

NMAL Shared Stewardship and Ethical Returns Approved 1/20/23

Statement of Purpose

The National Museum of the American Latino recognizes and embraces the value of community representation in Smithsonian collections, the benefit of preserving and making available to the public, with honor and respect, a diverse range of collections, stories and histories, and the role of museums as collaborative custodians of cultural and historical legacies. The Museum values transparent and respectful collecting practices that integrate the knowledge, practices, and wishes of communities.

In accordance with the Smithsonian [Shared Stewardship and Ethical Returns Policy](#) (April 29, 2022), NMAL may enter into shared stewardship arrangements with communities represented in the Museum's collections in appropriate circumstances, based on ethical considerations. NMAL strives to integrate ethical considerations into all acquisition processes. Provenance information, ethical considerations, and potential conflicts of any kind shall be submitted to the Collections Committee along with the rest of the accession proposal for all objects.

NMAL may additionally decide to enter into a shared stewardship arrangement as part of the acquisition process. Due to the Museum's desire to cultivate collaboration and partnerships in communities and other museums and institutions, shared stewardship is a vital tool for NMAL to build and foster relationships and support communities. Objects that fall under the Museum's scope of collections are not only important to the country and the world, but also to communities and families. This is an important factor for the Museum to consider when proposing a potential acquisition into the collection.

Requests for ethical returns can be generated by an external party, or someone on the Museum's staff can identify potential returns and initiate the process. Information on ethical returns requests will live on the Museum's public-facing website.

Applicability

NMAL's Scope of Collections includes objects pertaining to the Indigenous peoples of North America that may fall under the NMAI Act. Any objects that do not fall under the NMAI Act are governed by this Shared Stewardship and Ethical Returns Policy, along with other applicable Smithsonian policies.

In addition to objects, any collections information, images, scans, replicas, and other materials associated with collections may also be subject to a shared stewardship agreement. The decision as to whether additional digital or physical materials will be subject to such an agreement will be made on a case-by-case basis in consultation with the community or individual who is the recipient of the shared stewardship agreement. Additionally, the Digital Initiatives team will be a part of the consultation process and will advise on what material

should be shared, as well as the proper formats that should be transferred. The results of these discussions will be explicitly addressed in the shared stewardship agreement.

In making an ethical return, NMAL will return images, scans, replicas and other material associated with the collection to the recipient of the return. The Museum will also restrict access to any copies retained within the Smithsonian or to negotiate the Smithsonian's terms of use for these materials.

Authority and Responsibilities

If a request or inquiry is initiated by an external party, the Registrar receives the request and will first consult the applicable registration file(s) for all provenance information, correspondence, and other applicable information. The Registrar will provide an initial response to the request or inquiry within thirty (30) days of the request submission, confirming receipt of the request and explaining the next steps. The Registrar then brings the request and registration file to the Exhibitions Director, documents the request in a formal report, and then reports the request to the Shared Stewardship and Ethical Returns Request Tracking System. The Exhibitions Director will review the request, do further research if necessary, and consult with the requesting party. This consultation may involve an onsite visit to review applicable object(s), if appropriate and feasible. The Exhibitions Director may also consult other NMAL or SI staff to assist in the research, consulting, and decision-making processes.

Part of the research conducted by the Registrar and the Exhibitions Director will include due diligence that the external party requesting the return of the object(s) is the most appropriate party to receive the return. Every situation involving an ethical return is different and requires the best judgement of the parties involved.

If the Exhibitions Director and other involved SI staff determine that a return is the best ethical path forward, the recommendation will go to the Director. In addition to the request, the Registrar will provide written confirmation that no restriction in the registration file would impede the Museum's ability to return the object(s). If there is a restriction in the registration file, the Registrar will consult with OGC. In addition, the Registrar will provide an estimate of anticipated funding needs to satisfy the necessary elements of a request. The Exhibitions Director will also provide written confirmation of the process and justification for ethical return. The Director and Exhibitions Director shall consult with the Under Secretary for Museums and Culture, the National Collections Program, the Office of General Counsel, and the Office of International Relations (if applicable).

NMAL will then follow appropriate deaccessioning procedures, including the approval of the Collections Committee.

If a request or opportunity results in a shared stewardship arrangement or ethical return, the Registrar will document and implement the arrangement or return.

If the Exhibitions Director and other involved SI staff recommend that a request be denied, that recommendation will go to the Director. If the Director agrees with the decision to deny a request, the Exhibitions Director and Director will consult with the Under Secretary for Museums and Culture. If the Under Secretary agrees with the decision to deny a request, the Registrar will document the decision and work with the Exhibitions Director to compose a denial in writing to the requester with a brief statement of justification or rationale for NMAL's decision.

The Registrar is responsible for implementing the Shared Stewardship and Ethical Returns policy in annual plans, strategic priorities, and Collections Stewardship plans.

Evaluation Criteria for Shared Stewardship and Ethical Returns

NMAL will evaluate two main questions when considering requests for shared stewardship or ethical returns:

- Is the requester the appropriate party to make the request based on the nature of the requester's relationship to the collection or collection item (descendant, governmental, cultural group, or tribal authority, etc.)?
- Does the request or opportunity present an appropriate case for return or shared stewardship based on ethical considerations?

NMAL will review the information provided by the requester, consult with the requester and other relevant parties, and conduct research into the provenance of the collection, the manner and context of its acquisition over time, and any other relevant matters. At all times, NMAL should exercise its best judgment in resolving requests consistent with the spirit of the [*Shared Stewardship and Ethical Returns Statement of Values and Principles*](#).

When seeking to answer the first question to determine if the requester is the appropriate party to make the request based on the nature of the requester's relationship to the collection or collection item, NMAL will consider the following:

- The nature of the requester's relationship to the collection item;
- Whether or not the requester has authority on behalf of the party seeking shared stewardship or return (e.g., the family, community, cultural group, tribe or government);
- If there are existing competing inquiries or requests; and
- If there are other parties with potential interests in the collection object(s).

When considering the second question to determine if the request or opportunity presents an appropriate case for return or shared stewardship based on ethical considerations, NMAL will use the following criteria:

- The circumstances of the original acquisition;
- the circumstances of the Smithsonian's acquisition;

- if there is any evidence that the collection item was legally acquired but was acquired forcibly, under duress, through coercion, without consent, or involuntarily;
- if retaining the item would perpetuate harm or be inconsistent with the core values of the Smithsonian and NMAL; and
- if returning the item to the requester/inquirer would redress the harm or unethical circumstances of acquisition.

The following criteria will not be taken into account when evaluating the circumstances of a potential ethical return:

- Monetary value; and
- The requester's ability to meet Smithsonian standards of care.