

AMENDED AND RESTATED¹
SAN FRANCISCO MUSEUM OF MODERN ART
DEACCESSION POLICY AND PROCEDURES

Approved on May 18, 2023 by the SFMOMA Board of Trustees

One of the most important functions of the museum is to develop, care for, and make accessible to the public an outstanding collection of works of art. As such, the museum is a steward of important works in the fields of drawing, painting, sculpture, photography, architecture and design, installation, and time-based media. As a museum of modern and contemporary art, SFMOMA's collection begins in the twentieth century (with the exception of photography, where the full history of that medium, from its inception in 1839 to the present, is within the scope of museum activity).

A measured, carefully considered deaccessioning program is a useful tool in the refinement of the collection. As noted in the Association of Art Museum Directors' *Professional Practices in Art Museums* (2011), as amended ("Professional Practices"):

Deaccessioning and disposal of works of art from the collection by sale, exchange, or other means require particularly rigorous examination and should be pursued with great prudence. There are circumstances in which the deaccessioning of works of art from the collection is justified; however, such deaccessioning must be governed by the museum's written policy rather than by exigencies of the moment ..." (*Professional Practices, Rule 23*).

SFMOMA holds its art collections in trust for the benefit of the public and is responsible for the care and conservation of the collection and works of art on loan. Conservation, protection, and care are essential to the stewardship of museum collections for current and future generations. Devoting museum resources to the direct care of the works in the collection is essential to safeguarding, preserving, and extending their lifespan for the benefit of the public. Such care and preservation are core to SFMOMA's charitable mission.

Accordingly, the following policy and procedures govern deaccessioning of works of art in SFMOMA's collection.

I. Deaccession Criteria, Procedures, and Approval

Deaccessioning is the process by which a work of art or other object, wholly or in part, is permanently removed from the museum's collection. (*Professional Practices, Appendix B (Deaccessioning and Disposal)*). *Disposal* is the transfer of ownership, or other disposition of a work or object after it has been deaccessioned. (*Id.*)

A. Criteria used in the consideration of a deaccession

1. The object is outside the stated scope of the permanent collection.
2. Through deaccessioning the object and acquiring a better example by the same artist or from the same historical art movement, the collection can be improved and/or strengthened.
3. The object is redundant or a duplicate and is not necessary for research purposes.
4. The authenticity of the work of art is questionable.
5. The condition, size, or maintenance requirements of a work are beyond the museum's stewardship capabilities.
6. The work is proved to be a forgery or has an erroneous attribution. (A fake shall be marked indelibly as such and shall never be returned to the market.)

¹ This Amended and Restated Deaccession Policy and Procedures was revised for consistency with the Association of Art Museum Directors (AAMD)'s September 30, 2022 amendment to its *Professional Practices in Art Museums* policy.

7. The work of art is found to have been stolen or illegally exported from its country of origin.

B. Conditions under which the museum will initiate the deaccession of work

1. The museum holds clear title to the work.
2. There are no restrictions on disposal of the object stated in the original deed of gift or purchase agreement.
3. The work has been held in the collection for at least three years.
4. The work is owned solely by the museum; ownership is not shared with any other party.
5. The work was not created by a living artist. Work by living artists should not be sold except to acquire a superior work by the same artist, and then only with the agreement of the artist.
6. Museum deaccession procedures are followed.

C. Procedure for deaccession

1. A recommendation for deaccession is generated by the Director or a member of the curatorial staff in charge of the respective collection.
2. The process is facilitated by the Chief Exhibition and Collections Officer, or their designee.
3. Thorough research, consistent with AAMD requirements, is conducted to ascertain that the museum possesses clear title to the work of art and that there are no donor restrictions pertaining to its deaccession.
4. The work and attendant information, as well as the proposed method of disposal, are reviewed by the Director, the curatorial staff, and the Collections Department.
5. The Director recommends or declines the proposed deaccession.
6. For works valued at more than \$25,000, an outside appraisal shall be obtained.
7. If the object was acquired by gift, a reasonable attempt must be made to contact the donor or his or her heirs to provide notification of the museum's intention to deaccession and dispose of the work.
8. The curatorial staff and Collections Department present the object recommended for deaccession together with justification for deaccession to a Deaccession Subcommittee, if convened. A majority of the voting members present must approve the recommendations for presentation to the relevant Accessions Committee for such work, where a majority of the voting members present must approve each deaccession.
9. If a Deaccession Subcommittee is not convened, recommendations may be presented to the relevant Accessions Committee and Board, or the Executive Committee, for approval. Deaccessions approved by the relevant Accessions Committee must be ratified by the Board of Trustees or Executive Committee.

II. Disposal and Proceeds from Sale

The Director and appropriate curator will determine a suitable method of disposal, if any, for the deaccessioned objects. In accordance with the evolution of American museum practice, legal parameters, and museum ethical standards, all funds received from the sale of deaccessioned artworks including all earnings and appreciation thereon ("Deaccession Funds") shall be used to fund the acquisition of other works of art in a manner consistent with SFMOMA's Collections Management Policy and ethical standards or for the direct care of its collection ("Direct Care") as further provided in Subsection C (Direct Care of Collection) below. No member of the museum's Board of Trustees or staff, and no individuals whose association with the museum might give them advantage in acquiring the deaccessioned work, will be permitted to acquire, directly or indirectly, a work from the museum's collection.

A. Approved methods of disposal

1. Sale at public auction.
2. Consignment to a reputable, established dealer.
3. Exchange with the artist as outlined above.
4. Transfer or sale to another museum, nonprofit, or charitable organization.
5. Return to the legal owner or country of origin if a work is proven to have been stolen or illegally exported. For purchased works, compensation will be sought from the seller of such property.
6. Total destruction of a work deemed beyond salvaging and without significant value (no part of the work is to be saved or given to any individual).

B. Stolen or illegally exported objects

If SFMOMA should find that it is in the possession of an object that can be demonstrated to have been stolen or illegally exported from its country of origin (and/or the country where it was last legally owned), SFMOMA will, if legally free to do so, take responsible steps to cooperate in the return of the object to that country or the rightful owner. The deaccession procedures set forth herein shall be utilized to review the possible deaccession and return of the object under this paragraph.

C. Direct Care of Collection

Conservation, protection, and preservation of works from damage, obsolescence, vandalism, and theft, and other uses of museum resources for Direct Care are essential to preserving SFMOMA's collection for current and future generations.

For purposes of this policy, and in accordance with Rule 25 of the AAMD's Professional Practices, the expenditures for Direct Care refer to "the direct costs associated with the storage or preservation of works of art. Such direct costs include, for example, those for (i) conservation and restoration treatments (including packing and transportation for such conservation or restoration) and (ii) materials required for storage of all classifications of works of art, such as acid-free paper, folders, matboard, frames, mounts, and digital media migration. Funds received from the disposal of a deaccessioned work of art shall not be used for operations or capital expenses except as provided above. Direct Care does not include (a) salaries of staff or (b) costs incurred for the sole purpose of temporary exhibition display."

Direct Care activities for which SFMOMA may use Deaccession Funds include, but are not limited to, the following types of activities and expenditures:

1. Costs associated with materials, systems (including collections information systems), and equipment that benefit, or are required for, the direct care, conservation, restoration (including packing and transportation for such conservation or restoration), maintenance, preservation, analysis, treatment, surveying, inventorying, storage², safeguarding, photographing, documenting and condition reporting of collections (as noted above);
2. Costs associated with contracted Direct Care services, e.g., conservators or a conservation lab for work on individual objects, as well as other contracted Direct Care services for registration, maintenance, cataloguing, audio visual, imaging, framing and documentation services for a specific object or objects (but not for general conservation of the collection, which is the role of the museum's staff); and
3. Other Direct Care expenditures that may be identified or further clarified in writing from time to time by a committee consisting of the Museum's Director, the Chief Exhibitions and Collections Officer, the Head of Collections, the Director of Conservation, the Chief Curator, the Chief Operating Officer, the Chief Financial Officer, and General Counsel (or their respective Executive Team or senior staff designees) (the "Direct Care Committee") and approved by the Executive Committee.

D. Governance of Deaccession Funds

1. Other than for Direct Care, Deaccession Funds shall not, under any circumstances, be used for museum operating expenses, staff salaries, or capital expenses.
2. 100 percent of the Deaccession Funds are to be applied to the purchase or commission of other artworks for the collection in accordance with SFMOMA's accessions policy or towards Direct Care of objects in the collection.
3. Deaccession Funds used for acquisition of new works are administered on a department-by-department basis by the relevant Accessions Committee.
4. Deaccession Funds used for Direct Care are recommended by the Direct Care Committee and approved by the Executive Committee or the Board.

² According to the AAMD, "acquiring or leasing a general collections storage space or purchasing storage racks to hold works of art *generally* are considered a capital expense and excluded from the definition of direct care." (*FAQ on AAMD's Policy Change on Deaccessioning*).

5. Prior to the Museum expending any Deaccession Funds for any Direct Care expense under this policy, the Direct Care Committee shall recommend such expenditures, including both an itemized list of the expenditures together with a recommended fiscal year cap on such expenses in compliance with this policy and the applicable FASB standards, for final approval by the Finance Committee as part of its approval of the budget that is subsequently approved by the Executive Committee or Board.
6. The Chief Financial Officer (or any position encompassing that position) must confirm that any proposed use of Deaccession Funds, including any expense for Direct Care of collections, complies with this policy and the Financial Accounting Standards Board's (FASB) March 2019 amendment (ASU 2019-03), or any subsequent governing amendments.
7. Deaccession Funds shall be tracked separately from other acquisition funds.

E. Use of Deaccession Funds in Special Circumstances

As provided in the AAMD's Professional Practices, the "AAMD recognizes that part of the mandate of a contemporary arts organization is to expand the definition of what constitutes a work of art, as well as to question traditional exhibition practices. Therefore, if the organization's written policy provides for the sale of deaccessioned works, the funds derived from such sales may in exceptional cases be used for purposes analogous to the purchase or commission of works of art, specifically the creation of new works, including some that may not be collectible. Expenditure of these funds for operations or capital expenses, except for 'direct care' (as defined in [Rule] 25 of professional practices) is, however, precluded." (*Professional Practices, Appendix B (Deaccessioning and Disposal), subsection vii (Special Circumstances)*).

In such "exceptional cases," any use of Deaccession Funds for purposes analogous to the purchase or commission of works of art, specifically the creation of new works, must be reviewed, approved, and memorialized in writing by the Direct Care Committee and approved by the Executive Committee in accordance with the procedures outlined herein.

F. Credit line

Whenever practical, the credit line carried by a deaccessioned object shall be transferred to the new object acquired, or commissioned under special circumstances (as noted above in Section E), with the realized funds. At the discretion of the Director, proceeds from several deaccessioned works may be combined to acquire a single work. If proceeds are combined, the original donors' names might not appear in the official credit line. In such cases, the names of all donors shall be recorded in the objects' permanent- collection archive files and collections management system records.

III. Deaccession Documentation

Records of all correspondence, documentation, and data regarding the deaccessioning process and specific information on all deaccessioned objects shall be kept by the Collections Department. Works approved for deaccession are removed from the collection using the following steps:

1. Deaccessioned objects are noted in the collections management system.
2. Reference is made to the disposal of each object in the original entry of the object's archive file and in the accessions ledger as appropriate.
3. All information regarding the object (including minutes of a respective Deaccession Subcommittee or Accessions Committee meetings, documentation of deaccession research, outgoing receipts, and documentation of disposal including specifics on auction sale and date) is removed from curatorial/collection documentation and filed with the archive files of deaccessioned objects in the Collections Department.
4. A list of deaccessioned objects will be published by the museum on its website from time to time.
5. The museum will file any required Internal Revenue Service forms in connection with the deaccessioned objects.