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**Long-Term Loans:
A Client-Focused Collaborative Approach**

Discussion Paper



Introduction

This document should be read in relation to the three following documents, which are available on the Library and Archives Canada website (link) *Library and Archives Canada's Story Continues*, the *Documentary Heritage Management Framework*, and the *Acquisition Orientation Instrument*.

This document is part of a series of eight discussion papers that seek, through practical projects, to validate the four guiding principles and four key roles of the *Documentary Heritage Management Framework* developed by Library and Archives Canada (LAC) during summer and fall 2009. Specifically, each pathfinder project seeks to demonstrate the applicability of these principles and roles. Each pathfinder project will result in a final report, which will add overall conclusions about the implementation of the *Documentary Heritage Management Framework* and the *Acquisition Orientation Instrument*. Based on observations, the final report will be even more effective in contributing to the achievement of LAC's mandate, within the current operating environment.

1. Background

Like other memory institutions, Library and Archives Canada (LAC) plays a key role in the knowledge economy. The valuable collections at LAC and in other memory institutions foster innovation and the capacity for economic growth, both hallmarks of the knowledge economy. While information sources continue to be available in traditional ways, the escalating digital environment and growing expectations for greater access by clients pose a challenge to LAC's ability to manage Canada's documentary heritage.

With rapid advances in the information environment, there has been an exponential growth in clients wanting greater access to material. They expect this material to be easily locatable through a single access point. In this context, LAC seeks a balance between the traditional and emerging service delivery models.

For this reason LAC is now looking to expand its services to new and existing clients by exploring long-term loans of material, building on the success of its short-term loans (e.g., the loaning of portraits and archival documents to other institutions). Long-term loans can be considered as a collaboration or partnering activity involving LAC and other organizations with compatible objectives who agree to combine resources (financial or in-kind) to share in defined risks and benefits for the purposes of acquiring, preserving, and making documentary heritage accessible. Under these conditions, LAC may either be the lender or the borrower. Such long-term loans will involve lending material to a borrower, granting a set of rights along with a set of obligations over a relatively long period of time.

2. Purpose

2.1 Overall purpose of long-term loans

A long-term loan is a mutually beneficial activity that enables increased visibility and accessibility to Canada's documentary heritage throughout the country. This will allow organizations to explore creative solutions to complex issues surrounding resource discovery. Through collaboration, value can be added to services, programs, and activities, enabling the continuation of activities with reduced resources. Collaboration presents memory institutions with the opportunity to attract expertise, specific knowledge or experience, and eliminate duplication or overlap of collections. Moreover, collaboration allows LAC to ensure that Canada's documentary heritage is more broadly accessible while, at the same time, being housed at the most convenient geographic location and within the most suitable memory institution.

LAC is developing a strategic approach to partnering, in order to work with the most suitable organization to care for the material. This approach can work both ways, with LAC as the borrower or



the lender. Collaboration may be instigated by an expression of mutual interest in the material that has been identified as significant by both parties. Partnering should take into consideration: public access, geographic location, and match the appropriate institution with the relevant documentary heritage resources. Collaboration in the form of long-term loans relies on memory institutions to be aware of the communities they serve.

2.2 Benefits

There are numerous benefits to be gained from long-term loans. Clients will benefit from an easier and more comprehensive access to collection materials. This will be facilitated by a client-centred access and resource discovery model through widely used media. Clients will also benefit from a single-window portal to updated, specialized subject matter material and specialized services and to which participants may contribute. This portal would also facilitate the linking of sets of similar or related documentary heritage material within each institution and could provide a more comprehensive access for clients. Free access to these resources will increase the public profile of Canadian documentary heritage.

Partnering organizations, including LAC, can also benefit. These participants will get enhanced service for their own clients through subject-matter specialized collections developed during a long period of time at a lesser cost. In addition, it will reinforce and strengthen their mandates as knowledge centres as well as increased recognition as a centre of expertise in their areas of specialization. Partnering organizations will also gain in client perception and visibility. Clients will be seen as active and contributing participants in a national network that recognizes and promotes the expertise and the unique nature of each partnering organization. There will also be financial benefits for the participating organizations in terms of storage and access to available materials. A tangible benefit is the recognition at the political level of the role played by memory institutions as centres of excellence and in the delivery of client services.

3. Considerations

3.1 Form and Nature, Powers and Responsibilities

Any discussion of long-term loans involves navigating through a complex web of rights and other regulatory issues. This aspect is of primary importance because it sets the legal framework for the business relationship, if any, to be established between LAC and the partnering organization.

This will have a major impact upon the management, care, and control of the material. It is increasingly apparent that innovative collaborative arrangements are more complex in nature than at first glance and involve the residual legal or other responsibilities regarding former functions or assets. For example, in the case of long-term loans, LAC or the lending organization, will not be relinquishing ownership or accountability of its physical properties, but is merely transferring their administrative management on a temporary basis under various forms of agreements – sometimes to non-federal organizations.

For each type of business relationship, partnering organizations (or entities) need to be aware of the provisions within the legal agreement by which the transfer of functions, powers, and responsibilities between LAC and other bodies is governed. All entities need to respect their obligations in a long-term loan arrangement. The issue of *control* – and, consequently the nature of LAC intervention, is likely to become more complicated if LAC enters more broadly into different kinds of arrangements outside of the federal jurisdiction (such as collaborative arrangements with private sector entities or joint federal-provincial delivery of services and programs).

The nature of the various relationships including long-term loan of assets prompts the following questions:

- What is the nature, policy or legal constitution of the entity to which federal functions, powers, and responsibilities are being transferred by LAC? What is the nature or legal constitution of the entity that is transferring their functions, powers, and responsibilities to LAC?



- What is the nature of the business relationship established between LAC and the partnering organization?
- What levels of partnering, mutual investments and risks and benefits will be assumed by LAC and the partnering organization?
- If LAC retains ownership or vested interest in the physical properties after eliminating care and control over them, does LAC wish to retain any records of these assets? Who is responsible for managing these assets? Will access be granted to any or all records related to these assets?
- If assets have been transferred to the care and control of a partnering organization in the context of long-term loans, what provisions have been made to make the assets known and accessible?
- If LAC, or the partnering organization, maintains ownership of the material, what kind of administrative oversight is needed? What standards will govern, and be the source of, the monitoring of the care and control?
- What is the audit trail that LAC and partnering organizations need to maintain for making decisions concerning the material on long-term loan?

3.2 Legislation

LAC is primarily concerned with powers and responsibilities contained in the *Library and Archives of Canada Act*. However, there are many other laws, regulations, and policies (such as federal, provincial, municipal) which contain provisions regarding the status of material. Statutes and regulations governing partnering organizations may impact upon the status, care, and control of material. In the case of long-term loans, application of federal statutes and regulations governing LAC (such as the *Access to Information Act*, the *Privacy Act* and the *Copyright Act*) may need to be applied by partnering organizations. Similarly, LAC may need to comply with other laws and regulations governing partnering organizations.

The nature of the various statutory and non-statutory frameworks in Canada prompts the following questions:

- If entering into a long-term loan agreement, what legislation, regulatory and policy environments will both partnering organizations need to respect? (e.g., *Library and Archives of Canada Act*, *Access to Information Act* and the *Privacy Act*)
- What obligations, if any, do the legal, regulatory, and policy environments create for LAC and partnering organizations?
- What is the legal and strategic threshold for long-term loans?

3.3 Accountability for material

Linked to the two previous categories is the issue of accountability. While accountability is a fairly fluid concept, in this category, it can be understood in two ways.

First, accountability can be understood as ensuring that the legislative and policy instruments of the lender and the owner continue to be respected regardless of the physical location (and temporary custody) of the documentary heritage material. For example, the federal government requires adherence to the *Access to Information Act* and the *Privacy Act*. These Acts need to be respected even in the event of a long-term agreement that sees the material loaned to an organization outside the federal government. Additionally, it should be noted that there are other situations where material can be considered to be under the 'control' of a government institution. For example, an institution may already have a contract or some form of agreement in place with a service provider, agent or other organization which contains provisions for the collection, creation, storage, and maintenance of material. This material would also be deemed to be under the control of the lending institution regardless of its physical location. Therefore, of major importance then is the identification of all material associated with long-term loans and the determination of its status with respect to control or authority and accountability.

Second, accountability can be understood from an information management perspective. Partnering organizations will need to track, monitor, and record any decisions, deliberations or activities pertaining



to the material. Furthermore, this information will need to be accessible, transparent, and accountable to the 'owner' of the material.

The nature of the various accountability models for the material prompts the following questions:

- Have the operational and administrative needs for the material been clearly established?
- Have the issues of authority and accountability for the material been addressed?
- What is the impact on the institution's information management practices?
- What type of information management system is required within LAC and partnering organizations to monitor these arrangements which may span several decades?
- Have the ongoing legislative, policy, and regulatory obligations of LAC and partnering organizations been fulfilled?
- Do LAC and partnering organizations have the capacity to maintain the relevant authority and accountability throughout the lifecycle of the arrangement?

3.4 Risks

The risks of long-term loans merit careful examination. The obvious risk pertains to the fact that LAC can transfer responsibility but not accountability. There is a need for an oversight function that is clearly set out and carefully monitored at the institutional level, which may involve significant cost. LAC and partnering organizations must also ensure that standards are maintained and that both parties can deliver on the agreement in spite of any capacity or cost issues that might arise in the future. In addition, there is a potential impact on the document-delivery business model for all organizations involved in the supply chain.

Another consideration is that the lending of material may result in limiting access to these collections which will potentially result in failure to meet client and stakeholder expectations. Moving and storage are also important factors if they result in possible loss of or damage to the collection. On the preservation side, there is a risk of deviation from LAC care and maintenance recommended standards notably in terms of transportation, storage, and quality of the facilities available for the material. For resource discovery, there is a risk that access to material loaned to partnering organizations might incur cost to the public. For legal deposit, there is a danger that publisher compliance with the legal deposit requirement may decrease if publications do not remain under the care and control of LAC. Finally, there is a potential risk that LAC and partnering organizations are perceived as no longer meeting their mandate.

The nature of the various risks identified above, prompts the following questions:

- Do LAC and partnering organizations have the financial, physical, and operational capacity to enter into the long-term loan arrangement?
- What is the value of the long-term loan arrangement to LAC and partnering organizations?
- What are the guiding operational, business, and strategic criteria for establishing long-term loans of material?
- What is the duration of the period which is considered as "long term"?
- How do LAC and partnering organizations define and brand their institutional roles and functions in the context of long-term loans?
- How do partnering organizations maintain the varying, sometimes complex, obligations?
- What is the overarching collection development framework for LAC and partnering organizations? How does the potential loan align with this?
- What is the key material that must be maintained within LAC and partnering organizations' collection to maintain perception and relevance of each organization's mandate?
- How will LAC and partnering organizations achieve a strategic and practical balance between what is being lent and what is accepted into collections?
- How will the risks be analyzed, mitigated and monitored throughout the duration of the agreement?

4. Conclusion

Over the next several months, LAC intends to explore the possibility of long-term loans both as the borrower and as the lender. This will be done in conjunction with two organizations which have



demonstrated interest in such a partnering activity, namely: the Canada Institute for Scientific and Technical Information (CISTI) and the University of New Brunswick (UNB). The information gathered through collaborative (with other organizations) and internal analysis will be complemented by a consultation process. The final report will contain specific and global recommendations on long-term loans as a client-focused collaborative approach for discovering and accessing Canada's documentary heritage.

The final report in March 2010, will describe the results obtained by the implementation of the long-term loan pathfinder project described in this document and will be used to achieve the objectives of Library and Archives Canada (LAC) in two respects.

First, each of the eight pathfinder projects will produce operational specific deliverables, which will develop approaches and practices of LAC in respect of certain specific activity areas.

Second, the lessons learned during the implementation of each pathfinder project, in the context of the four guiding principles and the four key roles will feed the LAC approach to the acquisition, preservation, and the resource discovery of Canada's documentary heritage.

Your comments and feedback on this discussion paper will support the work of LAC, as it prepares to revise its approach to meet the challenges of the digital environment in order to continue fulfilling its mandate, and thus better serve Canadians.