

**Guidelines and Procedures
for World War II Provenance Issues**

**The Freer Gallery of Art and the Arthur M. Sackler
Gallery
Smithsonian Institution
Washington, DC
September 2009**

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Chapter 1

Introduction and Historical Context

The World War II Era (1933-1945) and Recent Events

During the tumultuous years before and during World War II, the Nazi regime and their collaborators orchestrated a system of confiscation, coercive transfer, looting and destruction of cultural objects in Europe on an unprecedented scale. Millions of art objects and other cultural items were unlawfully and often forcibly removed from their rightful owners.

In 1943 prior to the Allied invasion of Europe, the United States and their allies organized restitution efforts to return the illegally confiscated objects. The Monuments, Fine Arts and Archives branch, staffed with many U.S. museum curators and scholars, and established under the Civil Affairs and Military Government sections of the Allied armies, assisted with the restitution of millions of artistic and cultural objects that had been confiscated under the Nazi regime.

While many of these confiscated items were returned to their owners through the extensive postwar restitutions, some of these objects continue to appear on the legitimate art market and make their way into private and public collections without knowledge of the object's prior unlawful confiscation. With the passage of time, a new generation has revisited these issues and sparked new debate, as well as claims, concerning this era and confiscated objects. The early 1990s, with the reunification of Germany, collapse of the Soviet Union and the declassification of archival documents in the United States, witnessed a major resurgence of this topic in a series of articles, books, and conferences.

One of the best overviews of these events is found in Lynn H. Nicholas's *Rape of Europa* published in 1994 which provided details of Nazi art policies and the Allied restitution efforts at the end of the war. In 1995, a conference, "The Spoils of War," organized by the Bard Graduate Center for Studies in the Decorative Arts, provided the first forum on this subject, bringing together individuals who had participated in the post war restitution efforts, as well as the current generation of interested scholars, lawyers, journalists and government officials from the U.S. and Europe. Soon thereafter, Jonathan Petropoulos published two books, *Art as Politics in the Third Reich* (1996) and *The Faustian Bargain* (2000), exploring Nazi art policies in depth, Nazi leaders' collecting practices and careers of prominent Nazis in the arts. At this same time, Hector Feliciano published his book, *The Lost Museum* (1997), which focused on Nazi looting in France, detailing several high profile looted French collections. For a more detailed bibliography on this subject see [Appendix G](#).

As a result of this renewed interest in World War II confiscations, museums became increasingly aware of the need to review their own collections for any looted artwork. Three cases in 1997 forced the museum community to confront this looming issue and to recognize the need for established guidelines and policies to review their collections:

- Daniel Serle, Board member of the Art Institute of Chicago, received a claim for Edgar Degas' *Landscape with Smokestacks* (Gutmann family) -- the case was settled with the Art Institute receiving the work, part by gift of Searle and part by purchase from the Gutmanns
- The Seattle Art Museum received a claim for Henri Matisse's *Odalisque* (Paul Rosenberg family) – Seattle returned the painting to the Rosenberg heirs
- The Museum of Modern Art received claims for two paintings by Egon Schiele (*Dead City III* and *Portrait of Wally*) on loan from the Leopold Museum in Austria (Grunbaum and Lea Bondi families) – *Dead City III* has been returned to the Leopold Museum while the *Portrait of Wally* case is still pending in New York as of June 2009.

In 1998, with the rapidly increasing focus on these issues, the U.S. Federal Government held a series of congressional hearings, formed a Presidential Advisory Commission on Holocaust Assets in the U.S. (PCHA), and hosted the Washington Conference on Holocaust-Era Assets. At the same time, they released the “Washington Conference Principles on Nazi-Confiscated Art” (see [Appendix A](#)). Proceedings of this conference have been published online at:

http://www.state.gov/www/regions/eur/wash_conf_material.html. In addition, the National Archives and Records Administration hosted a Symposium on Records and Research Relating to Holocaust-Era Assets.

At the same time, the Association of Art Museum Directors (AAMD) task force drafted their guidelines *Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)* ([Appendix C](#)), and the American Association of Museums (AAM) formed a working group to begin drafting their guidelines, *AAM Guidelines concerning the Unlawful Appropriation of Objects during the Nazi Era*, issued in 1999 ([Appendix B](#)). In 2001, the AAM and AAMD, along with the PCHA, issued their reports defining the standards for disclosure of information and the creation of a searchable central registry of museum object information, as detailed in the *AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era*, adopted in May 2001 ([Appendix E](#)).

In June 2009, a follow-up to the 1998 Washington Conference on Holocaust Era Assets was held in Prague. The 46 participating nations endorsed the Terezin Declaration on June 30, 2009 which reaffirmed the Washington Conference Principles and reinforced the necessity for continued provenance research. The proceedings have now been posted online at: <http://www.holocausteraassets.eu/>.

As a result of these meetings and working groups, museums have adopted their own guidelines and procedures to deal with any provenance issues that might arise for their existing collections, potential acquisitions, and incoming loans, as well as how to approach their provenance research, and the public display of this information. The following guidelines and procedures are intended to be living documents, and should be updated periodically as new issues and concerns develop.

Chapter 2

Guidelines for Existing Collections

- I. [Introduction and Guidelines for Existing Collections](#)
- II. [Freer and Sackler Gallery Policies and Provenance Project](#)
 - A. Collection Management Policy – related to Provenance Research of Collection Objects
 - B. Freer and Sackler Gallery Provenance Project
- III. [Smithsonian Institution Nazi Era Policy and Guidelines](#)
 - A. Smithsonian Institution Policy on Unlawful Appropriation of Objects during the Nazi Era (SD 600 Implementation Manual, Chapter 23)
 - B. Smithsonian's Website: Provenance in the World War II Era, 1933-1945
- IV. [AAM and AAMD Guidelines and Recommended Procedures](#)
 - A. AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era (1999, amended 2001)
 - B. Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998)
- V. [Discovery of Unlawfully Appropriated Objects](#)
 - A. Freer and Sackler Collection Management Policy
 - B. AAM and AAMD Guidelines
- VI. [Label Text acknowledging WWII era Provenance](#)
- VII. [Procedure for Potential World War II Era Inquiries or Claims of Ownership](#)
 - A. Procedures
 - B. Request for Information Form
 - C. Press Release detailing Resolution of Claim
- VIII. [Curatorial and Object File Inquiries](#)
 - A. Freer and Sackler Collection Management Policy
 - B. Application to Examine Records

I. Introduction and Guidelines for Existing Collections

Freer and Sackler Gallery Collection Management Policy:

If the Gallery has acquired in good faith a collection item that is subsequently determined to have been unlawfully appropriated during the Nazi era without restitution, the director will take prudent and necessary steps to resolve its status. These steps will be made in conjunction with the Office of the General Counsel, National Collections Program, Under Secretary for History, Art, and Culture, and the Secretary of the Smithsonian.

AAM Policy:

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.¹

As a result of the renewed interest in World War II confiscations in the 1990s, the American Association of Museums (AAM) and the Association of Art Museum Directors (AAMD) developed guidelines and procedures intended to assist museums in the research of their existing collections. The guidelines define what objects require research, how to identify those objects that might have been unlawfully appropriated during the Nazi era, and how to make such information available to the public in an effort to aid in the discovery of those objects that were not restituted to their rightful owner following World War II. (See subsection IV.) The guidelines also contain recommended procedures of how to deal with the discovery of an unlawfully confiscated object within the collection and how to respond to claims against the museum. (See subsection VII.) The Smithsonian Institution has integrated these guidelines and procedures into their policy, in the *SD 600 Implementation Manual*, Chapter 23, "Unlawful Appropriation of Objects During the Nazi Era". (See subsection III.)

The following documents refer to a museum's existing collection and should be viewed as living documents to be updated periodically as new issues and concerns develop.

The related Provenance Research Chapter (see Chapter 5) applies to not only the Existing Collection objects, but also to potential Acquisitions, Gifts, Bequests and Transfers, as well as Incoming Loans.

II. Freer and Sackler Gallery Policies and Provenance Project

A. Freer and Sackler Collection Management Policy – related to Provenance Research of Collection Object

The Gallery adheres to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, issued by the American Association of Museums in November 1999 (AAM), and where applicable, the *Report of the Association of*

¹ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors.

Art Museum Directors Task Force on the Spoliation of Art during the Nazi/World War II Era. The text of these documents is included in the SD 600 Implementation Manual.

- The Gallery shall not knowingly acquire collection items that were unlawfully appropriated during the Nazi era without subsequent restitution.
- If the Gallery has acquired in good faith a collection item that is subsequently determined to have been unlawfully appropriated during the Nazi era without restitution, the director will take prudent and necessary steps to resolve its status. These steps will be made in conjunction with the Office of the General Counsel, National Collections Program, Under Secretary for History, Art, and Culture, and the Secretary of the Smithsonian.

B. The Freer Gallery of Art and The Arthur M. Sackler Gallery: World War II Provenance Project

In early 2009, the Freer and Sackler Galleries launched their website for the World War II Provenance Project which contains an introduction to their Provenance Project, which was initiated in 2006, along with the ongoing release of object histories. The website will ultimately include all Freer and Sackler objects, not just those with gaps in ownership.

Website: <http://c.asp.si.edu/collections/provenance.htm>

III. Smithsonian Institution Nazi Era Policy & Guidelines

A. Smithsonian Institution Policy on Unlawful Appropriation of Objects during the Nazi Era (SD 600 Implementation Manual, Chapter 23)

The Smithsonian adheres to the American Association of Museum Guidelines and has published their policy in the SD 600 Implementation Manual, Chapter 23. (See full text in [Appendix D](#)).

Excerpts

23.2 Policy

- a. The Smithsonian shall not knowingly acquire collection items that were unlawfully appropriated during the Nazi era without subsequent restitution.
- b. If the Smithsonian has acquired in good faith a collection item that is subsequently determined to have been unlawfully appropriated during the Nazi era without restitution, the Smithsonian will take prudent and necessary steps to resolve the status of the collection item.
- c. The Under Secretary for Art will coordinate compliance with the AAM and AAMD guidelines and the application of Smithsonian policy on Nazi appropriated objects.
- d. Each collecting unit shall apply the applicable provisions of the AAM and AAMD guidelines specified above to its collections management activities.

23.3 Collecting Unit Policies

Each collecting unit shall:

- a. establish authority and assign responsibility to approve, document, and ensure compliance with Smithsonian policy on Nazi-appropriated objects and applicable guidelines.
- b. designate a unit contact for inquiries on provenance for collection items in the collecting unit.
- c. incorporate applicable guidelines concerning Nazi-appropriated objects as set in this Implementation Manual.

23.4 General Guidelines

23.4.1 Applicability

Smithsonian collections are very diverse in nature and subject matter, from works of art to zoological specimens, rare books to live animals, archival documents to spacecraft. As a result of this diversity and the nature of collections provenance for many collections, only a small percentage of Smithsonian collection holdings fall under the parameters of the AAM and AAMD guidelines concerning Nazi appropriated objects, including the added focus on European paintings and Judaica. However, the Smithsonian will adhere to these professional guidelines where applicable.

23.4.2 Smithsonian Implementation

In adherence to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era* and *Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era*, issued by the American Association of Museums, the Smithsonian will:

- a. Identify collection items in Smithsonian holdings that were created before 1946 and that it acquired after 1932, that underwent a change in ownership during the Nazi Era (1933-1945), and that were or might reasonably be thought to have been in continental Europe between those dates ('covered items').
- b. As a general rule, taking into account the diverse nature of Smithsonian collections, a collection item, created before 1946 and acquired after 1932, will be treated as a "covered item" if the collecting unit is unable to determine whether the item
 - might have been in continental Europe during the Nazi Era (1933-1945) and/or
 - underwent a change of ownership during that period.
- c. For practical and historic reasons initially focus its research on European paintings and Judaica. The term "Judaica" is most broadly defined by the AAM Guidelines as the material culture of the Jewish people. First and foremost, this includes ceremonial objects for communal or domestic use. In addition, Judaica comprises historical artifacts relating to important Jewish personalities, momentous events, and significant communal activities, as well as literature relating to Jews and Judaism.
- d. Make currently available collection and provenance information about covered items accessible online through the Smithsonian's website www.si.edu/research/provenance and the AAM Nazi Era Provenance Internet Portal <http://www.nepip.org>. The National Collections Program is responsible for the Smithsonian's website about covered items including creating and

managing the Smithsonian's account on the AAM Internet Portal.

e. Give priority to continuing provenance research of existing collections as resources allow. Provenance research should be incorporated into ongoing research of collections.

f. Undertake a reasonable inquiry into the provenance of collection items under consideration for acquisition and loan.

g. Make a prudent review and respond to any claim that a collection item in its collections was unlawfully appropriated during the Nazi era without subsequent restitution based on a fair evaluation of established facts, the applicable laws, and accepted ethical standards.

h. The Smithsonian Institution recognizes the importance of this issue and is committed to following the directives of the AAMD and the AAM. To this end, the Smithsonian collecting units are working to identify objects in their collections that fall under the scope of the AAMD and AAM guidelines. In accordance with the guidelines, priority in research has been given to European paintings and Judaica, with ancillary emphasis on sculpture produced before 1946.

B. Smithsonian's Website: Provenance in the World War II Era, 1933-1945

As part of the Smithsonian's ongoing and serious commitment to undertake provenance research into its collections, a website "Provenance in the World War II Era, 1933-1945" was established. The European paintings and sculpture collections of the Hirshhorn Museum and Sculpture Garden were the subject of initial provenance research efforts² beginning in the late 1990's and the current work on the Asian collections in the Freer and Sackler collections will be published on the Freer and Sackler website, as well as Smithsonian's website [Provenance in the World War II Era, 1933-1945](#), and the [Nazi-Era Provenance Internet Portal Project](#) (NEPIP) sponsored by the American Association of Museums.

IV. AAM and AAMD Guidelines and Recommended Procedures

A. AAM Guidelines for Existing Collections³ (For full report see [Appendix B](#))

Excerpts:

² The Smithsonian database also includes objects from the American Art Museum, Cooper-Hewitt National Design Museum, National Air & Space Museum, and the Smithsonian Institution, however this group of objects does not include provenance information, only captions and some images.

³ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933-1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to: (1) identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"); (2) make currently available object and provenance (history of ownership) information on those objects accessible; and (3) give priority to continuing provenance research as resources allow. AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

[....]

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research

- a) Museums should identify covered objects in their collections and make public currently available object and provenance information.
- b) Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.
- c) In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.
- d) Museums should incorporate Nazi-era provenance research into their standard research on collections.
- e) When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.

f) Museums should document their research into the Nazi-era provenance of objects in their collections.

B. Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998) (For full report see [Appendix C.](#))

Excerpts:

II. Guidelines

AAMD has developed the following guidelines to assist museums in resolving claims, reconciling the interests of individuals who were dispossessed of works of art or their heirs together with the fiduciary and legal obligations and responsibilities of art museums and their trustees to the public for whom they hold works of art in trust.

A. Research Regarding Existing Collections

1. As part of the standard research on each work of art in their collections, members of the AAMD, if they have not already done so, should begin immediately to review the provenance of works in their collections to attempt to ascertain whether any were unlawfully confiscated during the Nazi/World War II era and never restituted.
2. Member museums should search their own records thoroughly and, in addition, should take all reasonable steps to contact established archives, databases, art dealers, auction houses, donors, art historians and other scholars and researchers who may be able to provide Nazi/World-War-II-era provenance information.
3. AAMD recognizes that research regarding Nazi/World-War-II-era provenance may take years to complete, may be inconclusive and may require additional funding. The AAMD Art Issues Committee will address the matter of such research and how to facilitate it.

V. Discovery of Unlawfully Confiscated Works of Art

This section relates to the steps a museum should take when they discover evidence of an unlawful appropriation without subsequent restitution to the rightful owner. The following AAM and AAMD guidelines provide recommended procedures and actions.

A. Freer and Sackler Collection Management Policy

The Gallery adheres to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, issued by the American Association of Museums in November 1999 (AAM), and where applicable, the *Report of the Association of Art Museum Directors Task Force on the Spoliation of Art during the Nazi/World*

War II Era. The text of these documents is included in the SD 600 *Implementation Manual*.

If the Gallery has acquired in good faith a collection item that is subsequently determined to have been unlawfully appropriated during the Nazi era without restitution, the director will take prudent and necessary steps to resolve its status. These steps will be made in conjunction with the Office of the General Counsel, National Collections Program, Under Secretary for History, Art, and Culture, and the Secretary of the Smithsonian.

B. AAM and AAMD Guidelines for the Discovery of Unlawfully Appropriated Object within your collection

1. AAM Guidelines for Existing Collections⁴ (For full report see [Appendix B](#))

Excerpt:

Discovery of Evidence of Unlawfully Appropriated Objects

g) If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.

h) In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.

i) AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

2. Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998) (For full report see [Appendix C](#))

Excerpt:

D. Discovery of Unlawfully Confiscated Works of Art

⁴ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors.

1. If a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should make such information public.
2. In the event that a legitimate claimant comes forward, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
3. In the event that no legitimate claimant comes forward, the museum should acknowledge the history of the work of art on labels and publications referring to such a work.

VI. Label Text acknowledging World War II era Provenance

The above AAM and AAMD guidelines on the Discovery of Unlawfully Appropriated Objects recommend that museums acknowledge the object's history in its label texts and publications since this information is a very important part of the object's history.

VII. Procedure for Potential World War II Era Inquiries or Claims of Ownership

The Smithsonian Institution has written procedures in place to respond to World War II era inquiries and claims of ownership. A variety of circumstances give rise to claims making it necessary to deal with each claim individually as indicated in the variety of claims which have appeared since the late 1990s. In addition to the Smithsonian procedures, it would be useful to have in place a form requesting information from potential claimants. This form would request a description of the object, documentation of the object and ownership, and information about the claimants, as well as information about the owner of the object at the time of the loss. It also requests information regarding the circumstances of the loss and additional comments. The draft form below is based on a similar form from the Los Angeles County Museum of Art, as well as an example of a press release issued by the Freer Gallery of Art following the resolution of a claim.

A. Procedures:

1. **Smithsonian Institution Procedure** for Potential Nazi Era Provenance Inquiries or Claims in the SD 600 Implementation Manual, Chapter 23. See [Appendix D](#), section 23.4.4.

Excerpt:

23.4.4 Procedures for Response to Nazi Era Provenance Inquiries

Collecting units must follow the procedures for response to Nazi Era provenance inquiries outlined below:

a. General Inquires and Comments

1. General inquiries about the SI Provenance website or Smithsonian

policy on researching Nazi Era provenance will be directed to the National Collections Program (provenance@si.edu).

2. General inquiries or comments about specific collection items will be directed to the appropriate collecting unit curator or registrar designated by the collecting unit when no claim or potential claim is involved.

b. Inquiries and Comments that Involve or Potentially Involve a Claim

1. Inform and copy the director of the respective collecting unit, and inform the National Collections Program; Office of the General Counsel; and the cognizant Under Secretary of any inquiries that involve or potentially involve a claim.

2. The cognizant Under Secretary will inform the Secretary of the claim.

3. The Office of the General Counsel will promptly acknowledge receipt of the claim and inform the claimant what steps are being taken. Further information from the claimant may be requested.

4. Collecting unit staff, the Office of the General Counsel, and the National Collections Program will conduct research of the collection item in question to assist in determining the Smithsonian's appropriate response.

5. All communications with the claimant or claimant's attorney will be through, or approved by, the Office of the General Counsel. The OGC will keep the cognizant Under Secretary and the collecting unit director informed of the progress of the claim.

6. The cognizant Under Secretary will coordinate participation of central offices such as the Smithsonian Office of Public Affairs or Office of Government Relations as necessary.

7. All information concerning a claim or potential claim will be held in confidence until the Smithsonian has made a public comment on the claim.

2. AAM and AAMD Claims of Ownership Process

a. AAM Guidelines for Claims of Ownership⁵ (For full report see [Appendix B](#))

It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

a) Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.

⁵ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors.

b) In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.

c) If a museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, the museum should seek to resolve the matter with the claimant in an equitable, appropriate, and mutually agreeable manner.

d) If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

e) When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.

f) AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

b. Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998) (For full report see [Appendix C](#))

Excerpt:

E. Response to Claims Against the Museum

1. If a member museum receives a claim against a work of art in its collection related to an illegal confiscation during the Nazi/World War II era, it should seek to review such a claim promptly and thoroughly. The museum should request evidence of ownership from the claimant in order to assist in determining the provenance of the work of art.
2. If after working with the claimant to determine the provenance, a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
3. AAMD recommends that member museums consider using mediation wherever reasonably practical to help resolve claims regarding art illegally confiscated during the Nazi/World War II era and not restituted.

B. Request for Information Form

If you receive a possible claim from a member of the public for an object in the museum's collection, after consultation with the Office of General Counsel this form may be sent to the claimant seeking more information. This form requests a description of the object claimed, documentation of the object and ownership, and information about the claimants, as well as information about the owner of the object at the time of the loss. It also requests information regarding the circumstances of the loss and additional comments. The draft form below is based on the form from the Los Angeles County Museum of Art.

1. Draft Inquiry of Object Lost during the Holocaust or World War II

Please complete the following information as completely as possible. We realize that you may not know all the information, but the answers to these questions will help us to identify your object(s).

DESCRIPTION OF OBJECT:

The object is a: (please check)

- Painting
 Sculpture
 Drawing
 Print
 Other (please specify) _____

Artist: _____

Title: _____

Medium (oil on canvas, panel; metal; wood, stone, paper, etc.) _____

Dimensions: _____

General Description of object as you recall it: _____

How and when did you or your family originally obtain the object?

Purchase. From whom and when? _____

Inheritance or Gift. From whom and when? _____

DOCUMENTATION:

Do any of the following exist, which will help you identify your object?

- Photographs (either of the object alone or in a room)
 Bill of Sale
 Auction Catalogue
 Inventory in which the object is listed
 Family Records
 Insurance Records
 German Confiscation Records

Was the object ever exhibited publicly during the time your family owned it? If yes, where and when? _____

Who was the owner at that time? _____

Was the object ever mentioned in a book or article during the time your family owned it? If yes, where and when? _____

Have you ever seen a picture of the specific object or of a similar object in a book or article? If so, where? _____

INFORMATION ABOUT PERSON MAKING INQUIRY:

Name: _____

Address: _____

Telephone: _____

Fax: _____

E-Mail: _____

You are:

____ Owner of object(s) at time of loss

____ Heir of owner at time of loss

____ Authorized Agent of owner

____ Institution

____ Law enforcement agency

____ Other (please specify) _____

OWNER OF OBJECT(S) AT DATE OF LOSS (IF DIFFERENT FROM ABOVE):

Name: _____

____ Living

____ Deceased Date of Death (if known): _____

Current address (if applicable): _____

Object was lost because of:

____ Official Confiscation

____ Theft by soldiers or individuals

____ Coerced Sale/Trade

____ Other (please specify) _____

Do you know who specifically took the object? _____

Comments: _____

Was the loss of this object part of the loss of a larger collection? (Yes or No): _____

If yes, have you been able to relocate any of the other objects? (Yes or No); _____

If yes, under what circumstances and where were you able to locate these objects?

Have you registered the loss of this object with any Post War Restitution Group (government or private agency)? (Yes or No): _____

If yes, which? _____

Date of Report: _____

What was the result of this report? _____

Was the object insured?

- Yes
- No
- Don't know

If yes, name of insurance company, policy number if known, name of insured, and late date of policy payment: _____

ADDITIONAL INFORMATION YOU WOULD LIKE US TO KNOW: _____

C. Press Release detailing Resolution of Claim

1. The Freer Gallery of Art

FREER AND SACKLER GALLERIES LAUNCH WEB SITE FOR WORLD WAR II PROVENANCE PROJECT

Media only: Katie Ziglar (202) 633-0449; ziglaka@si.edu

The Smithsonian's Freer Gallery of Art and the Arthur M. Sackler Gallery have launched a Web site that allows public access to research being conducted as part of the galleries' World War II Era Provenance Research Project. The site is part of a long-term provenance effort at the Freer and Sackler galleries, which together hold one of the nation's largest and most important collections of Asian art. The goal of the project is to identify and clarify the ownership history for works of art in the collections that might have been unlawfully taken by the Nazis during the World War II era and to make this information available to the public.

The Freer and Sackler galleries' project is a part of the Smithsonian's commitment to investigate and disclose information about objects that might have been misappropriated during the 1930s and 1940s. This commitment is in keeping with World War II provenance research guidelines that have developed through the Presidential Advisory Commission on Holocaust Assets in the United States, the American Association of Museums, and the Association of Art Museum Directors over the last decade, and which call for American museums to identify and research all questionable objects or "covered objects" in their collections.

"Covered objects" are defined as those created before 1946; that were acquired after 1932; that underwent a change of ownership between 1933 and 1945; and that were or might reasonably be thought to have been in continental Europe between those dates.

World War II provenance research is often a lengthy and difficult process that does not always result in a clear and unambiguous history of ownership. However, in 2002, the Freer and Sackler galleries successfully resolved a significant case of misappropriation involving an object in the Freer collection.

The case involved a Chinese bronze ritual vessel, widely considered one of the finest bronzes to come from the Early Western Zhou dynasty (11th century B.C.), which was acquired by the Freer Gallery of Art in 1938 (accession number F1938.20).

In July 2000, the galleries received a claim asserting that the heirs of Rosa and Jakob Oppenheimer were the rightful owners of the vessel. With the cooperation and assistance of the family, the Smithsonian researched the history of the vessel and discovered that it had been sold at an auction in Berlin in 1935 that was later determined to be a forced auction resulting from Nazi persecution of the Oppenheimers. C.T. Loo, a dealer with offices in New York and Paris, subsequently acquired the vessel in 1937. The Freer Gallery of Art purchased the vessel in 1938 from Loo, who asserted that it was acquired in China.

The claim was resolved when the Smithsonian and the Oppenheimer heirs amicably agreed on a purchase price for the artwork. The piece has remained in the museum's collection in Washington, D.C.

The history of this object and others in the Freer collection are being made public as part of the museum's provenance research project.

As the project continues to develop, the Freer and Sackler hope to establish new methods and standards of provenance research specifically for Asian objects and to facilitate the ongoing exchange of information among provenance specialists grappling with similar challenges.

"Our hope is that this research will not only clarify the 20th-century history of objects in our collections, but also include as much information as we can find on an object's earlier history," said Julian Raby, director of the Freer and Sackler galleries. "We also intend this research to have broader use in the form of databases of Asian collections, dealers and collectors. We have begun discussions with a number of institutions in Europe about forming a consortium to further such research, as we are convinced this information will have benefit to research institutions worldwide and the public at large."

For more information on the World War II Era Provenance Research Project at the Freer and Sackler galleries, visit <http://www.asia.si.edu/collections/provenance.htm>

VIII. Curatorial and Object File Inquiries

As the Freer and Sackler Galleries World War II Provenance Project continues to release more object histories onto the website, there could be an increase of interest in accessing your object files. In that case, it will be useful to set conditions for use of the files in written form.

A. Freer and Sackler Collection Management Policy – related to Curatorial and other document files (under section VII)

Curatorial records may be consulted only under the supervision of an authorized curator who will be available to assist researchers in examining records in such files. Any uncertainty concerning the appropriateness of granting access to particular records shall be

referred to the director or deputy director, who shall consult with the Office of the General Counsel, as appropriate.

Requests for access to data, documents, publications, and research records will be accommodated appropriately and in a professional manner. All sensitive data, such as the names of donors wishing anonymity, addresses, appraised values, storage locations, and collecting localities, will be protected.

B. Application for Examination of Curatorial/Object Records

Access to your files should follow guidelines established by the archival community. Files should be made available by appointment only, and the visit will be supervised by a staff member. Prior to arrival the visitor should fill out a Application Request for Examination of Records form which outlines the conditions for use of your files. Staff members will photocopy any documents requested and will record what photocopies were requested on the bottom of the form.

1. Application Form

Freer Gallery of Art and Arthur M. Sackler Gallery
Collections Management Office

Application Request for Examination of Object Records

I hereby request permission to examine the material listed below for the following purpose:

Book ____ Article ____ Catalog ____ Lecture ____ Dissertation ____
Unpublished Paper ____ Other (explain)

Object records may be consulted only under the supervision of a Collection Manager or Curator who will be available to assist researchers in examining records in such files.

Requests to reproduce any information found within the museum's object records shall be evaluated for approval on a case by case basis. All sensitive data, such as names of donors wishing anonymity, addresses, appraised values, storage location, and collecting localities, will be protected.

Name _____
Title/Occupation _____
Address _____

Affiliation _____

For office use only:

Record access granted by: _____

Date of access: _____

Records consulted: _____

Records photocopied: _____

SMITHSONIAN INSTITUTION
Freer Gallery of Art and Arthur M. Sackler Gallery
PO Box 37012, MRC 707, Washington, DC 20013-7012
202 633 4880 Main Telephone
202 357 4911 Main Fax
www.asia.si.edu

Chapter 3

Guidelines for Acquisition of Artwork

- I. [Introduction and Guidelines for Acquisitions](#)
- II. [Freer and Sackler Galleries Implementation Guide](#) to Fulfilling Provenance Requirements in conjunction with the Smithsonian Institution Policy on Acquisitions
- III. [Smithsonian Institution Board of Regents Policy on Museum Acquisitions, 1973](#)
- IV. [Freer and Sackler Collection Management Policy](#) – Acquisitions Section
- V. [AAM and AAMD Guidelines for Acquisitions](#)
 - A. AAM Guidelines for Acquisitions
 - B. AAMD Guidelines for Acquisitions
 - C. AAMD Report on Acquisitions of Archaeological Materials and Ancient Art
- VI. [Suggested Procedures and Questionnaires](#)
 - A. Donor Questionnaire
 - B. Vendor Questionnaire
 - C. Curatorial Acquisitions Provenance Checklist
- VII. [Freer and Sackler Gallery Forms](#)
 - A. Freer Deed of Gift
 - B. Sackler Deed of Gift
 - C. Sackler Warranty
 - D. Freer and Sackler Acquisition Form

I. Introduction and Guidelines for Acquisitions

The following guidelines related to all acquisitions, whether by purchase, transfer, gift or bequest, should be viewed as living documents to be updated periodically as new issues and concerns develop. This information provides the type of research that should be conducted on all prospective acquisitions, what questions to ask your donors and vendors, when to proceed with acquisitions, when to notify others of your research results, and how to address documentation and public disclosure.

The Freer and Sackler Galleries have created an “Implementation Guide to Fulfilling Provenance Requirements in conjunction with the Smithsonian Institution Policy on Acquisitions” which also relates to the “Smithsonian Institution Board of Regents Policy on Museum Acquisitions 1973” document as well as the Acquisitions section of the Freer and Sackler Gallery “Collection Management Policy”. (See sections II, III and IV.) Also included are the AAM and AAMD Acquisition Guidelines and the “Report of the AAMD Task Force on the Acquisition of Archaeological Materials and Ancient Art (revised 2008)” (see section V). Section VI contains suggested procedures related to provenance requests and draft Donor and Vendor Questionnaires (see section VI).

Some of these same guidelines will also apply to loans and will be discussed further in that section.

See also the related Provenance Research Chapter (see [Chapter 5](#)).

II. Freer and Sackler Galleries Implementation Guide to Fulfilling Provenance Requirements in conjunction with the Smithsonian Institution Policy on Acquisitions

The Smithsonian Institution has accepted the AAMD’s revision of its Report and Guidelines on the Acquisition of Archaeological Materials and Ancient Art and now accepts the standard of November 17, 1970 (the date of completion of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property) as a fixed cut-off date for determining whether an undocumented work of art can be acquired.

All works must be vetted for proper provenance according to the standards of evidence stipulated in the Smithsonian Institution Guidelines. The Smithsonian Institution Policy on Acquisitions is currently undergoing formal revisions to accommodate the acceptance of this new date. In the meantime please accept this as a suggested guide for possible avenues of provenance research in terms of acquisition requirements.

The Director, with the assistance of the sponsoring Curator and the Head of Collections Management, before authorizing the acquisition of an object, whether by purchase, transfer, gift or bequest, has the responsibility, in good faith, to ascertain, from the circumstances surrounding the transaction, or his knowledge of the object’s provenance, that the object in question was not stolen or wrongfully converted, and is not illegally present in the United States.

At the initiation of any transaction, the owner/vendor should be made aware that a full vetting of provenance is an essential part of the acquisition process and that their full cooperation will greatly aid the process. Each transaction will vary in particulars. As applicable and appropriate to each situation, the work under consideration should have:

1. A statement of provenance history obtained from the owner and included as part of the written report prepared for the recommendation of acquisition.
2. An export license.
3. Compliance with Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) ratified on March 3, 1973 and entered into force on July 1, 1975.
4. Compliance with Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era issued by the American Association of Museums (AAM Guidelines, November 1999).
5. Compliance with the Report of the Association of Art Museum Directors Task Force on the Spoliation of Art During the Nazi/WWII Era (AAMD Guidelines, June 1998).

Provenance research can reference searches with internationally recognized entities such as

1. The International Foundation for Art Research (IFAR).
2. Art Loss Register (ALR).
3. UNESCO Cultural Heritage Laws Database.

The Director also has the responsibility to ascertain that any proposed new acquisition was not unethically acquired from its source, unscientifically excavated or illegally removed from its country or origin after November 17, 1970.

The Smithsonian Guidelines reflect the positions taken in the UNESCO Cultural Heritage Laws ratified by various nations. Particular emphasis is placed on looting of archeological sites, including tombs and architectural structures. The issuance of an export license by a legitimate government authority should satisfy due diligence.

If the immediate source of the work is not the country of origin and/or an export license is not available for works likely to fall into the above described categories there are other research options available for provenance information or as evidence for a claim that the work was acquired prior to 1970, such as:

1. Records of ownership, donor histories.
2. Publication records, books, journals, auction catalogs.
3. Public exhibit records, exhibit catalogs.

It should be noted that the cultural properties protection laws and standards of enforcement vary from country to country. As well, due to changes in administrations or regimes, there are not only inconsistencies in enforcement but occasional reversals of previously granted permissions. When issues of provenance cannot be otherwise resolved, the legitimate authority in the country of origin should be contacted. Due to the varying conditions noted above, such contacts should be initiated with considerable circumspection and informed by knowledge of the relevant bureaucracies and personalities involved.

If the work(s) under consideration is of indeterminate provenance and of a type made in multiples for commercial and trading purposes and not of a type typically buried in tombs nor a fragment of a larger work disassembled for the purpose of sale of multiple parts, the Director, having pursued reasonable avenues of due diligence, may exercise discretion in recommending the acquisition.

1. Consultation should take place widely within the Institution, particularly with those scientists or curators whose interests would be affected by acquisition of the object. For example, issues of material identification may require the assistance of staff biologists or other experts.
2. Where there are instances of legal doubt the Office of the General Counsel should be consulted. A special panel may be created to help determine answers to the questions raised.

In the case of a substantial proposed acquisition of foreign provenance whose acceptability is in question, the Gallery, with owner's approval, will contact as appropriate one or more of the following. Sample correspondence can be found attached and should be accompanied by photographs of the item.

1. The competent authorities or corresponding national museums of the probable countries of origin.
2. Ambassador of the country of origin serving in Washington, D.C.
3. The countries whose laws may be affected by the transaction, in order to determine whether the latter can advise the Institution as to the status of the object.

If any such object can be demonstrated to form part of the national patrimony of another country, the Institution will take reasonable steps within its power to aid that country in its efforts to affect the object's return.

A "substantial acquisition" is here understood as a work of proven rarity and unusual aesthetic quality as determined by research of comparable works, and the published and/or solicited opinions of experts. Monetary value is an important, but not an overriding determinant in the definition of "substantial."

The definition of "national patrimony" varies from country to country. Indeed, some countries allow for the export of such substantial works in the interest of providing select sites outside of their national boundaries with examples of the

highest aesthetic and historic value. An export license issued by the legitimate authority in a country of origin constitutes a due diligence search for provenance.

In instances where there is doubt, the country of origin should be contacted. This contact should, as noted above, be initiated with considerable care and forethought.

The guidelines set forth here should also be applied in determining whether to accept loans for display or other purposes.

The provenance of acquired objects shall be a matter of public record.

Sample Correspondence

Freer and Sackler Galleries Letterhead

Date _____

XX. XXXX XXXXX
 X XXXXX
 XXXX

Dear XXXX

I am writing to you about an important work of art from [country, region] which the Arthur M. Sackler Gallery [Freer Gallery of Art] of the Smithsonian Institution in Washington D.C., USA is considering as a [gift/purchase].

The item depicts/or is important for the collection because [].

As you may know, the Smithsonian must make a detailed scrutiny of any object considered for acquisition. We would like to have final assurance from you that the Government of [] has no objections to the Smithsonian acquisition and display of the piece, of which a photograph is enclosed.

Since we are eager to proceed on this matter, which will give art from [] a higher profile at the [Freer/Sackler] Gallery, we would very much appreciate an early reply from you.

Sincerely yours,

<JR>

Julian Raby, Director

enclosures

III. Smithsonian Institution Board of Regents Policy on Museum Acquisitions, 1973

Please note that in 2008 the Smithsonian Institution accepted the American Association of Museum Director's revision of its report and guidelines on the Acquisition of Archaeology Materials and Ancient Art which accepts the standard of November 17, 1970. Due to the acceptance of that report, the following policy is in the process of revision.

On May 9, 1973, the Smithsonian Board of Regents approved the Policy on Museum Acquisitions, which requires the Smithsonian to acquire collections legally and ethically and to cooperate with all local, state, federal, and foreign authorities and institutions to protect art, antiquities, national treasures, and ethnographic materials from destructive exploitation. The Smithsonian repudiates the illicit traffic in art and objects. Objects and specimens, which have been stolen, unscientifically gathered or excavated or unethically acquired, should not be made part of Smithsonian museum collections. In consideration of this policy, the director of each collecting unit shall be responsible for the application of the following rules:

1. Each director, before authorizing an acquisition, has the responsibility, in good faith, to ascertain that the collection in question was not stolen or wrongfully converted, and is not illegally present in the United States.
2. Each director has the responsibility to ascertain that any proposed new acquisition was not unethically acquired from its source, unscientifically excavated, or illegally removed from its country of origin.
3. In cases of doubt, the director should consult widely with the Smithsonian, particularly with those scientists or curators whose interests would be affected by acquisition of the objects, and with the Office of the General Counsel. Where helpful, a special panel should be created to help pass on the questions raised.
4. In the case of a substantial proposed acquisition of foreign provenance whose acceptability is in question, the Institution will contact the competent authorities or corresponding national museums of the probable countries of origin, or the countries whose laws may be affected by the transaction, in order to determine whether the latter can advise the Smithsonian as to the status of the objects. If any such object can be demonstrated to form part of the national patrimony of another country, the Institution will take reasonable steps within its power to aid the country in its efforts to effect the object's return.
5. In case the Institution should thereafter come into possession of an object which can be shown to have been acquired, excavated, or exported in violation of Rule 2 above, the Smithsonian should proceed as appropriate in each case, to seek to return the object to the donor or vendor or to contact the competent authorities or corresponding national museum in the probable country of origin, to determine what steps might be taken best to preserve the interests of all parties.
6. The policy set forth here should be applied in determining whether to accept loans for display or other purposes.
7. The provenance of acquired objects shall be a matter of public record.

IV. Freer and Sackler Collection Management Policy – Acquisitions Section

Freer and Sackler Gallery CMP Rev. 2008

II. ACQUISITION OF OBJECTS

A. Acquisition Criteria

Objects considered for acquisition must be of very high quality with respect to intellectual value, aesthetic standards, art history, and physical condition. All candidate objects undergo rigorous examination by the curatorial staff and the Department of Conservation and Scientific Research, who then make recommendations to the director.

The object must fit into the Gallery's Collections Plan.

The Gallery must have the facilities to maintain the object in a manner appropriate to its size, condition, and conservation needs.

Acquisition is further guided by the Board of Regent's Policy on Museum Acquisitions in SD 600.

The objects must have been collected legally and ethically by the source or donor. All local, national, and international laws, treaties, and conventions applicable to art and archaeological objects and sites must be observed and compliance documented.

The provenance of an object considered for acquisition must be thoroughly researched and documented. It is the responsibility of the curator to furnish a provenance to the director, which qualifies under the Smithsonian's policy regarding the UNESCO Convention of 1970. In the event of a substantial question about an object, the following established procedure is to be followed. Permission must be obtained from the owner to initiate the investigation; if that permission is denied, then the Gallery takes no further action, and the object is not considered for acquisition. With the permission of the owner, photographs of the object and accompanying explanatory letters are sent to the ambassador of the country of origin in Washington, D.C., the director of the national museum in the country of origin, and/or the American ambassador serving in the country of origin. Responses from these sources are then weighed in light of the *Smithsonian Institution Policy on Museum Acquisitions* (May 9, 1973) and SD 600.

In General, the object must be unencumbered by copyright, patent, trademark, or other intellectual property rights, or the artist, donor, or seller must sign a non-exclusive license allowing the Gallery to reproduce the object in its own publications, educational material, and publicity for the Gallery.

It is the policy of the Gallery to accept only unencumbered objects (i.e., objects not accompanied by restrictions that substantially inhibit the Gallery's discretion to use such objects to further its goals). The director may consider exceptions to this general policy after consultation with the Office of the General Counsel, National Collections Program, and Under Secretary for History, Art, and Culture. Any restrictions accepted by the Gallery must be a matter of record and be noted in the object's record in The Museum System (TMS) and placed in the appropriate accession file.

The Gallery adheres to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, issued by the American Association of Museums (AAM) in November 1999, and where applicable, the *Report of the Association of Art Museum Directors Task Force on the Spoliation of Art during the Nazi/World War II Era*. The text of these documents is included in the SD 600 *Implementation Manual*.

- VII. The Gallery shall not knowingly acquire collection items that were unlawfully appropriated during the Nazi era without subsequent restitution.
- VIII. If the Gallery has acquired in good faith a collection item that is subsequently determined to have been unlawfully appropriated during the Nazi era without restitution, the director will take prudent and necessary steps to resolve its status. These steps will be made in conjunction with the Office of the General Counsel, National Collections Program, Under Secretary for

History, Art, and Culture, and the Secretary of the Smithsonian.

All acquisitions are presented by the curator to the Gallery's Acquisition Committee of the Board, and, if approved, the acquisition forms are signed by the director and the deputy director. These forms will indicate whether the object has been approved or denied for acquisition.

See attached Collecting Plan for the Gallery.

Additional requirements specific only to the Freer Collection:

The guiding principles and specific administrative procedures governing the acquisition policy of the Freer Gallery of Art were first formulated by Charles Lang Freer. Although those procedures appear in Mr. Freer's will and the codicil thereto, the most detailed statement appears in a letter dated June 4, 1919, he wrote to John E. Lodge, the Gallery's first director.

"In order that occasionally, in the years to come, important objects of a high standard of aesthetic quality and excellence, related to the collection as it now exists, may be added thereto, I have left in my will a bequest the income of which is to be expended for such purpose by the Regents of the Smithsonian Institution, providing that the object or objects under consideration are approved by the members of a committee composed of the Secretary of the Smithsonian, the National Fine Arts Commission, the Keeper of the Freer Collection, and during their lifetimes, Miss Rhoades, Mrs. Eugene Meyer, Jr., and Mrs. H. O. Havemeyer. This arrangement will, I believe, protect the collection from undesirable additions, and at the same time allow it in the future to expand by the acquisition of specimens of the highest quality."

Dr. Charles D. Walcott, secretary of the Smithsonian, wrote to John E. Lodge on December 30, 1920:

"That insofar as may be compatible with the provisions in Mr. Freer's Will, no object or objects of any kind shall be purchased for, or put in the building or court of, the Freer Gallery of Art without consultation with and approval of the Curator. . . .

"Under paragraph four in the First Codicil to the Last Will and Testament of Charles L. Freer, the Curator and those empowered as provided in said paragraph to recommend the purchase of works of art for the Freer Gallery of Art, shall consider and recommend to the Secretary whether the opportunity to make such purchases exists."

Additional requirements specific only to the Arthur M. Sackler Collection:

When the director is not available and a proposed acquisition must be decided upon within a limited period of time, the deputy director may approve an acquisition, with the concurrence of members of the Acquisition Committee of the Board, the chief curator, and the Smithsonian's Under Secretary for History, Art and Culture.

1. Gifts and Bequests

Objects are acquired through gifts and bequests and all must meet the acquisition criteria stated above. Bequests are considered in consultation with the Office of General Counsel, with all probate notices, release forms, etc., forwarded to that office for attention. The Office of General Counsel is the sole signatory for bequests.

As a general rule, gifts and bequests are not accepted for the collections unless there is a good-faith intention to accession them into the collections for an indefinite period of time. Occasionally, however, only a portion of an offered collection is suitable for accessioning into the Gallery. In those cases, the entire collection may be accepted if, in the opinion of the director, suitable arrangements can be made for the disposition of the objects outside the Gallery's needs. Such disposition must be in accord with any terms of the gift or bequest, and appropriate notice must be given to the donor or the estate in consultation with the National Collections Program, and Under Secretary for History, Art, and Culture.

The registrar must record objects under consideration for any of the collections and for each object create an Acquisition Consideration form and circulate it to the conservator in charge of acquisitions and the appropriate curator. The registrar will enter any comments regarding the donation or donor and note any

possible restrictions on the form. The conservator shall examine the object with an eye to its condition, previous repairs, age, materials, and methods of manufacture and note his or her findings in a written report, which will accompany the Acquisition Consideration form. The curator will write an art historical justification of the object, relate it to other objects from its culture or category, and explain how it enhances the collection and future aims of the Gallery. The curator also will note the object's provenance consistent with the Smithsonian's policy on museum acquisitions and the guidelines regarding objects that may have been in Europe during the Nazi era.

Additional requirements specific only to the Freer Collection:

Gifts and bequests of objects may be accepted for the Freer Collection if they meet the acquisition criteria stated above and are also approved by the Secretary of the Smithsonian and the Commission of Fine Arts, per terms of the will and codicil of Charles L. Freer.

If an exception to the general policy of accepting only unrestricted gifts and bequests is considered, no restriction may conflict with mandatory restrictions imposed by Mr. Freer. Namely, an object in the Freer Collection may not be removed from the building at any time, except when necessary for the purpose of making repairs or renovations in the building, and the Gallery may not dispose of any object in the collection.

Additional requirements specific only to the Arthur M. Sackler Collection:

If a proposed gift involves the naming of an area within the Gallery, both SD 105 and the Arthur M. Sackler Deed of Gift of July 28, 1982, should be reviewed.

Additional requirements specific only to the Freer Study Collection:

An object that fails to meet the criteria for acquisition into the Freer or Sackler collections may be considered for the Study Collection.

All acquisitions require only the approvals of the director and the deputy director.

2. Purchases

Purchases of objects by or for the Gallery are possible if they meet the acquisition criteria stated above. Candidate objects will undergo the same acquisition consideration paperwork and procedures as outlined above in II. B.

All costs associated with the purchase of a new acquisition will be on public record and maintained in the object record.

If the proposed method is a bargain sale—i.e., when property is offered at less than its fair-market value, and the seller intends to make a charitable contribution of the difference between the purchase price and the fair-market value—early advice must be sought from the Office of General Counsel, which office must prepare and approve the bargain sale agreement.

Additional requirements specific only to the Freer Collection:

Purchases for the Freer collection also must be approved by the Secretary of the Smithsonian and the Commission of Fine Arts.

Additional requirements specific only to the Freer Study Collection:

Purchases of objects for the Study Collection may be made if the objects meet the acquisition criteria stated above, and the director approves such purchases. However, gifts and bequests of objects for the Study Collection are preferred over purchases by the Gallery.

3. Transfers

Transfer is the acquisition of objects from a federal or government agency or a Smithsonian collecting unit through the conveyance of legal title. The Freer, Sackler, and Freer Study collections can all accept the transfer of objects if they meet the acquisition criteria stated above. The same acquisition and approvals procedures shall be followed as for gifts and purchases.

In addition, transfers may be made to and from the Sackler Collection and the Freer Study Collection. Transfers may be made into but not out of the Freer Collection due to the restriction on deaccessioning from that collection. The acquisition and approval procedures noted in section II will be followed.

4. Exchanges

The Sackler Collection and the Freer Study Collection may engage in exchanges of objects with other nonprofit and educational institutions as long as the criteria governing gifts, bequests, and purchases are adhered to for proposed acquisitions and the criteria governing deaccessions are adhered to for object(s) selected for removal. The net exchange must not diminish the collections, as determined by the director. If the value of the object(s) to be released by the Gallery in an exchange exceeds \$10,000, at least one written, independent appraisal will be obtained and similar supporting documentation will be required for the object(s) proposed for acquisition.

When donors of items that are being considered for exchange or deaccession are still living, the Gallery may discuss the planned action with them as a courtesy. In addition, this notification may be extended to the living heirs of the donor. All such notification will be determined by the Gallery based on the circumstances and merits of each individual case, if such donors or heirs are known or can be located within a reasonable time period.

5. Accessioning

It is the responsibility of the Collections Management Office to record promptly and accurately all objects accepted for the collections of the Gallery, assign unique identification numbers to such objects, maintain all important documents relative to the status of the objects in the Gallery, and ensure that complete and contemporaneous records are kept concerning the historical background, care, and use of such objects. Appropriate forms and procedures for achieving these ends shall be designed and promulgated by the Collections Management Office with the approval of the director or deputy director in consultation with Office of General Counsel.

Before an object is accessioned, the registrar should have documentation establishing the Gallery's title (usually an executed Deed of Gift, an executed Bill of Sale, evidence of bequest, etc.), delivery of the object to the Gallery and acceptance of the object by the Gallery (usually a letter of acknowledgement or receipt, etc). It is the responsibility of the curators to see that this information is forwarded promptly to the Collections Management Office.

Immediately upon accessioning, the appropriate curator will write a scholarly descriptive catalogue entry on the object and furnish this information in a timely manner to the registrar for inclusion in the permanent object record, which will include all documentation related to the acquisition, cataloguing, and care of the object. The registrar is responsible for preparation, maintenance, and access to accession records.

A comprehensive object record is maintained by the Collections Management Office in a computerized database system, currently The Museum System (TMS). At a minimum, every record should document:

- the object's accession number(s)
- artist or maker, if known
- country of origin, if known
- source of object (donor, vendor)
- title or description
- medium
- dimensions
- date of accession
- location
- provenance
- restrictions

A hard-copy file containing all information and correspondence relating to the object shall be maintained in fire-safe cabinets by Collections Management. Data on TMS is backed up nightly and stored off-site by the Smithsonian's Office of the Chief Information Officer (OCIO).

Records of complete technical examination and analysis of objects shall be maintained in the Department of Conservation and Scientific Research, with reference to treatment performed noted in the object file and the TMS record.

After appropriate approvals, each object to be accessioned is assigned the next available number for the respective collection. To distinguish Freer Gallery collection objects, the number is prefaced by the letter "F." The first four digits of the number indicate the year of acquisition; this is separated from the chronological number by a period: F1879.1, F1979.2, etc. Sackler Gallery accession numbers are prefaced by the letter "S." The number follows the same model as the Freer collection acquisition numbers.

Catalogue cards are filed by subject, year, and donor/source for each item. Cards include a brief identification of the item, a photograph, and the storage location.

Additional requirements specific only to the Freer Study Collection:

Numbers will be assigned to each object accessioned into the Study Collection. The number consists of three-parts with an "FSC" (Freer Study Collection) prefix, a hyphen, an alphabetic code representing the object type (usually its material of construction, e.g., L = lacquer), and a serial number of accessioning. Examples of Freer Study Collection numbers include FSC-P-3; FSC-L-82; SC578 (old form; discontinued).

Catalogue cards are filed by media and donor/source in the Collections Management Office, and duplicate cards are placed in the storage rooms assigned to the objects.

6. Copyright and Similar Interests

The transfer document shall reflect that all copyright and similar interests will be passed to the Gallery on acquisition unless a different arrangement is negotiated with the owner or vendor. In the case of copyrighted works, the Gallery should endeavor to obtain a non-exclusive license from the copyright holder if the copyright holder is not willing to transfer copyright to the Gallery. Questions arising on this issue should be referred to the Office of the General Counsel.

7. Appraisals

The policy of the Gallery does not permit staff members to place a monetary evaluation on objects brought to the museum for examination or as potential acquisitions. When requested by potential donors, the Gallery may suggest the names without endorsement of several qualified professional appraisers.

The Gallery does not pay potential donors or appraisers for appraisals of donated works for the purpose of tax deduction. Securing appraisals for tax purposes is a donor's responsibility. Questions should be referred to the Office of the General Counsel.

V. AAM and AAMD Guidelines for Acquisitions

As part of the AAM guidelines, museums should take "all reasonable steps to resolve the Nazi-era provenance status of objects" prior to acquisition through purchase, bequest, gift or exchange.⁶ Particular attention should be given to those objects created prior to 1946 and which could have been in Europe between 1933 and 1945, as well as archaeological objects. Along with other acquisition paperwork, donors and sellers will receive requests and questionnaires to provide provenance information, as well as exhibition histories, bibliographies and conservation histories.

⁶ Helen J. Wechsler, et al. *Museum Policy and Procedures for Nazi-Era Issues* (Washington, DC: American Association of Museums, 2001), xviii.

A. AAM Acquisition Guidelines⁷

a) Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.

f) Museums should document their research into the Nazi-era provenance of acquisitions.

g) Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

B. AAMD Acquisition Guidelines⁸

1. As part of the standard research on each work of art:

⁷ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors.

⁸ "Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)", June 4, 1998.

(a) member museums should ask donors of works of art (or executors in the case of bequests) to provide as much provenance information as possible with regard to the Nazi/World War II era and

(b) member museums should ask sellers of works of art to provide as much provenance information as possible with regard to the Nazi/World War II era and

2. Where the Nazi/World War II era provenance is incomplete for a gift, bequest, or purchase, the museum should search available records and consult appropriate databases of unlawfully confiscated art.

(a) In the absence of evidence of unlawful confiscation, the work is presumed not to have been confiscated and the acquisition may proceed.

(b) If there is evidence of unlawful confiscation, and there is no evidence of restitution, the museum should not proceed to acquire the object and should take appropriate further action.

3. Consistent with current museum practice, member museums should publish, display or otherwise make accessible all recent gifts, bequests, and purchases thereby making them available for further research, examination and study.

4. When purchasing works of art, museums should seek representations and warranties from the seller that the seller has valid title and that the work of art is free from any claims.

C. AAMD Cultural Property Guidelines for the acquisition of Archaeological Materials and Ancient Art

In 2009 the Smithsonian Institution accepted the AAMD's revision of its Report and Guidelines on the Acquisition of Archaeological Materials and Ancient Art standard of 1970 which now accepts the standard of November 17, 1970 (the date of completion of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property) as a fixed cut-off date for determining whether an undocumented work of art can be acquired. In addition, the Office of General Counsel at Smithsonian

in conjunction with the National Collections Program has created a working group to review the current SI Policy on Museum Acquisitions in light of the recent acceptance of these guidelines.

See the full AAMD Acquisition Guidelines in [Appendix F](#).

VI. Suggested Procedures and Questionnaires

Provenance Questionnaires and Research

It is recommended that provenance questionnaires be included with the forms sent to vendors and donors early in the acquisition process in order to obtain as much of the history of ownership of the work of art as possible, as well as information on the exhibition, publication and conservation history of the object. This information is more easily obtained during the acquisition procedure rather than after the fact and if more

questions arise from the questionnaires, curators should follow up as soon as possible in order to answer any questions prior to the acquisition approval process.

If very little information is supplied, the curator will pursue the provenance in more detail with the donor or vender. If the Nazi-era provenance is still incomplete or uncertain, the museum must decide what additional research is necessary to resolve the issue prior to acquisition. Outside databases such as the Art Loss Register can be utilized when deemed appropriate prior to final acquisition. (Most major dealers will have already taken this action and they will be able to supply the paperwork. That said, this step can only determine whether the Art Loss Register, or other organizations, have received any information which could indicate problems.)

Donor and Vendor Questionnaires

While the history of ownership and conservation of the object is necessary, take this opportunity to also learn more about your donors, collectors and dealers. The following Donor and Vendor Questionnaires should be attached to the appropriate acquisitions forms (gift, bequest, transfer or purchase forms – see sample below) to supplement the “provenance” line during the acquisitions process.

Curatorial Provenance Checklist for Acquisitions

During your evaluation of the information supplied in the Donor and Vendor Questionnaires, it is useful to have a checklist to verify your information. Some museums have added these fields into TMS to maintain the information with the digital object records. If this is not possible, at least maintain the forms in the object record for future reference.

Recorded Oral Interviews

If your donor or dealer has played an important role in the history of collecting Asian Art, it would be advisable to conduct a recorded oral interview. This will provide a much more detailed historical overview of your collector (or dealer), as well as preserve this information for the future. (Likewise with your early curators.) A standard set of questions can be utilized and as the interview proceeds more questions can be added at that time.

A. Donor Questionnaire

Please complete the following questionnaire to the best of your ability. It is important that the museum have a complete history of ownership of all works of art offered as gifts. It would also be extremely helpful if you will include copies of any additional information or documentation which you may have with respect to your ownership, the exhibition, publication or conservation history of this object, or any prior ownership information.

Donor Information

Donor(s) name(s): _____

Date of Birth: _____

Mailing Address: _____

Phone Number and Email Address: _____

Donor Country: _____

Have any articles been written on you and your collection? If so, please attach copies to this questionnaire, or provide titles, dates and source of information.

How long have you been collecting? _____

Would you be willing to participate in an oral interview about your interest in collecting?

Object Information

Object: _____

Donor's Accession or Inventory Number: _____

How long have you owned this object?

How did you acquire it?

Purchase: _____ date: _____

Inheritance _____ date: _____

Gift _____ date: _____
 Found _____ date: _____
 Other (explain) _____ date: _____

If this object was purchased, do you have a bill of sale, certificate or any items relating to the transaction or authenticity? If yes, please attach copies to this questionnaire.

Do you know of any previous owners?

Provenance:

Please list to the best of your knowledge, in chronological order (earliest to most recent): all known previous owners of this object (including dealers, identified as such), their place of residence and dates of ownership, and method of transfer (i.e. by auction), identify the auction house, the date of the sale and the lot number. If a specific owner in the chain of ownership of this object is unknown, list as "Unknown." If any previous owners are related to you, please list their relationship and include life dates as well.

Publication History:

Please list, to the best of your knowledge, all publications (monographs, catalogues, articles, etc.) in which your object is mentioned, noting where applicable, who is mentioned as the creator, owner, and/or source of the Object or any image of the Object.

Exhibition / Loan History:

Please, list, to the best of your knowledge, in chronological order, all exhibitions in which the object was included and all loans of the object, noting the dates and places of the exhibition/loan, page and catalogue number (if applicable), and by whom it was lent.

Documentation:

Please provide copies of all documentation that you have in your possession that supports the provenance information set forth above. Such documentation might include: export documents from country of origin and other countries through which the Object has passed; import documentation from countries into which the Object has been imported; Purchase/Sale Agreements and/or Bills of

Sale/Receipts; Auction Consignment Agreements; photographs, letters, inventories and other documentary evidence of the place and time of ownership.

Conservation/Restoration:

While in your ownership, have you performed any repairs, made changes to the object or contracted a conservator to perform cleaning or repairs while this object was in your care? If yes, please list names, dates, cleanings, changes, etc. and attach copies of any pertinent paper work and photographs.

Do you know if this work was conserved and/or restored prior to your ownership? If yes, please list all known treatments, dates, and conservators used.

If conservation of your donation is required, would you be willing to contribute funds for the conservation of this object? _____

Date _____

DONOR(S) SIGNATURES

B. Vendor Questionnaire

Vendor Questionnaire

Please complete the following questionnaire to the best of your ability. It is important that the museum have a complete history of ownership of all works or art offered for sale. It would also be extremely helpful if you will include photocopies of any additional information or documentation which you may have with respect this object, the exhibition, publication and conservation history of this object as well as any prior ownership.

Date: _____

Owner (or vendor): _____

Object _____

County of Origin (country where work was made or excavated): _____

Country Imported from: (immediately prior to its entry into the U.S.): _____

Is the object part of a potential at risk class of objects or does it originate or has it been exported from an at risk country/area (see, for example, ICOM "red lists") _____

Might the object have been in Europe (and possibly Axis-occupied territory) between 1933 and 1945?

If so, is there a possibility that this object was confiscated or sold during that period and/or returned after the end of the conflict? _____

Import/Export

- Customs Form 7501 (U.S. import form) attached _____
- Pro Forma Invoice attached _____
- Export documents attached _____
- How long in export country, if known? _____

Presence in the United States

If you do not have U.S. customs forms showing the date the object entered the country, complete the following.

Date first known to be in the United States _____
 Evidence supporting date listed above (e.g. invoice from dealer, exhibition catalogue, statement of current owner: _____

Recent Report from relevant databases of Stolen/Looted Art

From what source was the report obtained? _____
 What did the report indicate? _____

Publication and Exhibition:

Has the work been published or exhibited? _____
If so, please attach bibliographic and/or exhibition references.

Provenance:

Please list in chronological order (earliest to most recent) all known previous owners of this object (including dealers, identified as such), their place of residence and dates of ownership, and method of transfer (i.e. auction). (Please attach additional pages as necessary.)

Other Documents or Material related to the object (letters of historical interest, bills of sale, sketches, newspaper clippings, articles, etc.)? Yes or No _____

If so, please describe and attach photocopies if possible when returning this form.

Conservation/Restoration History: Are you aware of any conservation or restoration of the object? Yes or No: _____

If so, please describe and attach any documentation listing names, dates, cleanings, changes, etc.

Signature of Vendor

Date

Current Address

C. Curatorial Acquisitions Provenance Checklist:

(To be attached as the second page to the current acquisition forms which will reside in the object file.)

This form shall be completed for every acquisition to demonstrate for audit purposes that there has been an exercise of due diligence, and that the vendor/donor has title and the right to transfer it, and agrees to the actual transfer of the object itself. A warranty of title signed by the vendor/donor should be attached to the acquisition form.

Owner (or vendor): _____
Price, inclusive of any commissions (or Insurance Value if donated or bequeathed)

County of Origin (country where work was made or excavated): _____

Country Imported from: (immediately prior to its entry into the U.S.): _____

Is the object part of a potential at risk class of objects or does it originate or has it been exported from an at risk country/area (see, for example, ICOM "red lists") _____

Might the object have been in Europe (and possibly Axis-occupied territory) between 1933 and 1945?

If so, is there a possibility that this object was confiscated or sold during that period and/or returned after the end of the conflict? _____

Import/Export

- Customs Form 7501 (U.S. import form) attached _____
- Pro Forma Invoice attached _____
- Export documents attached _____
- How long in export country, if known? _____

Presence in the United States

If you do not have U.S. customs forms showing the date the object entered the country, complete the following.

Date first known to be in the United States _____
Evidence supporting date listed above (e.g. invoice from dealer, exhibition catalogue, statement of current owner: _____

Recent Report from relevant databases of Stolen/Looted Art

From what source was the report obtained? _____
What did the report indicate? _____

Publication and Exhibition:

Has the work been published or exhibited? _____
If so, please attach bibliographic and/or exhibition references.

VII. Freer and Sackler Gallery Forms

A. Freer Gallery Deed of Gift

DEED OF GIFT

Donor hereby irrevocably and unconditionally gives, transfers, and assigns to the Freer Gallery of Art (“FGA”) of the Smithsonian Institution all right, title, and interest, including copyright, in, to, and associated with the objects and/or materials as more fully described below. Donor affirms that Donor owns said objects and/or materials and that, to the best of Donor’s knowledge, Donor has such right, title, and interests to give. If Donor is aware of any rights in the objects and/or materials that are owned by anyone other than Donor, Donor agrees to specify below.

Donor understands that the FGA will make the objects and/or materials available to the public in accordance with the policies and procedures of the FGA. Donor further understands that the FGA may transfer duplicate items or materials outside the scope of its collections in accordance with its policies and procedures, as may be modified from time to time.

Donor certifies that, to the best of Donor’s knowledge, the object(s) was (were) collected and acquired in accordance with applicable law, and that the object(s) has (have) not been exported from its (their) country of origin in violation of the laws of that country in effect at the time of the export, nor imported into the United States in violation of United States laws and treaties.

The name of the Smithsonian Institution, its museums and logos are trademarks, and may not be used by the donor in any commercial, advertising, or marketing context.

Description of objects and/or materials donated [attach additional pages if necessary]:

Identity of rights-holders (if other than Donor):

Dated this _____ day of _____, _____

Signature of Donor

The Freer Gallery of Art of the Smithsonian Institution hereby acknowledges with gratitude the receipt of the above Deed of Gift.

Signature

Date

B. Sackler Gallery Deed of Gift

DEED OF GIFT

Donor hereby irrevocably and unconditionally gives, transfers, and assigns to the Arthur M. Sackler Gallery (“AMSG”) of the Smithsonian Institution all right, title, and interest, including copyright, in, to, and associated with the objects and/or materials as more fully described below. Donor affirms that Donor owns said objects and/or materials and that, to the best of Donor’s knowledge, Donor has such right, title, and interests to give. If Donor is aware of any rights in the objects and/or materials that are owned by anyone other than Donor, Donor agrees to specify below.

Donor understands that the AMSG will make the objects and/or materials available to the public in accordance with the policies and procedures of the AMSG. Donor further understands that the AMSG may transfer or deaccession duplicate items or materials outside the scope of its collections in accordance with its policies and procedures, as may be modified from time to time.

Donor certifies that, to the best of Donor’s knowledge, the object(s) was (were) collected and acquired in accordance with applicable law, and that the object(s) has (have) not been exported from its (their) country of origin in violation of the laws of that country in effect at the time of the export, nor imported into the United States in violation of United States laws and treaties.

The name of the Smithsonian Institution, its museums and logos are trademarks, and may not be used by the donor in any commercial, advertising, or marketing context.

Description of objects and/or materials donated [attach additional pages if necessary]:

Identity of rights-holders (if other than Donor):

Dated this _____ day of _____, _____

Signature of Donor

The Arthur M. Sackler Gallery of the Smithsonian Institution hereby acknowledges with gratitude the receipt of the above Deed of Gift.

Signature

Date

C. Freer and Sackler Purchase Release

Vendor hereby irrevocably and unconditionally gives, transfers, and assigns to the Arthur M. Sackler Gallery (“AMSG”) of the Smithsonian Institution all right, title, and interest, including copyright, in, to, and associated with the objects and/or materials as more fully described below. Vendor affirms that Vendor owns said objects and/or materials and that, to the best of Vendor’s knowledge, Vendor has such right, title, and interests to give. If Vendor is aware of any rights in the objects and/or materials that are owned by anyone other than Vendor, Vendor agrees to specify below.

Vendor understands that the AMSG will make the objects and/or materials available to the public in accordance with the policies and procedures of the AMSG. Vendor further understands that the AMSG may transfer or deaccession duplicate items or materials outside the scope of its collections in accordance with its policies and procedures, as may be modified from time to time.

Vendor certifies that, to the best of Vendor’s knowledge, the object(s) was (were) collected and acquired in accordance with applicable law, and that the object(s) has (have) not been exported from its (their) country of origin in violation of the laws of that country in effect at the time of the export, nor imported into the United States in violation of United States laws and treaties.

The name of the Smithsonian Institution, its museums and logos are trademarks, and may not be used by the Vendor in any commercial, advertising, or marketing context.

Signature

Date

D. Freer and Sackler Acquisition Form (Gift, Transfer, or Bequest)



Smithsonian Institution
Freer Gallery of Art

Office of Collections Management

F1883.1
VAULT NUMBER

ACQUISITION CONSIDERATION
GIFT, TRANSFER, OR BEQUEST

ACCESSION NUMBER

Swan and Iris
TITLE

James McNeill Whistler American, 1834-1903
ARTIST

United States
GEOGRAPHY

HISTORICAL PERIOD
ca. 1883

DATE
Etching on paper

MEDIUM
Charles Lang Freer
33 Ferry Avenue
Detroit, Michigan
United States

SOURCE

VALUATION

Assessments and Comments:

Collections Management: _____
INITIAL DATE

Conservator (Please attach report) _____

Curator/Justification (attach additional pages as necessary): _____

Curator/Provenance (attach additional pages as necessary): _____

DEPUTY DIRECTOR _____ DATE _____ APPROVED DENIED

DIRECTOR _____ DATE _____ APPROVED DENIED

* CHAIRMAN, COMMISSION OF FINE ARTS _____ APPROVED DENIED

* SECRETARY, SMITHSONIAN INSTITUTION _____ APPROVED DENIED

* Date reviewed by

Please return this form to the Office of Collections Management

Chapter 4

Guidelines for Incoming Loans

- I. [Introduction and Guidelines for Incoming Loans](#)
- II. [Freer and Sackler Galleries Implementation Guide](#) to Fulfilling Provenance Requirements in conjunction with the Smithsonian Institution Policy on Acquisitions
- III. [Freer and Sackler Collection Management Policy](#) – Incoming Loans Section
- IV. [AAM and AAMD Guidelines for Loans](#)
 - A. AAM Guidelines for Loans
 - B. Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998)
 - C. AAMD Report of the Subcommittee on Incoming Loans of Archaeological Material and Ancient Art (Feb. 27, 2006)
- V. [Request for Provenance Information Form](#)
- VI. [Claims for Ownership for an Incoming Loan](#)

I. Introduction and Guidelines for Loans

“It is the position of the AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.”⁹

The following guidelines refer to prospective incoming loans and should be viewed as living documents to be updated periodically as new issues and concerns develop.¹⁰ This information provides the type of research that should be conducted on all prospective incoming loans, what questions to ask your lenders, when to proceed with a loan, and when to notify lenders of your research results.

These guidelines should be integrated into museum documentation regarding incoming loans such as loan policies, contracts and agreements.

In order to satisfy the requirements for an application for immunity under the exemption from Judicial Seizure of Cultural Objects Imported for Temporary Exhibition Statute administered by the U.S. Department of State for exhibitions organized with foreign loans with potential problems, thorough provenance research must be conducted for each art object. In order to facilitate this research, Requests for Information forms are sent to lenders for each art object, requesting specific information about provenance, exhibitions and bibliography. If objects are found to have problematic provenance histories, the object may be withdrawn from the forthcoming exhibition list.

The importance of provenance research on behalf of the exhibition museum is clearly illustrated in the case of two Egon Schiele paintings belonging to the Leopold Museum that were seized while on exhibition at the Museum of Modern Art in early 1998. The Manhattan District Attorney Robert Morgenthau seized the two paintings after his office received information that indicated Nazis had confiscated the paintings from their rightful owners during World War II. In 1999, following further investigation in the Manhattan District Attorney’s office, one painting was returned to the Leopold Museum, however, the second painting titled “Portrait of Wally” still remains in New York awaiting judgment as of July 2009.

II. Freer and Sackler Galleries Implementation Guide to Fulfilling Provenance Requirements in conjunction with the Smithsonian Institution Policy on Acquisitions

The Smithsonian Institution has accepted the AAMD’s revision of its Report and Guidelines on the Acquisition of Archaeological Materials and Ancient Art and now accepts the standard of November 17, 1970 (the date of completion of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit

⁹ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors, section 2.

¹⁰ Outgoing Loans are covered in Existing Collections and should be researched accordingly prior to exhibition at another institution.

Import, Export and Transfer of Ownership of Cultural Property) as a fixed cut-off date for determining whether an undocumented work of art can be acquired.

All works must be vetted for proper provenance according to the standards of evidence stipulated in the Smithsonian Institution Guidelines. The Smithsonian Institution Policy on Acquisitions is currently undergoing formal revisions to accommodate the acceptance of this new date. In the meantime please accept this as a suggested guide for possible avenues of provenance research in terms of acquisition requirements.

The Director, with the assistance of the sponsoring Curator and the Head of Collections Management, before authorizing the acquisition of an object, whether by purchase, transfer, gift or bequest, has the responsibility, in good faith, to ascertain, from the circumstances surrounding the transaction, or his knowledge of the object's provenance, that the object in question was not stolen or wrongfully converted, and is not illegally present in the United States.

At the initiation of any transaction, the owner/vendor should be made aware that a full vetting of provenance is an essential part of the acquisition process and that their full cooperation will greatly aid the process. Each transaction will vary in particulars. As applicable and appropriate to each situation, the work under consideration should have:

6. A statement of provenance history obtained from the owner and included as part of the written report prepared for the recommendation of acquisition.
7. An export license.
8. Compliance with Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) ratified on March 3, 1973 and entered into force on July 1, 1975.
9. Compliance with Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era issued by the American Association of Museums (AAM Guidelines, November 1999).
10. Compliance with the Report of the Association of Art Museum Directors Task Force on the Spoliation of Art During the Nazi/WWII Era (AAMD Guidelines, June 1998).

Provenance research can reference searches with internationally recognized entities such as

4. The International Foundation for Art Research (IFAR).
5. Art Loss Register (ALR).
6. UNESCO Cultural Heritage Laws Database.

The Director also has the responsibility to ascertain that any proposed new acquisition was not unethically acquired from its source, unscientifically excavated or illegally removed from its country or origin after November 17, 1970.

The Smithsonian Guidelines reflect the positions taken in the UNESCO Cultural Heritage Laws ratified by various nations. Particular emphasis is placed on looting of archeological sites, including tombs and architectural structures. The issuance of an export license by a legitimate government authority should satisfy due diligence.

If the immediate source of the work is not the country of origin and/or an export license is not available for works likely to fall into the above described categories there are other research options available for provenance information or as evidence for a claim that the work was acquired prior to 1970, such as:

4. Records of ownership, donor histories.
5. Publication records, books, journals, auction catalogs.
6. Public exhibit records, exhibit catalogs.

It should be noted that the cultural properties protection laws and standards of enforcement vary from country to country. As well, due to changes in administrations or regimes, there are not only inconsistencies in enforcement but occasional reversals of previously granted permissions. When issues of provenance cannot be otherwise resolved, the legitimate authority in the country of origin should be contacted. Due to the varying conditions noted above, such contacts should be initiated with considerable circumspection and informed by knowledge of the relevant bureaucracies and personalities involved.

If the work(s) under consideration is of indeterminate provenance and of a type made in multiples for commercial and trading purposes and not of a type typically buried in tombs nor a fragment of a larger work disassembled for the purpose of sale of multiple parts, the Director, having pursued reasonable avenues of due diligence, may exercise discretion in recommending the acquisition.

3. Consultation should take place widely within the Institution, particularly with those scientists or curators whose interests would be affected by acquisition of the object. For example, issues of material identification may require the assistance of staff biologists or other experts.
4. Where there are instances of legal doubt the Office of the General Counsel should be consulted. A special panel may be created to help determine answers to the questions raised.

In the case of a substantial proposed acquisition of foreign provenance whose acceptability is in question, the Gallery, with owner's approval, will contact as appropriate one or more of the following. Sample correspondence can be found attached and should be accompanied by photographs of the item.

4. The competent authorities or corresponding national museums of the probable countries of origin.
5. Ambassador of the country of origin serving in Washington, D.C.

6. The countries whose laws may be affected by the transaction, in order to determine whether the latter can advise the Institution as to the status of the object.

If any such object can be demonstrated to form part of the national patrimony of another country, the Institution will take reasonable steps within its power to aid that country in its efforts to affect the object's return.

A "substantial acquisition" is here understood as a work of proven rarity and unusual aesthetic quality as determined by research of comparable works, and the published and/or solicited opinions of experts. Monetary value is an important, but not an overriding determinant in the definition of "substantial."

The definition of "national patrimony" varies from country to country. Indeed, some countries allow for the export of such substantial works in the interest of providing select sites outside of their national boundaries with examples of the highest aesthetic and historic value. An export license issued by the legitimate authority in a country of origin constitutes a due diligence search for provenance.

In instances where there is doubt, the country of origin should be contacted. This contact should, as noted above, be initiated with considerable care and forethought.

The guidelines set forth here should also be applied in determining whether to accept loans for display or other purposes.

The provenance of acquired objects shall be a matter of public record.

Sample Correspondence

Freer and Sackler Galleries Letterhead

Date _____

XX. XXXX XXXXX
 X XXXXX
 XXXX

Dear XXXX

I am writing to you about an important work of art from [country, region] which the Arthur M. Sackler Gallery [Freer Gallery of Art] of the Smithsonian Institution in Washington D.C., USA is considering as a [gift/purchase].

The item depicts/or is important for the collection because [].

As you may know, the Smithsonian must make a detailed scrutiny of any object considered for acquisition. We would like to have final assurance from you that the Government of [] has no objections to the Smithsonian acquisition and display of the piece, of which a photograph is enclosed.

Since we are eager to proceed on this matter, which will give art from [] a higher profile at the [Freer/Sackler] Gallery, we would very much appreciate an early reply from you.

Sincerely yours,

<JR>

Julian Raby, Director

enclosures

III. Freer and Sackler Collection Management Policy – Loans Section

The Gallery adheres to *Guidelines for Exhibiting Borrowed Objects* issued by the AAM, the text of which is included in SD600.

B. Incoming Exhibitions and Exhibition Loans

The Sackler Collection borrows only works of Asian art and other material for inclusion in special loan exhibitions and permanent gallery installations. The director can make exceptions as the occasion merits.

An exhibition schedule of incoming loans is maintained by the head of exhibition's office.

The Gallery will not accept an exhibition organized elsewhere, or a loan to an exhibition organized by the Sackler, if:

- there is reasonable doubt about whether the subject of the loan can withstand travel, climate changes, and/or the circumstance of exhibition;
- acceptance of the loan might or might appear to give rise to commercial exploitation;
- the loan is subject to restrictions that make it unwise for the Gallery to accept; and/or
- the provenance of such loan is deemed unsatisfactory under the Smithsonian Institution Policy on Museum Acquisitions. The director is responsible for making this determination.

Every loan must be for a specified period of time (usually not to exceed five years) with an agreed-upon termination date. For those loans lasting longer than a year, the registrar will contact the lender annually to maintain functional contact.

If the Gallery's efforts to return objects within a reasonable period following termination of the loan are unsuccessful, the object(s) will be maintained at the lender's risk and expense for a maximum of three years. If, after three years, the object(s) have not been claimed, the lender in consideration for the Gallery's maintenance and safeguarding of the object, will be deemed to have made an unrestricted gift of the object(s) to the Gallery.

The director or the deputy director, in consultation with appropriate Gallery personnel, must approve all incoming loan proposals in writing.

When an exhibition is organized by another institution and received by the Gallery as part of a tour, exhibition, loan or other agreement must be approved in advance of the exhibition by the head of exhibitions, director, and/or deputy director.

Special loan exhibitions organized by the Gallery may be toured to other institutions. In such cases, separate written agreements shall be negotiated between the Gallery and each recipient institution. The proposed agreement may be submitted to the Office of the General Counsel for review.

The appropriate curator will prepare a list of works and lenders for each exhibition. The curator will prepare the initial correspondence with each potential lender and send a loan agreement, along with a letter from the director, deputy director, or head of exhibitions formally requesting said loan objects and giving full details of the exhibition.

Once a loan agreement has been signed, the exhibitions registrar has primary responsibility for completing all necessary loan arrangements and complying with the terms of the agreement. The registrar maintains all documentation generated by the loan procedure.

The registrar or exhibitions conservator is responsible for inspecting and making condition reports on incoming loans upon both their receipt and dispatch, for their safekeeping prior to and following their exhibition and for ensuring that loans are properly packed, shipped, and returned when due.

Unless a lender elects to maintain their own insurance, the Gallery will insure at its own expense all borrowed works of art and other material under the Smithsonian Institution's master insurance policy. Exceptions to this rule include:

- loans from another Smithsonian collecting unit.
- loans from the National Gallery of Art for the period during which such loans are on the Gallery's premises
- loans otherwise covered by an adequate governmental indemnity

Such insurance shall cover both the transit of such loans and the period during which such loans are on the Gallery's premises or under its control. Such insurance shall be for a fair value specified by the lender and agreed to by the Gallery. If the Gallery and the lender cannot agree upon a fair value, the loan will not be accepted. If a lender elects to maintain their own insurance, the Gallery must be named as a co-insured or right of subrogation must be waived.

When an object or exhibition is to be returned, the exhibition registrar shall make certain that all paperwork pertaining to insurance and the method of shipment is in order. The exhibition registrar oversees the packing and arranges for shipment to ensure that the objects are returned by the agreed-upon date.

The expense of packing and shipping borrowed works of art and other material is normally borne by the Gallery.

For incoming exhibitions that will be on the Sackler Gallery premises for six months or longer, a registrar from the Collections Management Office will perform all the registrar-related duties described above.

C. Incoming Long-term Loans

The Gallery does not accept any works of art or other materials as "indefinite" or "permanent" loans. However, with the written approval of the director or deputy director, the Gallery may accept long-term loans in the following circumstances:

- Objects borrowed to enhance Gallery objects on view in permanent gallery installations
- Promised or anticipated gifts, where appropriate

These long-term loans are numbered with the prefix LTS followed by year, followed by chronological order of loan agreement.

Long-term loans initially will be set at a term of no longer than five years, with the possibility of renewal. The registrar will make contact with the lender annually to maintain contact.

Additional requirements specific only to the Freer Study Collection:

The Freer Gallery may borrow an object solely for research purposes, never for exhibition. Requests to borrow an object must be approved by the director. The registrar will assign a catalogue (vault, V#) number to the object.

IV. AAM and AAMD Guidelines for Loans

A. AAM Guidelines for Loans¹¹

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material

¹¹ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era, Approved, November 1999, Amended, April 2001, AAM Board of Directors.*

they borrow as well as the possibility of claims being brought against a loaned object in their custody.

a) Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

f) Museums should document their research into the Nazi-era provenance of loans.

B. Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998) (For full report see [Appendix C](#))

F. Incoming Loans

1. In preparing for exhibitions, member museums should endeavor to review provenance information regarding incoming loans.

2. Member museums should not borrow works of art known to have been illegally confiscated during the Nazi/World War II era and not restituted unless the matter has been otherwise resolved (e.g., II.D.3. In the event that no legitimate claimant comes forward, the museum should acknowledge the history of the work of art on labels and publications referring to such a work.)

C. AAMD Report of the Subcommittee on Incoming Loans of Archaeological Material and Ancient Art (Feb. 27, 2006)

These Guidelines build on and supplement the AAMD's Professional Practices in Art Museums (2001) and the Report of the AAMD Task Force on the Acquisition of Archaeological Material and Ancient Art, issued in June 2004 (the "2004 Report"). They are designed to assist AAMD member museums ("member museums") as they develop policies that relate to the display in their museums of archaeological material and ancient art belonging to others, either as part of visiting exhibitions or as long-term loans.

I. Statement of Principles

A. AAMD is committed to the role of art museums in enriching public life by preserving and interpreting the world's shared artistic heritage. Loans of archaeological materials and ancient art, whether on a long-term or temporary basis, inform and enhance the experience provided by the museum's permanent collections. Such loans offer the museum's diverse audiences the opportunity to encounter works of art directly, in the context of their own and other cultures, for education, inspiration and enjoyment.

B. AAMD recognizes that decisions relating to loans of archaeological materials and ancient art can be legally and ethically complex, and require weighing a number of legitimate, and sometimes competing, interests and priorities.

C. AAMD deplores the illicit and unscientific excavation of archaeological materials and ancient art from archaeological sites, the destruction or defacing of ancient monuments, and the theft of works of art from individuals, museums, or other repositories.

D. AAMD is committed to the principle that all borrowing be done according to the highest standards of ethical and professional practice. These Guidelines reinforce the need for transparency in the loan process and due diligence in researching proposed loans.

E. AAMD supports the open exchange of information among researchers and institutions as they collaborate on loans, exhibitions and other scholarly projects. Through this process, the most complete, accurate and useful information about works of art becomes available to a broad public.

F. AAMD recognizes that the public exhibition of works of art is an integral part of research and the ongoing reinterpretation of the world's shared artistic heritage. Lenders of archaeological material and ancient art provide a valued public service by making their works available to a broader public and to scholars. Loans from public institutions provide fresh opportunities for collaborative scholarship, thus facilitating the ongoing reinterpretation of their collections through advances in research and connoisseurship. Loans from private collections also provide new opportunities for the public and scholars to study the art of the ancient world, and in particular are an important means of bringing significant works of art into public view where they can contribute to ongoing dialogue and reassessment.

G. AAMD recognizes that archaeological material and works of ancient art for which provenance information is incomplete or unobtainable may deserve to be publicly displayed, conserved, studied, and published because of their rarity, historical importance, and aesthetic merit. Importantly, in addition to inspiring fresh scholarship, the display of such works in public museums may serve to facilitate the discovery of further information regarding their ownership and provenance history.

II. Guidelines

A. Legal Considerations and Museum Responsibilities

In their role as temporary custodians of borrowed archaeological material and ancient art, member museums should be aware of their responsibility to consider the legal and ethical status of such works. Compliance with U.S. law, which may have significant implications for the borrowing institution and the lender, is a fundamental requirement for all loans.¹² Furthermore, the

¹² Throughout this document, all references to U.S. law mean federal and applicable local law; for AAMD members outside of the U.S., it means the laws of their country and applicable local law.

status of a work under the foreign law of its country of origin (i.e. country of modern discovery)¹³ may affect its status under U.S. law.

If a member museum gains information that reasonably suggests a violation of U.S. law with respect to a proposed or existing loan of archaeological material or ancient art, the museum should seek specialized legal advice on the appropriate course of action. This advice may include notifying the lender and/or law enforcement authorities. The museum should not proceed with a prospective loan or take action with regard to an existing loan unless and until any legal issues that come to light are clarified to the satisfaction of the museum and its legal counsel. During the evaluation of a possible loan, the member museum should where appropriate advise the lender that third party claims could result in a delay to, or prohibit, the return of the object.

AAMD will endeavor to keep its members informed of legal developments relevant to these issues. Member museums may, however, need to seek legal advice with regard to specific loans. Members should share pertinent information about legal developments with their boards and staffs and, where appropriate, with each other.

B. UNESCO Convention

In recognition of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted in November 1970, member museums should not borrow any archaeological material or works of ancient art known to have been “stolen from a museum, or a religious, or secular public monument or similar institution” (Convention, Article 7b) after November 1970. In addition, member museums should not borrow any archaeological material or works of ancient art known to have been part of an official archaeological excavation and to have been removed after November 1970 in contravention of the laws of the country of origin.

Member museums should abide by the preceding paragraph regardless of any applicable statutes of limitation and notwithstanding the fact that the U.S. did not ratify the Convention until 1983.

C. Due Diligence and Research

In the course of considering possible loans of archaeological material and ancient art, member museums should inquire into their provenance history, seeking to obtain all relevant information from the lender, and an appropriate warranty of their legal ownership of the work. In some cases, the museum may decide that it is responsible and prudent to make further inquiries from other possible sources of information and/or databases. As is already standard practice, the information sought should include:

- the ownership history of the work of art;
- the countries in which the work of art has been located and when;
- the exhibition history of the work of art, if any;
- the publication history of the work of art, if any;
- whether any claims to ownership of the work of art have been made; and
- whether the work of art appears in relevant databases of stolen works.

As regards loans for visiting exhibitions, the principal responsibility for seeking provenance information falls to the member museum primarily responsible for organizing the visiting

¹³ ‘County of origin’ can have other legal meanings: e.g. for U.S. customs purposes it can mean the country of creation in antiquity.

exhibition. (That museum is often responsible also for preparing the exhibition catalogue and, in the case of qualifying exhibitions, for obtaining U.S. government indemnity and federal immunity from seizure for the works in the exhibition.) When requested by another venue, the organizing museum should provide a list of the ownership histories of the works in the exhibition. In addition, if there are material unresolved issues regarding particular loans, the organizing museum should inform the other venues.

While other venue museums will usually accept the results of the organizer's inquiries, member museums should be aware that any venue may face legal issues if a dispute arises during its presentation of the exhibition.

If a foreign or non-member museum is the organizing partner of an exhibition, and has undertaken to make provenance history inquiries in accordance with the foregoing, the member museum venue(s) may decide to rely on the results obtained by that partner, but should ensure that any issues specific to U.S. law are addressed.

If the organizing entity is not a museum, the member museum venue(s) should assess the adequacy of the provenance inquiries undertaken by that entity on a case-by-case basis.

D) Incomplete Information on Relevant Ownership / Provenance History¹⁴

Even after rigorous research, it may not be possible to obtain complete and/or independently verifiable information on the relevant provenance history of a proposed loan. AAMD recognizes that the exhibition of such a work in a public institution dedicated to the display, conservation, study, and interpretation of works of art may best serve the interests of the object, the culture it represents and the public. In particular, this may be the case where such public exhibition makes possible important advances in scholarship and/or facilitates the emergence of new information on the ownership and provenance history of the work.

In cases of potential loans with incomplete relevant provenance histories, member museums should use their professional judgment in determining whether to proceed with the loan, taking into account relevant legal and ethical considerations. Potential long-term loans (i.e. loans not part of visiting exhibitions) with incomplete relevant provenance histories should be evaluated under criteria comparable to those for acquisitions (see 2004 Report, Section II, E).

III. Acceptance of this Report

Member museum directors and others responsible for art museum governance are urged to accept and be guided by this Report.

V. Request for Provenance Information

Request for Information forms are sent to lenders for each art object, requesting specific information about provenance, exhibitions and bibliography. If these questions are not included within your standard Loan Forms, use an additional form. Since your museum is not the owner of this object, no effort will be made to contact previous owners or dealers. If questions arise about an object's history, contact the lender to learn more information. If objects have problematic

¹⁴ 'Relevant' is intended to refer to the period during which the current legal and ethical framework came into being. For most countries, this means back to some point in the 20th century. For virtually all works of ancient art that were not recovered in modern, scientific excavations the provenance history becomes incomplete at some point in their past.

histories, your museum may withdraw their request if there is sufficient cause, such as in the case of the discovery of an illegally confiscated object that was never restituted to its rightful owner.

Request for Provenance Information

Date:

Lender:

Title of Exhibition:

Artist:

Country of Origin:

Date of Work:

Title/Description:

Medium/Materials:

Provenance History (attach additional page if necessary):

Exhibition History (attach additional page if necessary):

Bibliography (attach additional page if necessary):

VI. Claims for Ownership for an Incoming Loan

A. AAM Claims of Ownership Process

1. AAM Guidelines for Claims of Ownership¹⁵

Excerpt (underline added for emphasis):

d) If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.

¹⁵ American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001, AAM Board of Directors.

Chapter 5

World War II Era Provenance Research and Resources

- I. [Introduction to World War II Research](#)
- II. [How to Identify Objects for Research](#)
- III. [Freer and Sackler Gallery Resources](#)
- IV. [Library Research](#)
- V. [The Collector](#)
- VI. [Dealers and Dealer Records](#)
- VII. [Auctions](#)
- VIII. [Evaluating the “Gap” Years – 1933 to 1945](#)
- IX. [Final Steps](#)
- X. [Resources for World War II Research](#)
- XI. [Provenance Research Checklist](#)

I. Introduction to World War II Research

Definition of Provenance: (place of) origin

When the term “provenance” is associated with a work of art, provenance refers to the history of ownership of that object. Provenance can be crucial in establishing legal ownership of a work of art, determining the authorship of that object, and it also plays a role in reconstructing the changing history of taste and collecting through the ages.

Integrate WWII Era Provenance Research into standard provenance research on the Freer and Sackler collections

In addition to the Freer and Sackler World War II Era Provenance Project research, it will be necessary to integrate future World War II Era Provenance research into the day-to-day standard research on the collections. As stated earlier, it is necessary to research not only the existing collection, but any future acquisitions and loans as well. Due to recent issues with indemnity for loans, it is necessary to look at both outgoing and incoming loans to the institution.

Documentation and Critical Evaluation of Information

As you proceed and discover helpful clues, utilize checklists and fully document your sources. Maintain good notes as to the direction and speculation of your research. Often some specific searches will take months or even years to resolve themselves therefore it is crucial to document and date thoroughly.

Critically evaluate the information appearing in an object’s provenance -- do not assume that previously published information is correct. If possible, verify all “facts” with additional documentation. Never rely on second-hand information about a source. Often mistakes are passed down and become “facts” after time. Do not trust the information without full detailed documentation.

The Nature of Holocaust Era Provenance Research

Holocaust Era Provenance Research is interdisciplinary, combining early twentieth-century politics, art history, military history, the history of collecting and archival documents related to the movement of art. The research is time-consuming and arduous, and researchers are often faced with a daunting number of documents. Over time, documents and records have been destroyed and as a result, the research is often inconclusive.

The AAM Guide to Provenance Research by Nancy H. Yeide, Konstantin Akinsha and Amy L. Walsh, provides an excellent manual for researchers in this particular field and while the book focuses their examples on paintings, it is extremely useful for other types of objects as well. The book contains useful lists of names, dealers’ records and archives, as well as archival resource information. It is highly recommended that you have a copy at hand when beginning your provenance research.

At the end of this section, a Provenance Research Checklist has been created to serve as a reminder of possible available resources. As provenance research progresses within each curatorial department and more resources are discovered in your area, the list should be modified to suit your particular needs. Maintain a dated copy of your checklist with your notes in the Object file for future use.

II. How to Identify Objects within this Category for Research

- A. Identify all museum objects acquired **AFTER 1932** – and this includes all potential and new acquisitions – and **CREATED before 1946**.
- B. Narrow this list by looking for any change in ownership, or gaps of ownership, names of confiscated collections, and/or names of collectors, dealers or auctioneers associated with Nazi confiscations within the history of ownership during the Nazi Era (1933-1945).
- C. If you can not document ownership for these years, and you have reason to believe this object might have been in Europe during the Nazi Era (1933-1945) include the object for research.

III. Freer and Sackler Gallery Resources

To begin, it is necessary to assemble and assess the information you have at hand. Names of owners, locations and dates of ownership, methods and dates of transfer, sales and auction dates, dealer names and any other information that might be able to assist in clarifying ownership of an object. Occasionally you will have no name, but only a location documented by an exhibition catalogue.

A. The Object

View the actual object (and container if it has been part of the object's history) and makes notes of any attached labels, marks, stamps, seals, inscriptions, etc. Often these will supply invaluable information as to the object's travel and ownership. Make detailed notes and if possible, detailed photographs for future research. Examples:

1. Inscriptions – often related to the creation of the object.
2. Custom stamps – if there is uncertainty when an object left a particular country, customs stamps will sometimes be able to narrow the time span of departure, dependant upon the design.
3. Exhibition stickers – exhibition stickers can supply added information, regarding dates, locations and ownership. These will often lead the researcher to exhibition catalogues and more information.
4. Wax seals – on Western paintings, wax seals are often family monograms or crests.
5. Chinese seals – carved in such materials as jade, ivory, and soapstone, they were used to produce small, usually rectangular or round

vermillion marks that were affixed onto documents, paintings, calligraphy, and other objects by painters, scholars and collectors. Their function was to certify authorship, indicate ownership, and establish political or religious authority. The earliest seals have been traced back to the Shang dynasty; by 16th century seals were also regarded as aesthetic objects by the elite. In ancient times, seals were classified into two categories, official and private. An official seal was usually large and provided the name of its owner's official position. Private seals containing surnames were smaller. The presence of genuine seals of a known collector may help with the dating, authentication, and establishing ownership history of the work of art. (Source: Kuo, Jason C. *Word as Image: The Art of Chinese Seal Engraving*. New York: China House Gallery, 1992.)

6. Dealer marks, seals and/or stickers – less common, but they are often distinctive. Restorer or reframer stamps have also appeared and can often place an object in a specific location.

7. Transport labels – unfortunately, most shipping firms do not maintain records for a long time, however, this information might lead you to other information, such as exhibitions, sales or owners.

8. Nazi era marks and labels

a. ERR Numbers: larger items, such as paintings, were marked with confiscated collection codes, such as R 1171, DW 137. For "R 1171" the R stands for Rothschild and the number is the one assigned in sequence for this particular collection by the staff of the ERR. "DW" stands for the David-Weill collection.

b. AH and HG codes – marks for items intended for Adolf Hitler and Hermann Goering.

c. Nazi era stamps with the Nazi insignia including export and import stamps.

B. Institutional Files

In addition to the object information, your institutional files will supply a wealth of information regarding the history of your object. Each file may provide valuable information that is necessary to piece together the provenance – exact dates of transfers, exhibitions, export dates, previous owners, etc. You will rarely be able to compile a complete provenance for your object, however, there will be clues buried in the correspondence, archive papers and documents.

1. Object Files
2. Curatorial Files
3. Correspondence files
4. Conservation files
5. Donor files
6. Institutional Archives
7. TMS Records

IV. Library Research

Begin your library research documenting the information you have learned from your object and institutional files if that does not already exist in the Object File. Provenance Resources are more likely to be found at larger art museum libraries, university libraries and some major municipal libraries. It might be beneficial to travel to some of these locations as long-distance research is difficult and the library staff may not be able to answer your questions regarding their resources.

Document what you know already. Check each citation referenced in your files – published references, exhibition catalogues, auctions, dealer catalogues, and photograph references. In your verification of these citations, check for other references to known owners of your objects, additional exhibitions, and also to other known versions of the object. Often with multiples, provenances of different versions can be confused and it is important to know the details for each version. Photographs can play a crucial role in differentiating the various versions.

With the following resources, it is important to check the older resources as well as the more recent. In addition to this list, look for dissertations that might include your objects. Abstracts of dissertations are published annually by the University of Michigan and can be found on microfilm available through Interlibrary Loan.

Keep in mind new digital projects as you research as well. The Google Book Search project contains an amazing number of older art history resources, including Asian resources such as a digital copy of the 1915 C.T. Loo and Co. sale through the American Art Galleries in New York.

A. Artist:

Attributions can play a very important role in tracing provenance as artist attributions can change over time. Your object could possibly appear in a 1940's citation under a different attribution, therefore it is useful to know the history of attributions.

B. Catalogue Raisonnés:

Typically a catalogue raisonné will include the provenance, history of exhibition and publication among the list of works included. As with all sources, verify their information with primary source documentation.

C. Monographs:

Generally the focus of a monograph is on the artist's career or a specific aspect, rather than the documentation of each individual object, however, it can be useful in piecing together other aspects that you may require.

D. Exhibition Catalogues:

Exhibition catalogues can document an object, location and often the owner at a specific moment in time. The essays often provide additional information about the objects, ownership and history. Earlier exhibitions catalogues were primarily lists of the objects exhibited, however later catalogues often contain photographs and more details. Often a catalogue will list the current owner, but if not, a list of lenders could appear at the beginning or end of the catalogue. If no catalogue exists, the organizer of the exhibition (if they still exist) can possibly assist with more details if provided with enough detailed information.

E. Journal Articles:

JSTOR, BHA, RILA, Répertoire d'Art, Art Index are among the standard references for journal articles. While the majority of these are indexes, JSTOR is a word searchable digital archive and has been extremely helpful in provenance research. Today, there are a growing number of online databases devoted to Asian journals, such as the Bibliography of Asian Studies (BAS), the National Palace Museum's Periodicals Databases, CAJ (China Academic Journals, Genii, CiNii and JAIRO).

In addition to the useful information found in articles on your object and collector, journals also contain surprising useful information in their ads. Journals from the 1930s and 1940s contain Dealer ads with photographs of objects for sale, and for unknown dealers, it is a useful way to obtain dealer business names, street addresses, and city locations. Also useful are the exhibition reviews which often cite specific objects and sometimes current owners.

Most important for World War II research are the collector articles which appear in the pre-war journals containing information about their collections as well as photographs of interior household views. German journals such as *Cicerone* (1909-1930) and *Kunst und Künstler* (1903-1933) often contain articles on some of the larger Jewish owned collections in the pre-war time period.

Keep in mind that journal article information will often cite outdated provenance information. Always verify such information with additional primary sources.

F. Photo Archives:

Photo Archives can be extremely helpful to provenance researchers. Usually arranged by artist, school and nationality, multiple reproductions of the same object, as well as the various versions of the object are grouped together. Often newspapers clippings of sale or exhibition entries will appear with the photograph. Most importantly, annotations often appear on the mount or back of the photograph, often identifying the owner, former owners, dealer, attribution, etc. The photographs belonged to dealers or scholars and often contain their comments about the object. In one file, you might find photographs from the late 19th century all the way through to present day, documenting the object through numerous decades. Photo archives are especially helpful in differentiating the differences between similar objects.

The most useful photograph archives for primarily Western Art are at the Frick Reference Library, Getty Research Institute, Witt Library, Rijksbureau voor Kunsthistorische Dokumentatie, Zentralinstitut für Kunstgeschichte, Marburg Photo archive, and the documentation centers at the Musée du Louvre and the Musée d'Orsay in Paris.

In addition to these, there are a growing number of digital archives which include Asian objects as well. As this group expands over time, add the information to your resource checklist. The digital image sources include ARTSTOR, as well as the Asian object digital project at the University of Michigan.

Another source for art object photographs is dealers and dealer archives. Many dealers have acquired and/or created photographic archives for specific art areas. At times, you might be granted access into these archives, or at the very

least, the dealer might be willing to check his archives if supplied with specific details.

G. Newspaper Archives

Newspapers contain a wealth of information for the provenance researcher – obituaries on collectors and dealers, exhibition notices and auction notices, as well as the sale results, often listing the prices and buyers for some of the most important lots. The *New York Times* and the *London Times* online Archives are now available and word searchable.

V. The Collector:

The amount of research on a collector will depend upon the kind of information you require. Biographical information is helpful in determining information about a collector's life, family, business, as well as their collection. Not every collector is a major collector, but through research you can fill out the gaps of knowledge. It is possible to learn more about their collecting taste and habits, the dealer connections, their residences, where they traveled, their ancestors and descendents.

The main object is to learn when and from whom they acquired your object, as well as, when and to whom your object was later transferred. Documents will often verify these circumstances, whether by inheritance (a will), a family connection, or by sale (auction catalogue). When no auction is known, it is useful to research their ancestors and family connections in case the object was transferred by inheritance.

Biographical resources can provide:

- Confirmation of identity of the Collector
- Life dates (birth and death)
- Marriage date(s)
- Dates of collecting activity
- Locations and residences
- Occupations

Genealogy research is a popular online resource today and one of the better subscription databases is Ancestry.com. Information such as birth and death dates, marriages, ancestors and descendents are often available, as well as addresses, land records, naturalization records, ship manifests, newspaper archives, etc. The following biographical resources will assist with Collector information:

- Ancestry.com
- Family Trees (included in Ancestry.com and elsewhere)
- Biographical Dictionaries
- Who's Who*
- Who Was Who*
- Obituaries
- Wills and Estate documents
- Magazines, Journals and Newspapers
- Peerage and Landed Gentry publications
- Postal and telephone directories

Business guides or directories
Social registers

Most major museums maintain files on collectors, and it is extremely helpful to compare information with your fellow museum colleagues when necessary. Often information from collectors' files from various institutions will further reconstruct the history of your object or a collection. The Getty Provenance Index's *Collectors' Files* are a good source for articles, genealogy, sales, copies of inventories and notes from scholars. The files must be visited in person at the Getty Research Institute in Los Angeles, however, you can inquire if a file exists before your visit. The Getty Research Institute Library also maintains a large collection of auction catalogues, exhibition catalogues, dealer records and other archival material related to provenance.

Regional and National Anthologies of Collectors are extremely helpful. Many have been published that focus on the 18th and 19th century, such as Clément de Ris, *Les Amateurs d'Autrefois* (Paris, 1877) and Waagen's various publications on German collectors, however, there are more current publications as well, such as the Louvre's *Les Donateurs du Louvre* (1989) which contains short biographical entries on individuals who have given objects to the Louvre.

A collector's connection to a dealer will often lead to more documents in a surviving dealer's records, in the form of letters, invoices, and photographs, which in turn could lead to a prior owner.

VI. Dealers and Dealer Records

The method of transfer of an object from one owner to the next often involves a dealer or auction sale. When the object is sold through auction, there is some record of a public sale. When the object is sold directly through a dealer, it is much more difficult to document since the records may no longer exist. There is also the possibility that a privacy agreement is in place between the dealer and the owner at that time, as well as other potential legal problems such as export or tax issues. The dealer can also be acting as an agent, rather than an owner, and thus selling the object on consignment. Another scenario is that the object is owned by a group of dealers who own the object by shares and often groups of dealers created a separate business name for their enterprise.¹⁶ The only way to know exactly who owned the object when it passed through the hands of a dealer is to check with the dealer if they are still active or check their existing records.

Most dealers keep records of the objects bought, consigned and sold, as well as other material, such as files on collectors, museums, and others who are involved, as well as photographs. Codes are generally utilized, most often for prices, and sometimes for names and objects.

Dealer archives can be found at a number of institutions around the world. One of the best lists compiled of dealer records can be found in *The AAM Guide to Provenance Research* by Nancy H. Yeide, Konstantin Akinsha and Amy L. Walsh (Washington, D.C., 2001). Since that list was published a number of other organizations have added dealer

¹⁶ Groups of dealers buying objects together have occasionally appeared under a joint business name, often incorporated inside Switzerland.

records to their archives and it will be necessary to keep an updated list of Asian Art Dealer Records as your research progresses.

Selection of Dealer Archive Locations:

The Getty Research Institute, Los Angeles
 Rijksbureau voor Kunsthistorische Dokumentatie (RKD), Den Haag
 Zentralarchiv des Internationalen Kunsthandels, Bonn (records from 1945)
 Archives of American Art, Washington, D.C.
 Bayerisches Wirtschaftsarchiv, Munich

Related to Asian Art, the Frank Caro Archive at the Institute of Fine Arts, New York University contains records of C.T. Loo & Co., New York. C.T. Loo & Co. was established in 1924 at 557 Fifth Avenue in New York by Chinese art dealer C. T. Loo, following several mutations of his gallery first opened in 1915. Loo also established agencies in Beijing, Shanghai, and Paris. The Archive comprises photographic negatives and glass plates of the art objects handled by C. T. Loo from the mid-1930s to early 1950 as well as stockcards documenting the proprietries, prices and circulation history of the objects. The records were donated to IFA by Loo's associate Frank Caro in 1981. It is known that prior to the donation, the fire broke out in Caro's studio and may have destroyed some of the records.

As provenance research progresses at the Freer and Sackler, your provenance researchers should create lists of the Dealers appearing in your object histories, adding comments as any dealer records are located for future reference. This will aid your future Collectors/Dealers project as well.

When writing to an active dealer requesting information, keep your inquiry as defined as possible. Dealers have very few staff (if any at all) to assist with such questions and often they will be reluctant to reveal information on more recent transactions.

VII. Auctions

Older auction catalogues are relatively easy to locate since a number of U.S. Institutions have maintained and added to their collections over the years. For older auctions, the annotated auctioneer's copy is the best example to use since they contain the official final sale results along with the buyer's name. Christie's maintains their older auctioneer's set in London and their archivist will answer questions as time permits. Sotheby's maintains their auctioneer's sets, and the older sets are available on microfilm at various institutions. For auctions with no available set of auctioneer's records, it is best to compare several annotated copies of the catalogues, as each annotated set often differs and often contains incomplete or incorrect information.

For more recent auction results, auction houses are reluctant to disclose the names of the buyers and sellers, however, they may be willing to forward a letter to the seller and/or buyer of a work of art.

Bought-in Lots

The term "bought-in" indicates that a lot up for auction failed to meet its minimum bid, therefore the auctioneer seems to have "sold" the object to a "buyer" that does not in fact exist. It is often difficult to determine if a lot was bought-in if it is

not so noted on an annotated set of auction catalogues. On occasion, bought-in “buyer names” were used during the sale, making a “buyer” difficult to trace or document. Sometimes the name of an auction house staff member, or fictitious name is utilized. If the auction house still exists, it would be worthwhile making an inquiry if you suspect the object was bought-in. When the object reappears in a subsequent sale within a short time, or a name of an auctioneer is utilized, the lot could have been bought-in.

Locating Sale Catalogues

It is becoming much easier to search for sale catalogues today with the rising interest in this area. For pre-1926 sales, refer to Fritz Lugt’s *Répertoire des ventes* published in four volumes, dating from the 17th century through 1926 and available for searching online in English and French. The sales are organized by date, and indexed also by seller name. With each sale entry is also a list of libraries where a copy of the sale can be found, and whether these copies are annotated. There is also an online subscription database, SCIPPIO, which allows for searching not only the catalogues listed in Lugt, but also catalogues up through current day. Due to the searchable nature of the database, SCIPPIO allows for a much broader search range than Lugt.

With the interest in World War II sale catalogues, more libraries are attempting to release digital versions of sale catalogues. The Rijksbureau voor Kunsthistorische Dokumentatie (RKD), in Den Haag, is releasing digital versions of older sale catalogues based on Lugt’s *Répertoire*, and is available through subscription. The University of Heidelberg is releasing digital versions of specific World War II era auctions.

Selected Art Auction Catalogue Archives:

- Art Institute of Chicago, Ryerson and Burnham Libraries, Chicago
- Frick Art Reference Library, New York
- The Getty Research Institute, Los Angeles
- The Getty Provenance Index Sales Projects, Los Angeles
- Library of Congress, Washington, DC
- Metropolitan Museum of Art, New York
- Museum of Fine Arts, Boston
- Museum of Modern Art, New York
- National Gallery of Art, Washington, DC
- Smithsonian Institution Libraries, Washington, DC
- Rijksbureau voor Kunsthistorische Dokumentatie (RKD), Den Haag
- Heidelberg University Library Online Auction Sales Catalogues

Current Online Auction Results:

- ArtNet.com
- ArtInfo (ArtSalesIndex.artinfo.com)
- Artifact.com

VIII. Evaluating the “Gap” years – 1933 to 1945

While provenance research focuses on the entire object’s history, for the purpose of our World War II Era provenance project we are focusing on the crucial years 1933 to 1945. After you have thoroughly researched your object and files, and then pieced together the object’s history as much as possible, look at the years 1933 to 1945. Are there gaps in the history of ownership, and/or, does the object seem to have been in continental Europe during those years? Do any of the “Red-Flag” names appear in your object’s history during this time frame or after?

Any gap is potentially an issue however, not all “gaps” in the history of ownership during this time period are problematic. In many cases, an object which was documented in the U.S. or United Kingdom on either side of these years would most likely not have been in continental Europe during these years. And even less of a problem, if the object was documented in the same owner’s collection on both sides of the gap period. That said, artwork was moving back and forth between England, the U.S. and Europe during these years, and some collectors had residences in multiple countries and were possibly targets of confiscation in Europe. If the objects were in the hands of dealers, the likelihood for the travel of an object is more likely. Keep in mind that foreign nationals, including American and British citizens, were targets of confiscation in Nazi occupied territories, just as German citizens or businesses were targets of confiscation inside the U.S. by the Alien Property Custodian.

Confiscations and Documentation

While there are always exceptions, the following timeline provides a brief breakdown of the years and the movement of confiscations from country to country under the Nazi regime. There were art movement patterns during this time frame, and these patterns can often assist in tracing your objects.

1933 to 1938

Between the Nazi’s rise to power in 1933 and the “Anschluss” (union) of Austria in 1938, the gap in provenance is important if there is indication that the object was in Germany during this time period. During this time, “Degenerate Art” was removed from German national collections and the increasing restrictive laws against the Jewish population resulted in the forced sales of Jewish art collections and property. In addition, many of the German Jewish population were forced to depart Germany leaving their art collections and property behind in order to escape.

1938 to 1940

1938 – Immediately upon the annexation of Austria in 1938, confiscations began and were perfected under the Nazi Regime.

1939 – Invasion of Poland expanded the Nazi confiscations to the Eastern European countries. All so-called Germanic items were removed to the west, and many of Poland’s national treasures were destroyed.

1940 to 1945

1940 – Invasion of the Netherlands and Belgium in May; Invasion of France in June.

At this time the ERR expanded their seizures to include so-called “ownerless” Jewish property and under Goering’s orders were directed to seize art collections that were to be divided up between Hitler, Goering and the German museums.

A number of dealers inside the Netherlands and France collaborated with the Germans throughout the war and a thriving art market operated in Switzerland disposing of confiscated artwork from the western occupied territories.

1943 to 1945 – Italy was occupied by Germany in 1945 and any sales inside Italy at this time are problematic.

.....

As seen from the above time-line, there were a series of confiscations, seizures, thefts, coercive transfers and other illegal methods of wrongful expropriation and it is important to recognize the difference between the groups and their geographic indicators.

- “Degenerate Art”:

This group refers to modern art labeled “degenerate” by Nazi leaders and seized from German national collections. The sale of these objects was legalized by German law passed on May 31, 1938 and since then the law has been recognized as legitimate.

- Property confiscated from German and Austrian Jews:

Jewish property, including Jewish businesses, personal property and art galleries, was seized. Initially, these confiscations began in Germany and the system of confiscation was later perfected inside Austria after Germany annexed that country in 1938.

- Property confiscated from Jews in Nazi occupied territories:

As the Nazi regime expanded its territory, so too did the confiscations expand into Poland, France, Belgium, Netherlands, Luxembourg, Greece and the remainder of Eastern Europe.

- Property confiscated from non-Jews living in Nazi occupied territories:

The majority of this category refers to non-Jews living in Eastern Europe – Poland, the Protectorate of Bohemia and Moravia, Hungary and the former Soviet Union. These territories were part of the Germanification of Eastern Europe.

- Property confiscated from Religious organizations:

This category includes Synagogues, Catholic Churches and Free Masons’ temples in all occupied territories.

- Property seized from the State:

This occurred for the most part in the Eastern European countries where Germany seized state property, such as in Poland.

- Other seizures:

Other seizures of artwork, falling outside the above examples, did occur however on a much smaller scale, such as seized artwork belonging to families implicated in the July 20, 1944 plot to assassinate Hitler.

- Looting by Soldiers:

Looting by soldiers occurred on all sides as seen in the recent cases that have come to light in the U.S. and Russia.

“Red-Flag” Names

Look for so-called “Red-Flag” names in the history of ownership of a work of art. “Red Flag” names consist of Nazi aggressors, collaborators and victims which could possibly indicate that the object was involved in illegal World War II era art transactions. It is important to keep in mind that many of these individuals were dealers and collectors who conducted numerous legal business transactions during this time period as well. Various lists of names related to art looting exist and have been compiled using the Art Looting Investigation Unit¹⁷ reports, German documents, and other sources including more recent articles and books.

Examples of lists that will be helpful:

"Art Looting Investigation Unit Final Report," Office of Strategic Services, Art Looting Investigation Unit, Record Group 239: Records of the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas. National Archives, College Park, Maryland. (Available on microfilm as well.)

"Art Looting Investigation Unit (ALIU) Reports Name Index, National Archives website at:

National Archives Holocaust-Era Assets section:

<http://www.archives.gov/research/holocaust/art/oss-art-looting-investigation-name-index.html#a>

Cultural Property Claims Index to the Cultural Property Claim Applications, 1946-1948 within the records of the Monuments, Fine Arts, and Archives (MFAA) Section of the Office of the Military Government – United States (OMGUS) (Record Group 260, Records of the U.S. Occupation Headquarters, World War II, National Archives, College Park, Maryland. Online at:

<http://www.archives.gov/research/holocaust/art/key-series-descriptions/omgus-cultural-property-claims.html>

Appendix I “Selected “Red-Flag” Names from the ALIU List” in *The AAM Guide to Provenance Research* by Nancy H. Yeide, Konstantin Akinsha and Amy L. Walsh (Washington, D.C., 2001).

"The Not So Secret Lists [by Country]," *The Art Newspaper*, January 1999

Compare your Object to Looted Lists

¹⁷ The Art Looting Investigation Unit, a branch of the OSS, led investigations in Nazi art looting. The unit conducted interviews and compiled reports, along with lists of suspected individuals involved in art looting.

You will also need to compare your object against the lists of objects known to have been confiscated. Some of the lists are now outdated and might also include objects which have since been restituted. For more details on the Country lists, see *The AAM Guide to Provenance Research*, chapter on European Resources, pages 109-134. Many of these lists can now be accessed online.

IX. Final Steps

If you determine an object in your collection was unlawfully appropriated during World War II without restitution, fully document the provenance and consult with your Director.

Despite the exhaustive research, you might still be left with no answers for a gap in the provenance for your object. If you have reason to believe the object was illegally confiscated and perhaps never restituted, one option is to hire a researcher who specializes in this type of research, particularly with a focus on World War II European archives and documents. Another option is to have an outside organization such as Art Loss Register check their databases for any information on your object. At the very least, publish the provenance details of your object on the Freer and Sackler website.

As more documents are made available to researchers every year, it is always worthwhile to revisit the research of a particular object at a later date. Therefore, it is prudent to maintain all provenance research notes and records in the object file, clearly noting the dates and names of the researchers involved.

X. Resources for Holocaust Era Research

U.S. Resources

National Archives and Records Administration (NARA), Washington, DC

Greg Bradsher, an archivist at NARA, compiled a finding-aid to assist researchers access their approximately 15 million pages of documents titled *Holocaust-Era Assets: A Finding Aid to Records at the National Archives at College Park* (available online at: <http://www.archives.gov/research/holocaust/finding-aid/index.html>).

See also: *Art Provenance and Claims Research Project*:
(<http://www.archives.gov/research/holocaust/art/index.html>)

The *AAM Guide to Provenance Research* mentioned earlier provides an excellent breakdown of the documents located at NARA, highlighting some of the most important for provenance researchers in Part II, section “U.S. Resources.”

There are basically two types of documents at NARA for the provenance researcher:

1. U.S. documents – the Roberts Commission, U.S. military, OSS and State Department documents – detailing the Allied recovery efforts, and
2. German documents – detailing the confiscations inside German occupied territories.

The microfilm finding aids are located at:
<http://www.archives.gov/research/holocaust/microfilm-publications/index.html>

U.S. Documents:

The most important U.S. documents for researching provenance are among the following record groups:

RG260: U.S. Occupation Headquarters World War II, Office of the Military Governor, United States (OMGUS) – Contains the U.S. recovery documents, including the records for the Munich Central Collecting Point

RG226: Office of the Strategic Services (OSS) – The Art Looting Investigation Unit documents, interrogations and reports.

RG239: American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas (Roberts Commission) – The commission worked with the Army and was instrumental in the establishment of the Monuments, Fine Arts and Archives (MFAA) program, made up of many U.S. scholars and curators.

RG59: Department of State – includes the Safehaven program, related to the study of looted assets and related questions, and registration of enemy assets.

RG84: Foreign Service Posts of the Department of State -- includes the Safehaven program, related to the study of looted assets and related questions, and registration of enemy assets.

The U.S. Collecting Point records are useful in documenting if an object was processed through one of the Allied gathering points at the end of the war, and then returned to its country of origin. Finding Aids exist for these records on the NARA website, located at: <http://www.archives.gov/research/holocaust/microfilm-publications/index.html>

Central Collecting Points (Records related to the Collecting Points – M1940; M1941; A3389)

Marburg Central Collecting Point (M1948)

Weisbaden Central Collecting Point (M1947)

Offenbach Central Collecting Point (M1942)

Also included in the U.S. group of records is a card file of Japanese Works, Collections, Sites, and Installations Requiring Protection, 1946 (Microfilm finding aid A3383). It contains the records prepared by the Education Ministry of the Imperial Japanese Government in 1946 that identify cultural and historical sites in Japan requiring protection. These are part of the Roberts Commission records (RG 239) and relate to the Monuments, Fine Arts and Archives work in Japan.

German Documents:

Einsatzstab Reichsleiter Rosenberg (ERR):

The Nazi organization primarily responsible for confiscations was the Einsatzstab Reichsleiter Rosenberg (ERR), named for the Nazi ideologue Alfred Rosenberg and its original mission was to collect political material. In 1940, as Germany moved into

the Netherlands, Belgium and France, their mission was expanded greatly when the organization was ordered to confiscate so-called “ownerless” Jewish property. Reichsmarschall Hermann Goering expanded the ERR mission and described how the confiscated artwork was to be divided between Hitler, Goering and the German museums. ERR documents detailing their confiscations reside at the U.S. National Archives and are extremely helpful in World War II provenance research.

As the ERR confiscated artwork in France, the staff carefully documented and catalogued the collections in a series of inventory cards and photographs. Each confiscated collection received an alphanumeric code, for instance for the Rothschild collections, the alpha code was “R” and the number that followed was the particular object in the numeric sequence – “R 1170”. The David Weill collection cards are catalogued as DW 1 through DW2687.¹⁸ Minimal information is included on the cards – artist, title, medium and dimensions, and some cards lists entire groups of objects, a series of prints, or small objects. If the objects were sent to Hitler or Goering, often the card was stamped in the lower right corner with “AH” or “HG.” The arrangement of the cards makes access to a specific object difficult, however if you believe your object was confiscated from a particular collection, it is worthwhile going through the entire series of that collection’s cards.

Photographs and photograph albums were also created by the ERR, containing many of the confiscated objects. For more details on accessing the photographs, see the NARA Finding Aid for the ERR Card File and related photographs found online at: <http://www.archives.gov/research/microfilm/m1943.pdf>

See also the *AAM Guide to Provenance Research* Part II, ERR Records section under “U.S. Resources.”

Also included among the German documents are Nazi shipping records (see page 64 in the *AAM Guide to Provenance Research* for more details.)

Other U.S. Resources:

Archives of American Art, Washington, D.C.

The Archives of American Art contains a number of papers of American art historians directly involved in the World War II restitutions, as well as dealer records that will be helpful during your research. The most important of the papers for World War II research are: William G. Constable, Walter W. Horn, Thomas C. Howe, Andrew C. Ritchie, James J. Rorimer and George Leslie Stout.

The Getty Research Institute, Los Angeles, CA

The Getty Research Institute holds a number of World War II resources, ranging from papers, dealer records, auction catalogues to photographs. Among the group are the following: Douglas Cooper Papers, Wilhelm Arntz papers, Oral histories of Otto Wittmann and Craig Hugh Smyth, Ardelia Hall records on

¹⁸ Appendix K in the *AAM Guide to Provenance Research* provides a list of Einsatzstab Reichsleiter Rosenberg (ERR) Codes, names and addresses, as well as the NARA box location.

microfilm, Johannes Felbermeyer photographs for the Munich Collecting Point, Stefan Lorant Collection.

National Gallery of Art, Washington, D.C.

The National Gallery Photograph Archives contains the Munich Central Collecting Point photographic negative collection, on loan from NARA.¹⁹ The National Gallery Archives contains the papers of a number of Roberts Commission members, as well as the Monuments, Fine Arts and Archives officers, among which are: David Findlay, Charles Parkhurst, S. Lane Faison and Edith Standen.

United States Holocaust Memorial Museum, Washington, D.C. and YIVO Institute for Jewish Research, New York

Related to Jewish Holocaust victims, documents and records in the two organizations above can also be of help to provenance researchers.

European Resources

After searching the National Archives for your object, if you still have many questions unanswered, you may have to turn to European records, especially if the object passed through the Allied Collecting Points and was then returned to its country of origin. The records that document the object's disposition will appear in that country's records. Keep in mind that a number of objects were not claimed and many still remain in the custody of that country. For instance, in France, those objects are classified as "MNR" and in the Netherlands as "NK."

Foreign records may also contain further information on the families as well. Some of the European archival documentation will be far more difficult to access, given the stricter privacy laws. For instance, in France the restitution records are off-limits to anyone except the families involved, however, a museum can inquire about the status of their own objects when necessary.

France:

For more information on the French archives, see Caroline Piketty, *Guide des Recherches dans les Archives des Spoliations et des Restitutions*. Paris: La Documentation Française, 2000.

Germany – Bundesarchiv Koblenz

One of the more important German Archives is the Bundesarchiv Koblenz, containing the Treuhandverwaltung für Kulturgut bei der Oberfinanzdirection Munchen (B323), the organization which dealt with the restitution of objects following the closing of the Allied Central Collecting Points in the early 1950s. Some of these documents will be duplicated at the U.S. National Archives, however the Koblenz set have been augmented with later restitution details.

Germany – Landesarchiv Berlin

The Landesarchiv Berlin holds the Reichskammer der bildenden Künste records on the forced Jewish auctions in the Berlin area; they have prepared a finding aid listing the

¹⁹ The National Gallery of Art is also in the process of indexing the photographs.

auction houses and names of sellers, with full index. The Landesarchiv Berlin Finding Aid to German Forced Sales is located online at:
(<http://www.landesarhiv-berlin.de/php-bestand/arep243-04-pdf/arep243-04.pdf>)

Auction Catalogues:

A number of European archives and art museum libraries contain auction catalogues for this time period. If you know a particular sale occurred in Hamburg, for instance, inquire at local Hamburg institutions for a copy of the catalogue. The Hamburger Kunsthalle holds many local auction and exhibition catalogues and in the past they have been very helpful in providing copies for their colleagues in the U.S. For forced Jewish auctions, the Reichskammer der bildenden Künste records are held in the local archives, such as the Landesarchiv in Berlin, where you will find the Berlin area records.

Dealer Records:

Dealer records are held in a variety of locations throughout Europe.

Archives Nationales, Paris
 Bayerisches Wirtschaftsarchiv, Munich
 Bibliothèque d'Art et Archéologie Jacques Doucet, Paris
 British Museum, Library and Department of Prints and Drawings, London
 Courtauld Institute, University of London
 Fondation Wildenstein, Paris
 Gemeente Archief, Amsterdam
 Musée d'Orsay, Documentation, Paris
 Centre Pompidou, Documentation, Paris
 Rijksbureau voor Kunsthistorische Dokumentatie, The Hague
 Tate Gallery Archives, London
 Victoria and Albert Museum Art Library, London
 Zentralarchiv des Internationalen Kunsthandels (post 1945), Bonn

For more detailed information on the archives by country, see the *AAM Guide to Provenance Research*, pages 109-134.

XI. Provenance Research Checklist

(Examples only, list is not complete)

Object and Accession No. _____

Researcher: _____

Date: _____

Object (and/or container):

- _____ Inscriptions
- _____ Customs stamps (export/import)
- _____ Exhibition stickers
- _____ Seals
- _____ Dealers marks, stamps, labels
- _____ Transport labels
- _____ Nazi Era marks and/or labels

Paper files:

- _____ Object Files
- _____ Curatorial Files
- _____ Correspondence Files
- _____ Conservation Files
- _____ Director's Files
- _____ Institutional Archives

Articles and Journals:

- _____ JSTOR
- _____ Project Muse
- _____ BHA (RILA)
- _____ RILA
- _____ Art Index
- _____ Archives of the Chinese Art Society of America
- _____ Archives of Asian Art Journal (Project Muse)
- _____ Artibus Asiae
- _____ Asian art journals
- _____ Asian art Society journals
- _____ Pre World War II journals
- _____ *Cicerone*
- _____ *Kunst und Künstler*

Books and Catalogues:

- _____ Monographs
- _____ Catalogues Raisonnés
- _____ Exhibition Catalogues
- _____ Collector Monographs

Photo Archives

- _____ Asian Art Archives, University of Michigan (online)
- _____ Frick Art Reference Library
- _____ Getty Research Institute
- _____ Getty Photo Study Collection Database
- _____ National Gallery of Art
- _____ Rijksbureau voor Kunsthistorische Dokumentatie
- _____ Zentralinstitut für Kunstgeschichte, Munich
- _____ Witt Library, Courtauld Institute, London (Microfiche collection at various libraries)
- _____ Marburg Photo Archive (Bildarchiv Foto Marburg), Germany (online)
- _____ Musée du Louvre, Documentation Center
- _____ Musée d'Orsay, Paris, Documentation Center
- _____ ARTstor (online)
- _____ CARLI Digital Images (online)
- _____ Art Resource (online)
- _____ Bridgeman Art Library (online)

Archives

- _____ List of Art Libraries and Archives in *AAM Guide to Provenance Research* (in Appendix F in that book)
- _____ Freer and Sackler Archives
- _____ Archives of American Art (Smithsonian)
- _____ U.S. National Archives
- _____ Frick Art Reference Library
- _____ Getty Research Institute
- _____ National Gallery of Art
- _____ Rijksbureau voor Kunsthistorische Dokumentatie (RKD), Den Haag
- _____ Zentralinstitut für Kunstgeschichte, Munich
- _____ Witt Library, Courtauld Institute, London
- _____ Musée du Louvre, Documentation Center
- _____ Musée d'Orsay, Paris, Documentation Center
- _____ Bundesarchiv Koblenz
- _____ Landesarchiv, Berlin
- _____ Rockefeller Archive Center, Sleepy Hollow, NY (Asian Art Collector records)

Online searches:

- _____ [JAIR](#) (Japanese Institutional Repositories Online)
- _____ [CARP](#) (Chinese Art-Research into Provenance)
- _____ Bibliography of Asian Studies (BAS) –
BAS contains about 730,000 records on all subjects pertaining to East, Southeast, and South Asia published worldwide from 1971 to the present. The *BAS* included citations to Western-language journal articles, monographs, chapters in edited volumes, conference proceedings, anthologies, and Festschriften, etc. They stopped adding monographs to this database since 1992.

_____ National Palace Museum's Periodicals Databases –

_____ This database provides full text searching of **four** journals published by the Taiwan Palace Museum. The four journals are: The National Palace Museum Monthly of Chinese art; National Palace Museum Quarterly; National Palace Museum Research Quarterly and the National Palace Museum Bulletin. Searching in Chinese is required.

===== CAJ (China Academic Journals) –

_____ CAJ claims to be the most comprehensive, full-text, Chinese journals database. It contains more than 7,200 journals in mainland China starting from 1915. The database is divided into several subscription series. All journals are fully searchable, from 1915 to the current issue.

_____ [Genii](#)

_____ The integrated search system of the National Institute of Informatics (NII). This portal simultaneously searches book content, articles (selected full text), academic repositories, research tools and more.

===== [CiNii](#)

_____ A database available from NII that searches academic paper information, articles and citations to articles from scholarly journals, magazines, and university bulletins published in Japan. Searching is free and some articles are available for free, downloadable in full PDF. Harvard University has put together a [helpful PDF guide](#) for English users on using CiNii.

===== WebCat Plus –

_____ Union catalog of university libraries in Japan. Like Worldcat, Webcat Plus is an excellent discovery tool for finding related materials on a certain topic. Helpful for finding information on Japanese books, such as exact titles for forthcoming exhibition catalogs.

===== [JAANUS](#)

_____ A free, online dictionary of Japanese architecture and art history terminology. The dictionary contains approximately 8000 terms related to traditional Japanese architecture and gardens, painting, sculpture and art-historical iconography from approximately the 1st century A.D. to the end of the Edo period (1868). It is searchable in English and romanized Japanese, and has linked cross references; however entries are unsigned.

_____ WorldCat

_____ JSTOR

_____ Ancestry.com

_____ Newspaper Archives

_____ New York Times

_____ London Times

_____ Google Book Search

Museum databases:

_____ [OmuRAA](#) (Online Museum Resources on Asian Art) –

_____ An initiative of the Asia for Educators Program at Columbia University, OMuRAA is a portal to “the best online visual resources on Asian Art produced by museums and educational institutions currently available on the World Wide Web”. Users can browse by museums, special exhibitions, and featured topics as well as narrow searches to a region, time period or art subject area. Entries are annotated.

_____ Metropolitan Museum of Art, New York, NY

_____ Museum of Fine Arts, Boston, MA (working on their Asian collections)

_____ J.Paul Getty Museum, Los Angeles, CA

_____ National Gallery of Art, DC

_____ Art Institute of Chicago, Chicago, IL

_____ CARP – Burrell Collection

_____ JOCONDE (Museums of France database)

Collector Research:**a. Collection**

Private Collection Catalogues
 Monographs and Exhibitions of Collection
 Articles on Collector
 Sales Catalogues of Collection
 Art Inventories
 Collector Bibliography in *AAM Guide to Provenance Research* (see Appendix A in that book)

b. Biographical

Ancestry.com
 Family Trees
 Family Records
 Biographical Dictionaries
Who's Who
Who Was Who
 Obituaries
 Magazines, Journals and Newspapers
 Wills & Estates
 K.G. Saur series of biographical indices (online) and the biographical entries are on microfilm
Grove's Dictionary of Art
 Peerage and Nobility publications
 Social Registers
 Postal and Telephone directories
 Travel Diaries
 Biographical Resource list in *AAM Guide to Provenance Research* (see Appendix B in that book)

Searching for Names of Looted Collections:

- _____ "Red Flag" Names List in *AAM Guide to Provenance Research* Appendices H and I)
- _____ Property Claims Index (NARA)
- _____ ALIU Names Index (NARA)
- _____ Biens Spoliés Index (France)
- _____ Einsatzstab Reichsleiter Rosenberg (ERR) Codes in *AAM Guide to Provenance Research*, Appendix K.
- _____ [Lost Art Internet Database](#) (Germany)
- _____ Provenance Database (BADV Germany)
- _____ Art Restitution Database of the National Fund (Austria)
- _____ Musées Nationaux Récupération (MNR) Catalogue (France)
- _____ Origins Unknown (Netherlands)
- _____ Lost Art (Russia)

(For additional country databases, see *AAM Guide to Provenance Research* list in European Resources chapter. See also the Bibliography, [Appendix G](#) for publications on this subject in this manual.)

Auctions & Collections:

- _____ Resources for Auction Sales and Exhibitions in *AAM Guide to Provenance Research* (Appendix E in that book)
- _____ Scipio (RLG Libraries)
- _____ Lugt *Répertoire* online database (RKD) (Art Sales Catalogues Online)
- _____ Heidelberg University Library Online Auction Sales Catalogues
- _____ Getty Library Catalogue
- _____ Getty Provenance Index Collectors' Database
- _____ Getty Provenance Index Sales Database (Auctions)
- _____ Getty Provenance Archival Documents Database (Inventories)
- _____ Getty Provenance Index Collectors' Database
- _____ Chinese Art Collector/Dealer Project (Chinese University of Hong Kong)
- _____ [Landesarchiv Berlin Finding Aid to German Forced Sales](#)

Dealer Records:

- _____ *AAM Guide to Provenance Research* Dealer Archive List (Appendix D)
- _____ Bibliography of Dealers & Memoirs in *AAM Guide to Provenance Research* (Appendix C in that book)
- _____ C.T. Loo Records (Frank Caro Archive, Institute of Fine Arts, New York University)
- _____ Archives Nationales, Paris
- _____ Archives of American Art (Smithsonian)
- _____ Bayerisches Wirtschaftsarchiv, Munich
- _____ Bibliothèque d'Art et Archéologie Jacques Doucet, Paris
- _____ British Museum, Library and Department of Prints and Drawings, London
- _____ Courtauld Institute, University of London
- _____ Foundation Wildenstein, Paris
- _____ Frick Art Reference Library, New York
- _____ Gemeente Archief, Amsterdam
- _____ Getty Research Institute
- _____ J. Pierpont Morgan Library, New York
- _____ Los Angeles County Museum of Art, Los Angeles
- _____ Metropolitan Museum of Art, New York
- _____ Musée d'Orsay, Documentation, Paris
- _____ Museum of Modern Art, New York
- _____ North Carolina State Archives, Raleigh, NC
- _____ National Gallery of Canada, Ottawa
- _____ Centre Pompidou, Documentation, Paris
- _____ Rijksbureau voor Kunsthistorische Dokumentatie, The Hague
- _____ Tate Gallery Archives, London
- _____ Vanderbilt University, Nashville
- _____ Van Gogh Museum, Amsterdam
- _____ Victoria and Albert Museum Art Library, London
- _____ Zentralarchiv des Internationalen Kunsthandels (post 1945), Bonn

Cultural Heritage Laws:

_____ [UNESCO Cultural Heritage Laws Database](#)

Theft and Looted Art:

_____ [The Art Loss Register](#)

_____ [The International Foundation for Art Research](#)

Nazi-Era – World War II Looted Art News and Databases:

_____ [Lootedart.com](#) – The Central Registry of Information on Looted Cultural Property 1933-1945

Chapter 6

Online Display Procedures & Guidelines

- I. [Introduction to Provenance Display](#)
- II. [Provenance Display Elements](#)
 - A. Dates
 - B. Collection and/or Owner
 - C. Notes
 - D. Disclaimers
- III. [Prices](#)

I. Introduction to Provenance Display

The four main sections in a provenance display are:

- A. Dates
- B. Collection and/or Owner
- C. Notes
- D. Disclaimers

- Provenance for artworks in the Freer and Sackler collections is listed in chronological order, from the earliest known owner to the most recent, ending with the museum's name and method of transfer.
- Relationships between owners and methods of transactions are indicated when known.
- Notes follow the lines of ownership and list supporting references and supplemental documentation.

II. Provenance Display Elements

A. Dates

Dates reflect the beginning and ending dates of ownership and are modified by prepositions when necessary, following the examples below:

From 1945 to 1970

The work was in this collection from 1945 to 1970.

From 1945

The work entered this collection in 1945, but we do not know when it left.

From at least 1945

We know the work was in this collection from 1945, but it may have entered earlier.

To 1945

We do not know when the work entered this collection, but it left in 1945.

To at least 1945 (can be combined with a beginning date)

We know the work was still in this collection in 1945, but it may have left at a later date.

1945

The work was only in the collection for one year.

About 1877

The work was in the collection around this time, and no more specific information is known.

1940s / early 1940s / mid-1940s / late 1940s

The work is known to have been in the collection, but only a decade or part of a decade is known.

18th century / early 18th century / mid-18th century / late 18th century

The work is known to have been in a collection, but only a century or part of a century is known.

[blank date]

A collection name with no date given indicates that we do not know precisely when the work was in this collection. We know the work was in this collection between the owners listed above and below it, but other unknown owners may have been in the chain of ownership.

B. Collection/Owner

1. The collection/owner line contains three types of information:
 - a. The name of the collection
 - b. The location(s) of the collection, if known
 - c. The means through which the work entered the collection, if known.
 - d. Date of transfer

(Each type is explained in detail in points 3, 4, and 5 below.)

2. The collection/owner line appears below the dates of ownership. The date of transfer also appears at the end of the collection/owner transfer information, with details – month, year if known.

Example:

From 1937

C.T. Loo & Co., Paris and New York from at least July 6, 1937

3. **Name of the Collection**. The full and complete name of the owner(s) is given first. Include titles and initials when appropriate; the *Anglo-American Cataloguing Rules* provides a chapter on Proper Name standardizations.²⁰ The web display currently does not accommodate Asian language characters, but eventually when that is possible, it is recommended that both versions be used to avoid potential errors. Do not use the word *Collection* unless only a last name is known.

Examples: John Smith
 John and Mary Smith
 Smith Collection

²⁰ *The Anglo-American Cataloguing Rules* for Proper Names is recommended for consistency. This reference provides guidelines for various nationalities and situations.

Examples for married women: use the form of the name used more frequently

Mrs. Jacques Coenraad (Elisabeth Hijman) Hartogs
Elizabeth A. (Mrs. Oskar) Bondy

Examples for galleries and auction houses:

P. & D. Colnaghi [not Colnaghi's]
Knoedler and Co. [not Knoedler's]

Life Dates: If known, include the birth and death dates of the owner, especially if they relate to the object's transfer of ownership. Use an en dash (–) without spaces to separate birth and death years. When only one life date is known, it is use the format below.

Examples: John Smith (1800–1890)
John Smith (born 1800)
John Smith (died 1890) and Mary Smith (died 1895)

Titles, if applicable, and dates of reign, if relevant to the ownership:

Examples: Joséphine Bonaparte (1763–1814), Empress of the French, Malmaison, France

Private Collection. Use *Private Collection* when the name of the collector is not known, or when the collector's name is known but he or she wishes to remain anonymous.

Unidentified Dealer. Use *Unidentified Dealer* when it is known that the work was with a dealer, but the name of the dealer is unknown.

Unidentified Sale/Auction/Transfer. Give as much information as possible while being clear and concise, e.g. "art market, Paris," "acquired in Florence."

Freer Gallery of Art [or] Arthur M. Sackler Gallery. For objects in the permanent collection, the Freer or Sackler is the final owner. Include the name of the museum as *Freer Gallery of Art* or *Arthur M. Sackler Gallery*.

4. **Location of the collection**. If known, the location follows the name of the collection, separated by a comma. When the location is outside the United States and if the city is little known or confused with another city in a different country, add the country name as well: *city, country*.

Example: C.T. Loo & Co., Paris
Theodore W.H. Ward (1879–1957), London
George Baldwin, Birmingham, England

If the location is inside the United States, give the *city, state* (two-letter abbreviation).

Examples: Eugene and Agnes E. Meyer, Washington, DC and Mt. Kisco, NY

Exceptions: When the Freer or Sackler is the owner, omit the location.

If a gallery had multiple branches, for instance in New York and Paris, indicate which branch, unless it is known to be at both branches. If it is unknown which branch, cite both branches as well.

Example: C.T. Loo & Co., Paris
C.T. Loo & Co., New York and Paris

If the owner moves while owning the artwork, or resides in multiple cities, list each location in chronological order, separated with the word “and”.

Example: Eugene Fischhof (1850–1912), Paris and New York, NY

Eugene and Agnes E. Meyer, Washington, DC and Mt. Kisco, NY

Mrs. Christian R. (Betty F.) Holmes (died 1941), New York and "The Chimneys," Sands Point, Port Washington, Long Island, NY

5. **Method of transfer.** The means by which the object entered the collection (method of transfer), if known, is entered after the name and location of the collection, separated with a comma. The method of transfer will always explain the link (if any) to the above owner. Frequently used terms include *purchased from*, *given by (gift of)*, *bequest of*, *commissioned from*, and *by inheritance*.

Example: Gifts and Bequests

<p>From 1915 to 1961 Eugene and Agnes E. Meyer, Washington, DC and Mt. Kisco, NY, given by Clarence H. Mackay, December 10, 1915</p>
--

<p>1983 Clarence H. Mackay, Roslyn, NY, bequest of Cyril Andrade</p>
--

Exception:

For gifts to the Freer and Sackler, use “gift of” in keeping with the credit lines for those gifts.

Example:

<p>From 1961 Freer Gallery of Art, gift of Eugene and Agnes E. Meyer in 1961</p>
--

From 1920 The Freer Gallery of Art, gift of Charles Lang Freer in 1920

Freer Gift dates:

The Freer policy written in 1995 with OGC states that all items from Mr. Freer should have the credit line “Gift of Charles Lang Freer”.

The thought behind this was: “...the original deed of gift was signed in 1906 (13 years before his death). Even though we did not receive the collection until 1920 (after his death) it was well known that he was intentionally holding this collection until the completion of the Freer Gallery. If he had lived to see the completion of the building, the objects would have been transferred during his lifetime. Therefore, this was not simply a way of disposing of the collection after his death but a well planned gift to the United States.”

Therefore, the provenance line should maintain this wording and read “...., gift of Charles Lang Freer.”

Sackler Gift dates:

“Dr. Arthur M. Sackler desired to make “a gift for the benefit of the people of the United States to acknowledge and record for posterity his personal appreciation for the opportunities afforded by this nation, [...] To that end, Dr. Sackler entered into an agreement with the Smithsonian Institution on July 28, 1982, to assist the Smithsonian in the completion of the quadrangle project by providing a unique and superb collection of Asian art as well as generous financial support. [...] With the completion of the Arthur M. Sackler Gallery and the dinner marking its opening scheduled for September 11, 1987, it is an appropriate time to designate the Gallery and thereby give effect to this provision....”

If an object transferred directly from one person to another, but the method is unknown, use ***acquired from***.

Example:

About 1948 to 1961 Private Collection, France, acquired from Adeline Oppenheim Guimard

6. **Auction purchases.** For objects acquired at auction, the auction house, location, date, and lot number (in that order) follow the name of the purchaser. The title of auction and description of the lot may or may not be listed, depending on its length and relevance.

Example:

1863
Haines Collection, London, England, purchased at the sale of the Edward Rose Tunno Collection, Christie's, London, July 11, 1863, lot no. 136

Example:

From 1986
Freer Gallery of Art, purchased at auction, "Chinese Art, Part 1," Sotheby's, New York, November 10, 1986, lot no. 13, "Bronze sacrificial vessel"

Exception: When we know an item was offered at auction but we do not know the purchaser, follow the following example:

1963
Sale, New York, Parke-Bernet Galleries, *Important Chinese Art: Early Dynastic Bronzes, Silver and Gold*, November 14-15, 1963, lot 255: "Wrought Silver-Bronze Bell (Chung)."

7. **Lengthy ownership within one family.** For works that transferred to individuals in a family, generally through inheritance, the names of these individuals can be given in one line separated by semicolons. This is particularly useful when ownership dates for each individual are not known. The method of transfer, if known, follows each name, separated by a comma.

From at least 1768 to 1942
William Irby Boston (1706/1707–1775), 1st Baron, Hedsor Lodge, Maidenhead, Berkshire, England; Frederick Irby Boston (d.1825), 2nd Baron, by inheritance; George Irby Boston (1777–1856), 3rd Baron, by inheritance; George Ives Irby Boston (d.1869), 4th Baron, by inheritance; Florance George Henry Irby Boston (d. 1877), 5th Baron, by inheritance; George Florance Irby Boston (d. 1941), 6th Baron by inheritance [1]

Individuals in a family may have different locations. Include their locations, if known, after their names and before the method of transfer.

Late 19th century to 1974
Jervis D. Brown, Milford, CT; Florine Brown Cave, by gift or inheritance; Annette Cave, The Dalles, OR, by gift or inheritance [1]

If the names of individual inheritors are not identified, but it is known that a work stayed in a family, describe the inheritors by their relation. If the

transfer is more general, as for a gift between family members, use *by descent*.

About 1930 to 1971
Edwin S. Webster, Boston, MA; his family, by inheritance [2]

From at least 1953
Mrs. Adrien Jaubert (d.1953), France; her grandson, by descent [1]

8. **Dealers and galleries.** In general, use the same format for dealers and galleries that is used for individuals.

1925
Galerie Paul Cassirer, Berlin

In addition, if the dealer/gallery was owned by a named representative who personally handled the object's sale, and it plays an important factor in the sale, include the name of that person in parentheses after the name of the dealer/gallery. The representative's name does not need to be included in subsequent references.

1957
Fine Arts Associates (Otto Gerson), New York, NY

From 1957 to 1983
Morton D. May, St. Louis, MO, purchased from Fine Art Associates

Inventory and Stock Numbers (Galleries and Dealers). If a gallery or dealer stock number is known, it should be included in parentheses in the provenance narrative.

Example:

1961
Durand-Ruel, Paris (stock no. 9102), purchased from the artist

9. **Agents.** If a dealer, gallery, or individual acted as an agent between a seller and a purchaser, do not include the agent on his or her own line. Rather, include the agent as part of the purchaser's line.

Examples:

From 1960 to 1983
Morton D. May, (1914–1983), St. Louis, MO, purchased from Paul I. Heymann, through agent Saul Schulhoff

From 1979
 Freer Gallery of Art, purchased from Philip M. Stern, through Blum
 Helman Gallery, Inc., New York, NY

10. **Joint Ownership.** When two or more individuals or businesses own an artwork, include each party's name and location, followed by (*owned jointly*), followed by the method of transfer if known.

Examples:

1925
 Galerie Paul Cassirer, Berlin, Germany, and Galerie M. Goldschmidt &
 Co., Frankfurt, Germany (owned jointly), purchased from the artist [1]

From 1937 to 1938
 M. Knoedler & Co., New York, NY, and Valentine Gallery (Valentine
 Dudensing), New York, NY (owned jointly), purchased from Lee Ault

11. **Partial and promised gifts.** For objects that are partial and promised gifts to the Museum, include the donor on his or her own line, followed by the Museum on its own line. Include the location and method of transfer for each.

For the ending date, use the year the donor gave complete ownership to the Museum. If complete ownership has not been transferred, do not give a closing date on the donor's line.

If complete ownership has been transferred, indicate this with the phrase *full ownership transferred in [year]* in the Museum's line.

Example: (partial transfer of ownership given in 1961; complete ownership transferred in 1962)

From 1954 to 1962
 Mr. and Mrs. K. Weil, St. Louis, MO, purchased from Sal Salz, Inc. [5]

From 1961
 Freer Gallery of Art, partial and promised gift of Richard K. Weil, full ownership transferred in 1962

Example: (partial transfer of ownership given in 2001; complete ownership not yet given)

From 1972
 Joseph Pulitzer Jr. (1931–1993) and Emily Rauh Pulitzer (b. 1933), St.

Louis, MO, purchased from E.V. Thaw & Co.

From 2001 Freer Gallery of Art, partial and promised gift of Emily Rauh Pulitzer

12. **Works owned by the artist.** In general, works owned by the artist for a significant length of time (decided on a case by case basis), should list the artist as the initial owner. When the artist is included in his or her own line, follow the same rules for collection name except:

- a. Do not use the object's creation date as the begin date of the artist's ownership; instead, leave the begin date blank.
- b. In the method of transfer from the artist to the next owner, use *the artist* rather than the artist's name.

Example: (object made in 2001)

To 2006 Nicholas Nixon (b. 1947), Brookline, MA
--

From 2006 Freer Gallery of Art, gift of the artist

If an artist owned an object for only a short duration, it is not necessary to include the artist in his own line as an owner.

Example: (object made in 1869)

From 1869 Alfred Stevens (1823–1906), purchased from the artist
--

Commissions:

1869 Alfred Stevens (1823–1906), commissioned from the artist
--

13. **Excavations.** Artworks that have been excavated can include the excavation event as collector/owner. Include the excavator's name if known, documenting information in a note..

Examples:

1845 Excavated by Sir Austen Henry Layard (1817–1894), Northwest Palace,

room L, Nimrud, Assyria (modern day Iraq)

1938 Excavated at Huixian, Henan province, 1938 [1]
--

14. **Confiscations and Restitutions.** When an artwork was illegally seized from an owner, use *confiscated from* as the method of transfer. When the artwork was returned to that owner use *restituted from* as the method of transfer.

Example:

From 1937/1938 to early 1940s Dr. and Mrs. L. Katzenstein, Wiesbaden, Germany
Early 1940s German National Socialist (Nazi) government, confiscated from Dr. and Mrs. L. Katzenstein
From 1945 Städtische Galerie, Frankfurt, Germany
From 1945 to 1959 Central Collecting Point, Wiesbaden, Germany
From 1949 to 1961 Dr. F.C. Katzenstein, Salem, IL, USA, restituted from Central Collecting Point, Wiesbaden

15. **Uncertain information.** To denote a possibility or likelihood, use a question mark in parentheses, “possibly” or “probably.” Provide an explanation for the uncertainty in a footnote. “Possibly” is used when there is a larger degree of conjecture than “probably.”

From 1945 Probably Städtische Galerie, Frankfurt, Germany [1]
--

Notes:

[1] [Explanation of the use of “probably”]

If the information is truly conjectural, it is most appropriate in a footnote.

If an object was at a gallery or exhibited by a dealer, but it is not known who owned the object at that time, “exhibited” or “with” may be used.

1951

Galerie André Weil, Paris, France, exhibited [3]
--

1951 with Galerie André Weil, Paris, France [2]
--

Conflicting Information. Conflicting information should usually be included in the provenance. If the potential scenarios seem equally plausible, separate the information by “or” and explain in a note. If one piece of information seems more likely than the other scenarios, put the less likely information in a note and explain.

C. Notes

1. The notes area contains two types of information:
 - a. Sources which support dates and collection/owner
 - b. Additional relevant and explanatory material which supplements the date, collection, location, and method of transfer
2. Information in the notes area should be written clearly and concisely.

Most notes receive a number in brackets ([1], [2], etc.), that corresponds to a number in the Dates/Collection/Owner area. Sometimes it is appropriate to include a general unnumbered note that applies to the provenance as a whole. Details and examples of unnumbered notes are given in points 10 and 11.

3. **Citations.** Bibliographic citations will follow a standard format which is still in process. For now, use a standard format as seen below in the examples.

Examples

[1] See "List of objects belonging to C. T. Loo, New York ... on approval at the Freer Gallery of Art," dated November 23, 1931, copy in object file. An annotation on the list states that the box was returned to C. T. Loo on December 28, 1931. On December 23, 1933, it was offered again for sale by Loo and was brought to the Freer Gallery for examination. See "List of objects owned by C. T. Loo and [left by him] at the Gallery for examination on December 23, 1933," copy in object file.

[2] Huang Jun, *Guyu tulu chuji* (Illustrated Catalogue of Ancient Jades, First Collection) vol. 1 (Beijing: Zunguzhai, 1939), pp. 6a-b (ill.). The inscribed box cover published on p. 6b states that the jade had been acquired recently by Baichuan (a sobriquet for Huang Jun); the text was written by Yuan Lizhun (1875-1936).

Citing Auction Catalogs. Follow the example below:

Example:

[1] See Paul Graupe, Berlin, *Die Bestände der Firma Dr. Otto Burchard & Co., Berlin in Liquidation: Chinesische Kunst: I. Teil*, sale cat. (Berlin: Paul Graupe, March 22-23, 1935), p. 39, lot 275, pl. 26. Dr. Otto Burchard & Co., a gallery devoted to Chinese art, was founded by Otto Burchard (1892-1965) in Berlin in 1927 as a part of the Margraf Concern, an art trade firm based in Berlin. In 1929, the Margraf Concern was acquired by Jakob and Rosa Oppenheimer. See Patrizia Jirka-Schmitz, "Otto Burchard (1892-1965), Von Finanz-Dada zum Grandseigneur des Pekinger Kunsthandels," *Mitteilungen Deutsche Gesellschaft für Ostasiatische Kunst* 12, 2 (July 1995), p. 28, note 24.

4. **Citing the Museum's ownership.** Reference the Freer or Sackler's acquisition of a work by citing:
- a. the name and date of the document that transferred ownership, such as an invoice, bill of sale, deed of gift, or will (if one exists)

Examples:

[1] See C. T. Loo's invoice, dated February 3, 1939, copy in object file. The object is dated in the invoice to late Chou dynasty, 5th century B.C.

[2] See C. T. Loo's invoice dated March 3, 1936, copy in object file. See also C. T. Loo's stockcard no. 85116, Frank Caro Archive, Institute of Fine Arts, New York University, copy in object file.

5. **Citing documents in the Museum's document files.** When citing documents (invoices, correspondence, staff memos, conservation reports, etc.) from the Museum's Object files, do not specify closed or open files. Simply describe the document, followed by "copy in object file". For letters and invoices, always give the sender and the date. If the letter or invoice recipient is someone at the Museum, it is not necessary to include the recipient's name. If the letter or invoice recipient is someone outside the Museum, include the recipient's name.

Examples:

[1] See "List of objects owned by C. T. Loo, New York and [sent to] the Gallery for examination," with annotation that the object was received from Paris on May 16, 1935, copy in object file.

[2] See C.T. Loo's invoice, dated April 30, 1936 and approved on June 1, 1936, copy in object file. See also C.T. Loo's stockcard no. S 16 where the object figures as "Peony shaped cup, Kuan Yao," Frank Caro Archive, Institute of Fine Arts, New York University, copy in object file.

[3] See C. T. Loo's letter to John E. Lodge, dated February 12, 1937, where the bronze is mentioned as being sent to the Freer Gallery, copy in object file.

It is not necessary to include “copy in object file” when citing published references that are available to any researcher through most public libraries. Include “copy in object file” only if the copy in the document file is especially rare or uniquely annotated.

6. **Citing conversations.** When citing a conversation you have had, compose a note about the conversation, and cite that note in the provenance reference (also add the note to the Object file). Both on the note and within the citation, include the date of the conversation and the names of the people involved.

Example:

[9] According to Kay Robertson, daughter of Adolph Loewi, Loewi had joint ownership of the painting with Rudolf Heinemann, who was his partner and worked closely with him...[notes of telephone conversation between Kay Robertson and Museum researcher Beth Hinrichs, August 2002, copy in object file].

7. **Citing archives.** When citing a document from an archival collection, include the name of the item, date of the item, and the name and location of the depository. If applicable, also include the name of the collection and series or file name. If the document is from an archive outside of the Museum, and there is a photocopy of the document in the object file, indicate this at the end of the citation.

Example:

[2] See C.T. Loo's invoice, dated April 30, 1936 and approved on June 1, 1936, copy in object file. See also C.T. Loo's stockcard no. S 16 where the object figures as "Peony shaped cup, Kuan Yao," Frank Caro Archive, Institute of Fine Arts, New York University, copy in object file.

If citing a document from the Freer Gallery of Art's archives, it is not necessary to include the location of the archives.

Example:

[2] See Original Whistler List, Etchings, Freer Gallery of Art and Arthur M. Sackler Archives.

8. **Repeating references to the same information.** If a note references information (including sources) provided in an earlier note, use *See note [x]* to reference the earlier note. If what is being referenced is unclear, either give an explanation or use an abbreviated citation (see point 9).

Example:

[1] According to information provided by Zhang Naiji to John E. Lodge at the time of acquisition, see J. E. Lodge's note, 1939, in object file.

[2] See note 1. See also “List of objects contemplated for purchase by Freer Gallery of Art,” approved on February 1, 1939, Freer Gallery Purchase List file, copy in object file.

[3] See “List of objects contemplated for purchase by Freer Gallery of Art,” cited in note 2.

9. **Abbreviated Citations.** Once a full citation has been given, and *See note [x]* does not clarify which source is being referenced, abbreviate the citation in subsequent notes. In most cases, author’s last name and page number suffice.

Example:

[1] According to Jörg Trübner, *Yu und Kuang: Zur Typologie der Chinesischen Bronzen* (Leipzig, Klinkhardt & Biermann Verlag, 1929), p. 28.

[2] See Trübner 1929, p. 28.

10. **General note: single main source.** When the majority of the provenance comes from one source such as a catalogue raisonné, the first note should be an unnumbered note which explains this and cites the source. If other sources are used to support the provenance, indicate this with the phrase *Exceptions and other supporting documents are noted*. Cite these documents in subsequent notes.

Notes:

The main source for this provenance is Jörg Trübner, *Yu und Kuang: Zur Typologie der Chinesischen Bronzen* (Leipzig, Klinkhardt & Biermann Verlag, 1929), p. 28. Exceptions and other supporting documents are noted.

D. Disclaimers

The following Disclaimer has been approved by the Smithsonian Institution to be utilized on the Freer + Sackler Provenance Website:

The information presented on this website may be revised and updated at any time as ongoing research progresses or as otherwise warranted. Pending any such revisions and updates, information on this site may be incomplete or inaccurate or contain typographical errors. Neither the Smithsonian nor its officers, employees, or agents make any representations about the accuracy, reliability, completeness, or timeliness of this site or information on the site. The use of this site and the information provided on it are subject to your own judgment. The Freer Gallery of Art and Arthur M. Sackler Gallery welcome information that would augment or clarify the ownership history of objects in their collections.

III. Prices

After a survey of various other museum policies regarding the disclosure of prices, the Freer and Sackler Galleries have decided at this time not to disclose any prices in the provenance displays.

Appendices

[Appendix A](#): Washington Conference Principles on Nazi-Confiscated Art (1998)

[Appendix B](#): American Association of Museums *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, Approved, November 1999, Amended, April 2001

[Appendix C](#): Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945) (June 4, 1998)

[Appendix D](#): Smithsonian Institution *SD 600 Implementation Manual*

[Appendix E](#): AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era

[Appendix F](#): AAMD Guidelines for Acquisition of Archaeological Material and Ancient Art

[Appendix G](#): Looted Art Bibliography

Appendix A

Washington Conference Principles on Nazi-Confiscated Art (1998)

Washington Conference Principles on Nazi-Confiscated Art
Released in connection with the Washington Conference on Holocaust-Era Assets,
Washington, DC, December 3, 1998

In developing a consensus on non-binding principles to assist in resolving issues relating to Nazi-confiscated art, the Conference recognizes that among participating nations there are differing legal systems and that countries act within the context of their own laws.

- I.** Art that had been confiscated by the Nazis and not subsequently restituted should be identified.
- II.** Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives.
- III.** Resources and personnel should be made available to facilitate the identification of all art that had been confiscated by the Nazis and not subsequently restituted.
- IV.** In establishing that a work of art had been confiscated by the Nazis and not subsequently restituted, consideration should be given to unavoidable gaps or ambiguities in the provenance in light of the passage of time and the circumstances of the Holocaust era.
- V.** Every effort should be made to publicize art that is found to have been confiscated by the Nazis and not subsequently restituted in order to locate its pre-War owners or their heirs.
- VI.** Efforts should be made to establish a central registry of such information.
- VII.** Pre-War owners and their heirs should be encouraged to come forward and make known their claims to art that was confiscated by the Nazis and not subsequently restituted.
- VIII.** If the pre-War owners of art that is found to have been confiscated by the Nazis and not subsequently restituted, or their heirs, can be identified, steps should be taken expeditiously to achieve a just and fair solution, recognizing this may vary according to the facts and circumstances surrounding a specific case.
- IX.** If the pre-War owners of art that is found to have been confiscated by the Nazis, or their heirs, can not be identified, steps should be taken expeditiously to achieve a just and fair solution.
- X.** Commissions or other bodies established to identify art that was confiscated by the Nazis and to assist in addressing ownership issues should have a balanced membership.
- XI.** Nations are encouraged to develop national processes to implement these principles, particularly as they relate to alternative dispute resolution mechanisms for resolving ownership issues.

Appendix B

AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era,

Approved, November 1999, Amended, April 2001, AAM Board of Directors

Introduction

From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens, victims of the Holocaust, public and private museums and galleries, and religious, educational and other institutions.

In recent years, public awareness of the extent and significance of Nazi looting of cultural property has grown significantly. The American museum community, the American Association of Museums (AAM), and the U.S. National Committee of the International Council of Museums (AAM/ICOM) are committed to continually identifying and implementing the highest standard of legal and ethical practices. AAM recognizes that the atrocities of the Nazi era demand that it specifically address this topic in an effort to guide American museums as they strive to achieve excellence in ethical museum practice.

The AAM Board of Directors and the AAM/ICOM Board formed a joint working group in January 1999 to study issues of cultural property and to make recommendations to the boards for action. The report that resulted from the initial meeting of the Joint Working Group on Cultural Property included the recommendation that AAM and AAM/ICOM offer guidance to assist museums in addressing the problems of objects that were unlawfully appropriated during the Nazi era without subsequent restitution (i.e., return of the object or payment of compensation to the object's original owner or legal successor).

The efforts of the Working Group were greatly informed by the important work on the topic that had gone before. In particular, three documents served as a starting point for the AAM guidelines, and portions of them have been incorporated into this document. These include: *Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)*; *ICOM Recommendations Concerning the Return of Works of Art Belonging to Jewish Owners*; and *Washington Conference Principles on Nazi-Appropriated Art* (released in connection with the Washington Conference on Holocaust-Era Assets co-hosted by the U.S. Department of State and the United States Holocaust Memorial Museum).

The Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created in June 1998 to study and report to the President on issues relating to Holocaust victims' assets in the United States. AAM and the Association of Art Museum Directors (AAMD) worked with the PCHA to establish a standard for disclosure of collections information to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums. In January 2001, the PCHA issued its final report, which incorporated the agreed standard for disclosure and recommended the creation of a searchable central registry of the information museums disclose in accordance with the new standard. AAM and AAMD agreed to support this recommendation, and these guidelines have been amended to reflect the agreed standard for disclosure of information.

Finally, AAM and AAM/ICOM acknowledge the tremendous efforts that were made by the Allied forces and governments following World War II to return objects to their countries of origin and to original owners. Much of the cultural property that was unlawfully appropriated was recovered and returned, or owners received compensation. AAM and AAM/ICOM take pride in the fact that members of the American museum community are widely recognized to have been instrumental in the success of the post-war restitution effort. Today, the responsibility of the museum community is to strive to identify any material for which restitution was never made.

General Principles

AAM, AAM/ICOM, and the American museum community are committed to continually identifying and achieving the highest standard of legal and ethical collections stewardship practices. The AAM Code of Ethics for Museums states that the "stewardship of collections entails the highest public trust and carries with it the presumption of rightful ownership, permanence, care, documentation, accessibility, and responsible disposal."

When faced with the possibility that an object in a museum's custody might have been unlawfully appropriated as part of the abhorrent practices of the Nazi regime, the museum's responsibility to practice ethical stewardship is paramount. Museums should develop and implement policies and practices that address this issue in accordance with these guidelines.

These guidelines are intended to assist museums in addressing issues relating to objects that may have been unlawfully appropriated during the Nazi era (1933-1945) as a result of actions in furtherance of the Holocaust or that were taken by the Nazis or their collaborators. For the purposes of these guidelines, objects that were acquired through theft, confiscation, coercive transfer, or other methods of wrongful expropriation may be considered to have been unlawfully appropriated, depending on the specific circumstances.

In order to aid in the identification and discovery of unlawfully appropriated objects that may be in the custody of museums, the PCHA, AAMD, and AAM have agreed that museums should strive to: (1) identify all objects in their collections that were created before 1946 and acquired by the museum after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"); (2) make currently available object and provenance (history of ownership) information on those objects accessible; and (3) give priority to continuing provenance research as resources allow. AAM, AAMD, and PCHA also agreed that the initial focus of research should be European paintings and Judaica.

Because of the Internet's global accessibility, museums are encouraged to expand online access to collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era without subsequent restitution.

AAM and AAM/ICOM acknowledge that during World War II and the years following the end of the war, much of the information needed to establish provenance and prove ownership was dispersed or lost. In determining whether an object may have been unlawfully appropriated without restitution, reasonable consideration should be given to gaps or ambiguities in provenance in light of the passage of time and the circumstances of the Holocaust era. AAM and AAM/ICOM support efforts to make archives and other resources more accessible and to establish databases that help track and organize information.

AAM urges museums to handle questions of provenance on a case-by-case basis in light of the complexity of this problem. Museums should work to produce information that will help to clarify the status of objects with an uncertain Nazi-era provenance. Where competing interests may arise, museums should strive to foster a climate of cooperation, reconciliation, and commonality of purpose.

AAM affirms that museums act in the public interest when acquiring, exhibiting, and studying objects. These guidelines are intended to facilitate the desire and ability of museums to act ethically and lawfully as stewards of the objects in their care, and should not be interpreted to place an undue burden on the ability of museums to achieve their missions.

Guidelines

1. Acquisitions

It is the position of AAM that museums should take all reasonable steps to resolve the Nazi-era provenance status of objects before acquiring them for their collections whether by purchase, gift, bequest, or exchange.

a) Standard research on objects being considered for acquisition should include a request that the sellers, donors, or estate executors offering an object provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed acquisition, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before acquiring it. Such research may involve consulting appropriate sources of information, including available records and outside databases that track information concerning unlawfully appropriated objects.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the acquisition. Currently available object and provenance information about any covered object should be made public as soon as practicable after the acquisition.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the donor, seller, or estate executor of the nature of the evidence and should not proceed with acquisition of the object until taking further action to resolve these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that under certain circumstances acquisition of objects with uncertain provenance may reveal further information about the object and may facilitate the possible resolution of its status. In such circumstances, the museum may choose to proceed with the acquisition after determining that it would be lawful, appropriate, and prudent and provided that currently available object and provenance information is made public as soon as practicable after the acquisition.

f) Museums should document their research into the Nazi-era provenance of acquisitions.

g) Consistent with current practice in the museum field, museums should publish, display, or otherwise make accessible recent gifts, bequests, and purchases, thereby making all acquisitions available for further research, examination, and public review and accountability.

2. Loans

It is the position of AAM that in their role as temporary custodians of objects on loan, museums should be aware of their ethical responsibility to consider the status of material they borrow as well as the possibility of claims being brought against a loaned object in their custody.

a) Standard research on objects being considered for incoming loan should include a request that lenders provide as much provenance information as they have available, with particular regard to the Nazi era.

b) Where the Nazi-era provenance is incomplete or uncertain for a proposed loan, the museum should consider what additional research would be prudent or necessary to resolve the Nazi-era provenance status of the object before borrowing it.

c) In the absence of evidence of unlawful appropriation without subsequent restitution, the museum may proceed with the loan.

d) If credible evidence of unlawful appropriation without subsequent restitution is discovered, the museum should notify the lender of the nature of the evidence and should not proceed with the loan until taking further action to clarify these issues. Depending on the circumstances of the particular case, prudent or necessary actions may include consulting with qualified legal counsel and notifying other interested parties of the museum's findings.

e) AAM acknowledges that in certain circumstances public exhibition of objects with uncertain provenance may reveal further information about the object and may facilitate the resolution of its status. In such circumstances, the museum may choose to proceed with the loan after determining that it would be lawful and prudent and provided that the available provenance about the object is made public.

f) Museums should document their research into the Nazi-era provenance of loans.

3. Existing Collections

It is the position of AAM that museums should make serious efforts to allocate time and funding to conduct research on covered objects in their collections whose provenance is incomplete or uncertain. Recognizing that resources available for the often lengthy and arduous process of provenance research are limited, museums should establish priorities, taking into consideration available resources and the nature of their collections.

Research

a) Museums should identify covered objects in their collections and make public currently available object and provenance information.

- b) Museums should review the covered objects in their collections to identify those whose characteristics or provenance suggest that research be conducted to determine whether they may have been unlawfully appropriated during the Nazi era without subsequent restitution.
- c) In undertaking provenance research, museums should search their own records thoroughly and, when necessary, contact established archives, databases, art dealers, auction houses, donors, scholars, and researchers who may be able to provide Nazi-era provenance information.
- d) Museums should incorporate Nazi-era provenance research into their standard research on collections.
- e) When seeking funds for applicable exhibition or public programs research, museums are encouraged to incorporate Nazi-era provenance research into their proposals. Depending on their particular circumstances, museums are also encouraged to pursue special funding to undertake Nazi-era provenance research.
- f) Museums should document their research into the Nazi-era provenance of objects in their collections.

Discovery of Evidence of Unlawfully Appropriated Objects

- g) If credible evidence of unlawful appropriation without subsequent restitution is discovered through research, the museum should take prudent and necessary steps to resolve the status of the object, in consultation with qualified legal counsel. Such steps should include making such information public and, if possible, notifying potential claimants.
- h) In the event that conclusive evidence of unlawful appropriation without subsequent restitution is found but no valid claim of ownership is made, the museum should take prudent and necessary steps to address the situation, in consultation with qualified legal counsel. These steps may include retaining the object in the collection or otherwise disposing of it.
- i) AAM acknowledges that retaining an unclaimed object that may have been unlawfully appropriated without subsequent restitution allows a museum to continue to care for, research, and exhibit the object for the benefit of the widest possible audience and provides the opportunity to inform the public about the object's history. If the museum retains such an object in its collection, it should acknowledge the object's history on labels and publications.

4. Claims of Ownership

It is the position of AAM that museums should address claims of ownership asserted in connection with objects in their custody openly, seriously, responsively, and with respect for the dignity of all parties involved. Each claim should be considered on its own merits.

- a) Museums should review promptly and thoroughly a claim that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution.
- b) In addition to conducting their own research, museums should request evidence of ownership from the claimant in order to assist in determining the provenance of the object.
- c) If a museum determines that an object in its collection was unlawfully appropriated during the Nazi era without subsequent restitution, the museum should seek to resolve the matter with the claimant in an equitable, appropriate, and mutually agreeable manner.
- d) If a museum receives a claim that a borrowed object in its custody was unlawfully appropriated without subsequent restitution, it should promptly notify the lender and should comply with its legal obligations as temporary custodian of the object in consultation with qualified legal counsel.
- e) When appropriate and reasonably practical, museums should seek methods other than litigation (such as mediation) to resolve claims that an object was unlawfully appropriated during the Nazi era without subsequent restitution.
- f) AAM acknowledges that in order to achieve an equitable and appropriate resolution of claims, museums may elect to waive certain available defenses.

5. Fiduciary Obligations

Museums affirm that they hold their collections in the public trust when undertaking the activities listed above. Their stewardship duties and their responsibilities to the public they serve require that any decision to acquire, borrow, or dispose of objects be taken only after the completion of appropriate steps and careful consideration.

- a) Toward this end, museums should develop policies and practices to address the issues discussed in these guidelines.
- b) Museums should be prepared to respond appropriately and promptly to public and media inquiries.

Commitment of AAM

As part of its commitment to identifying and disseminating best practices, AAM will allocate resources:

- a) to disseminate these guidelines widely and frequently along with references to other guidelines, principles, and statements that exist on the topic
- b) to track the activity and purpose of the relevant databases and other resources and to compile bibliographies for dissemination to the United States museum community
- c) to collect examples of best practices and policies on Nazi-era provenance research and claims resolution from the museum field, both in the United States and abroad, as guidelines for other museums
- d) to make the above information available to the museum community through reports, conference sessions, and other appropriate mechanisms
- e) to assist in the development of recommended procedures for object and provenance information disclosure
- f) to provide electronic links from AAM's Web site to other resources for provenance research and investigate the feasibility of developing an Internet tool to allow researchers easier access to object and provenance information about covered objects in museum collections.
- g) to encourage funding of Nazi-era provenance research.

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Appendix C

Association of Art Museum Directors

Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)

June 4, 1998

AAMD Statement of Purpose: "The purpose of the AAMD is to aid its members in establishing and maintaining the highest professional standards for themselves and the museums they represent, thereby exerting leadership in increasing the contribution of art museums to society."

I. Statement of Principles

- A. AAMD recognizes and deplors the unlawful confiscation of art that constituted one of the many horrors of the Holocaust and World War II.
- B. American museums are proud of the role they, and members of their staffs, played during and after World War II, assisting with the preservation and restitution of hundreds of thousands of works of art through the U.S. Military's Monuments, Fine Arts and Archives section.
- C. AAMD reaffirms the commitment of its members to weigh, promptly and thoroughly, claims of title to specific works in their collections.
- D. AAMD urges the prompt creation of mechanisms to coordinate full access to all documentation concerning this spoliation of art, especially newly available information. To this end, the AAMD encourages the creation of databases by third parties, essential to research in this area, which will aid in the identification of any works of art which were unlawfully confiscated and which of these were restituted. Such an effort will complement long-standing American museum policy of exhibiting, publishing and researching works of art in museum collections in order to make them widely available to scholars and to the general public. (See III. below.)
- E. AAMD endorses a process of reviewing, reporting, and researching the issue of unlawfully confiscated art which respects the dignity of all parties and the complexity of the issue. Each claim presents a unique situation which must be thoroughly reviewed on a case-by-case basis.

II. Guidelines

AAMD has developed the following guidelines to assist museums in resolving claims, reconciling the interests of individuals who were dispossessed of works of art or their heirs together with the fiduciary and legal obligations and responsibilities of art museums and their trustees to the public for whom they hold works of art in trust.

A. Research Regarding Existing Collections

1. As part of the standard research on each work of art in their collections, members of the AAMD, if they have not already done so, should begin immediately to review the provenance of works in their collections to attempt to ascertain whether any were unlawfully confiscated during the Nazi/World War II era and never restituted.
2. Member museums should search their own records thoroughly and, in addition, should take all reasonable steps to contact established archives, databases, art dealers, auction houses, donors, art historians and other scholars and researchers who may be able to provide Nazi/World-War-II-era provenance information.

3. AAMD recognizes that research regarding Nazi/World-War-II-era provenance may take years to complete, may be inconclusive and may require additional funding. The AAMD Art Issues Committee will address the matter of such research and how to facilitate it.

B. Future Gifts, Bequests, and Purchases

1. As part of the standard research on each work of art:

(a) member museums should ask donors of works of art (or executors in the case of bequests) to provide as much provenance information as possible with regard to the Nazi/World War II era and

(b) member museums should ask sellers of works of art to provide as much provenance information as possible with regard to the Nazi/World War II era.

2. Where the Nazi/World-War-II-era provenance is incomplete for a gift, bequest, or purchase, the museum should search available records and consult appropriate databases of unlawfully confiscated art (see III below).

(a) In the absence of evidence of unlawful confiscation, the work is presumed not to have been confiscated and the acquisition may proceed.

(b) If there is evidence of unlawful confiscation, and there is no evidence of restitution, the museum should not proceed to acquire the object and should take appropriate further action.

3. Consistent with current museum practice, member museums should publish, display or otherwise make accessible all recent gifts, bequests, and purchases thereby making them available for further research, examination and study.

4. When purchasing works of art, museums should seek representations and warranties from the seller that the seller has valid title and that the work of art is free from any claims.

C. Access to Museum Records

1. Member museums should facilitate access to the Nazi/World-War-II-era provenance information of all works of art in their collections.

2. Although a linked database of all museum holdings throughout the United States does not exist at this time, individual museums are establishing web sites with collections information and others are making their holdings accessible through printed publications or archives. AAMD is exploring the linkage of existing sites which contain collection information so as to assist research.

D. Discovery of Unlawfully Confiscated Works of Art

1. If a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should make such information public.

2. In the event that a legitimate claimant comes forward, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.

3. In the event that no legitimate claimant comes forward, the museum should acknowledge the history of the work of art on labels and publications referring to such a work.

E. Response to Claims Against the Museum

1. If a member museum receives a claim against a work of art in its collection related to an illegal confiscation during the Nazi/World War II era, it should seek to review such a claim promptly and thoroughly. The museum should request evidence of ownership from the claimant in order to assist in determining the provenance of the work of art.
2. If after working with the claimant to determine the provenance, a member museum should determine that a work of art in its collection was illegally confiscated during the Nazi/World War II era and not restituted, the museum should offer to resolve the matter in an equitable, appropriate, and mutually agreeable manner.
3. AAMD recommends that member museums consider using mediation wherever reasonably practical to help resolve claims regarding art illegally confiscated during the Nazi/World War II era and not restituted.

F. Incoming Loans

1. In preparing for exhibitions, member museums should endeavor to review provenance information regarding incoming loans.
2. Member museums should not borrow works of art known to have been illegally confiscated during the Nazi/World War II era and not restituted unless the matter has been otherwise resolved (e.g., II.D.3 above).

III. Database Recommendations

A. As stated in I.D. (above), AAMD encourages the creation of databases by third parties, essential to research in this area. AAMD recommends that the databases being formed include the following information (not necessarily all in a single database):

1. claims and claimants
2. works of art illegally confiscated during the Nazi/World War II era
3. works of art later restituted

B. AAMD suggests that the entity or entities creating databases establish professional advisory boards that could provide insight on the needs of various users of the database. AAMD encourages member museums to participate in the work of such boards.

April 30, 2001

Addendum to the Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)

The Presidential Advisory Commission on Holocaust Assets in the United States has issued a report dated December 15, 2000. The Commission found that museums are committed to continuing provenance research on works in their collections and to disseminating the information obtained.

Specifically, the Commission acknowledged the commitment of the American museum community that (1) works created before 1946, transferred after 1932 and before 1946, and which were or could have been in continental Europe during that period will be identified and disclosed and all provenance information in the possession of museums regarding those works be disclosed; (2) such provenance information will be disclosed, even where there are no known gaps; and (3) provenance research by museums will be a continuing process with additional information disclosed as it becomes known.

The Commission recognized that provenance research is difficult, expensive and time-

consuming, often involving access to records that are hard or impossible to obtain, and that most museums lack the resources to accomplish this.

The Commission further found that the museum community has begun to develop tools to achieve full disclosure and will participate in the process of creating a searchable central registry of Nazi/World War II Era cultural property held by American museums, beginning with European paintings and Judaica.

Consistent with the report of the Commission, the Task Force issues the following addendum to its June 1998 report:

It should be the goal of member museums to make full disclosure of the results of their ongoing provenance research on those works of art in their collections created before 1946, transferred after 1932 and before 1946, and which were or could have been in continental Europe during that period, giving priority to European paintings and Judaica.

Appendix D

Smithsonian Institution SD 600 Implementation Manual

[pages 23-1-5]

CHAPTER 23

SPECIFIC LEGAL AND ETHICAL ISSUES

Certain types of collections present specific issues because of applicable legal and ethical standards. Collecting units that acquire, hold, or manage collections of these types must take these legal and ethical issues into account, including incorporating appropriate standards in the collecting unit collections management policy.

UNLAWFUL APPROPRIATION OF OBJECTS DURING THE NAZI ERA

The American and international museum communities have issued guidelines for museums to assist museums in addressing concerns associated with possible Nazi-appropriated objects.

- The Smithsonian adheres to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, issued by the American Association of Museums in November 1999 (AAM Guidelines), and, where applicable, the *Report of the Association of Art Museum Directors Task Force on the Spoliation of Art during the Nazi/World War II Era*, issued in June 1998 (AAMD Guidelines).

23.1 Principles

- a. From the time it came into power in 1933 through the end of World War II in 1945, the Nazi regime orchestrated a system of theft, confiscation, coercive transfer, looting, pillage, and destruction of objects of art and other cultural property in Europe on a massive and unprecedented scale. Millions of such objects were unlawfully and often forcibly taken from their rightful owners, who included private citizens; victims of the Holocaust; public and private museums and galleries; and religious, educational, and other institutions. Some of these objects ultimately were transferred, in good faith and without knowledge of their prior unlawful appropriation, through the legitimate market and may have been acquired by museums. It is now recognized that extensive postwar efforts to return unlawfully seized objects to their rightful owners did not lead to a complete and comprehensive restoration. In light of this, museums in the U.S. and abroad have begun examining their collections to clarify the provenance of objects that were, or could have been, in Europe during the Nazi era.
- b. Beginning in 1998, the Association of Art Museum Directors (AAMD) and the American Association of Museums (AAM) issued guidelines for museums concerning objects that may have been unlawfully appropriated during the Nazi era. AAMD and AAM, in an agreement reached with the Presidential Commission for Holocaust Assets (PCHA) in October 2000, further recommended that museums make all currently available information about certain objects accessible to online research. Under these recommendations, museums should identify works in their collections that were created before 1946 and acquired after 1932, that underwent change of ownership during the Nazi Era (1933-

1945), and that were or might reasonably be thought to have been in continental Europe between those dates.

- c. The Smithsonian adheres to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*, issued by the American Association of Museums in November 1999 (AAM Guidelines), and, where applicable, the *Report of the Association of Art Museum Directors Task Force on the Spoliation of Art during the Nazi/World War II Era*, issued in June 1998 (AAMD Guidelines). The text of these documents is included below.

23.2 Policy

- a. The Smithsonian shall not knowingly acquire collection items that were unlawfully appropriated during the Nazi era without subsequent restitution.
- b. If the Smithsonian has acquired in good faith a collection item that is subsequently determined to have been unlawfully appropriated during the Nazi era without restitution, the Smithsonian will take prudent and necessary steps to resolve the status of the collection item.
- c. The Under Secretary for Art will coordinate compliance with the AAM and AAMD guidelines and the application of Smithsonian policy on Naziappropriated objects.
- d. Each collecting unit shall apply the applicable provisions of the AAM and AAMD guidelines specified above to its collections management activities.

23.3 Collecting Unit Policies

Each collecting unit shall:

- a. establish authority and assign responsibility to approve, document, and ensure compliance with Smithsonian policy on Nazi-appropriated objects and applicable guidelines.
- b. designate a unit contact for inquires on provenance for collection items in the collecting unit.
- c. incorporate applicable guidelines concerning Nazi-appropriated objects as set in this Implementation Manual.

23.4 General Guidelines

23.4.1 Applicability

Smithsonian collections are very diverse in nature and subject matter, from works of art to zoological specimens, rare books to live animals, archival documents to spacecraft. As a result of this diversity and the nature of collections provenance for many collections, only a small percentage of Smithsonian collection holdings fall under the parameters of the AAM and AAMD guidelines concerning Nazi appropriated objects, including the added focus on European paintings and Judaica.

However, the Smithsonian will adhere to these professional guidelines where applicable.

23.4.2 Smithsonian Implementation

In adherence to the *Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era and Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era*, issued by the American Association of Museums, the Smithsonian will:

- a. Identify collection items in Smithsonian holdings that were created before 1946 and that it acquired after 1932, that underwent a change in ownership during the Nazi Era (1933-1945), and that were or might reasonably be thought to have been in continental Europe between those dates ('covered items').
- b. As a general rule, taking into account the diverse nature of Smithsonian collections, a collection item, created before 1946 and acquired after 1932, will be treated as a "covered item" if the collecting unit is unable to determine whether the item
 - might have been in continental Europe during the Nazi Era (1933-1945) and/or
 - underwent a change of ownership during that period.
- c. For practical and historic reasons initially focus its research on European paintings and Judaica. The term "Judaica" is most broadly defined by the AAM Guidelines as the material culture of the Jewish people. First and foremost, this includes ceremonial objects for communal or domestic use. In addition, Judaica comprises historical artifacts relating to important Jewish personalities, momentous events, and significant communal activities, as well as literature relating to Jews and Judaism.
- d. Make currently available collection and provenance information about covered items accessible online through the Smithsonian's website www.si.edu/research/provenance and the AAM Nazi Era Provenance Internet Portal <http://www.nepip.org>. The National Collections Program is responsible for the Smithsonian's website about covered items including creating and managing the Smithsonian's account on the AAM Internet Portal.
- e. Give priority to continuing provenance research of existing collections as resources allow. Provenance research should be incorporated into ongoing research of collections.
- f. Undertake a reasonable inquiry into the provenance of collection items under consideration for acquisition and loan.
- g. Make a prudent review and respond to any claim that a collection item in its collections was unlawfully appropriated during the Nazi era without subsequent restitution based on a fair evaluation of established facts, the applicable laws, and accepted ethical standards.
- h. The Smithsonian Institution recognizes the importance of this issue and is committed to following the directives of the AAMD and the AAM. To this end, the Smithsonian collecting units are working to identify objects in their collections that

fall under the scope of the AAMD and AAM guidelines. In accordance with the guidelines, priority in research has been given to European paintings and Judaica, with ancillary emphasis on sculpture produced before 1946.

23.4.3 Smithsonian Provenance Website

The initial results of the Smithsonian's provenance research are presented on its website www.si.edu/research/provenance, which lists works that meet the criteria of the guidelines. Inclusion on this list in no way signifies that a collection item has an uncertain provenance or was unlawfully appropriated during the Nazi era. Indeed, many of the collection items are well documented, with no gaps in ownership or questionable transfers during the time period in question. Even where there are gaps, this is not in itself a cause for concern. Incomplete provenance for any type of work of any period or origin is more often the rule rather than the exception. At this time, the Smithsonian has no reason to believe that any of the collection items included on this list were appropriated during the Nazi Era.

The Smithsonian Provenance website represents a work in progress. Its goal is to make known information about collection items available to the public and to acquire further information where possible. Currently available information about collection items is being presented now, and changes will be posted as more information is uncovered, including the addition of collection items deemed to fall under the project's scope or the removal of those that research reveals do not.

The website will be updated both through automated and manual means, as software coding and database access permits. The designated collecting unit staff (see above) must alert the National Collections Program of changes to information or status of collection items included on the Provenance website and AAM Nazi-Era Provenance Internet Portal. Designees will have password protected access to the data in the Smithsonian Provenance database. However, the National Collections Program will have final responsibility for inclusion or deletion of collection items on the Smithsonian Provenance website and AAM Nazi-Era Provenance Internet Portal.

23.4.4 Procedures for Response to Nazi Era Provenance Inquiries

Collecting units must follow the procedures for response to Nazi Era provenance inquiries outlined below:

a. General Inquires and Comments

1. General inquiries about the SI Provenance website or Smithsonian policy on researching Nazi Era provenance will be directed to the National Collections Program (provenance@si.edu).
2. General inquiries or comments about specific collection items will be directed to the appropriate collecting unit curator or registrar designated by the collecting unit when no claim or potential claim is involved.

b. Inquiries and Comments that Involve or Potentially Involve a Claim

1. Inform and copy the director of the respective collecting unit, and inform the National Collections Program; Office of the General Counsel; and the cognizant Under Secretary of any inquiries that involve or potentially involve a claim.
2. The cognizant Under Secretary will inform the Secretary of the claim.

3. The Office of the General Counsel will promptly acknowledge receipt of the claim and inform the claimant what steps are being taken. Further information from the claimant may be requested.
4. Collecting unit staff, the Office of the General Counsel, and the National Collections Program will conduct research of the collection item in question to assist in determining the Smithsonian's appropriate response.
5. All communications with the claimant or claimant's attorney will be through, or approved by, the Office of the General Counsel. The OGC will keep the cognizant Under Secretary and the collecting unit director informed of the progress of the claim.
6. The cognizant Under Secretary will coordinate participation of central offices such as the Smithsonian Office of Public Affairs or Office of Government Relations as necessary.
7. All information concerning a claim or potential claim will be held in confidence until the Smithsonian has made a public comment on the claim.

[The remaining material in this document already appears in the Appendices: *AAM Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era*; *AAM Recommended Procedures for Providing Information to the Public about Objects in Europe during the Nazi Era*; *Report of the Association of Art Museum Directors (AAMD) Task Force on the Spoliation of Art during the Nazi/World War II Era (1933-1945)*.]

Appendix E

AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era

Introduction

These recommended procedures have been formulated by the American Association of Museums (AAM) pursuant to an agreement reached in October 2000 between AAM, the Association of Art Museum Directors (AAMD), and the Presidential Advisory Commission on Holocaust Assets in the United States (PCHA). The PCHA was created in June 1998 to study and report to the President on issues relating to Holocaust victims' assets in the United States.

Provisions of the Agreement

Under this agreement the parties concurred (a) on the desirability of expanded online access to museum collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era, (b) on the need to identify the categories of objects for which this information should be made available, and (c) toward those ends, that every museum should:

- 1) Identify all objects in its collection that were created before 1946 and that it acquired after 1932, that underwent a change of ownership between 1932 and 1946, and that were or might reasonably be thought to have been in continental Europe between those dates (hereafter, "covered objects"). In the event that a museum is unable to determine whether an object created before 1946 and acquired after 1932 (a) might have been in continental Europe between 1932 and 1946 and/or (b) underwent a change of ownership during that period, it should still be treated as a covered object;
- 2) Make currently available object and provenance (history of ownership) information about covered objects accessible online; and
- 3) Give priority to continuing provenance research on those objects as resources allow.

The parties also agreed on the creation of a search tool on the Internet that would assist claimants, claimants' advocates, and researchers in accessing information on covered objects in museum collections.

For practical and historic reasons, AAM, AAMD, and PCHA agreed that the initial focus of research and online postings should be on European paintings and Judaica¹. Other covered objects in collections should be dealt with in a similar manner as resources allow.

Previously, some museums had provided online information only about objects with an incomplete provenance or a provenance containing a problematic name. The agreement calls for a more inclusive approach that PCHA, AAM, and AAMD believe is the best way for museums to aid the discovery process.

Development of Recommended Procedures

In December 2000, AAM convened a task force of museum professionals and other experts to advise staff on developing procedures for posting object and provenance information on museum Web sites and to consider mechanisms for making this information accessible from a single Internet site. The task force also addressed the issue of access to such information from museums without online collection information.

The task force identified 20 categories of information about covered objects that museums should compile and make available. Any additional information a museum is able to make available could further assist the process of discovery. The task force also developed the concept of a Nazi-era Provenance Internet Portal to assist users in conducting searches.

AAM views these procedures as consonant with the fundamental mission of museums to document and publish their collections and recognizes that, because of the Internet's global reach, posting collection information online should be a goal. Museums are encouraged to construct online searchable databases in which the posting of information about covered objects should be a priority.

Recommended Procedures

1. Making Object and Provenance Information for Covered Objects Accessible

The following 20 categories of object and provenance information are key for aiding potential claimants in identifying or ruling out a specific object. Museums should make this information accessible, organizing it according to their own standards. Museums should also include an explanation of how to interpret their provenance listings.

Museums should identify objects that fit the definition of Judaica contained in this document even if such objects have not been classified as Judaica in their databases.

Museums should provide currently available information immediately, adding to it as time allows.

Category	Comments
Artist/Maker	To include artists' names, alternate names, and previous attributions.
Nationality of Artist/Maker	---
Life Dates of Artist/Maker	---
Place or Culture of Object	Only if artist unknown.
Object Title or Name	To include alternate titles.
Date of Work	To include approximate date, if specific date is unknown.
Medium/Materials	---
Measurements	---
Date of Acquisition	---
Accession Number	---
Object Type	Painting, sculpture, decorative arts, etc/
Subject Type	Landscape, portrait, mythological subject, historical, religious, genre, Judaica, etc.
Signature and Marks (obverse)	To include signatures, inscriptions, and marks; for paintings, what appears on the front
Labels and Marks (reverse, frame, mount, etc.)	To describe marks and labels (prior to 1960) on the reverse of an object (including frame, mount, etc.). Indicate if images are available.
Description	To contain description of object (its content, subject, etc.). Museums should make this a priority.
Provenance	To contain, at the minimum, known owners, dates of ownership, places of ownership, method of transfer (sale, gift, descent, etc.). To include if known lot numbers sale prices buyers etc To

	include information on unlawful appropriation during the Nazi era and subsequent restitution. Museums should ensure that provenance information is understandable and organized chronologically.
Exhibition History	---
Bibliographic History	---
Other Relevant Information	To contain anything about the object that would be useful in identifying it for this purpose. If the object fits the definition of Judaica contained in this document, so state.
Image	An image is key to identifying an object. Museums should make every effort to include an image with their records.

2. Nazi-era Provenance Internet Portal

It is the view of AAM that museums should control the research, presentation, and maintenance of information about covered objects in their collections. This allows museums to organize their information according to their own standards and provide all relevant introductions, explanations, and avenues for inquiry.

In order to expedite searches for information about covered objects in museum collections, AAM will launch a search tool called the Nazi-era Provenance Internet Portal. The Portal initially will allow users to search by the artist/maker and the nationality of the artist/maker (or of the object if the artist is unknown). Additionally, users will be able to learn which museums contain covered Judaica. The Portal will provide the user with basic information contributed by museums about objects that fit the search criteria as well as links to further information controlled by those museums. The Portal ultimately will have the capacity to allow users to search on additional categories of information, such as object type and description of the object.

Museums should submit to AAM a set of descriptive data about covered objects in their collections. This information will constitute the registry. It will be the responsibility of the museum to update this information whenever there are changes, additions, or deletions.

a. Submitting Information to the Portal Registry

The information that the Portal will use to assist searchers will be housed in a database. It will contain, for each museum, basic contact and URL information (if applicable) and an indication as to whether the museum's collection contains any covered Judaica. An associated searchable object registry will house object descriptive information that will be provided by museums in phases. In the initial phase, this will be artist/maker, nationality of artist/maker, and culture/nationality, if artist is not known. In later phases museums will be asked to add title, object type, and searchable free-text descriptions. In addition, museums without online collection information will be asked to supply one [PDF file](#)² for each covered object. A link will be created from the object registry to the PDF file. Instructions for converting a document to Adobe PDF will be available from AAM.

Information about museums and their covered objects may be entered directly onto the Portal's Web site or submitted electronically. Whether a museum's registry records are linked to its Web site or to a PDF, the museum will receive a password giving access through AAM's Web site to the data it contributes. Museums will be responsible for updating and adding to these data. Instructions for submitting data to these tables will be available from AAM.

Museums should strive to provide the 20 categories of information listed above either in their online collection information or in their PDF files.

b. Searching the Portal

When a search is conducted, the Portal will return the registry information for all objects that match the search criteria and either: (a) links to the Web site of each museum where more information about these objects can be found or (b) links to each PDF file that contains more information about these objects.

AAM will employ an enhanced search facility developed by the Getty based on the Union List of Artist Names® to increase the precision and recall of searches on the artist name by accommodating various spellings and making the searcher aware of related artists and artists who share the same name.

Commitment of AAM

Because of the urgent need to create a search tool for covered objects, AAM has committed to developing and managing the Portal for three years. However, in recognition that a project of this technological complexity falls outside the range of AAM's customary activities and services, after three years AAM will seek to transfer the project to a more appropriate organization.

To address any issues that may arise regarding the Portal, AAM will establish an independent commission to guide this effort. This independent commission will be appointed by the AAM Board of Directors and will include museum professionals and experts from outside the museum field. Significantly for the museum community, claimants, and researchers, it is envisioned that the commission will continue when the portal is transferred to another organization.

For more information contact:

Erik Ledbetter
Senior Manager, International Programs
Email: eledbetter@aam-us.org
Phone: 202/289-9121

Surface mail:

American Association of Museums
1575 Eye St., NW, Suite 400
Washington, DC 20005

Endnotes

1) The term "Judaica" is most broadly defined as the material culture of the Jewish people. First and foremost this includes ceremonial objects for communal or domestic use. In addition, Judaica comprises historical artifacts relating to important Jewish personalities, momentous events, and significant communal activities, as well as literature relating to Jews and Judaism. Many museums also have acquired material of everyday life that expresses a uniquely Jewish identity.

2) Adobe® Portable Document Format (PDF) is a universal file format that preserves the appearance of any museum's source document, regardless of the application and platform used to create it. Adobe PDF files are compact and can be shared, viewed, navigated, and printed with Adobe Acrobat® Reader™ software, available on the Internet at no cost. More information can be found by visiting <http://www.adobe.com/products/acrobat/readermain.html>.

Appendix F

AAMD Guidelines for Acquisition of Archaeological Material and Ancient Art



To: Members of AAMD
 From: Dan L. Monroe, Chair, Art Issues Committee and Cultural Property Sub-Committee
 Date: Tuesday, May 27, 2008
 Subject: New Cultural Property Guidelines
 Cc.

Dear AAMD Members,

Enclosed you will find new proposed Guidelines for Acquisition of Archaeological Material and Ancient Art, an Introduction to the proposed Guidelines, Future Goals associated with the Guidelines, and Questions and Answers pertaining to the Guidelines. I strongly encourage you to carefully review this important material and not to share it with anyone until the vote is taken on June 3, 2008.

The Cultural Property Sub-Committee decided to create new Guidelines in response to the rapidly increasing complexity surrounding acquisition of archaeological materials and ancient art. After making this decision, the Sub-committee, working with Mr. Larry Langford, a facilitator selected by the Chair, considered and carefully developed the provisions embodied in the new Guidelines.

The Guidelines underscore the essential role of acquisitions of archaeological material and ancient art to the mission of art museums. These acquisitions benefit the public by enabling people to see and appreciate important works of art that reflect the extraordinary diversity and achievement of artistic expression across vast spans of time and boundaries of culture. Such acquisitions also assure that such works are preserved and accessible for further study and research.

The proposed Guidelines contain several new principles and procedures. To more closely align AAMD with elements of the international community of museums, the Guidelines recognize UNESCO's 1970 bright line as a pertinent threshold for the application of stringent research procedures to ascertain provenance. The Guidelines permit art museums to make informed judgments regarding acquisition of works that lack complete provenance, assuming the museum has fulfilled provenance research requirements. This provision recognizes the diversity of art museums and the primary role of administrative and governing bodies in making case-by-case decisions regarding complex matters.

The Guidelines also create a new standard of public transparency for acquisitions of archaeological material and ancient art that lack complete provenance. A new AAMD micro-site has been created with the assistance of the Indianapolis Museum of Art to make these acquisitions and associated information available to all.

The Cultural Property Sub-Committee, the Art Issues Committee, and the Board of

AAMD recommend these Guidelines to the members for adoption. A panel comprised of members of the Cultural Property Sub-Committee will join me in presenting the Guidelines and answering questions regarding them at the upcoming Detroit meeting. RSA and AAMD staff provided able support to this effort. Virtually every member of the Sub-Committee contributed to the development of these Guidelines. I thank each of them for their support and leadership.

Members of Cultural Property Sub-Committee

Max Anderson

Gail Andrews

Jim Ballinger

Graham Beal

Brent Benjamin

Michael Brand

Melissa Chiu

Sharon Cott

James Cuno

Philippe de Montebello

Brian Ferriso

Bill Griswold

Josh Knerly

Tom Lentz

Peter Marzio

Dan Monroe

Mary Sue Sweeney Price

Timothy Rub

Tom Seligman

Susan Taylor

Matthew Teitelbaum

Marc Wilson

AAMD 2008 Guidelines Introductory Text

With the release of new guidelines on the acquisition of archeological materials and ancient art, the Association of Art Museum Directors (AAMD) affirms the important role art museums play in providing their communities access to the world's ancient artistic heritage. To this end, these guidelines clarify the principles and standards for acquiring archaeological materials and ancient art and further strengthen AAMD's commitment to help protect and preserve archaeological resources worldwide.

AAMD's efforts predate by a decade the ratification by the U.S. Congress of legislation implementing the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. In 1973, AAMD passed a resolution urging that "Members cooperate with foreign countries to prevent illegal trafficking, particularly by refusing to acquire through purchase, gift or bequest cultural property exported in violation of the laws of the country of origin, as described in the new [UNESCO] convention." Numerous U.S. art museums subsequently developed acquisitions policies that reflected the spirit, and in some cases, the date of the UNESCO Convention.

In the years following that resolution, the evolution of US case law, international conventions, and ethical considerations rendered our initial resolution insufficient. In 2004 AAMD issued guidelines regarding future acquisition of antiquities. The heart of the document reinforced the need for transparency in acquisitions, the strict observance of U.S. law, and specific procedures to allow acquisitions to continue if, after due diligence, no information came to light that stood in the way of purchases, gifts, or bequests. AAMD's 2004 guidelines regarding the acquisition of archaeological materials and ancient art had the effect of dramatically reducing art museum acquisitions of such works. Nonetheless, AAMD determined it should refine, and in some important respects change, the 2004 guidelines to affirm more clearly and tangibly its commitment to helping protect and preserve archaeological resources worldwide and to strengthen the principles and standards used in making decisions regarding the acquisition of archeological materials and ancient art.

AAMD members believe strongly in the value of all works of art, including those lacking complete provenance or contextual information, to inform and enrich our knowledge and appreciation of artistic expression as a central part of human experience. AAMD also remains firm in its conviction that making important works of art accessible to the public, researchers, and scholars through acquisitions, loans, exhibition, publication, electronic media, and other means remains an essential part of the mission and role of art museums. AAMD equally affirms the value and importance of clearly supporting international efforts to stem loss or damage to archaeological resources.

In striving to build their collections responsibly for the benefit of their many constituencies, AAMD wishes to play an active role in seeking remedies to the challenges facing nations with significant archaeological heritage. While restricting ourselves in what we are prepared to acquire today, we simultaneously favor the expansion of legal markets for the sale of antiquities, to help reduce incentives for looting and illicit trafficking, and to further spread knowledge and appreciation of the ancient world.

**Report of the AAMD Task Force on the Acquisition of
Archaeological Materials and Ancient Art (revised 2008)**

**Approved by Art Issues Committee 4/10/08 and AAMD Board of Trustees 4/18/08
AAMD Mission Statement**

The purpose of the Association of Art Museum Directors is to support its members in increasing the contribution of art museums to society. The AAMD accomplishes this mission by establishing and maintaining the highest standards of professional practice; serving as a forum for the exchange of information and ideas to aid its members in their professional roles as art museum directors; acting as an advocate for art museums; and being a leader in shaping public discourse about the arts community and the role of art in society.

Preamble

The AAMD recognizes that the acquisition of archaeological materials and ancient art has in recent years become an increasingly complex task that requires the careful consideration of a number of different and, at times, seemingly contradictory goals. This report is intended to help its members understand the issues they will face when evaluating the purchase or acceptance of a gift of archaeological materials and ancient art and provides a framework for responsible decision-making in the development of their collections. Acknowledging that these subjects are interrelated, it also reaffirms the importance and the possibility of protecting archaeological sites as well as collecting archaeological materials and ancient art. This dual objective can only be accomplished through enhanced cooperation between source countries (i.e., countries of modern discovery of archaeological materials and ancient art) and museums that collect such works as well as the development of a mutual understanding and respect for the rights of these countries to protect their cultural property and those of museums whose work is to enhance – through collecting, research, and exhibition – knowledge and appreciation of the artistic achievements of the past.

I. Statement of Principles

A. AAMD is committed to the responsible acquisition, whether by purchase, gift, bequest or exchange, of archaeological materials and ancient art. AAMD believes that the artistic achievements of all civilizations should be represented in art museums, which, uniquely, offer the public the opportunity to encounter works of art directly, in the context of their own and other cultures, and where these works may educate, inspire and be enjoyed by all. The interests of the public are served by art museums around the world working to preserve, study and interpret our shared cultural heritage.

B. AAMD deplores the illicit and unscientific excavation of archaeological materials and ancient art from archaeological sites, the destruction or defacing of ancient monuments, and the theft of works of art from individuals, museums, or other repositories.

C. AAMD is committed to the principle that acquisitions be made according to the highest standards of ethical and professional practice and in accordance with applicable law and in such a way that they do not provide a direct and material incentive to looting.

D. AAMD is committed to the exercise of due diligence in the acquisition process, in particular in the research of proposed acquisitions, transparency in the policy applicable to acquisitions generally, and full and prompt disclosure following acquisition.

E. The November 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import and Export and Transfer of Ownership of Cultural

Property (the “UNESCO Convention”) began a new dialogue about the best ways to protect and preserve archaeological materials and ancient art, although regrettably the looting of sites, destruction of monuments and theft of objects continue to this day. The AAMD, along with others in the international community, including source countries, recognizes the date of the Convention, November 17, 1970 (“1970”), as providing the most pertinent threshold for the application of more rigorous standards to the acquisition of archaeological materials and ancient art as well as for the development of a unified set of expectations for museums, sellers and donors.

F. Recognizing that a complete recent ownership history may not be obtainable for all archaeological material and every work of ancient art, the AAMD believes that its member museums should have the right to exercise their institutional responsibility to make informed and defensible judgments about the appropriateness of acquiring such an object if, in their opinion, doing so would satisfy the requirements set forth in the Guidelines below and meet the highest standards of due diligence and transparency as articulated in this Statement of Principles.

G. AAMD reaffirms the value of licit markets for the legal sale and export of works of art as an effective means of deterring the illicit excavation and trafficking of archaeological materials and ancient art

H. AAMD encourages the creation of licit markets and strongly urges all nations to provide a legal method for the sale and export of art, thereby furthering the goal of deterring the illicit excavation and trafficking of archaeological materials and ancient art.

II. Guidelines

Since its founding in 1916, AAMD has regularly published professional guidelines. Given the increasingly complex set of ethical questions and rapidly evolving legal issues that need to be considered in the acquisition process, AAMD has developed the following guidelines to assist members in revising their acquisition policies. These guidelines apply to acquisitions of archaeological materials and ancient art by purchase, gift, bequest, or exchange.

A. Member museums should thoroughly research the ownership history of archaeological materials or works of ancient art (individually a “work”) prior to their acquisition, including making a rigorous effort to obtain accurate written documentation with respect to their history, including import and export documents.

B. When the work is being imported into the U.S. in connection with its acquisition by the member museum, import documentation should be obtained and compliance with the export laws of the country of immediate past export to the U.S. should be confirmed.

C. Member museums should require sellers, donors, and their representatives to provide all information of which they have knowledge, and documentation that they possess, related to the work being offered to the museum, as well as appropriate warranties.

D. Member museums must comply with all applicable local, state, and federal U.S. laws,²¹ most notably those governing ownership and title, import, and other issues pertinent to acquisition decisions.

E. Member museums normally should not acquire a work unless provenance research substantiates that the work was outside its country of probable modern discovery before 1970 or was legally exported from its probable country of modern discovery after 1970. The museum should promptly publish acquisitions of archaeological materials and ancient art, in print or electronic form, including in these publications an image of the

²¹ The reference to U.S. law means, for AAMD members outside of the U.S., the laws of their country.

work (or representative images in the case of groups of objects) and its provenance, thus making this information readily available to all interested parties.

F. The AAMD recognizes that even after the most extensive research, many works will lack a complete documented ownership history. In some instances, an informed judgment can indicate that the work was outside its probable country of modern discovery before 1970 or legally exported from its probable country of modern discovery after 1970, and therefore can be acquired. In other instances, the cumulative facts and circumstances resulting from provenance research, including, but not limited to, the independent exhibition and publication of the work, the length of time it has been on public display and its recent ownership history, allow a museum to make an informed judgment to acquire the work, consistent with the Statement of Principles above. In both instances, the museum must carefully balance the possible financial and reputational harm of taking such a step against the benefit of collecting, presenting, and preserving the work in trust for the educational benefit of present and future generations. The museum must prominently post on the AAMD website, to be established, an image and the information about the work as described in Section E above, and all facts relevant to the decision to acquire it, including its known provenance.

G. If a member museum, as a result of its continuing research, gains information that establishes another party's right to ownership of a work, the museum should bring this information to the attention of the party, and if the case warrants, initiate the return of the work to that party, as has been done in the past. In the event that a third party brings to the attention of a member museum information supporting the party's claim to a work, the museum should respond promptly and responsibly and take whatever steps are necessary to address this claim, including, if warranted, returning the work, as has been done in the past.

III. Acceptance of the Task Force Report

Member museum directors and others responsible for museum governance are urged to accept and be guided by this Task Force Report and to develop acquisition policies and guidelines for provenance research consistent with the Report.

The AAMD will endeavor to keep its members informed of legal developments relevant to these issues. Member museums may, however, need to seek legal advice with regard to specific acquisitions. AAMD members should share pertinent information about legal developments with their boards and staffs.

Appendix G

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