

## **Florida's Art in State Buildings Program Deaccession Policy**

The term deaccession applies to the disposition or exchange of public artworks no longer appropriate for display and to the process by which a decision is made to transfer title of the artwork from one institution to another institution or individual or otherwise move or dispose of the artwork. The State of Florida through its Agencies reserves the right to deaccession works of art in its public art collection in the best interest of the public and as a means of improving the overall quality of the State's public art collection. All meetings in which artworks are recommended for deaccession from the State's public art collection are open to public attendance.

*Removing artwork from the State's public art collection by deaccession should be cautiously applied only after careful and impartial evaluation of the artwork to avoid the influence or fluctuations of taste and the premature removal of a work from the collection.* The procedures within this Deaccession Policy have been assembled with the intent of providing a manual of best practices to be adhered to by the Agencies of the State of Florida before, throughout and during the deaccession process.

### **Criteria for Deaccession of Artworks:**

While the intent of the Art in State Buildings Program's acquisition of artwork is for a permanent or other reasonable lifespan for each artwork, circumstances and/or conditions may arise that make it prudent for the State, on behalf of the public interest, to remove an artwork from public display or to change its original location. In general, it shall be the policy of the State not to remove an artwork from display or relocate it prior to the artwork having been in place for at least five (5) years, unless public safety or other technical circumstances are involved.

After that time, one or more of the following conditions must apply in order for artworks to qualify for permanent removal or deaccession:

- The artwork presents a threat to public safety;
- The condition or security of the artwork cannot be guaranteed, or the State Agency cannot properly care for or store the artwork;
- The artwork requires excessive or unreasonable maintenance;
- The artwork has serious or dangerous faults in design or workmanship;
- The condition of the artwork requires restoration in excess of its monetary value or is in such a deteriorated state that restoration would prove either unfeasible, impractical or would render the work essentially false;
- The site for the artwork has become inappropriate or is no longer accessible to the public, it is unsafe, or it is due to be demolished;
- Significant changes in the use, character, or actual design of the site require re-evaluation of the relationship of the artwork to the site;
- The artwork is of poor quality or is judged to have little aesthetic and/or historical or cultural value;
- No suitable alternate site for the artwork is available;
- The artwork is a forgery;

- A written request from the artist has been received to remove the work from public display.

### **Notify Artist**

An artist whose artwork is being considered for deaccession shall be notified in a timely manner of the situation or circumstances that has prompted that consideration. Some artwork problems may be resolved after consultation with the artist(s), thereby eliminating the need for convening an Artwork Evaluation Committee. If the issue cannot be resolved, the artist shall be notified of the committee meeting(s) and shall be invited to speak on behalf of themselves and the artwork.

### **Organize Committee**

Once an artwork problem has been identified and preliminary efforts at resolution have been unsuccessful, the state agency's ASB Administrator shall organize an **Artwork Evaluation Committee**.

The Artwork Evaluation Committee shall include the following members:

- 1) A person appointed by the state agency head to represent the agency
- 2) A person who represents the agency section that occupies the building where the artwork is sited
- 3) A staff person from the agency's Facilities section, if possible the person who served as Project Director on the initial Art Selection Committee
- 4) Two persons knowledgeable and experienced in the fields of visual art, public art, art history, architecture, or design; one of those persons should have knowledge of artwork conservation
- 5) The agency's ASB Administrator, who shall organize, notice and facilitate the committee meetings

More committee members may be added for technical expertise or to represent more stakeholders. Additional persons may attend the committee meetings and request to address the committee: persons from other governmental entities, interested members of the public, etc.

### **Prepare Report**

The administrator will prepare a complete report on the artwork for presentation to the committee. The artwork report will begin with a brief explanation describing the artwork, its history and the current problematic situation. The description of the artwork and its history shall include:

- Title, artist, medium, dimensions and present location of the artwork;
- Acquisition method (direct purchase or commission) and purchase price;
- Provenance of the art work;
- Digital images, photographs or slides of the artwork;
- Detailed report on the current condition of the artwork;
- Appraised current value of the work by two independent consultants, if obtainable;
- Copy of title and other ownership documents for the artwork
- Any additional relevant information regarding the artwork, obtained from the artist, art galleries, curators, appraisers or other professionals

The report shall then fully describe, in a fair and even-handed manner, the situation which led to the necessity for convening an Artwork Evaluation Committee, identifying the applicable artwork condition(s) [see Deaccession Criteria above] that led to the formation of the committee and

documenting all efforts at resolution. The report may be sent to the individual committee members for review in advance of the meeting.

### **Convene Committee**

At the Artwork Evaluation Committee meeting, the ASB Administrator shall introduce and identify all of the committee members and ask audience members to introduce themselves. The Administrator shall then restate the main points of report and request a thorough discussion of the issue. Each member shall present their views and participate in the discussion. Members of the audience may speak briefly to contribute suggestions or viewpoints. The committee may adjourn and reconvene at a later time to gather more information or to provide more time for discussion and decision.

### **Deaccession Methods**

The Artwork Evaluation Committee may recommend any of the following courses of action as a result of considering the ASB Administrator's Report and after a full discussion of deaccession options. The committee shall not be limited to the listed methods of deaccession but may suggest alternatives appropriate to meet particular circumstances as they arise.

The preferred methods of deaccession are as follows:

- Relocation of the artwork to another site within the state agency or to another state agency (*this method should be given the highest priority*);
- Removal of the artwork from public display and subsequent storage;
- Sale or exchange of the artwork through the following means:
  1. Offer the artist the right of first refusal to buy back the artwork at a negotiated price appropriate to the artwork's current condition;
  2. Obtain a professional appraisal of the artwork's value and advertise for sale by auction; or
  3. Seek competitive bids for the purchase of the artwork.
- Donate the artwork to another government entity or non-profit, civic, charitable, or cultural organization that will properly install and display the artwork in an appropriate public space;
- Dispose of the artwork using surplus property procedures.

If the artwork is sold, all proceeds from the sale of public artworks shall be deposited into a fund to be used solely for the maintenance for other artworks acquired through the Art in State Buildings Program.

The deaccession of any artworks from the State's public art collection valued at or in excess of \$10,000.00 shall be reported to the Florida Council on Arts and Culture. The original artwork report plus a full description of the committee's discussion and ultimate decision shall be sent to the Division of Cultural Affairs. The Art in State Buildings Program Manager will notify the Florida Council on Arts and Culture by submitting the report at a regular public meeting of the Council.

### **Visual Artists Rights Act of 1990 (VARA):**

The Art in State Buildings Program Deaccession Policy takes into account the Federal regulations set forth in the Visual Artists Rights Act of 1990 and its amendments in any decisions to deaccession artworks from the State's public art collection. The Visual Artists Rights Act, or VARA, states that "the significant or substantial distortion, mutilation, or other alteration to a pictorial, graphic, or sculptural work, which is publicly displayed, caused by an intentional act or by gross negligence, is a violation of the exclusive rights of the copyright owner where the author of the work is the copyright owner." For further information regarding VARA, see United States Code Annotated, Title 17. Copyrights, Chapter 1 – Subject Matter and Scope of Copyright, Current through P.L. 105-153, approved 12-17-97.

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