

## UNIVERSITY OF MANITOBA PROCEDURE

<b>Procedure:</b>	<b>ART COLLECTIONS</b>
<b>Parent Policy:</b>	Art Collections Policy
<b>Effective Date:</b>	March 20, 2012
<b>Revised Date:</b>	September 12, 2013
<b>Review Date:</b>	March 20, 2022
<b>Approving Body:</b>	Administration: President
<b>Authority:</b>	
<b>Responsible Executive Officer:</b>	Vice-President (Administration)
<b>Delegate:</b>	Comptroller
<b>Contact:</b>	Comptroller
<b>Application:</b>	Faculty and School

### Part I Reason for Procedure

- 1.1 To set out procedures secondary to the policy entitled “Art Collections” with respect to all matters relating to the University Art Collections, including the Acquisition, management, public display and Deaccession of Works of Art.

### Part II Procedural Content

#### Definitions

- 2.1 All terms used as definitions in these procedures shall have the same meaning given to them in the policy and the following definitions apply:
- (a) “Committee” means the University of Manitoba Art Collections committee established under these procedures.
  - (b) “Fund” means the “Art in Public Places Fund” established by the University and dedicated to the public display of Works of Art at the

University. The Fund shall be held by the Office of the Vice-President (Administration) and used in accordance with these procedures.

- (c) “Unit” means a faculty, school, college, institute, centre, academic support unit (for example, libraries) or administrative unit whose head reports to the President, Vice-President, Associate Vice-President or Vice-Provost. An academic department within a faculty or school is not a Unit as the term is used within these procedures.

## **The Committee**

- 2.2 The Vice-President (Administration) and the Director of the School of Art shall appoint a Committee that shall advise the Vice-President (Administration) on matters relating to the University Art Collections. The Committee’s mandate shall be the Acquisition and management of Works of Art at the University, including the physical care, display and loans of Works of Art, Deaccession, the need for insurance and other related considerations.
- 2.3 The Committee shall consist of the Vice-President (Administration) or designate, the Director of the School of Art or designate, the Director/Curator of the School of Art Gallery, the Director of Philanthropy or designate, the University Art Collections Coordinator, a Member-at-Large from the community, and may also include additional representation from the community and various areas within the University, for example, the School of Art, the Faculty of Architecture, and Physical Plant, as the Vice-President (Administration) and the Director for the School of Art may deem appropriate. The Vice-President (Administration) and the Director of the School of Art shall be jointly responsible for appointing the Committee members.
- 2.4 The Chair of the Committee, who shall be a voting member thereof, shall be elected by a majority of the members of the Committee.
- 2.5 The term of office of the Chair and of appointed members will be 3 years and renewable for one additional term of 3 years.
- 2.6 The Committee will meet at least once per year, as well as on an ad hoc basis to consider proposals as the need arises. Its recommendations will be submitted to the Vice-President (Administration) and the Director for the School of Art for final approval.
- 2.7 All discussions of the Art Collections Committee shall be confidential.

## **Acquisitions**

- 2.8 Acquisitions will be accepted only in accordance with these procedures and must be reviewed by the Committee and approved by the Vice-President (Administration) and the Director for the School of Art.

- 2.9 The Fund may be used for Acquisitions upon written recommendation of the Committee and joint approval by the Vice-President (Administration) and the Director for the School of Art.
- 2.10 Prior to Acquisition, the University must be assured that the Work of Art has not been collected under circumstances considered to be exploitative, unethical, illegal, or otherwise incompatible with professional standards. Accordingly, the University will make reasonable efforts to ascertain that the provenance of the Work of Art is above suspicion and that the University can rightfully assume legal and valid title to the Work of Art. To this end, the University, acting prudently, should only Acquire a Work of Art that is well documented, or where it can be reasonably ascertained that subsequent systematic research will establish its worth for the University Art Collections.
- 2.11 The University shall be mindful to not accept a Work of Art with the immediate intention of eventual Deaccessioning and Disposal unless this is consistent with the donor's wishes.
- 2.12 The University shall Acquire a Work of Art only if it has, or may reasonably anticipate having, adequate resources to document, research, exhibit, store, conserve, and interpret the Work of Art, as applicable, in accordance with accepted professional standards.
- 2.13 The Committee will not approve an Acquisition unless the University obtains, at a minimum, the following perpetual and irrevocable rights over the Work of Art:
- (a) to display the Work of Art at times, in locations, and in manners of the University's choosing;
  - (b) in the University's discretion, to not display the Work of Art and commit it to storage or archives;
  - (c) to dispose of the Work of Art at a time and in a manner of the University's choosing;
  - (d) to maintain, repair, or restore the Work of Art in a manner of the University's choosing;
  - (e) to use images of the Work of Art, without payment of a royalty, in promotion of or in support of University activities; and
  - (f) where the Work of Art is commissioned, the ability to approve or reject changes to the Work of Art that the University, in its sole discretion, believes are not representative of the approved original intent of the Work of Art.
- 2.14 It is acceptable for the Committee to approve an Acquisition in which, subject to 2.13:

- (a) the University commits not to modify the Work of Art;
  - (b) the artist or copyright holder retains a right to make reproductions of the Work of Art, unless such reproductions would significantly impact the value of the Work of Art to the University; and
  - (c) The artist or copyright holder retains a right to sell, donate, or otherwise transfer reproductions of the Work of Art to third parties.
- 2.15 It is strongly encouraged that the cost of an appraisal done by a third party for income tax purposes shall be borne by the donor. A donor is normally responsible for the costs of delivering donations of Works of Art to the University. Works of Art must be received by the University during the calendar year for which the donor is seeking a donation receipt. If the donor does not relinquish sufficient control of the Work of Art, it may not be possible to value the donation and in such circumstances, no tax receipt will be issued.
- 2.16 The University shall use a Deed of Gift form that the donor signs in order to transfer legal title to the Work of Art. Copyright (including the reproduction right in any medium) remains with an artist and or their estate until fifty (50) years following their death, unless it is specifically assigned to the University as part of the Acquisition or in a separate transaction.
- 2.17 *The Cultural Property Export and Import Act* (the “Act”) regulates the import and export of cultural property and provides special tax incentives to encourage Canadians to donate or sell important objects to public institutions in Canada. Pursuant to the Act, the importation into Canada of any foreign cultural property illegally exported from any state that is a party to a cultural property agreement with Canada is illegal. The University recognizes its responsibility to assure the legality of the export/import in order to comply with the Act.
- 2.18 Certain Works of Art within the University hold a Category ‘A’ designation from the Canadian Cultural Property Export Review Board. This designation provides advantages in terms of the tax benefits to the donors of Works of Art to the University. The University has the responsibility to preserve and hold in public trust those Works of Art designated to be of outstanding significance and national importance.
- 2.19 There is a distinction between charitable tax receipts and cultural property receipts. Due to the administrative paperwork and display restrictions associated with cultural property, preference will be given to the issuance of charitable tax receipts over cultural property receipts.
- 2.20 All Works of Art in the University Art Collections shall be listed individually in the University Art Collections database, which is administered by the University Art Collections Coordinator.

- 2.21 Pursuant to article 2.4 in the Art Collections Policy, Gallery One One One will provide an annual report to the Art Collections Committee detailing acquisitions made in the previous year.

## **Management**

- 2.22 Works of Art in the University Art Collections shall be protected from damage or loss. When appropriate, Works of Art should be stored in a facility that is secure from extremes of temperature and relative humidity, from excessive heat and ultra-violet radiation, from careless handling, vandalism, incorrect storage and display methods, dust, dirt, pests, and other adverse factors. The conservation of Works of Art such as outdoor sculpture will be considered in light of their unique position on campus.
- 2.23 The Fund may be used for management, maintenance, restoration and/or repair of a Work of Art upon written recommendation of the Committee and joint approval by the Vice-President (Administration) and the Director for the School of Art.

## **Public Display**

- 2.24 The University shall commit to promote reasonable public access to the University Art Collections through:
- (a) the public display of Works of Art at the University; and
  - (b) the facilitation of temporary loans of Works of Art.
- 2.25 In displaying and loaning, the University's first concern is to maintain its responsibility for the safekeeping of the University Art Collections and to seek an acceptable balance between serving the community and the potential risk of damage or loss of a Work of Art.
- 2.26 Prior to publicly displaying Works of Art at a location at the University, the Committee shall consult with the appropriate head of the Unit responsible for the location and, in the case of exterior installations, with the University Exterior Environment Committee, and provide their recommendations regarding the proposed display to the Vice-President (Administration) and the Director of the School of Art for final approval.
- 2.27 The head of each Unit displaying Works of Art shall designate a University staff person to be the Unit curator for Works of Art displayed within the Unit. The Unit curator will be responsible for the displayed Works of Art and shall report any changes of its condition and location to the University Art Collections Coordinator.

## **Deaccession**

- 2.28 Prior to the Deaccession, a Work of Art shall be researched thoroughly, documented, and photographed. The process of Deaccession and subsequent Disposal shall be thoroughly documented. A permanent electronic record of the Work of Art, the Deaccession process, and the Disposal process shall be retained in the University Art Collections database.
- 2.29 If conditions attached to an Acquisition restrict Deaccession or Disposal, the University will make reasonable effort to comply with these restrictions. When considering the Deaccession of a donated Work of Art, the University will make reasonable efforts to advise donors or their heirs as a gesture of courtesy.
- 2.30 Should a Work of Art be Deaccessioned because it is damaged or has deteriorated beyond repair or use, as assessed by the Committee, the Work of Art will be destroyed before witnesses and permanently disposed of in a manner that prevents retrieval and restoration. Should the destruction of a Work of Art be necessary, the University shall attempt to notify the artist and request that he or she agree to the destruction and sign a Waiver of Moral Rights form.
- 2.31 Before any Deaccessioned Work of Art is considered for public sale, it must first be offered at no cost to other appropriate public non-profit or government custodial institutions in Manitoba that are able to provide proper care and access to the Work of Art. If no appropriate Manitoba public institution will accept custodial responsibility for the Deaccessioned Work of Art, the Work of Art will be offered to other appropriate public institutions within Canada, either as a gift, an exchange, or as a sale. If no public institution in Canada can be identified to take the Deaccessioned Work of Art, the University may Dispose of it.
- 2.32 Proceeds generated from Deaccessioned Works of Art will be used to augment the University Art Collection.

## **Part III Accountability**

- 3.1 The Office of Legal Counsel is responsible for advising the Vice-President (Administration) that a formal review of this Procedure is required.
- 3.2 The Comptroller is responsible for the implementation, administration and review of this Procedure.
- 3.3 All Faculty/School Councils and Employees are responsible for complying with this Procedure.

## **Part IV Review**

- 4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is March 20, 2022.
- 4.2 In the interim, this Procedure may be revised or repealed if:
- (a) the Vice-President (Administration) or Approving Body deems it necessary or desirable to do so;
  - (b) the Procedure is no longer legislatively or statutorily compliant;
  - (c) the Procedure is now in conflict with another Governing Document; and/or
  - (d) the Parent Policy is revised or repealed.

## **Part V Effect on Previous Statements**

- 5.1 This Procedure supersedes all of the following:
- (a) all previous Board/ Senate Procedures, and resolutions on the subject matter contained herein;
  - (b) all previous Administration Procedures, and resolutions on the subject matter contained herein; and
  - (c) all previous Faculty/ School Council Procedures stemming from the Faculty/ School Council Bylaw and academic and admission Regulations and any resolutions on the subject matter contained herein.

## **Part VI Cross References**

- 6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
- (a) [Policy: Art Collections](#)
  - (b) [Policy: Gift Acceptance](#)