



**National Gallery
of Canada**

**Musée des beaux-arts
du Canada**

Acquisitions Policy

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1. INTRODUCTION

The Acquisitions Policy is derived from the *Museums Act* (1990) and from the Gallery's mandate, as defined in section 5, Part I, entitled Purposes, Capacity and Powers of the National Gallery of Canada:

The purposes of the National Gallery of Canada are to develop, maintain and make known, throughout Canada and internationally, a collection of works of art, both historic and contemporary, with special but not exclusive reference to Canada, and to further knowledge, understanding and enjoyment of art in general among all Canadians.

To this end, the NGC acquires—by purchase and through gifts—important works that build on the strengths and fill gaps in the country's national collection of visual arts, built since the Gallery's founding in 1880. The National Gallery's collection currently consists of over 80,000 works of art. Its collection of Canadian art is the most comprehensive and important in existence and includes over 2,000 works by contemporary Canadian artists and a growing collection of nearly 2,000 works of Indigenous art. The Gallery also has a major collection of European art dating from the early Renaissance to the present, as well as important holdings of American twentieth-century art. This includes prestigious collections of important prints, drawings and photographs. The international works place Canadian art in its broader context by demonstrating the influences on and evolution of the visual arts in Canada.

The Gallery's acquisitions are funded through a special Parliamentary appropriation, dedicated to this purpose. It also benefits from endowment funds, donated by individuals and families, which are restricted to acquisitions. Any balance in the acquisitions budget at year-end is kept for purchases in subsequent years.

The majority of works were acquired in the past as purchases; however, gifts have taken on an increasing importance since the adoption in 1977 of the *Cultural Property Export and Import Act*, which provides donors with tax relief. Moreover, the responsibility for setting the fair market value for income tax purposes was transferred from Revenue Canada to the Canadian Cultural Property Export Review Board by an amendment in 1991 to the *Cultural Property Export and Import Act* and the *Income Tax Act*, which was retroactive to February 1990.

All the artworks acquired by the Gallery must be the object of in-depth research aimed at establishing their authenticity, verifying their provenance, and determining their quality, physical condition, historical importance and relevance to the Gallery's mission. Curators are thus called upon to prepare a detailed documentary research file for presentation of the works to the Gallery's various levels of acquisition approval (see Section 4, Guiding Principles and Procedures). The services of the Gallery's conservation laboratory and its library resources are vital in gaining a full understanding of the works.

Once a work has been acquired, this research material must be put at the disposal of researchers and may also be disseminated by the publications department or online. The quality of this research is one of the Gallery's most important achievements and contributes much to the excellence of its reputation, both in Canada and abroad.

2. POLICY OBJECTIVE

The purpose of the Acquisitions Policy is to provide direction for the ongoing development and enrichment of the Collection and to establish principles and procedures governing this collections development activity.

In developing the national collection, it is the Gallery's objective to ensure that all acquisitions, through purchase or donation, are by the most significant artists and are of the highest quality, optimal condition and of historical and aesthetic importance. Acquisitions will be judiciously selected by specialist curators to contribute to the strengths of the national collection, to fill gaps, and to create a highly desired balance between the periods, schools and media that constitute its collecting areas. While the Gallery has a strong commitment to enriching its important historical European and American collections whenever possible, it

remains mindful that acquisitions in this area should not detract from its commitment to contemporary art, both Canadian and international.

3. COLLECTING AREAS

The collection is divided into the following collecting areas, which reflect the Gallery's mandate to develop a historical and contemporary record of Canada's national and international visual arts heritage.

3.1 EARLY CANADIAN ART BEFORE 1867

The Gallery will acquire major paintings, including miniatures, as well as sculpture and decorative arts with a special emphasis on developing the collection of silver. Religious works will be considered only if they have a secure provenance.

3.2 LATER CANADIAN ART, 1867 - 1985

In the areas of painting, sculpture and the decorative and media arts, artists should be represented by major works. The Gallery will acquire significant works by Canadian artists from across the country and will represent major artists in depth. The finest examples of the decorative arts will be acquired to demonstrate the close relationships between the applied and fine arts at various periods. It will also make judicious additions to the collection of silver.

3.3 CANADIAN PRINTS AND DRAWINGS, PRE 1985

Acquisitions should encompass the most outstanding examples of prints and drawings by major Canadian artists. Particular attention will be given to acquiring the rarest and finest prints and drawings produced in Canada.

3.4 INDIGENOUS ART¹

In an effort to present the artistic production of Canada more completely, the National Gallery will develop a collection of the finest examples of art made by contemporary First Nations, Métis and Inuit artists from Canada. The Gallery will continue to focus on works made by Inuit artists since the mid-twentieth-century to the present, building a representative overview of the art in all media, as well as collecting major artists in depth.

Secondarily, a collection of artworks created by contemporary Indigenous artists outside of Canada will also be developed.

Because the National Gallery cannot tell the comprehensive story of art making in Canada without including historical indigenous art, historical works of the highest artistic merit will be actively sought for acquisition by gift or purchase. If, for whatever reason, the Gallery cannot employ its own subject-expert, it will rely on contracted expertise as needed. The NGC will retain independent expert advice to counsel the Trustees on such acquisitions.

3.5 CONTEMPORARY CANADIAN ART, POST 1985

A great strength and an organizational priority, acquisitions of new Canadian art should encompass the finest contemporary work in all media by major Canadian artists active today. In exceptional cases of consistent excellence and innovation over time, some artists will be collected in depth. Diversity in every

¹ The term Indigenous is used to refer to works of art created by artists of Indigenous heritage. It is an internationally employed term that includes the great variety of words used to describe indigenous peoples around the world. In Canada, the term Aboriginal is used to refer to the three constitutionally recognized groups of indigenous peoples, the First Nations, Inuit and Métis peoples.

aspect of the term remains a significant priority in the development of the national collection. Specifically, every effort will be made to include outstanding works from all the significant artistic centers across Canada.

3.6 INTERNATIONAL CONTEMPORARY ART, POST 1985

Contemporary Art is a priority at the National Gallery. We will make acquisitions of major works in all media by the most important non-Canadian artists currently or recently active on the international scene. We will also make a special effort to acquire works by major artists from the regions of origin for new Canadians, such as Asia, the Middle East and Africa.

3.7 EUROPEAN AND AMERICAN ART

3.7.1 Painting, Sculpture and Decorative Arts: 1300 – 1820

The Gallery's collection of European painting and sculpture is of international significance. It aims at representing developments in the history of western European art through outstanding examples by key artists. Although such works are increasingly rare and expensive, the importance of the collection requires the Gallery to pursue significant acquisitions when opportunities arise.

3.7.2 Painting, Sculpture and Decorative Arts: 1820 - 1985

Although the current acquisition budget is inadequate for significant purchases of early twentieth-century European and American art, there remain opportunities to acquire postwar works overlooked by the market, but nevertheless crucial to a comprehensive narrative of the visual arts beyond Canada's borders. When opportunities to fill these gaps arise, the Gallery would be remiss not to pursue them. Needless to say, the National Gallery will actively seek out gifts of twentieth-century European and American works wherever possible.

3.8 EUROPEAN, AMERICAN AND ASIAN PRINTS AND DRAWINGS, PRE 1985

The Gallery's collection of European, American and Asian prints and drawings is one of the most important and comprehensive in North America. The Gallery will actively pursue important works on paper, by purchase or gift, to capitalize on this strength in the collection and to supplement the collection of European, American and Asian art. An emphasis on acquiring drawings and prints related to paintings in the collection will be maintained.

3.9 CANADIAN AND INTERNATIONAL PHOTOGRAPHS, PRE 1985

The Gallery's collection of photographs is exceptionally strong. But, in order to maintain its significance as a national and international destination for research, it requires continuing support and enrichment. Although prices for the finest international photographs continue to escalate, acquisition activity regarding historical photographs by key figures will continue. While the thrust of the collection is fine art photography, the collection includes exceptional examples of documentary, vernacular, commercial and photojournalism, reflecting the unique history of the photographic medium. A new initiative to build the Gallery's holdings in historical Canadian photographs before 1967 in an effort to fully integrate the history of photography in Canada with the national collection of art has already started.

3.10 CANADIAN CONTEMPORARY PHOTOGRAPHY

The activities of the Canadian Museum of Contemporary Photography have been assumed by the Gallery within its Department of Photographs. The collection of Canadian contemporary photographs dating back to 1967 will continue to grow by purchase and gift. The full diversity of this medium, beyond fine art, as practiced by exceptional photographers in Canada, will be respected.

3.11 HISTORICAL ASIAN AND OTHER NON-WESTERN HISTORICAL ART

Little activity is projected for this area, as only through a substantial increase in the Gallery's acquisition funds, along with the appointment of an Asianist curator, and the development of a library collection necessary for research, will the Gallery be able to make acquisitions by purchase in this field. Moreover, space limitations do not allow for the presentation of such material for the time being. The Gallery will actively encourage major gifts, such as entire collections of the finest quality or named curatorial chairs, in an effort to provide a strong presence for Asian art in Canada's national collection. It should also include the display of Asian art in any future expansion.

4. GUIDING PRINCIPLES AND PROCEDURES

4.1. PRINCIPLES

The Acquisitions Policy is guided by the following legal, aesthetic, scientific, and ethical principles.

4.1.1 Museums Act

Further to the Gallery's mandate, the *Museums Act* in Subsection 6 (1) states:

In furtherance of its purposes, the National Gallery of Canada has the capacity and, subject to this Act, the rights, powers, and privileges of a natural person and in particular, but without limiting the generality of the foregoing, the National Gallery of Canada may:

- a) *collect works of art and other museum material;*
- b) *document, record, preserve, conserve and restore works of art and other museum material;*
- c) *sell, exchange, give away, destroy or otherwise dispose of works of art and other museum material in its collection and use any revenue obtained there from to further its collection;*
- d) *lend or borrow works of art and other museum material on long-term or short-term loan.*

4.1.2 Objectives of Collecting Program

The objectives of the collecting program are:

- a) To develop a historical and contemporary record of our national and international visual arts heritage in selected media.
- b) To make the collections known and accessible through: displays in the Gallery; loans of works of art; special exhibitions based on the collections to be shown at the Gallery, and at institutions across Canada and internationally; publications.
- c) To provide a major study and teaching resource for artists, scholars, students, and interested members of the public.

4.1.3 Acquisitions

An acquisition is the transfer, to the Gallery, of title to a work of art, either by purchase, commission, gift, bequest, transfer or exchange.

All acquisitions are made on the authority of the Board of Trustees, which in turn delegates part of its authority to the Board's Acquisitions Committee and to the Director and Chief Executive Officer (CEO).

The cost of purchasing works for the collections is charged to the Purchase Account or to the Director's Acquisition Trust Fund. The criteria and conditions of acquisition are set forth in section 4.2.1.

The Gallery will not accept gifts or bequests where conditions are attached, unless these conditions are approved by the Board of Trustees.

When acquisitions involve the establishment of a new area of collecting interest, then consideration will be given to the implications of such an extension, such as the projected cost of acquiring in that new area relative to the perceived benefits.

The Gallery will respect the rights granted to artists in the *Copyright Act*.

4.1.4 Dispositions

A disposition is the permanent alienation of a work of art in the Gallery's collection and is only undertaken under exceptional circumstances. Its purpose is to refine and improve the quality and appropriateness of the collection, and to meet the Gallery's legal and ethical obligations.

A work of art may be disposed of by transfer, restitution, sale, exchange, or destruction. Criteria, conditions and procedures for the disposition of art are set out in the NGC Disposition Policy.

4.1.5 Ethics and Standards

In its collecting activities, the Gallery acts in a responsible manner to preserve artistic heritage. Illegal, unethical or irresponsible traffic in works of art is prohibited. The Gallery is especially concerned to establish proper title and secure provenance of works in its collection, conforming to national and international ethical standards.

In all activities related to collections, employees must not be, either in fact or appearance, in conflict of interest with the purposes and corporate activities of the Gallery.

The monetary value of acquisitions, whether the purchase price or the fair market value for gifts and bequests, will be disclosed only by the Board or the Director and CEO.

In instances where a vendor, a donor or a bequeather requests that the value of the acquisition remain confidential, the Director and CEO will get an opinion from the legal advisor of the Gallery on the applicability of the *Access to Information Act*. The Gallery will not disclose the identity of the donor or bequeather unless he/she agrees to it.

4.2. PROCEDURES - Criteria and Conditions for Acquisition

The National Gallery of Canada may acquire works of art by purchase, gift, bequest, exchange, transfer, or commission -- either from its own resources or from monies donated specifically for this purpose. All proposed acquisitions are carefully reviewed and critically discussed by the Curatorial Acquisitions Committee, comprised of the Director and CEO, the Deputy Director and Chief Curator, the Deputy Director, Administration and CFO (*ex-officio*) and the curatorial staff. The discussion, based on a written justification for each work presented is usually conducted in front of the work of art being considered. Under exceptional circumstances, when this is not possible (for example, in the case of works at auction), a photograph of the work being proposed must be available to the committee, and a member of staff or designated representative of the Gallery must have examined the object *in situ*.

The written justification includes basic catalogue information as well as all criteria presented in 4.2.d), that are directly applicable to the work of art being considered. It will also include biographical information, a discussion of the importance of the work for the collection and a substantiation of the price or fair market value. It will also discuss how the work under consideration addresses the strengths and weaknesses of the collecting area.

The documentation also includes a report on the condition of the proposed acquisition, which is made by a member of the Restoration and Conservation Laboratory (RCL) or by an independent third-party. Where possible, this report should include information on potential limitations that may be placed on storage and programming activity resulting from the condition, size, and nature of the object. In exceptional circumstances, the requirement for this condition report as an integral step in the acquisition procedure may be satisfied by a written statement (e.g. an email) from RCL, made on the basis of available material, provided this available material clearly shows that the condition of the object is not critically problematic.

For any artwork exceeding 1.5 metres in any one dimension, any artwork requiring numerous crates for storage, any artwork involving art transportation costs and/or re-installation costs exceeding CAD \$10,000, the justification will include a report elaborating on these points. The Collections Management and/or Exhibitions Office will be consulted in development of this assessment.

Authorization and procedures vary according to the purchase price or fair market value, whereas the criteria for acquisition remain the same.

a) Authorization of acquisitions

Purchases are made on the authority of:

- The Director and CEO, where the purchase price is less than \$100,000;
- The Board Acquisitions Committee—comprised of Trustees and external advisors—where the purchase price is \$100,000 or more but is less than \$1,000,000;
- The Board of Trustees, where the purchase price is \$1,000,000 or more.

For the purposes of the dollar ceilings expressed above, “purchase price” refers to the transaction price for the work(s) of art to be acquired, and where applicable includes auction house commissions.

Acquisitions by gift or bequest are made on the authority of:

- The Director and CEO, where the fair market value of the gift or bequest is less than \$100,000;
- The Board Acquisitions Committee, where the fair market value is \$100,000 or more but is less than \$1,000,000;
- The Board of Trustees, where the fair market value is \$1,000,000 or more.

Normally, the fair market value will be the appraisal as determined in 4.2.g). If however, the only reason for determining fair market value is for the purpose of establishing the authority required for approval, approximation of the value may be determined by the Director and CEO.

b) Procedures for the acquisition of works of art of \$100,000 or more

All acquisitions considered by the Board Acquisitions Committee will be brought forward by a curator at the Gallery on the recommendation of the Curatorial Acquisitions Committee. The curator recommending a work of art to the Committee will provide the written justification as outlined above and will participate in the Committee’s full deliberations. Whenever possible, the work will be installed in the galleries.

When an independent appraisal is warranted, the Committee, by resolution, will take the necessary steps to obtain it from a recognized art dealer or auction house.

All negotiations of price will be conducted by a member of the Gallery staff based on the price approved by the Board Acquisitions Committee or the Board of Trustees.

For works of art offered at auction, a summary justification along with an image will be sent to the Committee members. A conference call will be convened, in order to decide whether the National Gallery will bid and to determine the maximum price, including all premiums and taxes.

All works of \$1,000,000 or more will be presented to the full Board after recommendation of the Board’s Acquisitions Committee. The full Board will then act as the Acquisitions Committee in becoming the responsible authority for the acquisition.

c) Procedures for the acquisition of commissioned works of art

The Gallery may on occasion commission works of art. The purchase of such works will proceed in two separate approval stages as follows:

Stage One: Approval to solicit a proposal for a commissioned work from an artist

A written document that: outlines the argument for soliciting an artist for the commission; describes the type of work proposed; and includes a cost estimate for the development of the proposal, will be presented to the Director's Acquisition Committee. If approved, a maximum of \$25,000 may be advanced towards the proposal.

Stage Two: Approval to commission the work of art

After the plans and/or model have been completed and the total purchase price - including costs of fabrication, technical consultation and installation, and any other related costs – is firmly established, the curator will present the work along with a written justification as described above for approval.

If approved, a contract with the artist will be signed for the fabrication and installation of the work of art. A work is commissioned on the authority of:

- The Director and CEO, where the total purchase price is less than \$100,000;
- The Board Acquisitions Committee—comprised of Trustees and external advisors—where the total purchase price is \$100,000 or more but is less than \$1,000,000;
- The Board of Trustees, where the total purchase price is \$1,000,000 or more.

d) Criteria for acquisition

The development of the collections must be made on the recommendation and with the guidance of the curatorial staff and must be within the policy and functional framework of the Gallery. Staff recommendations are based on their expertise and on the research presented in the written justification.

Works of art recommended for acquisition will be judged, where appropriate, according to the following criteria:

Aesthetic quality and historical importance

The aesthetic quality of a work of art should be of the highest possible nature in relation to its position within the artist's oeuvre, within its artistic or historical period, and finally within its particular cultural tradition. Works of art may also be recommended for their exceptional historical importance.

Legal Title

The legal title of a work of art should be available or obtainable free and clear of restrictions or qualifications. If restrictions or qualifications are unavoidable and acceptable to the Gallery, they must be approved by the Board of Trustees. Every effort must be made to establish clear title and full provenance of the work under consideration.

Transfer of Title

When a work of art is acquired by purchase for a financial consideration, title will be deemed to be transferred on the date when payment is issued.

Ethics

Works will not be knowingly acquired or recommended for acquisition if they have been collected or obtained under illegal circumstances.

Condition

The physical state of preservation of the work of art must be the best possible for the type of work under consideration, and to the extent that there are restorations, these must not be so great as to compromise the original integrity of the work of art.

Attribution and authenticity

It is the responsibility of the curators in consultation with conservation staff to establish as precisely as possible the correct attribution and authenticity of all works of art recommended for acquisition.

Exchanges

An exchange is subject to the authorities, criteria and conditions governing acquisitions (as outlined in Sections 4.1 & 4.2 of this Policy) and those governing disposition (as set out in the NGC Disposition Policy).

An exchange agreement may include a financial consideration. Where the agreement provides that the Gallery pay the financial consideration, then the consideration is charged to the allocation in the Purchase Account. Where the financial consideration is to be paid to the Gallery the proceeds are credited to the Director's Acquisition Trust Fund for the purchases of works of art, following procedures in the NGC Disposition Policy. Any other costs incurred with respect to exchanges are charged to the Gallery's operating funds.

Finally, an exchange agreement may provide that instead of a financial consideration there may be a gift to the Gallery equal to the difference in value between the works of art received and those given. The usual procedures and authorities of accepting gifts apply.

e) Co-ownership

The Gallery will consider co-ownership only on an exceptional basis where the NGC might broaden its influence and help other institutions, and only for works for which there are compatible and complementary objectives. In such exceptional cases, and to avoid uncertainty, the details of the agreement will be documented and will state clearly the rights and obligations of both parties (for example, number of works, time-sharing, usage, conservation, etc.).

f) Acquisitions pursuant to the *Cultural Property Export and Import Act*

The Gallery is eligible for financial assistance pursuant to Section 35 and 36 of the *Cultural Property Export and Import Act* on the same basis as any other public authority or institution in Canada. To qualify for such funds, the criteria and procedures established for the administration of that Act must be complied with. Any applications for such funds are made on the authority of the Director and CEO in accordance with the guidelines approved by the Treasury Board for the administration of that Act by the Department of Canadian Heritage.

Where an acquisition pursuant to this Act is to be paid for partially by funds from the Purchase Account, approval is required by the appropriate authority, as determined by the actual purchase price.

g) Appraisals for purposes of the *Income Tax Act*

Where works of art are acquired by gift or bequest for the collections of the Gallery, the donor may require appropriate documentation in order to claim deductions under the *Income Tax Act*. This documentation serves to establish the date of the acquisition by the Gallery formally took place, authenticity of the work of art and the fair market value at the time of acquisition.

While the Gallery should encourage potential donors to take advantage of tax exemptions, for specialist tax advice donors will be referred to the private sector, their District Taxation Office or the Secretariat of the Canadian Cultural Property Export Review Board, as the case may be.

Appraisal of works of art donated or bequeathed to the Gallery with a value in excess of \$1,000 must be undertaken by persons acting “at arm’s length” from the Gallery and the donor. The Gallery follows the requirements of the Cultural Property Export Review Board in requiring one appraisal for gifts whose value does not exceed \$20,000. Those with values above \$20,000 require two appraisals or one appraisal from the Art Dealers Association of Canada (ADAC). Gifts of contemporary Canadian art offered to the Gallery will be appraised for the most part by ADAC.

The cost of an appraisal by a third party for income tax purposes is generally borne by the donor. In order, however, for the donor to be able to deduct the cost of the appraisal from his taxable income, it is permissible for the donor to give the Gallery a sum equivalent to this cost and receive a receipt as a charitable donation. The Gallery in turn will use this donation to pay for the appraisal. Such a transaction passes through the trust account in accordance with the Trust Account Policy unless the gift or bequest is conditional upon payment by the Gallery of the cost of appraisal.

Only in cases where the fair market value of works of art or collections acquired by gift or bequest does not exceed \$1,000 are in-house appraisals acceptable to Revenue Canada. However, any donation that is to be submitted to the Canadian Cultural Property Export Review Board, regardless of the amount, requires a third party evaluation.

Appraisals that do not exceed \$1,000 may be made either by the Director and CEO or by a person on the staff of the Gallery authorized to do so by the Director and CEO. In the latter case, the appraisal must be signed by that person and countersigned by the Director and CEO. By countersigning such appraisals, the Director and CEO thereby attests to the fact that the person has the necessary expertise to make the appraisal and to the integrity of the appraisal.

Appraisals of works of art for purposes unrelated to Gallery acquisitions are not permitted.

h) Acquisitions from Employees, Trustees and Advisors of the Board

Under no circumstances will the Gallery acquire a work of art created by someone who is currently: an employee; a member of the Board of Trustees; or an External Advisor to the Board or any of its committees.

4.3 CANADIAN OUTREACH

As part of its commitment to a national presence and with a focus on long term sustainability, the Gallery achieves its Canadian outreach objectives by undertaking a variety of strategic collaborations with art museums in Canada. Reflecting the interest in increased input and collaborative partnerships from the Canadian museum community, these initiatives are adaptable and varied, and aim for, over time, a wide regional distribution of national collection to reach a broad range of audiences across Canada.

5. THE ACQUISITIONS BUDGET

Although every effort is made to keep every collecting area active, the acquisition budget is not divided equally among the five departments, but responds to the Gallery collecting priorities and to opportunities as they arise.

Acquisition-related expenses are charged against the budget appropriated for art acquisitions. On average, approximately 10% of the acquisitions budget is set-aside to cover acquisitions-related expenses.

REFERENCES

Museums Act (1990)

Income Tax Act (1985)

Cultural Property Export and Import Act (1985)

Copyright Act (1985)

Access to Information Act (1985)

NGC Disposition Policy