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Gifts for the Collections: Guidelines for Libraries

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Introduction

Gifts represent an important component of the collection-building activities of libraries. These *Guidelines* focus exclusively on gifts and donations to library collections, whether pro-actively or passively acquired. It is advisable for the library to develop clear processes for handling and evaluating gift offers in accord with the library's gift policies. This will provide clarity both to library staff and to donors, reduce exposure to risk and potential liabilities and ensure that future opportunities associated with items accepted into the library's collections can be fully exploited.

- Purpose

The purpose of these *Guidelines* is to document best practices for libraries around the world when soliciting and accepting gifts and donations of materials for the collections. While every attempt is made to acknowledge most issues that arise when soliciting and accepting gifts and donations, not all issues are addressed in these *Guidelines* and in any decision making Libraries should take into account local culture.

The question may be asked as to why a written set of *Guidelines* is needed for gifts and donations. While gifts and donations are free of purchase costs, they are not without costs to the receiving library. It is to that very issue that these *Guidelines* are directed.

- History

IFLA's Standing Committee on Acquisition and Collection Development was established in 1976, with the name being changed from Acquisition and Exchanges Section after the Istanbul Conference in 1975. It was at the Standing Committee's meetings during the Berlin Conference in 2003 that the need was acknowledged to develop a publication, envisioned as a guidelines document on the solicitation and acceptance of gifts and donations by libraries. Subsequent discussions were held and during the Durban Conference in 2007, a working group was established to prepare these guidelines.

- Scope

This document is intended for use by libraries around the world, regardless of service orientation (e.g., academic, public) and regardless of the physical format of the material being donated.

The document is arranged in seven sections, each focusing on a key aspect of the process of soliciting and accepting gifts for the collections. The first and second

sections provide basic instructions to staff and to the public, respectively. The third section addresses the handling of unsolicited gifts and the fourth addresses solicited gifts. The fifth section discusses the kinds of information needed to assess a gift and special conditions that may be set by the donor and the sixth section describes the resource issues associated with accepting a gift. The final section describes the acknowledgment of the gift through both formal and informal means.

- Authors

The authors of these guidelines are Kay Ann Cassell, Sharon Johnson, Judith Mansfield, and Sha Li Zhang.

1. Gift policy statement (for internal use by staff)

1.1 *What will and will not be accepted*

Libraries should develop guidelines as to what gifts will be accepted and what gifts will not be accepted into their collections, based on their collection development policy. Libraries will want to state that they accept gift material to add to their collections that meet the same standards or selection criteria used for materials purchased for the collections. It is often easier to say what will not be accepted rather than what will be accepted. For example, materials in poor physical condition, material with out-of-date information or long runs of popular periodicals will not be accepted.

There is also the issue of objects or materials which more properly belong to museum collections, such as paintings, sculptures (or other three-dimensional works of art), and furniture or furnishings, costumes, medals, coins, stamps, badges, emblems, decorations, personal effects, or any other objects or materials, generally out-of-scope for library collections. Ordinarily, a library will not acquire or accept such items for its collections. Materials such as these will not, in most cases, be accepted by a library, even when they are offered in connection with gifts or bequests having belonged to or been associated with particular individuals or institutions.

A library, as an exception, may accept for its collections objects of non-library character. In order to protect the library in the future, a written justification should be prepared relating the compelling circumstances involved and offering plans for custody in the library. Such recommendations should be approved in writing by the library director or another authorized individual.

Libraries may want to accept unsolicited gifts, but with no conditions attached, so that the library can decide whether it actually needs the donated material. Many gifts may duplicate materials already owned by the library or may be out-of-date or out-of-scope for the collections. Gifts that are not added to the collections could, for example, be donated to another library or sold at the library's book sale. Non-library materials which may be received as unsolicited gifts, or which may accompany collections of materials acquired for the library's collections, will be transferred to an appropriate repository, returned to the source, or disposed in a manner similar to that used for library materials.

1.2 *Ownership once gift is made*

Libraries will want to state that once a gift is made to the library that the materials are the property of the library and the library has the right to dispose of them as it sees fit.

1.3 Authorities

The library should establish lists of officers that are authorized to represent the library in the different phases of acquiring gifts. Examples of such lists include:

- Authority to solicit gifts

The library must decide who can appropriately solicit gifts for the collections. Usually this authority would rest with the library director, development officer or a subject bibliographer.

- Authority to accept gifts

The authority to accept gifts should rest with the library director based on the recommendations of expert staff.

- Authority to acknowledge gifts

Acknowledgment of gifts will depend on the size and value of the gift. Small gifts can be acknowledged by a form letter signed by the library director or designee. Larger gifts should be acknowledged either by the library director, an official of the institution (e.g., university), or by the president of the board of trustees depending on the institutional affiliation.

- Authority to sign donor agreements

The authority to sign donor agreements should rest with the library director, an official of the institution (e.g., university), or a member of the board of trustees. The library should develop a standard donor agreement to be used. If the donor has other requirements, the agreement should be reviewed with legal counsel retained by the library before the agreement is signed.

- Authority to make monetary appraisals/valuations

The authority to make monetary appraisals/valuations may vary from country to country. For example, in the United States libraries cannot make monetary appraisals/valuations for tax purposes because the U.S. Internal Revenue Service considers the library to be an interested party. The U.S. law states that all gifts over \$5,000 must be appraised by a "qualified appraiser" in order to claim a tax deduction. However, the library may have a list of appraisers to recommend to donors.

- Authority to sign tax forms

Tax forms should be signed by the appraiser. The library will simply acknowledge the receipt of the gift.

1.4 Record retention

It is recommended that libraries retain all records relating to donations permanently. These records include, but are not limited to, correspondence, e-mail messages, deposit forms, and formal donor agreements.

2. Unsolicited gifts: instructions to the public

If it is the library's policy to encourage gifts from the public, it is important for the library to provide instructions to the public on how to make gifts to the library. These instructions can be posted on the library's web site or printed in brochures describing the library's collections.

Sample statements:

- The [Name] Library welcomes and encourages gifts in support of the institution's programs. Indeed, the Library relies heavily upon donors to help sustain its growth -- many of the Library's most valuable resources and special collections originated in this way. It is recommended that the donor supply a list of the items donated at the time of donation.
- The [Name] Library accepts material that reflects the current interests and needs of the community and complements current Library collections, programs and goals in format, subject coverage, depth and philosophy to provide a balance of information, viewpoints and formats.
- The [National] Library welcomes inquiries about donations, but cannot accept everything. Prospective donors should NOT send item(s). They should, instead, send gift offers identifying the item(s) to be offered. Prospective donors of books published in the [nation] should be aware that the [National] Library acquires many [national] titles through legal deposit. If you wish to donate library materials to the [National] Library, please contact: [contact information]

3. Handling unsolicited gifts

The library should publicly state (see Section 2) its policy or preference on how to make an unsolicited gift, e.g., The Library of Congress states on its web site that “Prospective donors should NOT send item(s), but instead, send gift offers identifying the item(s) to be donated.” In addition, the library should establish processes for dealing with unsolicited gift offers not received via the preferred and publicized method.

3.1 Unsolicited gifts with no accompanying donor information

The library should discourage the deposit of unsolicited material with no accompanying donor information. Where such material is deposited, the library should clearly publicize the terms under which any such deposits will be treated. This should include statements on:

- Transfer of full, free and unencumbered title to the property once deposited
- Non-acceptance of liability for any loss or damage to the property
- Right to exercise discretion in accepting gifts, particularly if they duplicate existing holdings, fall outside the library’s collection development policy, are in poor condition or are not in keeping with any ethical acquisitions policy in place within the library
- Methods of disposal of unwanted gifts, e.g., selling them at the library’s book sale, donating them to another library that collects in that area or donating them to a local agency or national organization
- Retention policies regarding items accepted into the collections, e.g., even if items are accepted into the collections they may be considered for disposal in the future and retention is not guaranteed in perpetuity
- Cataloguing policies
- Access policies

3.2 Unsolicited gifts with accompanying donor information

Where unsolicited gifts are given to the library along with the details of the donor, then it is good practice to have a documented process for dealing with such items. The library may wish to discourage donors from sending unsolicited gifts even when accompanied by donor information. In such cases the library may wish simply to publicize the terms under which any such donations will be treated (as in section 3.1 above).

Alternatively the library may wish to have a documented process in which it acknowledges receipt of items pending a decision regarding acquisition, particularly if items deposited are considered valuable. Such a process is intended to reduce the library’s exposure to risk and provide clarity to the donor regarding the terms under

which he/she has deposited the item until the time when a decision regarding non-acceptance or acceptance by the library is reached.

The use of a deposit form, with copies held by both the donor and the library is one way in which this process might be managed. The form should include details of the terms and conditions under which deposits to the library are made. This might include statements regarding:

- Non-acceptance of liability for any loss or damage to the property, however caused while in the library's care
- Clarity on the library's position regarding lack of authorization to give monetary appraisals/valuations to assist in the disposal of private property
- The library's collection policies that limit the property that may be considered for deposit
- Process for transfer of title for the property should the item offered on donation be accepted for acquisition
- Process for disposal or return of material not accepted for deposit including the responsibility of owners to collect any material left on deposit within a specified period of time

Information to be gathered at this initial stage should include:

- Reason for deposit
- Name, address and contact information for the owner
- Name, address and contact information for the depositor (if different from above)
- Details of the property to be deposited
- Details on the condition of the property to be deposited
- Signed declaration acknowledging that the donor:
 - Is the owner of the property deposited or is authorized to deposit the object(s)
 - Is authorized to accept the library's terms and conditions regarding deposits
 - Agrees that the condition of the property at the time of deposit is as described earlier

Once a donor has provided all the information required and agreed to the terms and conditions of the deposit then the form should be signed by an authorized individual within the library and copies held by both parties.

If an item(s) is deemed to fall within the library's collection development policy and the library is interested in pursuing acceptance of a donation on deposit then additional information should be gathered at this stage to aid the final decision making process.

Details of this are outlined in Section 5.

Once the library has made a decision regarding acceptance or non-acceptance of property then this should be recorded on the temporary deposit form, and the decision communicated to the donor.

3.3 *Unsolicited gifts offered to, but not deposited with, the library*

Libraries may suggest that prospective donors NOT send item(s), but instead, send gift offers identifying the item(s) to be donated. Such a policy helps ensure that the library is sent only those items it wishes to accept and add to its collections. It also:

- Helps reduce the administrative burden and cost of dealing with the unpacking/handling of unsolicited material and the subsequent disposal of unwanted material, particularly where large scale donations are involved
- Helps reduce risks around potential contamination of library collections (e.g. from pests, mould)
- Avoids issues regarding liability for any loss or damage to the item(s) offered as the material will only transfer to the library once the donation is accepted and the process for transfer of title for the property completed
- Ensures a single point of contact established for dealing with gift offers and that donations are handled and evaluated against established criteria through the appropriate curatorial staff.

4. Negotiations for solicited gifts

Only authorized officers of the library should represent the library in informal and formal negotiations for gifts. See Section 1.3.

4.1 *Informal negotiations*

The following guidelines shall be followed in conducting informal negotiations:

- Authorized library officers may indicate the library's interest in receiving gifts of specific materials and may explore with prospective donors the possible terms under which a particular gift may be made. If negotiations require immediate action, the authorized officers may indicate their understanding of the library's intention to take all reasonable steps to assure the acceptance of the desired materials, but they shall also make it clear to prospective donors that final acceptance rests with the director of the library or designee, and that such preliminary discussions cannot commit the library to acceptance.

- In the case of negotiations for the gift of specific materials already determined by the director of the library or designee to be desirable additions to the library's collections, authorized officers may negotiate for the gift of those specific materials.

4.2 Formal negotiations

The following guidelines shall be followed in conducting formal negotiations:

- If the negotiations referred to in Section 4.1, above, lead to a firm offer of a gift of material, the officer should communicate immediately with the director of the library or designee.
- Negotiations that result in sets of “conditions of acceptance” or that result in other legal matters should be cleared through the library director or designee and the library's legal counsel in advance of final acceptance.

If a donor requests a monetary appraisal/valuation of items donated see Section 1.3 Authorities.

5. Evaluating gifts for inclusion in the collections

Adding gifts (either solicited or unsolicited) to library collections can be a costly undertaking and libraries must consider carefully the life-cycle costs of accepting a donation into the library's collections (see Section 6) alongside any conditions the donor may wish to attach to an item(s), such as restricted access, conditions involving the reproduction of material or restrictions on how material may be used. Having a fully documented gift policy in place will help in the evaluation of gift offers.

The following section outlines the type of information that should be gathered to assist in the decision-making process regarding acceptance or non-acceptance of a gift. Depending on the library's gift policy, a decision to not accept some gifts can be reached quite quickly on the grounds of scope, format, subject, intellectual level, physical condition, overlap with existing collections, etc.

5.1 Ownership

It is important to clearly establish who owns both the physical objects and the intellectual property rights of the gift and if the prospective donor(s) is the legal owner or if they are acting on behalf of someone else who created or owns the property. If the latter, the library may wish to ask the individual(s) to demonstrate that they have the authority to donate the item. In keeping with this, the library should ask the prospective donor to provide:

- Full legal name, address and contact information for the owner
- Full legal name, address and contact information for the depositor and details of their relationship to the owner/creator of the item(s) offered (if different from above)
- Declaration acknowledging that they are the legal owner(s) of the item(s) or duly authorized agents of the legal owner and that they are free to give the item(s) offered

5.2 Sensitive materials

On occasion, gift collections will contain sensitive materials, e.g., personal data, legal data or government controlled data. If the donor wants to restrict access to the gift or portions of it, the library should require that the donor identify the restricted materials before the library takes possession and that the restriction on access should be for the shortest time possible.

5.3 Provenance

For some types of material, particularly cultural property, information/evidence on the provenance of the item may be required. Libraries should exercise due diligence and the highest ethical practices in dealing with offers of material such as:

- Unique material, e.g., manuscripts, drawings, paintings, or other works of art
- Prints
- Material above a specified value
- Material printed before 1900
- All archaeological material

For items originating from abroad documentary evidence should be sought regarding the legitimate export of the item(s). Should additional guidance be needed in these matters, information may be found in the *Code of Ethics for Museums*, 2006, paragraphs 2.2, 2.3 and 2.4 on the web site of the International Council of Museums (<http://icom.museum/ethics.html#intro>).

5.4 Reason for donation

It is helpful to establish the donor's motivation for offering the item to the library and whether the prospective donor has offered the material elsewhere. It is also important to determine if there are any time constraints that may apply in terms of decision-making and the transfer/delivery of the property.

If the donor is interested in giving an item under any form of acceptance in lieu (inheritance tax) scheme or as a Non-cash Charitable Contribution then it is important that guidance is in place for staff on the appropriate advice to be given and any action to be taken regarding such offers, taking into account, the library's position on monetary appraisals/valuations and any governing laws, rules and regulations that may apply.

5.5 *Appropriateness of the material offered*

To help determine if the item(s) offered are appropriate for the library's collections and to evaluate the potential resource implications of accepting an item(s) then detailed information regarding the item(s) offered is required. This information needs to be reviewed against the library's gift policy (see Section 1). The type of information the library may find useful to collect might include:

- Collection size – to include information on the number of items offered and/or the number of metres of stock offered. For individual items this might include details of specific sizing. This information will be helpful in assessing the storage and life-cycle resource implications of accepting the item(s) and in assessing the potential resources required should the library wish to check material against existing holdings. It is also important to assess the proportion of unwanted to wanted material in the collection.
- Bibliographic data – to include (where applicable) bibliographic information on the item(s) offered, such as title, author, ISBN, ISSN, year of publication, edition etc. This information will enable the library to check the item(s) on offer against existing holdings and eliminate offers on the grounds of duplication. (Where a large number of items are offered, the library may wish to consider requesting a list of titles which it may be able to match against its own holdings by automated means.)
- Material type - to include details of the type of material offered, e.g., manuscripts, prints, drawings, paintings, maps, early printed material, monographs, serials, grey literature, reports, newspapers, audio, audio-visual, catalogues, etc. This information can be used to quickly eliminate offers of materials which fall out-of-scope for the library's collection development policies. The material type may also be a useful indicator of the potential uniqueness and importance of the material and if policies on ethical acquisition and due diligence within the library need to be applied.
- Material format – to include details on the format of the item(s) offered, e.g., print, fiche, film, digital images, sound files, CD-ROM. This information can be used to quickly eliminate offers where the library deliberately excludes the acquisition of materials in particular formats or where it is unable to provide services to its users from such formats.

- Intellectual level - to include details regarding the intellectual level of the material offered, e.g., research level journals, undergraduate text books, juvenile literature, teaching materials, practical guides. This information can be used to quickly eliminate offers where the library deliberately excludes the acquisition of material based on intellectual level.
- Date range – to include details on the publication/originating date or date span of the item(s) on offer. This information will be helpful in identifying older, more unique, and valuable material and, for large collections, particularly those for which no title lists are available, and in looking at overlap with existing holdings. For example, if the library has been offered 100 psychology journals published between 1980 and 1985, it can determine if it already has good coverage of journals in that subject area over the time stated and make an informed decision as to whether to continue to pursue the offer further.
- Subject coverage - to include details of the subject(s) covered by the item(s) offered. This information can be used to quickly eliminate offers where the library deliberately excludes the acquisition of material in certain subject areas. Subject information is also particularly useful where detailed lists at the item level are not available.
- Physical condition – to include details on the condition of the item(s) offered. As the donor may be inexperienced in describing the physical condition of the item(s) in a meaningful way, the library may wish to have a checklist which is completed with the donor and/or may wish to consider requesting, where practical, photographs of the item(s) offered. A checklist might include, but is not limited to, such questions as: (1) Is the binding the original binding? (2) Is the binding intact? (3) Are any pages missing? (4) Are any pages torn? (5) Is the item soiled, yellow or crumbling? (6) Is the item water damaged? (7) Has the item been defaced in any way, e.g., pencil marks? (8) If the item is audiovisual, is it in its original packaging? (9) Is the item infested with insects or mould?

Based on the donor's response to the questions above, the library can then agree on a condition rating for the item, e.g., excellent, good, poor, and unusable. If the library normally only accepts material in good or excellent condition then this information can be useful in making a decision regarding acceptance or non-acceptance of the gift. In some instances a library may be willing to accept unique or valuable material in poor condition, but having information on the condition of the item will allow the library to understand how material would need to be handled on receipt to avoid any risk to other collection materials; and to only accept items with a full understanding of the cost implications of restoring and conserving the item. For sizeable donations (and in some cases individual donations) a visit to view the item(s) in situ may be advisable before a final decision to accept an item(s) is made.

5.6 Special conditions

As a general rule, libraries prefer to discourage conditional donations and, as such, will often express this as part of their policy statement. See Section 1. To avoid discouraging potential valuable gifts the library may, as part of its policy, 1) state where exceptions to this rule may apply or 2) state that gift offers that come with restrictions or special conditions will be reviewed and accepted on a case by case basis. It is therefore important to clearly establish any restrictions or special conditions attached to a gift offer from the outset so the cost and services implications of any conditions can be considered alongside the value of the item(s) (both monetary value and value to the collections).

The following section details some of the special conditions and restrictions a donor may stipulate when offering a gift:

- Bookplates – A donor may stipulate that a bookplate acknowledging him/her as the donor be affixed to the item(s) donated. Bookplates can be labour intensive to produce and affix, particularly where large scale donations are involved. It is advisable for the library to have a policy in place regarding the addition of bookplates which acknowledge the original donor. The request for the addition of a bookplate to the item(s) donated should be noted and considered alongside the value of the item(s) offered
- Cataloguing – A donor may stipulate that a note be added to the catalogue record of the item(s) donated citing him/her as the original source of the acquisition. If this is not part of the normal cataloguing policy for gifts, then consideration will need to be given to the practicalities and cost implications of such a request.

Alternatively, it may be library policy to always add such a note to the catalogue record of the item(s) donated. If this is the case then this policy needs to be clearly communicated to the donor. In some cases the donor may stipulate that they wish to remain anonymous during their lifetime and as such any such information on the catalogue record will need to be suppressed.

A donor may stipulate that the item(s) offered be accessioned and catalogued within a particular period of time. Processing and cataloguing, particularly of large scale collections, is resource intensive and the item(s) donated need to be considered alongside other cataloguing priorities and workloads within the library. It is advisable to avoid any commitment to process and catalogue material within an agreed timeframe unless additional funding can be found for acquisition processing and cataloguing activities from either the donor, or from other funding sources. Again it is helpful if the library has a clear policy statement regarding its

approach to the cataloguing of gifts.

- Storage – In many cases library policy will be to only accept material which can be integrated into the existing collections. A donor may stipulate, particularly in the case of large scale collections, that the item(s) donated be housed together or housed in a particular collection/location. The library needs to consider the practicality, viability, cost and impact on storage strategies/plans of any such request against the value of the item(s) offered.
- Access to and use of material – In many cases library policy will be that gifts are accepted on the basis that the library may deal with the item(s) freely, at its discretion, for any purpose. This might include use in a range of services, both onsite and remote, marketing, exhibitions, etc. Where applicable the library's policy may also be to acquire any transferable intellectual property and analogous rights in the property from the donor.

A donor may stipulate that material will only be donated if certain access restrictions are put in place. In such instances it is also useful to understand the reason the donor has requested the restriction. Restrictions may be temporary in nature (e.g., access restricted during the author's lifetime) or permanent (e.g., access only made available to onsite users). Where such restrictions are requested the library needs to consider how this will impact on the collection value and the benefits to be derived from the item(s) offered.

A donor may be willing for material to be accessed freely but may wish to retain any intellectual property rights relating to the item(s) offered. In such cases item(s) can still be considered for acquisition, but clarity needs to be provided on how requests for permission to use the material will be managed with the intellectual property (IP) holder. Alternatively the donor may wish to retain any IP rights, but may be willing instead, to grant the library a licence to use the material in a particular way and/or for a particular time.

- Disposal – In many cases libraries policy will be to only accept donations on condition that they reserve the right to dispose of any items which are later considered to be duplicated or unwanted. Donors may in some instances stipulate that items should be retained in perpetuity or that the property should be dealt with in a particular way should the receiving library later determine it no longer requires the item. Such requests would need to be reviewed on a case by case basis.
- Delivery of donations – It is helpful if libraries provide clear statements regarding the delivery of donated material and responsibility for payment of packing and shipping costs. If a donor stipulates that responsibility for packing and shipping of

the material offered resides with the library then these costs need to be considered alongside the value of the item(s) offered.

- Publicity -- Donors may request publicity such as press releases, concerts, exhibits, and web sites to recognize their gifts.

6. Resource requirements considerations

In the process of agreeing to accept gifts, libraries must assess the availability of resources (both staff and funding) to acquire, process, organize for access, preserve, and store the gifts. Cost issues to be considered are described below.

6.1 Acquiring

- Preparing for the transfer of the gift

If a formal donor agreement is required or if the donor wishes to set special conditions on the gift, there will be costs associated with preparing documentation, as well as for legal counsel.

- Packing and shipping

The library may choose to pay the packing and shipping charges in order to effect the delivery of the gift in good condition.

- Completing a gift

When the donated collections are not complete as a set or series, additional funds may be needed to acquire missing parts in order to present the collections in their entirety to users.

6.2 Processing

- Initial resource considerations

A gift may be so large that accepting it may require hiring new staff and purchasing substantial additional supplies (e.g., barcode labels, spine labels) and equipment (e.g., staff workstations, computers).

- Staff time

Donated items should be carefully unpacked and checked against the gift inventory to assure that the shipment is complete and then against library holdings to identify duplicate materials. Specialists should determine the disposition of the donated items, e.g., sending them to a particular collection or sending them to be discarded based on the collection needs of the library users.

- Securing the materials

The retained materials should be stamped, targeted, and barcoded before they are made available for use.

6.3 *Organizing for access*

Organization for access to the donated materials should be governed by the needs of the library users. The access can be via full cataloguing records or finding aids.

6.4 *Preserving*

Collection care should be provided to preserve the materials in good physical condition. In-house or commercial repairs for damaged materials should be provided to extend the life-span of the donated materials. Consideration should be given to such needs as archival manuscript boxes and temperature and humidity control.

6.5 *Housing/storing*

Housing/shelving/storage space must be considered and identified prior to accepting a gift. For different formats of materials, the storage and housing needs also differ, e.g., maps are usually placed in special map cabinets; manuscripts in special archival quality boxes.

If the library decides to house the gift in a separate reading room, additional funds will be needed, e.g., to furnish the room. Consideration may be given to providing space for small group discussion opportunities for the gift.

7. Acknowledgment of gifts

7.1 *Letter*

A letter of appreciation should be sent by the library in response to each and every gift to the library, including those gifts/gift collections for which a formal Donor Agreement is prepared (see paragraph B).

7.2 Formal donor agreement

A formal Donor Agreement should be created for most large, valuable, or significant gifts, as well as gifts that have restrictions placed upon them by the donor. The formal Donor Agreement includes information about the donor and the nature of the gift/gift collection, and sets forth the terms under which the gift/gift collection will be administered. In order to write a Donor Agreement, the library must gather essential information ahead of time for inclusion in the Donor Agreement.

- The name and address of the donor, as well as the name and address of any interested third party such as a corporate entity or person or attorney representing the donor's interests, should be obtained for inclusion in the Donor Agreement.
- Should the Donor Agreement obligate the library to contact the donor for any reason after the agreement has been signed, a standard "Communications" clause should be added to the Agreement.
- An inventory or schedule or list of the gift/gift collection being acquired should be attached to the Donor Agreement, if at all possible. If it is not possible, then a list that describes the extent of the gift/gift collection, e.g., 25 boxes, 15 linear metres of files, 102 LPs, should be prepared. In all cases, an inventory or accessions record of the gift/gift collection should be compiled after its arrival in the library.
- In all cases, the library must be absolutely certain that the ownership of the gift/gift collection rests with the individual and/or corporate entity that will actually sign the Donor Agreement and be free and clear of any legal encumbrances. (See Section 5). Also, to be included is a statement about the ownership taking into account national laws.
- A statement should be included regarding the intention of the donor in relation to the intellectual property rights and/or copyright in the gift/gift collection material. The library should encourage the donor to transfer copyright and/or intellectual property rights in the donated material to the public domain, so that the library can freely administer and exhibit the material. With appropriate text in the Donor Agreement, a donor can transfer intellectual property rights to the library while retaining rights during his or her lifetime.
- Text governing access to and use, including reproduction, of the gift/gift collection should be included and be as all-embracing as possible, including both on and off-site use, exhibition, and exhibition on the internet. If the donor wants to restrict access to portions of the gift, the donor should be instructed to identify

restricted materials before the library takes the collection into its possession. If the donor wants to restrict the entire collection, the donor should so state, but in all cases where the donor insists on restricting access, the library should try to negotiate a restriction for the shortest time possible or whatever seems reasonable to both the donor and to the library.

- Many times, donors find additional material that they want to add to the original gift/gift collection. It is advisable to include an "Additions" clause to the Donor Agreement in order to avoid having to write and execute another Donor Agreement to acquire a small addition.
- The issue of disposal of unwanted material should also be included in the Donor Agreement. There is no need for a disposal clause if there are 10 photographs, or three video tapes, but with large manuscript collections, disposal can become an issue. It is preferable to have a disposal clause that simply allows the library to transfer or discard material in a manner determined by the library itself.

See sample text for donor agreements in Appendix A.

7.3 Other acknowledgments

The library staff may prepare other acknowledgments based on the request of the donor. These may include, but not be limited to, book plates bearing the name of the donor or notes bearing the name of the donor in the cataloguing record for the gift/gift collection.

Appendix. Sample text for formal donor agreement

Communications. The donor will provide the library with a current address and other contact information in order that the library can meet its responsibilities. The library will send notices and requests to addresses of record as provided and updated by the donor. If a certified letter sent by the library is returned as undeliverable or if the donor or his designee does not respond to a request within thirty (30) days, permission will be assumed to be granted.

Ownership. The donor warrants that he owns the physical property in the gift/gift collection, free and clear of any encumbrances/liens.

Intellectual Property Rights. This is a gift of the physical property contained in the materials constituting the gift/gift collection and the donor reserves to himself all rights, titles, and interests he may have in and to the intellectual property associated with the

gift/gift collection including, but not limited to, copyright. By accepting this gift/gift collection, however, the library does so to improve the library's collections, and such acceptance of the physical property shall not be construed as a conclusive determination by the library that the donor does, in fact, have or possess, with regard to these materials, such intellectual property rights as above identified.

Access. After processing, the entire gift/gift collection shall be made available to patrons according to the policies of the library.

Access. After processing, the entire collection shall be made available to patrons according to the policies of the library, with the exception that access to the items so designated in the schedule attached hereto, shall be reserved during the donor's lifetime plus five years to the donor and to others only with the written permission of the donor or his/her personal representative. Thereafter, said restricted portions of the collection shall be made available to patrons on the same basis as the previously unrestricted portions of the collection. It is understood, however, that the entire collection shall be available at all times to the staff of the library for administrative purposes.

Access. With the exception that the entire collection shall at all times be available to the staff of the library for administration purposes, access to the collection is reserved to the donor and to others only with the donor's written permission, or, in the event of the death of the donor, with the permission of [one or more names with contact information] for a period of _____ years from the date hereof; thereafter the collection shall be available to patrons according to the policies of the library.

Reproduction. Notwithstanding the above-mentioned reservation of rights and interest in and to the intellectual property as above identified, persons granted access to the gift/gift collection may obtain single-copy reproductions [per national laws] of the materials contained therein for research purposes, and, consistent with library practices and procedures, such additional copies as may be allowed by copyright law. The library may make preservation copies of materials in the gift/gift collection (including archival preservation and security preservation copies) in any format as determined by the library, and such copies shall become the property of the library.

Use. Use of the gift/gift collection shall be limited to private study on any of the premises administered by the library by those granted access to the gift/gift collection and to the library's customary archival and administrative purposes, including service, preservation, and security. The library may also exhibit any or all of the materials in the gift/gift collection on- and off-site. The library may use items in the gift/gift collection on its website or in any other electronic form or successor technology.

Additions. Such other related materials as the donor may from time to time donate for inclusion in the collections of the library shall be governed by the terms of this Donor

Agreement or such written amendments as may hereafter be agreed upon between the donor and the library.

Disposal. Should any part of the gift/gift collection be found by the library to include materials that the library deems inappropriate for retention with the collection or for transfer to other collections in the library, the library shall offer to return the materials to the donor and allow the donor sixty (60) days from the date of such offer to reply. If the donor does not wish to receive said materials or designate another repository to receive them, or has not responded to the library's offer by the end of the aforesaid sixty (60) days, the library may dispose of such materials in accordance with its procedures for disposition of materials not needed for the library's collections.

Sources

British Library *Due Diligence Guidelines*, July 2006.

British Library *Due Diligence Checklist*, November 2006.

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Cassell, K.A. "Handling gift books in libraries: a view from the US." *New Library World*. 106:1216/1217 (2005): 450-453(4).

Library of Congress Collections Policy Committee *Recommending Officer's Checklist for Gift Acquisition*: a Joint Project of the Anglo-American Acquisitions Division and the Office of the General Counsel, Spring 2003.

Library of Congress Regulation 317-1 *Solicitation and Acceptance of Gifts of Materials for the Collections*, December 14, 1999.