunteer in soliciting his or her performance, in training, and in supervision may create a quasi-employee relationship, making the institution liable for the volunteer's actions.<sup>11</sup>

As noted above, a package policy may be utilized to provide both liability coverage and insurance for collections, especially in smaller local history institutions for which fine arts insurance may not be appropriate. A package policy also is often utilized to cover tangible property such as office equipment that is not part of the collections. It may be possible for a small organization to use a package policy to cover all property and liability insurance needs, thereby lowering the premium cost.

One of the most important kinds of liability coverage for nonprofits is Directors' and Officers' (D&O) insurance. This insurance can cover the organization and its trustees, officers, employees, committee members, and volunteers against financial loss including judgments, out-of-court settlements, and defense costs. A wide assortment of wrongful acts can be covered, including: mismanagement of funds or assets, inefficient administration, personal injury, and publisher's liability. Some D&O policies include coverage for employment-related claims, which would negate the need to have an EPLI policy.

Directors' and officers' liability insurance guarantees that the personal financial assets of the organization's trustees will not be unduly jeopardized by their service on the board. Some nonprofit organizations have found it difficult to attract people to serve on their boards unless the organization has D&O insurance. Although some states, including Illinois, indemnify board members of nonprofit organizations from personal lawsuits unless there is "willful and wanton" conduct, the statute may never have been tested in court. Also, even if the case is won, there may be attorney's fees involved in defending it. As John Mahoney points out in "The ABCs of D & O," many nonprofit organizations choose a policy that includes a duty-to-defend option, which means that the insurance company will pay the legal fees even if the allegations are groundless or false.<sup>12</sup>

Members of the American Alliance of Museums (AAM) can get discounted D&O insurance through an AAM affinity program. The AAM Web site also lists insurance carriers that specialize in insurance for museums. *The Official Museum Directory* is another resource that lists insurance carriers covering both property and liability. The Internet can provide information about individual insurance companies with cultural institution policies.

### **Other Insurance**

You can get insurance to cover almost any risk. Depending on the particular situation, one might want to consider some of the following. Boilers and air conditioners are not usually covered by general liability, but they might be added. Coverage should include repair or replacement without deduction for depreciation. This insurance might be tied to business interruption insurance, a type of insurance that covers loss of income as the result of an institution's being forced to close for an extended period of time. A major storm, for instance, could knock out electricity for days, or even weeks, in some areas.

In this technological age, computer insurance may be a desirable option. It can cover hardware, software, and even losses from computer viruses. One also can insure for plate glass breakage and for the loss of many specific types of equipment. Accounts receivable insurance would cover an organization's accounts and membership records if the records were destroyed. Bonding of employees and volunteers who handle money may be desirable, especially if one's fine arts policy has an Employee Dishonesty exclusion. (Unfortunately, the most common kind of theft is insider theft.) Organizations that distribute or sell food probably should be covered by products liability insurance. Key person life insurance covers the financial loss resulting from the death of an organization's key person.

Groups that serve liquor need host liability or liquor liability coverage. Host liquor liability can be added to a CGL policy if the liquor is free. A separate liquor liability policy will be needed if the liquor is sold. State or municipal codes may require special insurance or a liquor license. Dramshop insurance may be required. This is an area in which to be especially cautious to make sure that all regulations are followed.

Automobiles owned by an organization need to be specifically insured for liability and other required insurance. Non-owned automobiles used by employees on company

business need separate insurance coverage. If the organization is involved in renting vehicles such as trucks, vans, or buses, insurance is also a factor. Organizations that hold large events can get event cancellation insurance. This is very expensive insurance and applies to events generating large amounts of income.

Other property insurance could cover sprinkler leakage, loss of trees and shrubs, replacement of architectural elements, or personal property of employees and volunteers. Additional liability insurance could cover false arrest, contractual liability, checkroom liability, elevators or escalators, or even kidnap-ransom.

The need for insurance cannot be entirely eliminated, but the more that can be done in the area of risk management to mitigate the perceived risks; the less insurance will be needed. As noted in part one of this insert, in evaluating risks that might need to be insured, three key factors should be considered: 1) loss of event history (threats or hazards potentially affecting the institution); 2) loss event probability (the likelihood or probability of potential threats becoming loss events); 3) loss event criticality (the expected impact or effect on the organization if a loss should occur). Each organization needs to analyze its own possible hazards, evaluate the potential for them to cause a loss, and decide how serious the consequences would be. Insurance can then be tailored to meet the particular circumstances and needs of the individual organization.

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1. Marylee MacDonald, "filling the Old-House Insurance Gap," *Old House Journal*, July-August 1994, 55.
2. *Ibid.*, 52.
3. Rebecca A. Buck and Jean Allman Gilmore, eds., *The New Museum Registration Methods* (Washington, DC: American Association of Museums, 1998), 239-41.
4. *Ibid.*, 242.
5. *Ibid.*, 243-44.
6. Marie Malaro, *A Legal Primer on Managing Museum Collections* (Washington, DC: Smithsonian Institution Press, 1998), 419-20.
7. Joseph P. Monteleone, "Coverage Issues under Commercial General Liability and Directors' and Officers' Liability Policies," *Western New England Law Review*, submitted by Alan D. Ullberg to *ALI-ABA Course of Study: Legal Problems of Museum Administration*, Cosponsored with cooperation of the American Association of Museums, March 27-29, 1996, Pittsburgh, PA (Philadelphia, PA: American Law Institute-American Bar Association, 1996), 393.
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10. Lisa Bolens, "Employment Practices Liability Insurance—Is It for You?" *Journal of Property Management* 65, no. 3 (May 2000): 105-5.
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## Resources

American Alliance of Museums

2451 Crystal Drive, Suite 1005, Arlington, VA 22202 (202) 289-1818 [www.aam-us.org](http://www.aam-us.org)

Huntington T. Block Insurance Agency, Inc.

2001 K Street, NW, Suite 625 North, Washington, DC 20006

(855) 219-3189 <https://www.huntingtontblock.com/Coverages/Fine-Art-Insurance>

National Council on Compensation Insurance

(800) 622-4123 [www.ncci.com/ncciweb](http://www.ncci.com/ncciweb)

National Trust for Historic Preservation

2600 Virginia Avenue NW, Suite 1100 Washington, DC 20037

(800) 944-6847 <https://savingplaces.org/>

A.M. Best Company

(908) 439-2200 <https://web.ambest.com/home>

Moody's Investor's Service

600 N Pearl Street, Suite 2165, Dallas, TX 75201

(212) 553-1653 [www.moodys.com](http://www.moodys.com)

Standard and Poor's S & P Ratings

(877) 772-5436 [www.spglobal.com](http://www.spglobal.com)

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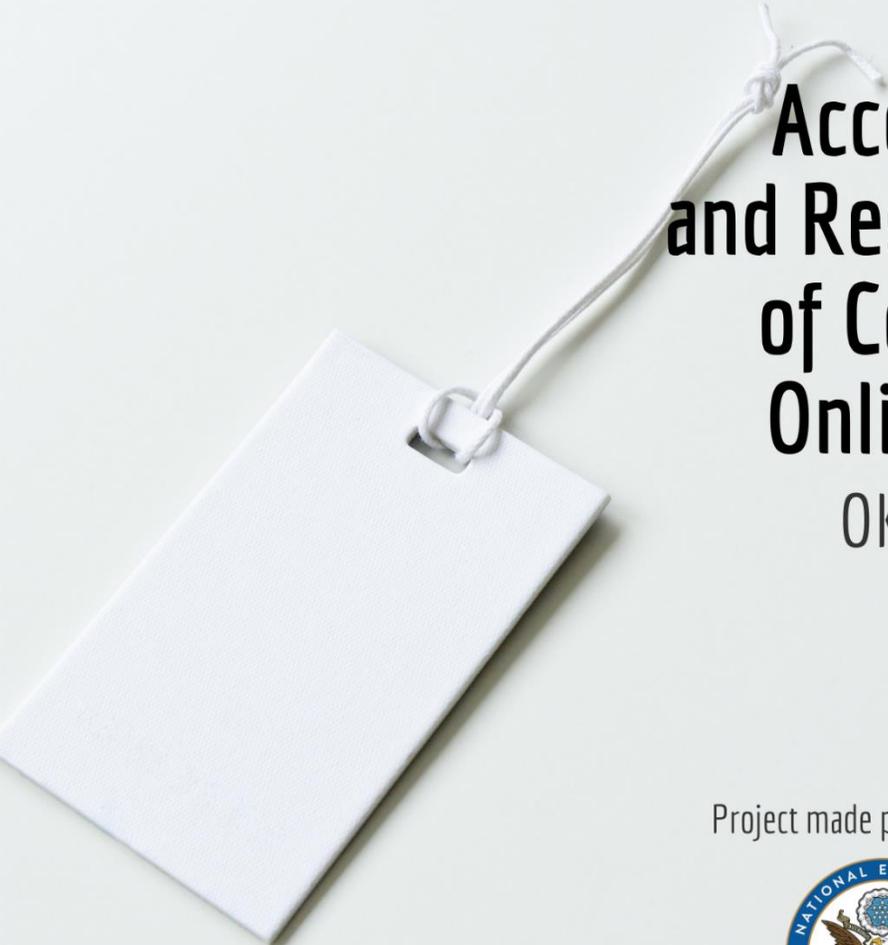
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# Museum Accessioning and Registration of Collections Online Course

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## Module 23: Collections Registration

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Partial List of Archival, Exhibit, and Storage Supply Companies

Archivart (Crescent Brands) <a href="https://www.crescentbrands.com/archivart/">https://www.crescentbrands.com/archivart/</a>	Archival
Benchmark <a href="https://www.benchmarkcatalog.com/">https://www.benchmarkcatalog.com/</a>	Mount Making, Exhibit Supplies
Conservation Resources International <a href="https://www.conservationresources.com/">https://www.conservationresources.com/</a>	Conservation, Archival/Archives, Framing
Gaylord Archival <a href="https://www.gaylord.com/">https://www.gaylord.com/</a>	Archival/Archives, Storage
Hollinger Metal Edge <a href="https://www.hollingermetaledge.com/">https://www.hollingermetaledge.com/</a>	Archival, Conservation Materials
Masterpak <a href="https://masterpak-usa.com/">https://masterpak-usa.com/</a>	Archival, Conservation, Shipping, Storage
OCLC <a href="https://www.oclc.org">https://www.oclc.org</a>	Archival, Library, Digital Equipment and Services, Preservation
Print File, Inc. <a href="https://www.printfile.com/">https://www.printfile.com/</a>	Archival, Storage
Spacesaver <a href="https://www.spacesaver.com">https://www.spacesaver.com</a>	Storage Cabinets
Talas <a href="https://www.talasonline.com/">https://www.talasonline.com/</a>	Archival, Bookbinding, Conservation Material
Tru Vue <a href="https://tru-vue.com/">https://tru-vue.com/</a>	Archival, Conservation Material, Framing, Glazing
University Products <a href="https://www.universityproducts.com/">https://www.universityproducts.com/</a>	Archival, Collections Management, Environmental and Climate Control

**This list is not to be taken as an endorsement from the Oklahoma Museums Association.**

# Steps in Accessioning Objects

## 1. Temporary Deposit Form

- Donor brings object to museum
- Fills out Temporary Deposit Form or Deed of Gift
  - Temporary Deposit Form is if the donation remains on site for acceptance by a Collections Committee at a later date, otherwise use a Deed of Gift

## 2. Donation Documentation Form & Object Background and History Form

- Donor records all known information of object on these forms
  - This can be an email that is placed in the object and donor files

## 3. Collections Committee/Board of Trustees Approval

- Collections Committee and/or Board of Trustees accepts or declines object
  - If there is no Collections Committee, whomever has authority to accept or decline an object on behalf of the museum makes that decision

### **If the object is not accepted**

- The museum refers to the terms on the Temporary Deposit Form and contacts the donor to arrange for pick-up of the object
- If the donor does not pick-up the object, refer to *OMA Guidelines Relating to Unclaimed, Undocumented and Abandoned Property*

### **If the object is accepted...**

## 4. Deed of Gift

- Donor is sent a Deed of Gift form
- Nothing else is done to the object until the Deed of Gift form is returned
- If the donor never returns the form, the museum has a signed Temporary Deposit Form and may assume ownership of the object

## 5. Assignment of an accession number

- The next consecutive accession number is assigned to the donation

## 6. Creation of donor and object files

- An acid-free file folder is labeled with the donor's name for the donor file and the accession number for the object file. Keep a separate folder for all subsequent accessions by the same donor in the donor file.
- All documentation, including a copy of the Deed of Gift, print photographs, news clippings, loan history, etc. is included inside the folder.
- Accession files are stored numerically in a fire-proof cabinet and include the same information that listed in previous bullet point.

**7. Cataloging**

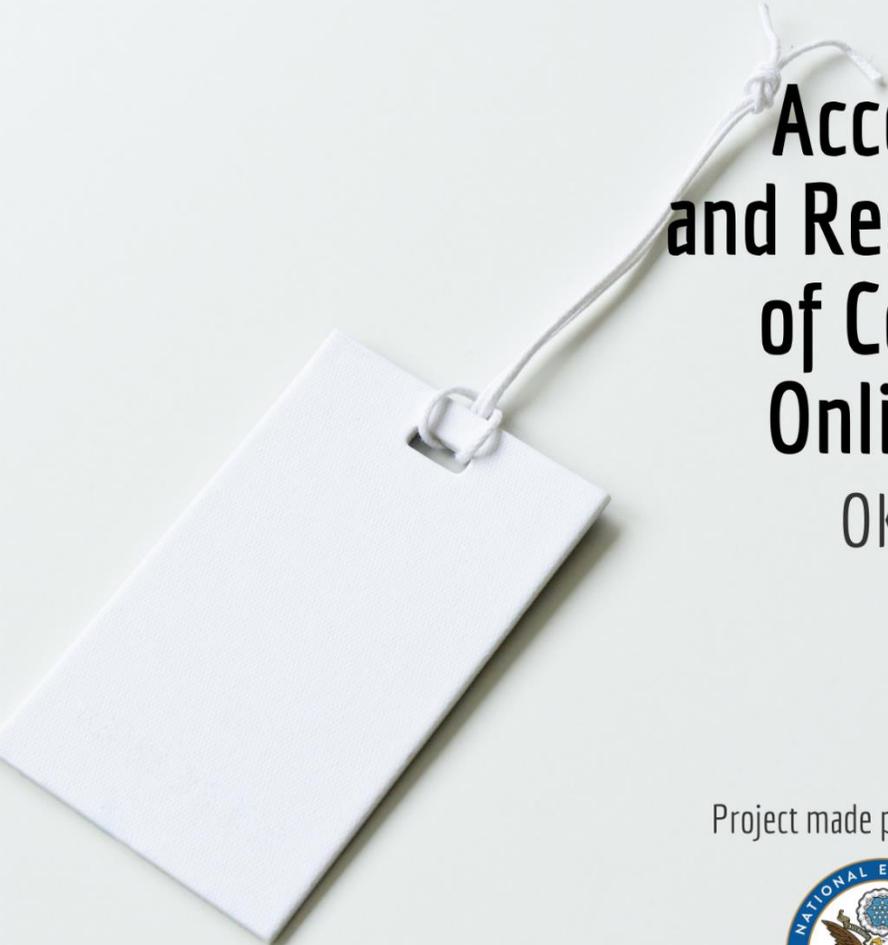
- The object is cataloged, photographed, and marked with the accession number. Cataloging includes:
  - Completing an object description worksheet and/or database entry
  - Taking detailed measurements and condition notes
  - Enter info into computerized collection management system (CMS). Make a hard copy for  
object file and donor file.

**8. Storage/Exhibition**

- The object is placed in appropriate storage or on exhibit

## The Accession Ledger

Accession Number	Accession Description	Acquisition Source	Date	Item Count
2005.001	1 Silver spoon, "Bennington Route"	Museum Purchase-eBay \$35	1/3/05	1
2005.002	1 Dress: Red taffeta 1945; 1 pair of red satin shoes, 1945	Edward Keel 4562 Woodland Lane Stowe, VT	3/4/05	3
2005.003	Collection of 12 postcards from Paris, France from 1975	Jim Howe 4 Spring Street Bennington, Vermont	4/13/05	12
2005.004	Silver tea service set, 1922	Museum Purchase- Sotheby's	4/13/05	9



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## Module 24: Forms

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

**Temporary Deposit Form**  
**Anywhere Museum**  
**P.O. Box 5**  
**Anywhere, OK**

Name \_\_\_\_\_ Date of Deposit \_\_\_\_\_

Address \_\_\_\_\_ Depositor/Contact Person \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Telephone \_\_\_\_\_

<b>PROPERTY BEING DEPOSITED</b>	
QTY	DESCRIPTION

Pick-up date is \_\_\_\_\_ (unless mutually agreed upon, the property shall remain in custody for a limited period, not to exceed 90 days. See CONDITIONS on reverse.) The depositor understands that pursuant to the terms of condition on the reverse, if after one (1) year from the pick up date property has not been claimed, then, and in consideration for the property's maintenance and safekeeping during such period, the property shall be considered an unrestricted gift to the Anywhere Museum.

I have read and agree to the CONDITIONS, on the reverse, and I certify that I have full authority to agree thereto.

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

Receipt acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the Anywhere Museum.

Staff Signature: \_\_\_\_\_

**RETURN OF PROPERTY**

\_\_\_\_\_ Will be picked up by: \_\_\_\_\_

\_\_\_\_\_ Museum will mail/hand deliver by: \_\_\_\_\_ to this address: \_\_\_\_\_

Packing and shipping to be paid by: \_\_\_\_\_ Depositor \_\_\_\_\_ Museum

## CONDITIONS OF TEMPORARY DEPOSIT

1. The objects listed on the face of this form are under consideration for donation or purchase. The depositor warrants they are prepared to pass full and clear title to the object(s), including any copyright interests.
2. The objects are accepted by the Anywhere Museum for the benefit of the depositor and the Museum shall not be liable for loss or damage to the objects unless it has been grossly negligent. The depositor hereby agrees to release and hold harmless the Museum, its employees, officers, and agents from any liability in connection with the objects while on deposit or in transit except for clear gross negligence.
3. Insurance of the objects is the responsibility of the depositor.
4. Attribution, dates, insurance values of property deposited, and other information shown on the face are not to be considered appraisals or official opinions by the Museum. The fact that objects have been in the Museum's custody shall not be understood to indicate Museum endorsement.
5. Objects may be photographed and examined by modern scientific methods by the Museum for its own purposes, but will not be restored, treated or otherwise altered without the permission of the depositor.
6. In forwarding imported objects for deposit, the depositor is required to comply with all with state and federal laws, and any applicable international treaties.
7. If there is a change in the identity and/or address of the depositor or the owner, the Museum must be notified promptly in writing. Objects declined by the Museum must be claimed on or before the removal date noted on the face on this form. If one other than the original depositor claims objects, the Museum reserves the right to request proof of legal authority to receive the material before objects will be released.
8. If declined objects are to be returned to the depositor by mail or other carrier, the depositor will be sent an outgoing receipt at the time of shipment. Failure to sign and return said receipt within thirty (30) days of shipment of said objects shall release the Museum from any further liability for the deposited property.
9. If the depositor of record fails to collect the objects or if delivery cannot be effected after the removal date, the Museum will mail the depositor at his/her address a record of warning to remove. The Museum assumes no responsibility to search for a depositor (or listed owner) not located at the address of record. If after one (1) year from the removal date listed on the face of this form objects have not been claimed, then, and in consideration for their maintenance and safekeeping during such period, the objects shall be considered unrestricted gifts to the Museum.
10. In the event of the death of the depositor, his or her legal representative is requested to notify the Anywhere Museum forthwith, in writing, giving proof of appointment and full name and address.
11. This agreement shall be construed in accordance with the laws of the State of Oklahoma.

# Donation Documentation Form

Anywhere Museum  
P.O. Box 5  
Anywhere, OK

Name of Donor \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

---

Name of Object: \_\_\_\_\_

**Please tell us about the person most associated with the object**

Name \_\_\_\_\_ (please circle one) **Owner** **User**

Address \_\_\_\_\_

Place of birth \_\_\_\_\_ Year of Birth \_\_\_\_\_

Place of death \_\_\_\_\_ Year of Death \_\_\_\_\_

This person's occupation, employer, location and dates \_\_\_\_\_

This person's membership in organizations (church, etc.) or other positions/roles in community

Describe your relationship to this person \_\_\_\_\_

**How did you obtain this object?**

**Purchase:** Where? \_\_\_\_\_ When? \_\_\_\_\_

**Gift or inheritance:** From Whom? \_\_\_\_\_ When? \_\_\_\_\_

**Found:** Where? \_\_\_\_\_ When? \_\_\_\_\_

Previous owners, users and dates, if known: \_\_\_\_\_

**Please use the back of this sheet for**  
**\*Additional Information \*Useful Diagrams \*Family \*Genealogy**

# OBJECT BACKGROUND & HISTORY

Anywhere Museum  
P.O. Box 112  
Anytown, OK

Donor's Name \_\_\_\_\_

Object \_\_\_\_\_

Dimensions \_\_\_\_\_ Weight \_\_\_\_\_

## Please tell us about the object and its maker

Maker \_\_\_\_\_

Date made \_\_\_\_\_

Maker's Location \_\_\_\_\_

Other information about the maker \_\_\_\_\_

Please tell us about how the object was used \_\_\_\_\_

Describe what it was used for \_\_\_\_\_

\_\_\_\_\_

Place of use \_\_\_\_\_

Dates of use \_\_\_\_\_

Describe how it worked or any unusual features including materials

\_\_\_\_\_

\_\_\_\_\_

## Further Information

Add any additional information you may have \_\_\_\_\_

Who else has information about the object or its owner or maker? \_\_\_\_\_

\_\_\_\_\_

Do you have (or know of) any reference material about the object that we may reproduce?  
(please circle)      Yes    No

**Thank you for taking time to provide this information.**

**Anywhere Museum  
P.O. Box 5  
Anywhere, OK**

**ACC#** \_\_\_\_\_

### Deed of Gift

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Area code/Telephone Number E-mail

\_\_\_\_\_  
Credit Line

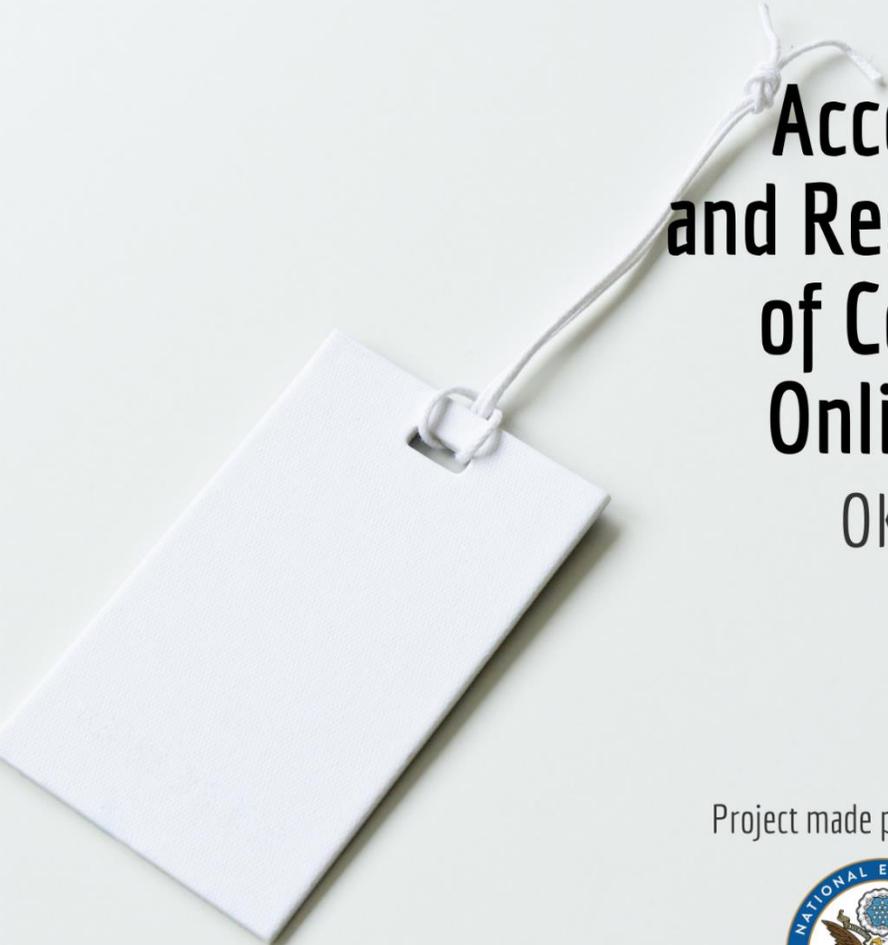
\_\_\_\_\_  
Object Description

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

The objects described above have been received by the Anywhere Museum as a gift. The undersigned owner, or agent of the owner, unconditionally and irrevocably gives, transfers, and assigns all right, title, and interest in, to and associated with the objects described above to the Anywhere Museum and its successors, and assigns, permanently and forever, all copyrights and other intellectual property and related rights therein (if any). This Agreement includes, without any other limitation, the full powers of management, with regard to display, conservation, publication, and disposition as the Anywhere Museum shall see fit in its absolute discretion.

\_\_\_\_\_  
Accepted for Anywhere Museum Date

\_\_\_\_\_  
Owner or Agent Signature



# Museum Accessioning and Registration of Collections Online Course

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## Module 25: OMA's Guidelines Relating to Abandoned Property

Guidelines Relating to Unclaimed, Undocumented and Abandoned Property  
Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

**Oklahoma Museums Association  
Guidelines Relating to Unclaimed, Undocumented, and Abandoned  
Property  
(September, 2012)**

Download the Guidelines at [https://www.okmuseums.org/wp-content/uploads/2022/11/OMA\\_Donated\\_Loaned\\_Abandoned\\_Property\\_Guidelines\\_9-26-2012\\_Final.pdf](https://www.okmuseums.org/wp-content/uploads/2022/11/OMA_Donated_Loaned_Abandoned_Property_Guidelines_9-26-2012_Final.pdf)

## **Background**

The Oklahoma Museums Association Abandoned Property Task Force developed these guidelines to assist museums in dealing with unclaimed property, undocumented property, and abandoned property. The Board of Directors of the Oklahoma Museums Association approved these guidelines on September 26, 2012. By creating these guidelines, the Oklahoma Museums Association hopes to establish uniform procedures for dealing with or disposing of unclaimed property, undocumented property, and abandoned property in museums.

This information is not intended to constitute legal or tax advice. A museum should consult with legal counsel for guidance as specific issues, concerns, or questions arise.

## **Definitions**

**Abandoned property** includes items deposited with, delivered to, or left on the premises of a museum without adequate documentation as to source and type of transfer under circumstances of apparent abandonment. Items of abandoned property are commonly referred to as doorstep donations.

**Loan (On Loan, Loaned)** refers to property held by, or maintained in the possession of a museum with the understanding that the lender intends to retain title to the property and that the museum must return physical possession of the property to the lender at some point in the future.

**Unclaimed property** includes loans of property made to a museum that the museum would like to return, but is unable to do so because of an inability to locate the lender or because the museum cannot for some other reason return the property to the lender. Items of unclaimed property are commonly referred to as **old loans**. They include temporary, short-term loans of property, as well as loans of property made to the museum without a specific date for returning the property.

**Undocumented property** includes property, materials, artifacts, and other items that became part of the museum collection without adequate documentation regarding acquisition and, as a result, legal title may not be clear, may be uncertain, or may become subject to dispute. Undocumented property is often referred to as property **found in collections** and may have been acquired by loan, gift, bequest, purchase, abandonment, or some other means.

## **Concerns – Unclaimed and Undocumented Property**

The legal arrangement between a museum and a lender of property to the museum is a **bailment**. Under this arrangement, the museum is generally obligated to take care of the property until the lender reclaims it. The museum must exercise reasonable care to prevent loss or damage to the property. This obligation could continue indefinitely.

A number of states have enacted laws enabling museums to resolve concerns relating to ownership, transfer, sale, or disposition of unclaimed and undocumented property. Oklahoma has not enacted laws that adequately address those concerns. As a result, museums in Oklahoma may face liability if the original owner, donor, contributor, or lender claims ownership and challenges the museum's claim of ownership. In many cases, unclaimed and undocumented property held by many Oklahoma museums has been maintained for decades. Also, in many instances the museum acquired the property before the now-customary use of donor agreements, loan agreements, temporary deposit receipts, or other documentation. With questionable legal title to unclaimed and undocumented property, museums can only make limited use of these items, while bearing the responsibility and cost of providing storage space, climate control, security, inventory control, insurance, conservation, records maintenance, and other services or resources.

In order to create certainty, promote uniformity, and manage the risks, responsibilities, and costs relating to unclaimed and undocumented property, museums should:

- Properly document every loan, gift, bequest, purchase, or other acquisition of property.
- Fairly allocate responsibilities between donors and lenders, on the one hand, and museums that are recipients of gifts and loaned items, on the other.
- Expediently resolve concerns relating to title and ownership of unclaimed and undocumented property left in their custody.

- When possible, work with the lender, donor, seller, or transferor to create documentation for property that is undocumented.

## **Legal Considerations**

The Oklahoma Uniform Unclaimed Property Act provides that property is unclaimed when there is a lack of activity generated by the owner of the property. If it remains unclaimed for a certain amount of time, then it is considered abandoned and must be reported to the State Treasurer. Museums operated by a nonprofit corporation primarily for educational, scientific, historic preservation, or aesthetic purposes are not subject to the provisions of the Act and, therefore, are not required to report unclaimed property in their possession. A museum may, however, take advantage of the provisions of the Unclaimed Property Act with respect to unclaimed property that it holds, if it files the required reports of unclaimed property and complies with the other requirements of the Unclaimed Property Act. Museums may report abandoned and unclaimed property without charge at [www.unclaimed.state.ok.us](http://www.unclaimed.state.ok.us).

Rather than relying on the Oklahoma Uniform Unclaimed Property Act, the Oklahoma Museums Association advocates following the guidelines in this document to address unclaimed property, undocumented property and abandoned property within a museum's collection held in public trust (or held for the benefit of the public).

The Native American Graves Protection and Repatriation Act requires museums that receive federal funds to complete inventories and summaries of Native American cultural items in their collections, publish notices in the Federal Register, and repatriate Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants and culturally affiliated Indian tribes. Museums that receive federal funds and that own, control, or have possession of those types of property or items should comply with the requirements of the Act. Information about the Act, including helpful answers to commonly-asked questions, can be found at <http://www.nps.gov/nagpra/mandates/index.htm>.

## **Museum's Obligations to a Lender**

**New Loans.** When a new loan is made to the museum, the museum should, at the time the loan is approved:

- Enter into a written loan agreement with the lender. The loan agreement should, at a minimum, contain the following:

- Lender's name, address, telephone number, email address, and other contact information;
- Description of the property loaned in sufficient detail for ready identification;
- A clear statement that the lender is providing the property on loan to the museum.
- The beginning date of the loan;
- The expiration date of the loan;
- Any requirements relating to the identification of the property loaned;
- Any restrictions relating to the property loaned;
- A requirement that the lender is responsible for notifying the museum of changes of address and changes of ownership of the property loaned.
- Inform the lender of all loan conditions;
- Provide the lender the museum's procedure for unclaimed property loaned to the museum;
- Provide the lender with a fully signed copy of the loan agreement;
- Retain a fully signed copy of the loan agreement in the museum's records;
- Inform the lender of these guidelines and provide the lender a copy of these guidelines upon request.

**Existing Loans.** Regardless of the date of the loan, the museum should:

- Update its records at least annually and whenever the lender informs the museum of a change of address or change in ownership;
- Update its records if the lender and museum negotiate a change in the duration or other terms of the loan;
- Prepare an updated loan agreement or an amendment to the loan agreement if any of the terms of the loan change; obtain the signatures of the lender and the museum; furnish a fully signed copy to the lender; and retain a fully signed copy in the museum's records.
- Inform the lender of these guidelines and provide the lender a copy of these guidelines upon request.

**Old Loans.** The museum should:

- Determine what the lender and the museum want to do with the loaned property;
- Provide museum contact information to the lender;

- If the museum decides to terminate the loan, notify the lender of the museum's intent to terminate the loan. The notification, which may be in the form of a letter, should include:
  - The name and address of the lender, if known;
  - The name of the museum;
  - The date of the loan or the approximate date on which the property came into the custody of the museum;
  - A description of property;
  - The name, address, phone number, email address, and other contact information of the museum staff member who the lender should contact for further information;
  - A statement that the museum is terminating the loan, along with a request that the lender contact the museum within 60 days.
  - Any other information that the museum considers pertinent or important.
- If the lender does not respond within 60 days, the museum should send a second letter with the same information as the first letter, again asking the lender to contact the museum within 60 days. If at the end of the second 60-day period, the lender has still not responded, the museum should consider sending a third letter, stating that the museum has determined, based on the lender's failure to respond to the two prior letters, that the lender has donated the property as of the date of the third letter and that the museum claims title to, and ownership of, the property.
- If the first letter is returned as undeliverable or if the museum cannot locate the lender after a reasonable search with no indication of the lender's whereabouts, the museum should consider the property as having been abandoned. [**CONSULT WITH LEGAL COUNSEL**]

## **Documentation**

### **Unclaimed and Undocumented Property - Found in Collections**

- The museum should document the length of time that the museum has held the property.
  - Documentation may include inventories, catalog records, dated photographs, correspondence, or other records of ownership, maintenance, or possession.
  - If the museum cannot find existing documentation, the museum should catalog the property with a tracking number and note in the museum's records the date on which the property was found

in the collection. This provides the museum a timeline to use later if the museum wants to claim ownership of the property. For example, by noting that undocumented property was found in the museum's collection in September 2012, the museum now has a record that it may proceed to claim title to the property in seven years, which would be September 2019.

- The museum should consider giving public notice of intent to claim title to the property, depending on the cost of publication, the nature of the property, and the value of the property.
  - Publish notice in a newspaper of general circulation in the area where the museum is located at least once a week for three consecutive weeks;
  - The notice should, at a minimum, contain:
    - The museum's name;
    - The date or approximate date of the museum's acquisition of the property, if known;
    - A description of property;
    - The name, address, and phone number of the museum staff member to contact for further information;
    - A statement that if written proof of claim is not presented to the museum by the current owner, and if the owner's right to receive the property is not established to the museum's satisfaction within 180 days after the date of the 3<sup>rd</sup> public notice, the museum will consider the property to have been abandoned and will claim ownership of the property.
  - Publish a similar notice on museum's website.

Oklahoma law does not provide certainty, and this procedure does not guaranty that the museum will acquire title to the property. Museums should consult with their own legal counsel for advice and direction in these circumstances.

### **Abandoned Property - Doorstep Donations**

- Document the abandonment of the property. This may include taking pictures of property in the location in which it was abandoned and recording pertinent data, such as where it was left, who found it, when it was found, any notes or information that was found with the property, and other information.
- Generally, the museum may presume that an unsolicited item of property left at a museum from an unknown source is a gift if no one claims ownership within a year.

- Decide whether the property should be held as part of the museum's permanent collection or whether the museum should dispose it.

## **Claims for Property**

### **Claims for Undocumented or Previously Unclaimed Property**

- In general, the museum should exercise due care to maintain and preserve any property it is given.
- If someone submits a claim of ownership of property that was previously unclaimed, that was undocumented, or that was previously considered abandoned, the museum must investigate the claim, unless it is clear to the museum that the claim is unsupported, unsubstantiated, and frivolous.
- The museum should verify the identity of the claimant and evaluate all aspects of the claim in an effort to determine whether the claimant was the original lender or donor.
- If the claimant does not claim to be the original lender or donor, the museum should establish the claimant's relationship to the lender or donor; ascertain the claimant's reasons and justification for the claim; and evaluate the claimant's authority for making the claim. The claimant must provide information satisfactory to the museum that the claimant is entitled to claim and take possession of the property.
- If multiple claims to ownership are submitted, the museum should defer a determination of ownership until the various claims are resolved by agreement or legal action. If the museum verifies that multiple claimants are joint owners, the museum should make sure all parties agree to the final disposition of the property before taking action.
- If the museum is satisfied that the claimant or claimants are entitled to take possession of the property, the museum should enter into an agreement with the claimant(s) relating to disposition of the property. Among other matters, the agreement should (a) identify all parties, (b) describe the property, (c) state the circumstances relating to the claim, (d) provide an authorization for the museum to make the property available for retrieval by a specific person, (e) include representations by the claimant(s) that they are entitled to direct the return of the property and to provide the authorizations in the agreement, (f) permit the museum to take and retain photographs and make copies of any written documentation that is being returned, (g) include an indemnification by the claimant(s) to protect the museum from

- claims by others for the same property, (h) release the museum from liability relating to its prior possession of the property, and (i) be signed by all claimants.
- If the museum would like to retain the property, the museum should suggest or encourage the claimant or claimants to donate it or to provide it on loan for a specific period of time. If the claimant(s) agree, the museum should document their agreement and donation.

### **No Claim Submitted after Notice, Inquiry**

- If no one claims the property, then the museum may wish to claim the property as having been abandoned. Oklahoma law does not provide certainty, so museums should consult with their own legal counsel for advice and direction in these circumstances.
- If the museum determines that the property has been abandoned, then the museum must decide whether to dispose of the property or to add it to its collection. If the museum chooses to dispose of the property, the museum should keep records, including descriptions of the property, method of disposition, and value at time of disposition.

### **Conservation Measures**

Unless a written loan agreement provides otherwise, a museum may apply conservation measures to, or dispose of, undocumented property or property on loan to the museum without the owner's permission if:

- Immediate action is required to protect the property; or
- The property has become a hazard to the health and safety of the public or to the museum's staff, due to one or more of the following:
  - The property poses an immediate risk of harm to the museum's staff or collection or to the general public, in which case the museum should promptly notify the owner or, if the museum is not able to locate the owner, the museum may dispose of the property without delay and undertake efforts to notify the owner of the action taken;
  - The museum is unable to reach the owner through available means of communication and is required to take immediate action; or
  - The museum contacts the owner, but the owner does not agree to the protective measures that the museum recommends and does not or is unable to terminate the loan and collect the

property within the time the museum determines the action is necessary.

When a conservation measure is undertaken, the museum:

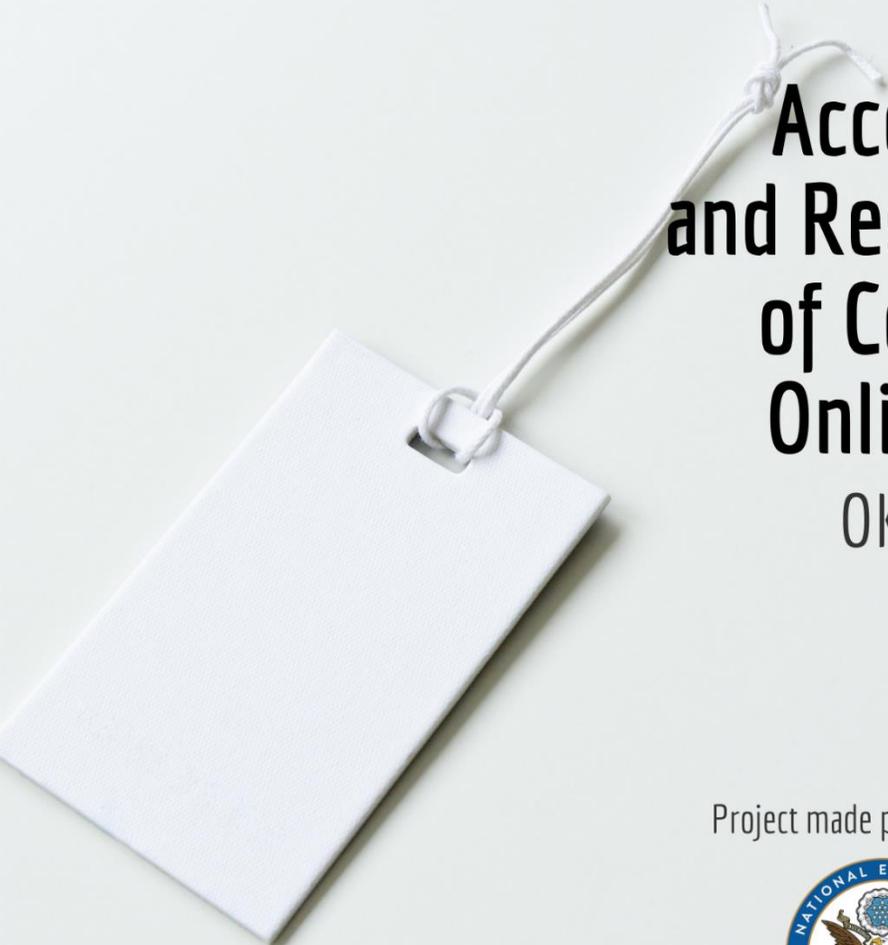
- May claim a lien on the property in the amount of the costs incurred by the museum;
- Should generally not be liable to the owner for damage to, or loss of, the loaned property, as long as the museum acted properly and had a reasonable belief at the time the action was taken that the action was necessary due to an immediate risk of harm; and
- Should not be liable to the owner for damage to, or loss of, the property due to conservation measures applied, as long as the museum exercised reasonable care in choosing and applying such conservation measures.

Again, Oklahoma law does not provide certainty in this area, and museums should consult with their own legal counsel for advice and direction in these circumstances.

## **Other Considerations**

**Legal Certainty** – This information is intended to serve as a guideline for museums. As noted, Oklahoma law does not provide certainty with respect to some of the matters described, and museums should consult with their own legal counsel for advice and direction, as necessary appropriate.

**Contractual Obligations** - A museum and lender can establish by contract a different process and different requirements relating to property donated or loaned.



# Museum Accessioning and Registration of Collections Online Course

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## Module 26: Numbering Systems

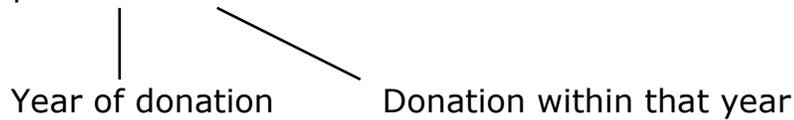
Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Numbering Systems

- While each museum will find that it has its own method of numbering objects, it is profoundly important that each object in the collection have a unique number as a means of identification.
- If you already have a consistent numbering system in place, it is best to continue using the same system
- If you have not yet begun numbering objects in your collection, a three-number system is the optimal solution.

For example: 1998.065.003 — The object number within that specific donation



So, this is essentially a donation from 1998, the 65<sup>th</sup> donation that year, and the third object in that donation. If that donation had 25 objects, the number range would read 1998.065.001-.025 denoting 25 objects in that donation.

A few rules to bear in mind when the three-number system is to be used:  
A lower case letter suffix is added to an accession number in only two situations:

- When you have a pair (such as a pair of gloves) or
- When you have an artifact that has pieces that *physically* fit together (such as a teapot and lid).

For example, the teapot and lid would be assigned the accession numbers 2004.003.001a (for the teapot) and 2004.003.001b (for the lid).

If the teapot had a matching sugar bowl, the sugar bowl would receive the accession number 2004.003.002 (different last number because the sugar bowl does not physically attach to the teapot) because it is the next item in that specific donation.

Should you have an artifact that has many *physically* attaching parts (more than 26) and you therefore go through the entire alphabet, you would then use aa, bb, cc, etc. or you would use an additional .1, .2, etc. use whichever method you want, but be consistent.

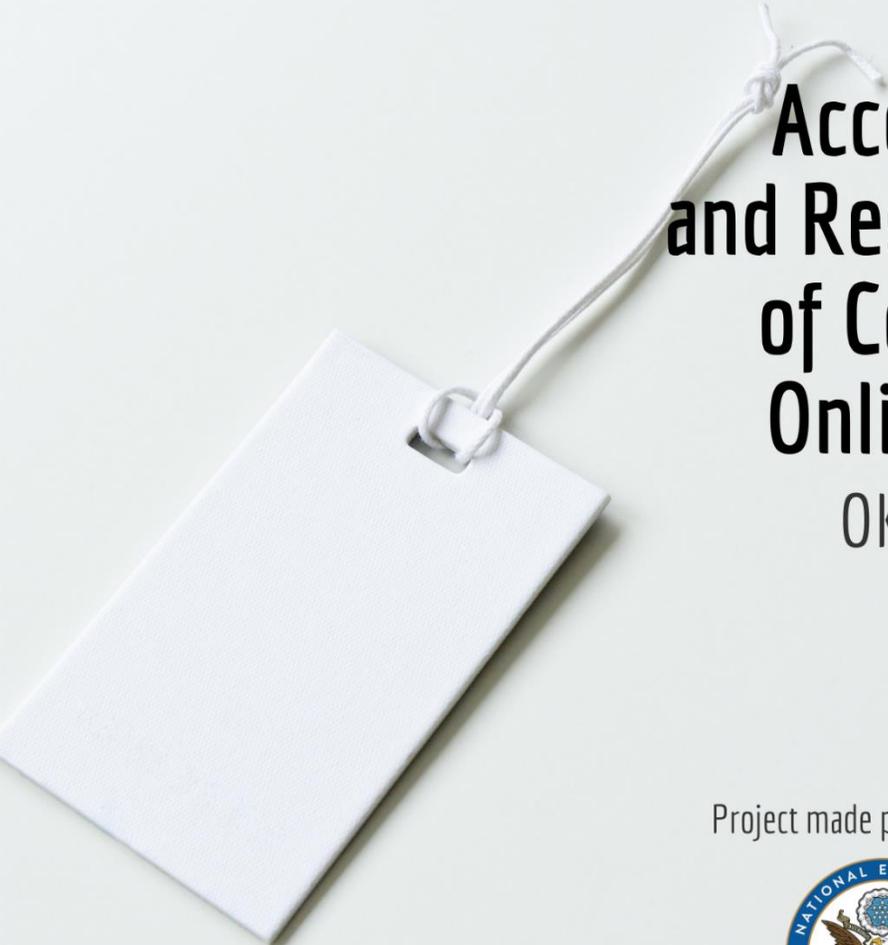
Should you receive an artifact that is a set containing pieces (such as a set of flatware) you would number each piece separately such as 2004.003.003, 2004.003.004, 2004.003.005, etc.

If you receive a artifact that has *many* pieces but they *do not* physically fit together (e.g. a large glass jar containing 200 marbles), you would need to decide whether you will assign one number for the glass jar and marbles or whether you want to spend the time giving the jar a number and then each and every marble a number. The important thing to remember is if there are plans to ever open the jar and exhibit marbles separately, then you would need to number them individually. If the jar will never be opened, then perhaps consider just one number.

1998.065.003

1998.065.003

Year of donation      Donation number that year      Specific object in that donation



# Museum Accessioning and Registration of Collections Online Course

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## Module 27: Exercise on Accession Numbers

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Exercise 8: Accession Numbers

### Part I:

On October 10, 2003, the museum received a small collection of artifacts from Eva Smith, the last teacher who worked at School #4. Your collections committee has approved the donation and a signed Deed of Gift has been received.

Assign numbers to her collection using the sample page from an accession ledger, below. Miss Smith is the 40th donor of the year.

- One brass bell
- One small writing tablet
- A photograph of Miss Smith in front of School #4
- A pair of gloves worn by Miss Smith

Acc #                      Source                      Object Description      Cataloged?      Location

### Accession Ledger

Accession Number	Accession Description	Acquisition Source	Date	Item Count

Part II

When the Drew Dewey museum was founded in 1980, it used a one number system for registering its artifacts. In 1987, a new curator was hired and began imposing the three-part system. You have just been hired as the first curator after four years of no collections staff. What do you do about numbering objects?

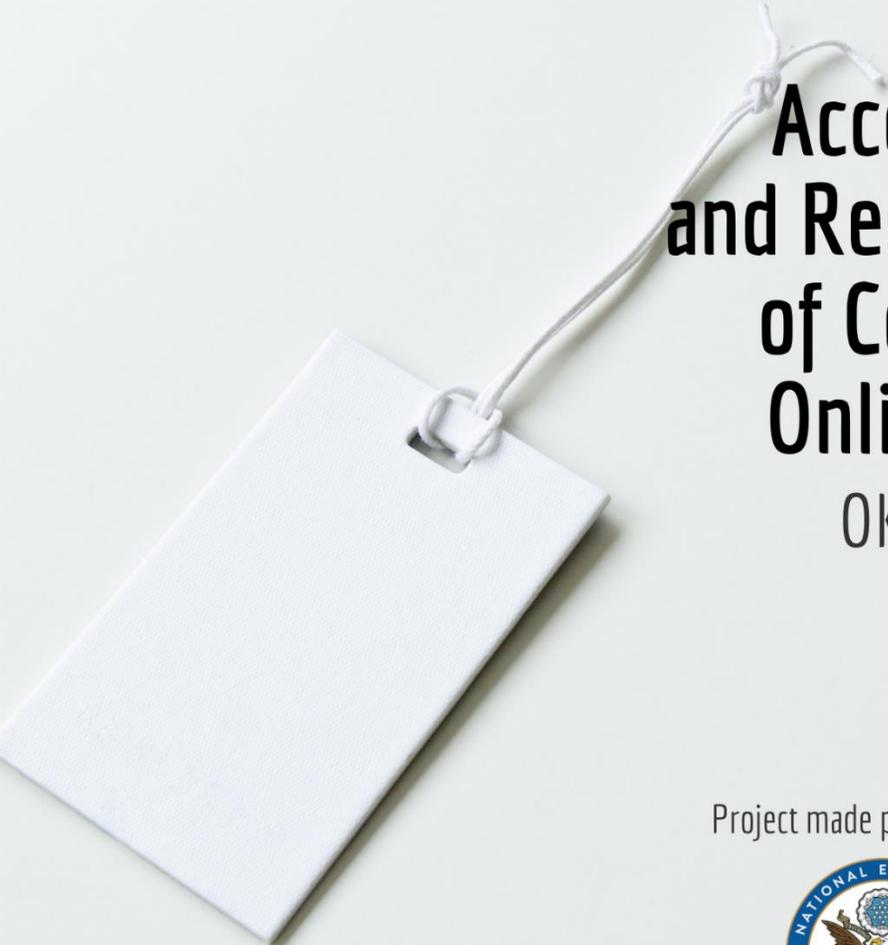
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## Module 28: Cataloging

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## **Computer Programs for Museum Collections**

### **General Database Software:**

Microsoft Access  
FileMaker Pro

### **A few other specialized software available for museum registration and collections management include:**

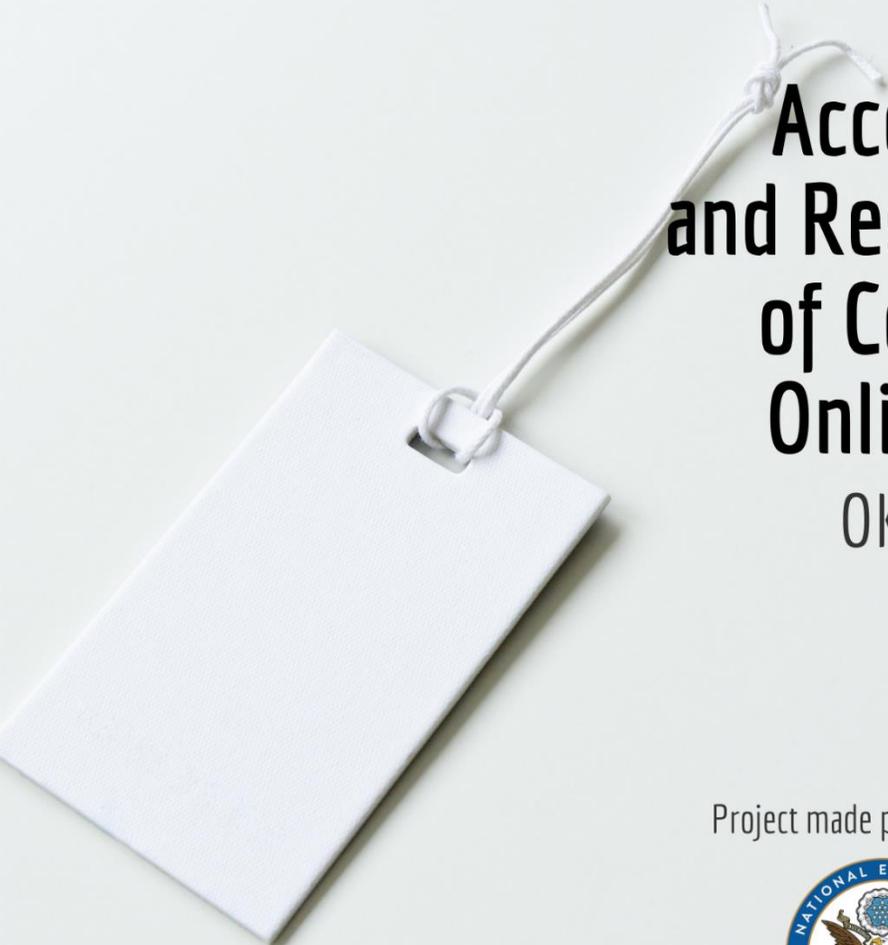
ArchivesSpace- Geared toward archives  
Argus (Lucidea)  
Axiell Collections (formerly KE EMu Electronic Museum Management System)  
CatalogIt  
Collector Systems  
CuadraSTAR (Lucidea)- Geared toward library/archives  
EmbARK (Gallery Systems)  
PastPerfect  
Proficio (formerly Re:discovery)  
TMS (Gallery Systems)  
Vernon Systems Ltd.

Note: Your institution may be eligible for donated software from TechSoup Stock. TechSoup Stock connects nonprofits with donated and discounted technology products. They work with both corporate and nonprofit technology partners including Cisco, Groundspring, Microsoft, and Symantec. All products are available for low administrative fees that include shipping, handling, and customer support. Visit [www.techsoup.org](http://www.techsoup.org) for more information.

**Note: The Oklahoma Museums Association does not endorse any one particular software product or company.**

## Object Catalog Form

Accession Date	Accession Number
Major Category Classification	
Object Name	
Primary Associations	
Title (if applicable)	
Date	
Author/Artist (if applicable)	
Description	
Manufac./Printer	Condition
Material/Technique	
Provenance	
Inscription/Marks	
Place of Origin	
Donor Name	Dimensions
Donor Address	Gift or Purchase (circle one) Acquisition Cost (if purchased) Appraisal Value
Cataloger	Location



# Museum Accessioning and Registration of Collections Online Course

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## Module 29: Loans

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## **Anywhere Museum Terms and Conditions for Incoming Loans**

1. **Insurance:** The Anywhere Museum assumes the obligation to insure property of others in its care and custody. The insurance is provided on an all risk basis subject to policy conditions. If the lender wishes to secure his/her own insurance coverage, the museum must be supplied with a certificate of insurance naming the museum as additional insured or waiving rights of subrogation. The Anywhere Museum shall not be responsible for any lapses in the lender's coverage.

2. **Care & Preservation:** The Anywhere Museum will protect the property and return it in the same condition as borrowed. Adequate security will be maintained by the museum. Evidence of damage, regardless of who may be responsible for the damage, shall be reported immediately in writing to all parties to the loan. The museum will cooperate fully in processing any insurance claims. No treatment, cleaning, remounting, resetting, or repairing will be done by the museum without written authorization of the lender. No pins, nails, tapes, glues, or other means of support may be used that mark or damage the loan in any way. It is the responsibility of the lender to inform the museum of any special preservation, security, or exhibit needs that may be entailed with this loan.

3. **Packing & Transportation:** Packing will be provided by the lender of the property. The property will be returned packed in the same or similar materials as received unless otherwise authorized by the lender. The Anywhere Museum and the lender will agree upon the method of transportation before the loan period begins. The borrowed objects will be covered for protection while in the care, custody, and control of the museum.

4. **Photography & Reproduction:** The Anywhere Museum agrees not to photograph, duplicate, replicate, or reproduce the borrowed property except for non-profit publicity, documentation, or educational purposes.

5. **Credit:** The Anywhere Museum agrees to use the credit line given on the front of the agreement form to credit ownership of the loaned items in label copy, publicity releases, and in any printed matter.

6. **Expenses:** Expenses incurred as a result of this loan will be assumed by the Anywhere Museum.

7. **Term of Loan:** The term of this loan may be extended for a specific length of time only with the written consent of parties. The LENDER may terminate the loan by the end of the loan period only after written notice has been given to the Anywhere Museum. Fourteen days after receipt of notice is required before a loan may be retrieved. The Anywhere Museum may terminate the loan at any time. Objects shall be retrieved as promptly as possible at the termination of the loan. Storage fees may be charged for objects left more than thirty days after the termination of a loan. Objects left more than five years will be considered a gift to the museum.

Anywhere Museum  
P.O. Box 5  
Anywhere, OK

## Incoming Loan Agreement

\_\_\_\_\_  
Lender

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Area code/Telephone Number Area code/Fax Number

\_\_\_\_\_  
Purpose of loan

\_\_\_\_\_  
Special security and care instructions

\_\_\_\_\_  
Credit line for lender should read as follows

\_\_\_\_\_  
Period of loan to

<u>Accession #</u>	<u>Description</u>	<u>Condition</u>	<u>Insurance Value</u>
--------------------	--------------------	------------------	------------------------

The parties to this loan acknowledge that they have the power to enter into this agreement and that they have read and agree to the conditions on the reverse of this form with the following exceptions: \_\_

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

\_\_\_\_\_  
Authorized for Anywhere Museum

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized for the Lender

\_\_\_\_\_  
Date

## **Anywhere Museum Terms and Conditions for Outgoing Loans**

The Anywhere Museum may lend items or make them available for exhibit and/or research to chartered museums or educational institutions that can provide adequate security for the material loaned. Loans to other institutions may be made only with the written consent of the Board of Trustees.

The following criteria will serve as a guide in determining the availability of material for loan:

6. **SECURITY:** Material exhibited to the public must be adequately secured. It shall be the responsibility of the borrower to see that such adequate security is provided. If the Board feels that there is any danger to such loaned materials through the act of loaning the object, it will not be approved for loan.
6. **INSURANCE:** Borrowers must provide a certificate of insurance for an all-risk policy covering the objects at the value established by the museum. The coverage shall be in effect for the duration of the loan including transit to and from the borrowing institution and while on the institution's premises. If the object is of minimal monetary value, the curator or board of trustees may waive insurance requirements.
6. **CREDIT:** The museum shall be properly credited on all labels, exhibition catalogs, in press releases, and in related materials as the "*Anywhere Museum*".
6. **REPRODUCTION:** Borrowed objects shall not be photographed or reproduced in any form without the express written permission of the museum. No material may be changed, embellished, modified or dismantled in any way by the borrower without written permission of the Board of Trustees of the museum. Material may not be used for any commercial purpose whatever without the written permission of the Board of Trustees of the museum.
6. **PACKING/HANDLING:** Only adequately trained personnel shall be permitted to handle, move or pack materials. Packing for return shipping must be in the same or better than the original packing. All expenses of packing and shipping shall be borne by the borrower. No materials may be loaned to a third party by the borrower without the written permission of the Board of Trustees of the museum.
6. **TERM:** Loans may be made for a period of up to one year. All loans shall be reviewed on a semi-annual basis and either reconfirmed or recalled.

Anywhere Museum  
P.O. Box 5  
Anywhere, OK

## Outgoing Loan Agreement

\_\_\_\_\_  
Borrower

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip Code

\_\_\_\_\_  
Area code/Telephone Number

\_\_\_\_\_  
Area code/Fax number

\_\_\_\_\_  
Purpose of loan (if exhibited, name of exhibition)

\_\_\_\_\_  
Period of loan \_\_\_\_\_ to \_\_\_\_\_

<b>Accession #</b>	<b>Description</b>	<b>Condition</b>	<b>Insurance Value</b>
--------------------	--------------------	------------------	------------------------

The parties to this loan acknowledge that they have the power to enter into this agreement and that they have read and agree to the conditions on the reverse of this form with the following exceptions: \_\_

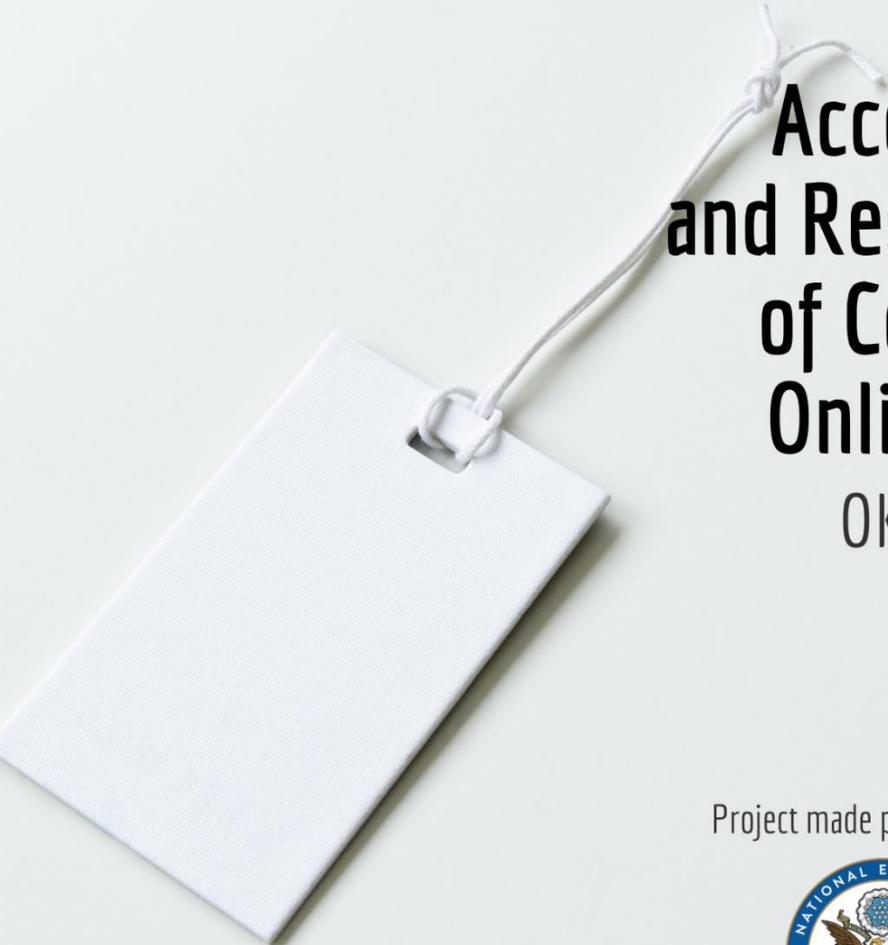
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Authorized for Anywhere Museum

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized for the Borrower

\_\_\_\_\_  
Date



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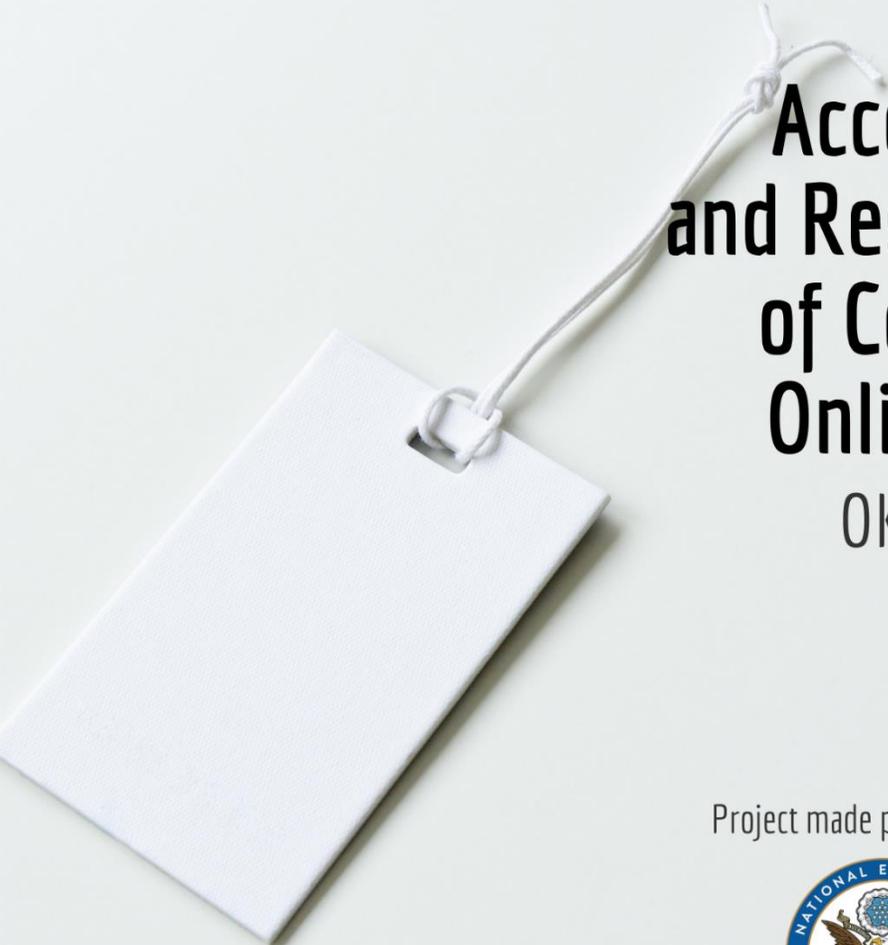
## Module 30: To Whom Should We Loan

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Exercise 11: To Whom Should We Loan?

	Accept - Yes	Decline - No
1. A local politician asks to borrow a painting to hang in their office.		
2. The museum's curator wants to research a manuscript at their home		
3. A board member asks to borrow an accessioned book from the library for one day.		
4. The local quilting guild wants to borrow a quilt for a show at the fire station.		
5. A local school teacher wants to borrow accessioned projectile points for use in the classroom.		
6. The local library wants to borrow a book from the permanent collection for an exhibit on the history of libraries.		
7. The museum curator wants to take a clock from the collection to his home to repair it.		
8. A local mining museum wants to borrow a pickaxe and two photographs for an exhibition.		



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## Module 31: Deaccessioning

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

Direct Care Information from the American Alliance of Museums can be found at <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/direct-care-of-collections/>

## Deaccession Form

**Anywhere Museum  
P.O. Box 5  
Anywhere, OK**

Accession Number: \_\_\_\_\_

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

Acquisition Source:

\_\_\_\_\_

\_\_\_\_\_

Description of Object:

\_\_\_\_\_

\_\_\_\_\_

Reason for Deaccession:

Outside of the museum's mission and/or scope

Hazardous to collection, staff, or building

Poor condition

One of multiple copies already existing in museum collection

Compliance with NAGRPA or other laws

Old loan and not intended for accession

Inability to properly store due to number, size, material, etc.

Proposed Disposition Method:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Restrictions or other concerns:

\_\_\_\_\_

### APPROVAL PROCESS:

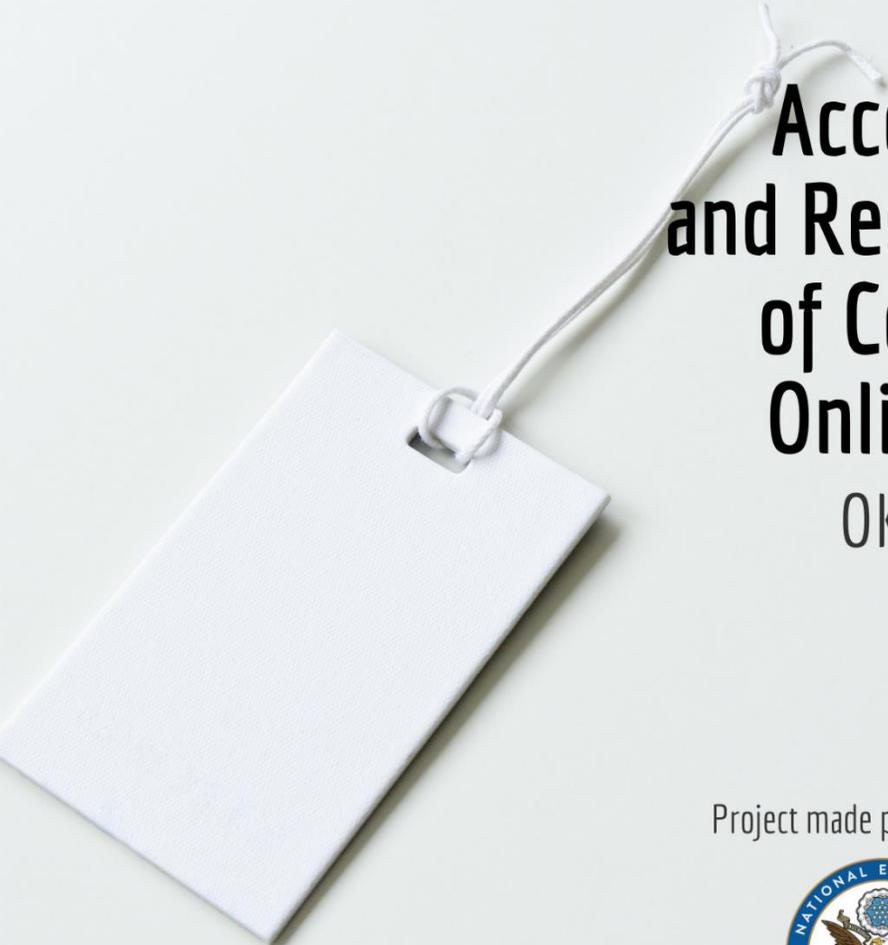
1. Approval by Curator \_\_\_\_\_ Date \_\_\_\_\_

2. Approval by Registrar \_\_\_\_\_ Date \_\_\_\_\_

3. Approval by Director \_\_\_\_\_ Date \_\_\_\_\_

4. Approval by Board \_\_\_\_\_ Date \_\_\_\_\_

Final Disposition Date \_\_\_\_\_



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## Module 32: Exercise on Deaccessioning Objects

Oklahoma Museums Association [OKMuseums.org](https://www.okmuseums.org)

Please complete an evaluation at <https://www.surveymonkey.com/r/MARCONLINE>

## Exercise 12: Should We Deaccession These Objects?

Suppose you are the Curator of the South Corners Museum. Consider each of the following situations and decide what you would do about deaccessioning.

1. The museum director wants to hire a new educator. He asks the board to sell the museum's coin collection to establish an endowment from which the educator's salary will be paid. What do you do?

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2. The museum director realizes that a painting done by a local artist in the 19th century is very valuable. She wants to deaccession it and use the funds to install an HVAC system in the collections storage area that is now subject to large environmental fluctuations. What do you do?

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3. In an effort to refine the museum's collection, the former curator deaccessioned several typewriters to which the museum had clear title. The donor of one of the typewriters now wants to know where his typewriter is. What do you do?

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4. The museum wants to deaccession a valuable vase that does not fit its mission. What do you do?

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**Link to AAM Code of Ethics:** <https://www.aam-us.org/programs/ethics-standards-and-professional-practices/code-of-ethics-for-museums/>

**Link to AASLH Statement of Standards and Ethics:**  
<http://download.aaslh.org/AASLH+Statement+of+Standards+and+Ethics+-+Revised+2018.pdf>