

SUBCHAPTER C—FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

PART 1160—INDEMNITIES UNDER THE ARTS AND ARTIFACTS INDEMNITY ACT

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§ 1160.1 Purpose and scope.

(a) This part sets forth the exhibition indemnity procedures of the Federal Council on the Arts and Humanities under the Arts and Artifacts Indemnity Act (Pub. L. 94-158) as required by section 2(a)(2) of the Act.

(1) Eligible items from outside the United States while on exhibition in the United States or

(2) Eligible items from the United States while on exhibition outside this country, preferably when they are part of an exchange of exhibitions.

(b) Program guidelines and further information are available from the Indemnity Administrator, c/o Museum Program, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

[56 FR 49848, Oct. 2, 1991, as amended at 60 FR 42465, Aug. 16, 1995]

§ 1160.2 Federal Council on the Arts and the Humanities

For the purposes of this part (45 CFR part 1160) the Federal Council on the Arts and the Humanities shall be composed of the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Secretary of Education,

the Director of the National Science Foundation, the Librarian of Congress, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Administrator of the General Services Administration, the Director of the United States Information Agency, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Transportation, the Chairman of the National Museum Services Board, the Director of the Institute of Museum and Library Services, the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Veterans Affairs, and the Commissioner of the Administration on Aging.

§ 1160.3 Definitions.

For the purposes of this part:

(a) *Council* means the Federal Council on the Arts and the Humanities as defined in § 1160.2.

(b) *Letter of Intent* means an agreement by the Council to provide an indemnity covering a future exhibition subject to compliance with all requirements at the date the indemnity is to be effective.

(c) *Lender* means the owner of an object.

(d) *Eligible item* means an object which qualifies for coverage under the Arts and Artifacts Indemnity Act.

(e) *Exhibition* means a public display of an indemnified item(s) at one or more locations, as approved by the Council, presented by any person, non-profit agency or institution, or Government, in the United States or elsewhere.

(f) *On Exhibition* means the period of time beginning on the date an indemnified item leaves the place designated by the lender and ending on the termination date.

(g) *Indemnity Agreement* means the contract between the Council and the indemnitee covering loss or damage to indemnified items under the authority

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of the Arts and Artifacts Indemnity Act.

(h) *Indemnitee* means the party or parties to an indemnity agreement issued by the Council, to whom the promise of indemnification is made.

(i) *Participating institution(s)* means the location(s) where an exhibition indemnified under this part will be displayed.

(j) *Termination date* means the date thirty (30) calendar days after the date specified in the indemnity Certificate by which an indemnified item is to be returned to the place designated by the lender or the date on which the item is actually so returned, whichever date is earlier. (In museum terms this means wall-to-wall coverage.) After 11:59 p.m. on the termination date, the item is no longer covered by the indemnity agreement unless an extension has theretofore been requested by the indemnitee and granted in writing by the Council.

§ 1160.4 Eligibility.

An indemnity agreement made under these regulations shall cover:

(a) Eligible items from outside the United States while on exhibition in the United States;

(b) Eligible items from the United States while on exhibition outside this country, preferably when they are part of an exchange of exhibitions; and

(c) Eligible items from the United States while on exhibition in the United States, in connection with other eligible items from outside the United States which are integral to the exhibition as a whole.

Example 1. Museum A, an American art museum, is organizing a retrospective exhibition which will include more than 150 works of art by the Impressionist painter Auguste Renoir. The exhibition will present the full range of Renoir's production for the first time ever in an American museum. Museums B and C, large national museums in Paris and London, have agreed to lend 125 major works of art illustrating every aspect of Renoir's career. Museum A is also planning to include related works from other American public and private collections which have not been seen together since the artist's death in 1919. Museums D and E, major east coast American art museums, have agreed to lend 25 masterworks by Renoir. The exhibition will open in Chicago and travel to San Francisco and Washington.

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DISCUSSION

Example 1 is a straightforward application of the amended indemnity regulations. Under the old regulations, only the works of art from Museums B and C, the foreign museums, would have been eligible for indemnification. Under the proposed Regulations, the works of art from American museums and other public and private collections also would be eligible for indemnification. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and whether the foreign loans are integral to the educational, cultural, historical or scientific significance of the exhibition. In this example, the Federal Council would likely approve indemnification of the entire exhibit.

Example 2. Museum A in Massachusetts is organizing an exhibition celebrating 250 Years of Decorative Arts in America, to be held in conjunction with the state's celebration of the millennium. Included among the objects to be borrowed from museums and historical societies in the United States are furniture, textiles, metalwork, ceramics, glass and jewelry, illustrating the best examples of American design from colonial times to the present. The curator traveled abroad recently and saw an exhibition of American quilts which have been acquired by a British decorative arts museums. He intends to borrow several of the quilts for the exhibition.

DISCUSSION

Example 2 raises the question as to whether the American museum organizing the exhibition has included the British-owned American quilts merely to obtain insurance relief. In determining whether to indemnify the entire exhibition, the Federal Council will evaluate the exhibition as a whole and whether the foreign loans are integral to achieving its educational, cultural and historical purposes. Here, it is likely that the Federal Council will conclude that the foreign work are not an essential component of the exhibition. The Federal Council also may seek additional information from the applicant to determine whether the objectives of the exhibition could have been accomplished as satisfactorily by borrowing American quilts from U.S. collections. On these facts, the Federal Council in all likelihood would deny indemnification for the entire exhibition.

Example 3. Museum A, an American museum, is organizing an exhibition of the works of James Watkins, a nineteenth century American painter, focusing on his studies of human anatomy. Museum A has the foremost collection of preparatory drawings related to Watkins' major painting, "The Surgeon and His Students." The painting is in the permanent collection of Museum B, located in the south of France, which has