

The Auditor-General  
Auditor-General Report No. 18 2022–23  
Performance Audit

# **The Acquisition, Management and Leasing of Artworks by Artbank**

Department of Infrastructure, Transport, Regional Development, Communications  
and the Arts

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Canberra ACT

6 April 2023

Dear Mr Speaker  
Dear President

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the Department of Infrastructure, Transport, Regional Development, Communications and the Arts. The report is titled *The Acquisition, Management and Leasing of Artworks by Artbank*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Grant Hehir  
Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

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# Audit snapshot

## Auditor-General Report No.18 2022–23

### *Acquisition, Management and Leasing of Artworks by Artbank*



#### Why did we do this audit?

- ▶ The Artbank program is a contemporary art collection and rental scheme with nearly 11,000 works spanning media that includes painting, sculpture, video and photography.



#### Key facts

- ▶ The program was established by a Charter of Operations in 1980.
- ▶ As a support program for contemporary Australian artists, the collection was valued at over \$42 million, as at 1 July 2022.
- ▶ As an art leasing program, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) leased 4360 artworks in 2021–22 to 390 clients.



#### What did we find?

- ▶ The department's approach to acquiring, managing and leasing Australian contemporary art under the Artbank program has not been appropriate.
- ▶ An overarching strategy to support the direction of the program and measure its success has not been developed to replace the 1991 Charter of Operations.
- ▶ Acquisitions for the Artbank program have not been in accordance with the Commonwealth Procurement Rules and have not demonstrated a strong alignment with the targets established in the collection plan.
- ▶ The department's management of the Artbank collection has been insufficient to ensure the integrity of the collection.
- ▶ The department's approach to leasing has not been appropriate.



#### What did we recommend?

- ▶ There were eight recommendations to the department focused on governance of the program, procurements, conservation and rental approaches.
- ▶ The department agreed to four recommendations, agreed in part to two recommendations, noted one recommendation and did not agree to one recommendation.

\$400,000

annual acquisition budget for the Artbank program since 2019–20.

70%

leasing rate target for the collection.

30%

of the collection was not leased between 1 July 2015 and 30 June 2022.

# Summary and recommendations

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## Background

1. The Artbank program was established in 1980, to support Australia's contemporary art sector by: providing direct support to Australian contemporary artists through the acquisition of their work; and promoting the value of Australian contemporary art to the broader public.<sup>1</sup> The program, designed to be a self-sustaining program by generating revenue through the leasing of the Artbank collection to individuals, companies and governments (at all levels), is administered by the Office for the Arts in the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department).<sup>2</sup>

2. The Artbank collection was initially endowed 600 artworks from the National Gallery of Australia's Loan Collection. At the time of this audit, the Artbank collection consisted of 10,950 works valued at over \$42 million. In the department's 2021–22 annual report, the Artbank program had a reported revenue of \$2.8 million through the art leasing scheme and expenditure of \$566,000 (or 20 per cent of the annual revenue) on 71 new acquisitions.

## Rationale for undertaking the audit

3. This performance audit was conducted to provide assurance to Parliament on the administration of the Artbank program, which is a significant contemporary art collection and rental scheme with more than 10,000 works spanning media that includes painting, sculpture, video and photography.

## Audit objective and criteria

4. The audit objective was to examine the appropriateness of the department's approach to acquiring, managing, and leasing Australian contemporary art in the Artbank collection.

5. To form a conclusion against the objective, the following high-level criteria were adopted:

- Is there a clear and cohesive strategic direction?
- Is the approach to acquisition appropriate?
- Is there an appropriate approach to managing the collection?
- Is the approach to leasing artwork appropriate?

## Conclusion

6. The Artbank program's approach to acquiring, managing and leasing Australian contemporary art has not been appropriate.

7. While the 1991 *Artbank Charter of Operations* established a clear purpose for the program, the department has not developed an overarching strategy to support the direction of

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1 Artbank, *About Artbank* [Internet], available from <https://www.artbank.gov.au/about-artbank> [accessed 14 October 2022].

2 Prior to machinery of government changes through an Administrative Arrangements Order that came into effect on 1 February 2020, the Artbank program was administered by a range of other Australian Government departments with responsibility for the Office of the Arts at various points in time.

the program or measure its success. The department commenced developing operational strategies in 2019 to focus on separate parts of the program's purpose, being future artwork acquisitions and the rental scheme. These strategies were endorsed respectively in 2019 and 2021 by the Artbank Governance Committee, which was established in November 2019 to oversee the program and monitor the achievement of key activities on a quarterly basis. The committee has only held three meetings, with reporting on the overall financial performance of the program not developed for or provided to the committee. This diminishes the department's management of the program and its performance.

8. The department's approach to acquisitions under the Artbank program has not been in accordance with the Commonwealth Procurement Rules (CPRs) and has not demonstrated strong alignment with the targets established in the program's collection plan designed to illustrate the department's strategy to deliver against the program's policy intent. Key shortcomings in the acquisition approach were: no open or competitive processes; value for money not being documented or demonstrated; and limited public reporting. Alignment with the program's purpose and objectives was not evident due to deviations from the department's Collection Plan for the Artbank program.

9. The department's management of the Artbank collection is insufficient to ensure the integrity of the collection. Conservation activities are not consolidated, prioritised, committed and reviewed against a planned, wholistic schedule. Records of deaccessioning, the formal removal of artworks from a collection, are unreliable. Approvals were obtained retrospectively for the deaccessioning of over 70 artworks from the collection, with the records for those approvals not identifying that the artworks had already been disposed of via sale over four years earlier. Where deaccessioning has been recorded appropriately, it has not been undertaken in a timely manner with the artworks continuing to add to the costs of the program through storage, management and conservation expenses, rather than being activated (through rental or sale) to continue to support contemporary Australian artists. The integrity of the collection has been placed at risk by the absence of a policy to guide the management of digital or time-based artworks. Fifteen duplicate copies of 14 time-based digital works were created so that those works could be rented 22 times to more than one client at a time.

10. The department's approach to leasing the Artbank collection has not been appropriate. Rental revenue has been in decline since 2017–18. The department's documented target is to have at least 70 per cent of the Artbank collection out on rent. The department has recognised that its performance has leased approximately 40 per cent of the collection, which is well below this target. Between 1 July 2015 and 30 June 2022, nearly 60 per cent of the collection was either not leased at all during the period (30 per cent) or had spent more time stored than rented (29 per cent).<sup>3</sup> There was no recorded basis for how the pricing methodology for individual artworks was established. Given the extent of undocumented deviations from that methodology, it is not clear how the majority of rental prices (and discounts, where applicable) were ultimately set. Achievement of the full breadth of the program's purpose has not been a focus, with no

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3 ANAO's analysis mapped against each artwork's rental availability (based on accession and deaccessioning dates) the rental activity of the artwork. If an artwork was only available for part of the year, it was assessed against the artwork's availability period, not the entire period.



reporting to provide assurance that the department's approach to leasing supports artists or the reputation of contemporary Australian art.

## Supporting findings

### Strategic direction

11. The last clear and comprehensive endorsement of the Artbank program's purpose was provided in the 1991 update to its original establishment document, the Charter of Operations. The high-level objectives, as articulated on the Artbank program's website to 'provide direct support to Australian contemporary artists through the acquisition of their work; and promote the value of Australian contemporary art to the broader public', remain reasonably well-aligned with the program's stated purpose. While the department agreed to ANAO recommendations in 2006 to review the Charter, no review was undertaken and no equivalent overarching strategic plan, aligned with the current legislative framework, to implement the program's purpose has been developed. Two operational strategies were developed in 2019 (and endorsed in 2019 and 2021) to focus on separate parts of the programs purpose, being the rental scheme and future artwork acquisitions. There is no overarching strategy to address the Artbank program's purpose. (See paragraphs 2.2 to 2.12)

12. The Artbank Governance Committee was established in November 2019 to oversight the program's activities; monitor achievement of key activities; and review compliance with government rules and processes. The committee did not meet quarterly in accordance with its terms of reference. As of December 2022, the committee had met three times. This diminished the management of the performance of the Artbank program against its purpose and operational strategies. (See paragraphs 2.15 to 2.24)

### Acquisition approach

13. The department's acquisition approach for the Artbank program has not been undertaken in accordance with the Commonwealth Procurement Rules (CPRs). Shortcomings in the approach include:

- while value for money is the core rule of the CPRs, there is no available evidence demonstrating that value for money has been considered by the department throughout its acquisition process;
- while there is a collection plan to identify acquisition needs, it lacks measurable targets and has not been used to guide acquisition activity;
- the department does not undertake open and transparent procurements, undertake and record comparative assessments of potential acquisitions, including assessing value for money, in its acquisition process for procurements under the Artbank program; and
- since 2015–16, 380 (56 per cent) acquisitions of artworks each valued at less than \$10,000 and five (1 per cent) acquisitions of artworks valued at more than \$10,000 did not have clear, recorded delegate approval. There was a marked improvement in the recording of delegate approval on all acquisitions after 2019–20. (See paragraphs 3.4 to 3.41)

14. The effectiveness of the Artbank program in supporting artists through its acquisitions has progressively declined over time, from a high of 179 acquisitions in 2016–17 to 75 in 2021–22.

Accordingly, the amount of financial support provided to artists through acquisitions for the Artbank collection has also been declining, with the \$396,462 spent on acquisitions in 2021–22 being less than the \$507,993 spent five years earlier in 2016–17. The program has budgeted \$400,000 each year for the acquisition of artworks since 2019. Decisions taken to acquire more than one artwork from an individual artist in a financial year further limits the program’s ability to support a broader range of artists. The cohorts of artists intended to be targeted through the department’s Collection Plan, are often not the artists actually targeted by the program’s acquisition approach. (See paragraphs 3.52 to 3.62)

### **Managing the collection**

15. The department’s preservation activities for the Artbank collection are focused on artworks: being prepared for imminent leasing; returning from lease; or identified as having a high prospect of rentability. While the results of individual condition checks are recorded, this information is not consolidated, or used to develop a preservation or maintenance plan for the Artbank collection, leaving conservation activity ad hoc rather than systematic and strategic. (See paragraphs 4.3 to 4.25)

16. Deaccessioning activities are not timely and rarely initiated. Once initiated there are significant delays throughout the deaccessioning process, particularly between the receipt of approval and disposal of artworks, leading to increased storage and maintenance costs. Processes to establish the timely deaccessioning of artworks after receipt of approvals have not been successfully implemented.

- In 2018, 78 artworks were approved for deaccessioning from the collection by sale while only 10 artworks have been recorded as sold since 2015–16.
- Approvals to deaccession a further 424 artworks prior to 2015 were not implemented for over seven years, with 288 of these artworks placed back into the collection in 2021.
- Since establishment in November 2019, the Artbank Governance Committee has only once discussed and endorsed deaccessioning activities from the collection. (See paragraphs 4.26 to 4.42)

17. The department’s approach to collection management does not appropriately support artists or the reputation of Australian contemporary art. The Artbank program does not actively engage in a deaccessioning approach that increases the public’s awareness of and appreciation for Australian contemporary art. The integrity of the collection has been placed at risk by the absence of a policy to guide the management of digital or time-based artworks. Fifteen duplicate copies of 14 original digital artworks were created to enable those artworks to be leased concurrently to more than one client on 22 occasions. (See paragraphs 4.49 to 4.67).

### **Leasing approach**

18. The approaches to setting rental prices, including the approach to setting individual rental agreement prices, including discounts, have not been appropriately documented and it is not clear how or on what basis the pricing methodology was decided. Implementation of the pricing methodology was incomplete and where there have been deviations from the methodology there is no recorded rationale as to why. While there was a reasonable basis for offering discounts and concessions during the COVID-19 pandemic, the reasons for other discounts and concessions

being provided were not documented. The approach to collecting rent has been sound for new agreements, and the department undertakes weekly monitoring of debts to manage the existence and age of bad debtors. (See paragraphs 5.2 to 5.23)

19. Progressively declining rental income since 2017–18 has reduced the department’s ability to fund new acquisitions for the Artbank program. A large contribution to this was that nearly 60 per cent of the Artbank collection (as an income generating asset) spent more time stored than rented. This was recognised by the department in 2020, where an estimated actual leasing rate of 40 per cent was identified by the department as well below the 70 per cent program target, established in the Business Plan. Thirty per cent of the Artbank collection, while available for lease, was not rented at all between July 2015 and June 2022. A further 29 per cent of the collection was leased for less than half of the time the work was available for lease. The Artbank program’s client base — both by number of clients and by number of artworks per client — has also been declining. (See paragraphs 5.24 to 5.30)

20. The department measures the success of the leasing program by the number of artworks leased in a period. Of the four purposes outlined in the program’s Charter of Operations, the focus of the program has been on supporting artists through new acquisitions, with limited attention given to supporting artists and the reputation of Australian contemporary art through the leasing program. The department does not measure the achievement of the full breadth of the program’s purpose, including the location at which works are displayed, and the public accessibility of those locations. (See paragraphs 5.31 to 5.42)

## Recommendations

**Recommendation no. 1** The Department of Infrastructure, Transport, Regional Development, Communications and the Arts implement an overarching business plan or wholistic program-wide strategy that articulates how the Artbank program will achieve each of its purposes and objectives, including details on how performance will be measured and reported.

### Paragraph 2.13

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

**Recommendation no. 2** The Department of Infrastructure, Transport, Regional Development, Communications and the Arts ensures the Artbank Governance Committee appropriately monitors the Artbank program’s performance against its purpose and objectives, as set out in the committee’s terms of reference.

### Paragraph 2.25

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

**Recommendation no. 3** The Department of Infrastructure, Transport, Regional  
**Paragraph 3.42** Development, Communications and the Arts:

- (a) increase the transparency of, and accessibility to, Artbank program acquisitions by publishing the Artbank program's annual procurement activities as part of the department's annual procurement plan on AusTender, to guide and provide advanced notice to the market about the program's upcoming procurement activities; and
- (b) ensure that complete, accurate and appropriate data is collected and used effectively to monitor procurements and report against planned collection targets.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed in part.*

**Recommendation no. 4** The Department of Infrastructure, Transport, Regional  
**Paragraph 3.47** Development, Communications and the Arts develop a fit for purpose procurement framework for the Artbank program which is consistent with the Commonwealth Procurement Rules, including open and transparent opportunities for Australian contemporary artists (or their representatives) to submit their artwork for acquisition, with clear records made at each step throughout the procurement processes employed.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Noted.*

**Recommendation no. 5** The Department of Infrastructure, Transport, Regional  
**Paragraph 4.17** Development, Communications and the Arts:

- (a) develop and implement a conservation work plan with a more strategic and systematic approach to the conservation (or deaccessioning) of artworks; and
- (b) maintain complete and accurate data on condition checking and conservation activities for reporting on the condition and status of all artworks.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Not Agreed.*

**Recommendation no. 6  
Paragraph 4.43** The Department of Infrastructure, Transport, Regional Development, Communications and the Arts:

- (a) revisit its deaccessioning policy to ensure it is consistent with Artbank program objectives, including the maintenance of an appropriately sized collection that is suitable for leasing; and
- (b) ensure that the Artbank Governance Committee meets at in accordance with its Terms of Reference, such that decisions on deaccessioning may be actioned in a timely manner.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed in part.*

**Recommendation no. 7  
Paragraph 5.12** The Department of Infrastructure, Transport, Regional Development, Communications and the Arts undertake a review of the rental pricing methodology, with a view to ensuring among other things, that:

- (a) rates are appropriately informed by all relevant strategic, operational, client and market-related factors; and
- (b) appropriate processes and procedures are established to ensure:
  - periodic reviews of rates against these factors are conducted with the analysis, results and any changes to rates approved and documented in writing; and
  - new rates and pricing details are implemented accurately across all artworks and in a timely manner across all relevant departmental systems.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

**Recommendation no. 8  
Paragraph 5.19** The Department of Infrastructure, Transport, Regional Development, Communications and the Arts review the approach to providing discounts to clients to ensure:

- (a) approvals are provided by officials with the appropriate financial delegations; and
- (b) the rationale and value for money considerations informing these approvals are recorded before offering and entering into discounted agreements.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

## Summary of entity response

The Department of Infrastructure, Transport, Regional Development and Communications and the Arts (the Department) welcomes the ANAO report and broadly supports its recommendations.

Artbank plays an essential role in both supporting emerging artists, and making Australian artworks accessible to the broader community. The Department is committed to the continuous improvement of the Artbank program, which is unique in its nature, to ensure it continues to achieve its objectives.

The Department recognises that the audit considers activities over a period of years, and notes that there has been a linear progression over time.

The report notes that the Artbank program has not been administered in accordance with the Commonwealth Procurement Rules (CPRs). Artbank is relying on Rule 10.3(d)(i) which permits for works of art to be acquired through limited tender.

The Department took actions during the COVID-19 pandemic, to safeguard the revenue earnings of the Commonwealth. Like most commercial businesses, the pandemic had a profound impact on Artbank's ability to perform business as usual activities from 2020–22, a significant component of the time covered in this audit.

During the course of the audit, to strengthen the administration of Artbank, the Department identified and implemented a number of improvements and changes to its processes, including: amending documentation of procurement processes; formally changing its practice of dealing with video art; addressing historic non-registration of relevant procurements on the AusTender platform; and improving minuting of meetings where value for money, suitability and rentability of proposed acquisitions are discussed.

## Key messages from this audit for all Australian Government entities

21. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

### **Governance and risk management**

- Governance and control frameworks should be updated in a timely manner after machinery of government changes, including the renewal of financial delegation instruments. This provides officials with clarity on their financial delegations and minimises the risk of expenditure occurring without proper authority.

### **Policy/program implementation**

- It is important to periodically test the mandate for long-standing programs by briefing the responsible minister on the performance against the purpose and strategic directions of programs.

### **Performance and impact measurement**

- Measuring performance against quantitative Key Performance Indicators depends on the integrity of the information and data collected and maintained in the respective information systems and registers.

## **Audit findings**

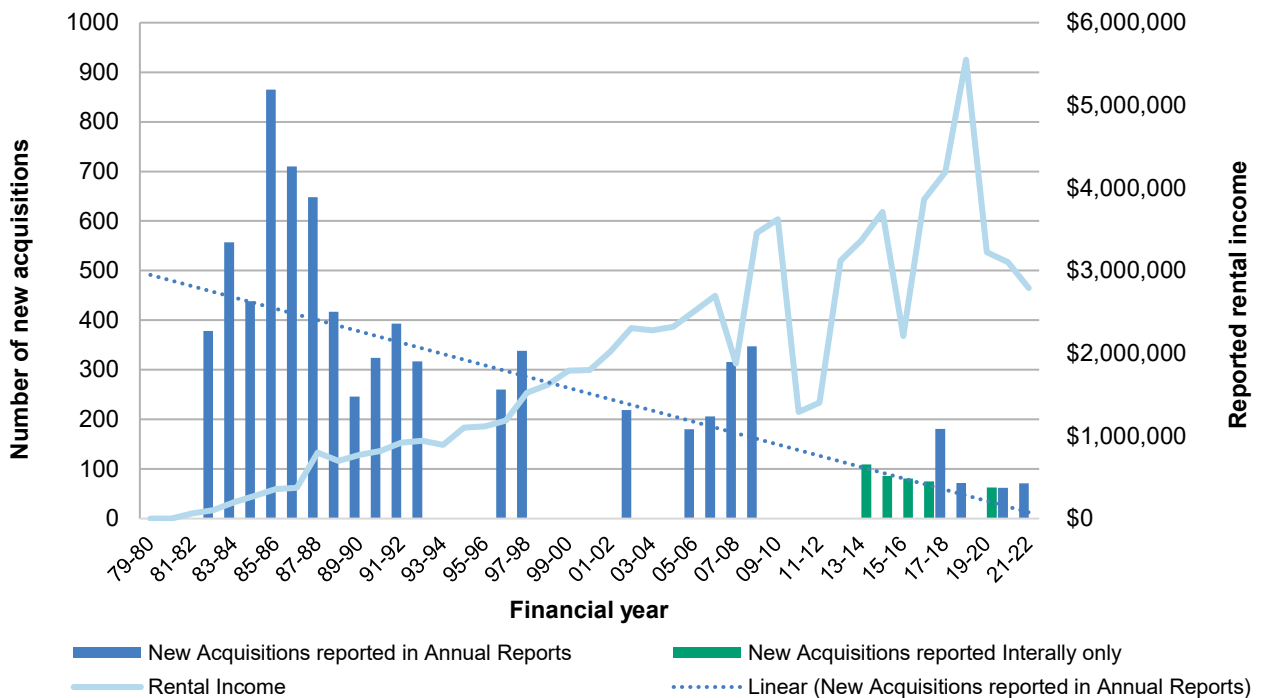
# 1. Background

## Introduction

1.1 The Artbank program was established in 1980, with an initial endowment of 600 artworks from the National Gallery of Australia’s Loan Collection. Artbank is an Australian Government program designed to support Australia’s contemporary art sector by: providing direct support to Australian contemporary artists through the acquisition of their work; and promoting the value of Australian contemporary art to the broader public.<sup>4</sup> Administered by the Office for the Arts in the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department)<sup>5</sup>, the Artbank collection now comprises nearly 11,000 artworks valued at over \$42 million as at 1 July 2022.

1.2 Public reporting on the revenue generated by the Artbank Rental Scheme and the number and value of artworks in the collection has varied over time (illustrated by Figure 1.1). In the department’s 2021–22 annual report, the Artbank program had a reported revenue of \$2.8 million through the art leasing scheme and expenditure of \$566,000 (or 20 per cent of the annual revenue) on 71 new acquisitions.<sup>6</sup>

**Figure 1.1: New artwork acquisitions and annual rental income for the Artbank program**



4 Artbank, *About Artbank* [Internet], available from <https://www.artbank.gov.au/about-artbank> [accessed 14 October 2022].

5 Prior to machinery of government changes through an Administrative Arrangements Order that came into effect on 1 February 2020, Artbank was administered by a range of other Australian Government departments with responsibility for the Office of the Arts at various points in time.

6 The Australian Government’s cultural policy *Revive: A place for every story, a story for every place* released on 30 January 2023 states (on page 53) that ‘The funds generated from leasing activities are used to acquire new artworks to ensure the collection remains dynamic and supports the livelihoods of living, professional artists.’



Note: Gaps in data indicate that reporting information was not publicly reported in that financial year.

Source: ANAO analysis of departmental records.

1.3 In May 2006, a performance audit conducted by the ANAO<sup>7</sup> made seven recommendations regarding the Artbank program's strategic direction<sup>8</sup> and management of the collection. All seven recommendations were agreed to and four of these recommendations were particularly relevant to the scope of this current audit:

- the 1991 Artbank Charter be redrafted to align more closely to the broader legislative and governance frameworks in place at the time of the audit (discussed in paragraphs 2.2–2.4 and 2.17–2.19);
- focused and documented acquisition criteria based on Artbank's collection needs and policy direction be developed and made publicly available (discussed in paragraphs 3.6–3.8 and 3.25–3.34);
- the transparency and accountability of artwork acquisitions be improved by:
  - any submissions received from artists being assessed against the acquisition criteria and those assessments documented (see paragraphs 3.19, 3.23–3.24);
  - documenting the reasons that artworks are selected for acquisition against acquisition criteria (see paragraphs 3.28–3.41); and
  - report purchases over \$10,000 on AusTender (see paragraphs 3.36–3.41); and
- alternative acquisition strategies to engage directly with artists be considered<sup>9</sup> (see paragraphs 3.19, 3.21–3.22 and Table 3.1).

1.4 A 2014 departmental functional review made eight recommendations similar to those in the 2006 performance audit report, including the development of a 'strategic plan with defined KPIs' and that the department review and 'immediately clarify governance arrangements' for the Artbank program.<sup>10</sup>

## Rationale for undertaking the audit

1.5 This performance audit was conducted to provide assurance to Parliament on the administration of the Artbank program, which is a significant contemporary art collection and rental scheme with more than 10,000 works spanning media that includes painting, sculpture, video and photography.

7 Auditor-General Report No.39 2005–06 *Artbank, Department of Communications, Information Technology and the Arts*.

8 At the time this also included bringing the program's governance framework into alignment with the *Financial Management and Accountability Act 1997* (FMA Act), which was the legislative framework in place at that time.

9 Example strategies were provided as part of the ANAO's recommendation, including: acquisitions arising from a set period for submissions, an annual round similar to the Artbank Canada approach and/or a competition.

10 While the department agreed to a recommendation in the 2006 performance audit to review the appropriateness and alignment of the Charter of Operations, this had not been undertaken. By the time of the 2014 review, a new legislative framework was implemented in 2013 (the *Public Governance, Performance and Accountability Act 2013*).

## Audit approach

### Audit objective, criteria and scope

1.6 The audit objective was to examine the appropriateness of the department's approach to acquiring, managing, and leasing Australian contemporary art in the Artbank collection.

1.7 To form a conclusion against the objective, the following high-level criteria were adopted:

- Is there a clear and cohesive strategic direction?
- Is the approach to acquisition appropriate?
- Is there an appropriate approach to managing the collection?
- Is the approach to leasing artwork appropriate?

### Audit methodology

1.8 The audit methodology included: examination and analysis of entity records; discussions and meetings with relevant departmental staff; and analysis of reports from the information management systems used by the department (including the collections management system).

1.9 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$437,000. The team members for this audit were Hannah Conway, Lachlan Miles, Tamara Duncan, Josh Carruthers, Calli Stewart, Amy Willmott and Brian Boyd.

## 2. Strategic direction

### Areas examined

The ANAO examined whether there this a clear and cohesive strategic direction for the Artbank program that is supported by appropriate governance arrangements.

### Conclusion

While the 1991 *Artbank Charter of Operations* established a clear purpose for the program, the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) has not developed an overarching strategy to support the direction of the program or measure its success. The department commenced developing operational strategies in 2019 to focus on separate parts of the program's purpose, being future artwork acquisitions and the rental scheme. These strategies were endorsed respectively in 2019 and 2021 by the Artbank Governance Committee, which was established in November 2019 to oversee the program and monitor the achievement of key activities on a quarterly basis. The committee has only held three meetings, with reporting on the overall financial performance of the program not developed for or provided to the committee. This diminishes the department's management of the program and its performance.

### Areas for improvement

The ANAO made two recommendations aimed at improving the performance reporting and governance oversight arrangements for the Artbank program.

2.1 Public sector governance involves the set of responsibilities and practices, policies and procedures, exercised by an entity's accountable authority, to provide strategic direction, ensure objectives are achieved, manage risks and use resources responsibly and with accountability.<sup>11</sup> This should be done within the framework of Commonwealth finance law which, since 2014, has comprised the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and *Public Governance, Performance and Accountability Rule 2014* (PGPA Rule).

### Is there a clearly articulated purpose and strategy for Artbank?

The last clear and comprehensive endorsement of the Artbank program's purpose was provided in the 1991 update to its original establishment document, the Charter of Operations. The high-level objectives, as articulated on the Artbank program's website to 'provide direct support to Australian contemporary artists through the acquisition of their work; and promote the value of Australian contemporary art to the broader public', remain reasonably well-aligned with the program's stated purpose. While the department agreed to ANAO recommendations in 2006 to review the Charter, no review was undertaken and no equivalent overarching strategic plan, aligned with the current legislative framework, to implement the program's purpose has been developed. Two operational strategies were developed in 2019 (and endorsed in 2019 and 2021) to focus on separate parts of the programs purpose, being the

11 Department of Finance, *PGPA Glossary: Public sector governance* [Internet], 17 May 2019, available from <https://www.finance.gov.au/about-us/glossary/pgpa/term-public-sector-governance> [accessed 27 January 2023].

rental scheme and future artwork acquisitions. There is no overarching strategy to address the Artbank program's purpose.

## Purpose

2.2 Purpose statements should be succinct and make it clear why an entity or program exists, who benefits from its key activities and how they benefit. The Artbank program's purpose was first set out in 1980 in its establishment document, the Charter of Operations. The charter, updated in 1991, by the Minister for the Arts, Sport, the Environment and Territories, stated that the scheme was 'established to:

- encourage contemporary Australian artists by acquiring their work;
- stimulate a wider public appreciation of Australian art by making it available for display in public places, particularly work locations, throughout Australia and in official posts overseas;
- operate an Art Rental Scheme directed to both private and public sector clients; and
- manage the Artbank collection on behalf of the Commonwealth.'

2.3 The policy objectives for the Artbank program have remained relatively consistent since its establishment, and are currently articulated on its website as being to:

- provide direct support to Australian contemporary artists through the acquisition of their work; and
- promote the value of Australian contemporary art to the broader public.<sup>12</sup>

2.4 The 2006 ANAO performance audit of the Artbank program made recommendations regarding the strategic direction of the program, including that the 1991 Artbank program's Charter of Operations be redrafted to align more closely to the broader legislative and governance frameworks in place at the time of the audit (see paragraph 1.3), including establishing program guidelines (or a business plan) setting out the way the Artbank program operates, as a departmental program. At the time of the audit, alignment was assessed against the then *Financial Management and Accountability Act 1997*, the legislative framework in place at the time. That framework has been replaced by the *Public Governance, Performance and Accountability Act 2013*. The Charter of Operations has not been updated.

## Funding model

2.5 The Artbank program was appropriated through the annual budget process for both artwork acquisitions and operational requirements until 1992. For the three years between 1989 and 1992 the appropriation to the Artbank program was limited, with the program to transition to its current 'self-sustaining' funding model.<sup>13</sup> Under this model, rental revenue generated from the Artbank

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12 Artbank, *About Artbank* [Internet], available from <https://www.artbank.gov.au/about-artbank> [accessed 14 October 2022].

13 As reported in the May 2006 ANAO performance audit report, the Artbank program was not fully self-sustaining, with overhead costs (such as salaries and informational technology infrastructure) not paid for through Artbank's revenue stream.

collection (and other receipts credited to its trust account<sup>14</sup>) would fund all activities, including the acquisition of new art.<sup>15</sup>

## Strategy

2.6 The ANAO examined whether the department had a strategy in place clearly articulating how it directs activity against each of the program's four objectives (see paragraph 2.2).

2.7 A program-wide strategy or overarching business plan has not been developed. A range of policy and planning documents have been approved since 2019 that focus on discrete parts of the program. Specifically, the policies include:

- 2019 Acquisition Policy (see paragraphs 2.22, 3.26–3.27, 4.63 and 4.66);
- 2019 Artbank Deaccession Policy (see paragraphs 4.6, 4.26–4.31, 4.34–4.35, 4.49–4.51, 4.53 and 4.63);
- Artbank Collection Plan 2019–21 (see paragraphs 2.9, 2.12, 3.6–3.8, 3.20, 3.26, 3.58, 3.60–3.62, 4.6, 4.55 and Case Study 1);
- 2021 Artbank Condition Checking Policy (see paragraphs 4.9–4.13);
- 2021 Artbank Client Leasing Policy;
- 2020 Artbank Business Plan (see paragraphs 2.8–2.9, 2.12, 4.6, 5.25–5.26, 5.35, 5.41); and
- 2021 Preservation Policy and Conservation Plan (see paragraphs 4.5–4.9, 4.25, 4.56–4.57).

2.8 The May 2020 *Artbank Business Plan* was developed in response to a decline in the recorded collection leasing rate from 70 per cent of artworks to 'approximately 40%'. The plan was endorsed by the Artbank Governance Committee (see paragraphs 2.17–2.25) in January 2021, with the committee advised that there was 'nothing similar in place previously'.<sup>16</sup> This plan recognised that an increased leasing rate represented progress towards or achievement of part of the program's purpose. Specifically: stimulating a wider public appreciation of contemporary Australian art through the art leasing program; and a 'greater ability to live up to Artbank's other core objective

14 After the introduction of a new Commonwealth *Financial Management and Accountability Act 1997* (FMA Act) in 1997, trust accounts were abolished and replaced by special accounts, where a notional amount is set aside that can be drawn down on from Consolidated Revenue Fund limited to the balance of the special account at a given time (special accounts are not bank accounts). Since July 2006, the 'Art Rental Special Account' was established and remains in place today under the PGPA Act framework (*Financial Management and Accountability Determination 2006/18 — Art Rental Special Account Establishment 2006*, 26 July 2006; and *PGPA Act Determination (Art Rental Special Account 2016) — Establishment*, 23 August 2016.)

15 The Artbank program's cost recovery model does not equate to cost recovery in the context of the Australian Government's formal cost recovery policy, as articulated in: Department of Finance, *Australian Government Cost Recovery Guidelines, Resource Management Guide No. 304* [Internet], July 2014, available from <https://www.finance.gov.au/publications/resource-management-guides/australian-government-cost-recovery-guidelines-rmg-304> [accessed 14 October 2022]. In the context of that policy, cost recovery involves charging the non-government sector some or all of the efficient cost of a specific government activity, through either cost recovery fees or cost recovery levies. As discussed in paragraphs 5.6–5.11, rental pricing has not been determined based on the cost of the program.

16 The ANAO identified a 2016–19 Business Plan developed to consider alternative office and showroom locations in Melbourne pending the end of the lease with no option to renew. This plan only established one clear target — increasing rental revenue by four per cent per annum, and this was expected to be realised from the change in location for the Melbourne office, with a 20 per cent revenue increase expected across three years, and 35 per cent by the end of the five year plan.

of supporting contemporary Australia artists and the visual arts sector through greater budget for the acquisition of new Australian contemporary art.<sup>17</sup> The Business Plan established goals and targets for the Artbank Rental Scheme based on historical rental data. The Business Plan did not include analysis of the expected impact the achievements of the goals and targets would have on the annual acquisition budget, nor on delivery of other aspects of Artbank program's purpose.

2.9 The May 2020 Business Plan focused solely on establishing a target of increased rental collections, to 70 per cent of the collection. A collection plan (see paragraph 3.7) was first established in 2019 to guide acquisition decisions to address the gaps identified within the collection.

## Performance measures

2.10 Performance measures, at the project, program and entity level, exist to provide a basis for tracking and reporting of progress towards agreed goals, and in turn, the achievement of government policy objectives. Examples of measures include: whether a service was delivered within a certain timeframe; whether it reached an agreed number of people or businesses; and whether it had a particular economic or social impact.<sup>18</sup>

2.11 The department has reported publicly against the Artbank program objectives from time to time. As illustrated by Figure 1.1, this reporting has been through the department's annual reports. Reporting for the Artbank program was most recently included in the department's 2020–21 Annual Report, in the annual performance statements.<sup>19</sup> While no targets were set, the department reported on the: number of artworks purchased; number of artworks leased; and number of clients.<sup>20</sup> These measures were to be removed after the 2021–22 annual report, with the 2022–23 Corporate Plan for the department noting that 'the department [had] limited to no control over the outcome or [the] data was not available or reliable'.<sup>21,22</sup>

2.12 Reporting to the Artbank Governance Committee is limited to reporting against the endorsed Business Plan (leasing rate, number of new clients) and annually updated collection plans

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17 Consistent with earlier iterations, the 2016 legislative instrument establishing the special account sets out that the Artbank program's main purpose is to 'acquire, deaccession, lease, promote, develop, exhibit, lend, conserve and undertake any other activities in relation to managing an art rental collection for the Commonwealth, see *PGPA Act Determination (Art Rental Special Account 2016) — Establishment* available from <https://www.legislation.gov.au/Details/F2016L01335> [accessed 21 September 2022].

18 Australian National Audit Office, *Audit Insights: Performance Measurement and Monitoring — Developing Performance Measures and Tracking Progress* [Internet], 11 November 2020, available from <https://www.anao.gov.au/work/audit-insights/performance-measurement-and-monitoring-developing-performance-measures-and-tracking-progress> [accessed 22 September 2022].

19 Department of Infrastructure, Transport, Regional Development and Communications, *2020-21 Annual Report*, [Internet], 1 October 2021, available from <https://www.infrastructure.gov.au/sites/default/files/documents/ditrdc-annual-report-2020-21.pdf> [accessed 22 September 2022].

20 The performance measures for the Artbank program in the department's 2020–21 Annual Report differed from those included in the 2010, 2016 or 2019 business plans.

21 Department of Infrastructure, Transport, Regional Development, Communications and the Arts, *2022-23 Corporate Plan* [Internet] available from <https://www.infrastructure.gov.au/sites/default/files/documents/ditrdca-corporate-plan-2022-23.pdf> [accessed 22 September 2022], Table 2, page 72.

22 Reliability of Artbank program data has been a challenge for the ANAO when conducting this audit, see paragraphs 3.21, 3.24, 3.41, 3.60, 4.5, 4.6, 4.11–4.13, 4.24, 4.37–4.40, 4.58, 5.6, 5.10, as well as in notes to Table 2.1, and Table 3.2.

(number of new acquisitions, breadth of new acquisitions against the collection plan marker) (see paragraph 2.7–2.9). During the development of both the Collection Plan (in 2019) and Business Plan (in 2020), and early commencement of activities, the Governance Committee was also established. As such maturity of reporting against each plan, and to the governance committee has evolved over time. Notably, while the committee was expected to meet quarterly according to its terms of reference (12 times to date), the committee has only held three meetings since its establishment. While the detail and the data in the reporting has improved with each of the three meetings, it has not been considered by the committee on a regular basis as contemplated by the terms of reference.<sup>23</sup> ANAO analysis of the Artbank program's records against potential program metrics outline that the program's performance has been progressively declining across a number of key aspects since 2015 (see Table 2.1).

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23 Reporting for the Artbank Governance Committee, has focused on reporting activities undertaken since the previous meeting, and is informed by the Business Plan and the Collection Plan which were based on historical analysis of rental figures and acquisitions. Activities reported on have included: reporting against each breadth marker for acquisitions (but not aligned to targets) (see paragraphs 3.6–3.8, 3.20, 3.26, 3.58, 3.60 and 4.55) and number and value of rental agreements.

**Table 2.1: Measuring the Artbank program's performance against its purpose**

Financial year	1. To encourage contemporary Australian artist by acquiring their work			2. To stimulate a wider public appreciation of Australian art by making it available for display in public places particularly work locations throughout Australia and in official posts overseas			3. To operate an Art Rental Scheme directed to both private and public sector clients		4. To manage the Artbank collection on behalf of the Commonwealth	
	# of Artworks purchased and value	# of Artists artwork is purchased from	# of artworks purchase from gallery: artist: other	# of artworks leased in public places: private offices: overseas posts <sup>a</sup>	# of public access exhibitions held by the Artbank program	# of artworks available for rental	# of Public Clients : Private Clients	# of Artworks leased	# of Artworks under Conservation activity	# of Artworks deaccessioned
2015–16	116, \$365,983	79	85:16:15	992 : 2556 : 952	6	10,452	69:402	4824	Unable to provide	4
2016–17	179, \$507,993	119	103:68:8	1085 : 2613 : 1026	2	10,626	75:407	5091		1
2017–18	121, \$408,808	73	83:36:2	1037 : 2587 : 1053	4	10,782	66:377	5027		9
2018–19	65, \$379,348	57	42:17:6	919 : 2340 : 1012	4	10,837	63:351	4573		0
2019–20	66, \$355,415	55	45:13:8	801 : 2118 : 1015	5	10,873	60:322	4138	12	0
2020–21	52, \$296,375	55	36:4:12	733 : 2120 : 747	3	10,968	46:313	3864	19	5 <sup>c</sup>
2021–22	75, \$390,962	42	54:14:6	857 : 2328 : 882	10 <sup>b</sup>	11,002	60:331	4336	10	22 <sup>c</sup>
<b>Total</b>	<b>674, \$2,710,384</b>	<b>480</b>	<b>448:168:57</b>	<b>1995 : 4971 : 1509</b>	<b>34</b>	<b>N/A</b>	<b>N/A</b>	<b>7669</b>	<b>41</b>	<b>74</b>

Note a: These numbers do not add to the total number of artworks leased as artworks leased to private individuals (private residences) have not been included in these figures. Lease arrangements may cease throughout a year, and artworks may be leased to different clients in different locations in the same financial year.

Note b: In 2021–22, the Sydney office's window display was updated with a curated staging of selected artworks on 8 separate instances. These window displays can be viewed from the street by passers-by. While not exhibitions in the traditional sense, these displays do make the work available in public locations.

Note c: Three plinths were removed from this figure in 2020–21 and 30 were removed from 2021–22. These were lost or destroyed in the 2014 change in Sydney offices.

Source: ANAO analysis of departmental records.



## Recommendation no. 1

2.13 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts implement an overarching business plan or wholistic program-wide strategy that articulates how the Artbank program will achieve each of its purposes and objectives, including details on how performance will be measured and reported.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed*

2.14 The Department appreciates the value an overarching program-wide strategy would provide to the Artbank program. The Department envisages the development of such a plan would sit within the Artbank Charter (as currently in force) and the policy objectives contained within it.

## How is performance of Artbank against purpose and strategy managed?

The Artbank Governance Committee was established in November 2019 to oversight the program's activities; monitor achievement of key activities; and review compliance with government rules and processes. The committee did not meet quarterly in accordance with its terms of reference. As of December 2022, the committee had met three times. This diminished the management of the performance of the Artbank program against its purpose and operational strategies.

2.15 Effective governance arrangements drive accountability for performance by allowing appropriate oversight of program or policy delivery. Establishing and defining the group or body that is to provide this oversight — consistent with relevant legislative requirements — and setting formal expectations for reporting to it by management are important elements of these arrangements.<sup>24</sup>

### Governance oversight

2.16 A terms of reference document (or charter) provides a single reference point that clearly sets out roles, responsibilities and accountabilities, and should be a living document subject to thoughtful consideration and periodic review.<sup>25</sup>

2.17 The Artbank program's Charter of Operations established the Artbank Board in 1980, which played an advisory role for the scheme until 2015.<sup>26</sup> Its charter was last updated in 1991.

24 Australian National Audit Office, *Audit Insights: Board Governance* [Internet], available from <https://www.anao.gov.au/work/audit-insights/board-governance>.

25 *ibid.*

26 The 2006 ANAO performance audit of the Artbank program recommended that 'the Charter be redrafted to be aligned more closely with the broader legislative and governance frameworks, including the FMA Act 1997, the *Public Service Act 1999* and the DCITA's CEIs' and notes that the charter, which had been last updated in 1991, could be revised and replaced with a terms of reference document for the governance oversight body.

2.18 The Artbank Board was abolished in 2015 as part of the Australian Government's *Smaller Government Reform Agenda*.<sup>27</sup> The department relied on internal governance lines of oversight, with no replacement governance oversight board or committee implemented until November 2019.

2.19 The Artbank Governance Committee was established in November 2019. The committee's terms of reference include that the committee is to provide governance oversight for the program's activities and monitor whether the Artbank program is meeting key objectives and is compliant with government rules and processes. The 1991 Charter of Operations remained unchanged. The Governance Committee's terms of reference do not refer to the Charter.

2.20 In November 2019 the Artbank Governance Committee (the committee) was established, its inaugural meeting held, and its terms of reference endorsed. This departmental committee is chaired by the Deputy Secretary responsible for the Artbank program, and includes the Chief Financial Officer, the Chief Operating Officer, and representatives from the governance and risk sections of the department.

2.21 The committee's terms of reference stated that the committee 'is responsible for the governance oversight of Artbank's activities, including: acquisitions to and deaccessions from the Artbank collection; the outreach and promotion of Artbank's collection including its exhibition program and partnership agreements; and Artbank's leasing scheme.' The November 2019 meeting minutes recorded that the committee did not consider itself to be an 'approving committee'. Instead, the committee noted that it is 'one that ensures [that] Artbank's functions are compliant and provide support to the Chief Financial Officer for information on assets'; and 'is a conduit to the [department's] Executive Leadership Team and the Secretary's Business Committee, providing assurances to them that Artbank is meeting key objectives and complies with government rules and processes'.

2.22 The terms of reference also stated that the committee will, among other things:

- 'meet quarterly';
  - the committee has met a total of three times since it was established, November 2019, January 2021 and March 2022. If the committee had met quarterly, it would be expected that the committee would have held 12 meetings since establishment in November 2019;
- 'provide guidance around the strategic direction and oversight of the Artbank program to ensure efficient and effective delivery of quality outcomes';
- 'review and endorse Artbank's policies and strategies';
  - see paragraph 2.7.
- 'regularly monitor Artbank's leasing activity; and all acquisitions to ensure that they meet the Acquisition Policy'. The committee has:
  - reviewed the Acquisition Proposal template form in 2019;
  - receives reports from the Artbank program on leasing and acquisitions activities completed since the previous meeting.

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27 *Smaller and more rational government 2014–15; and Smaller Government – Towards a Sustainable Future.*

- ‘endorse all deaccessioning recommendations prior to being provided to the appropriate delegate for approval’; and
  - the committee approved a range of deaccessions in March 2022.
- ‘endorse the annual budget for acquisition of artwork to the Artbank collection.’

2.23 The Artbank program team prepares reports for the committee in advance of its meetings. These reports have been growing in maturity and detail (see paragraph 2.12) across the three iterations prepared for and reviewed by the committee, and report on progress against the discrete purposes and plans.

2.24 In the absence of other records or out-of-session considerations, it is not clear how the Artbank Governance Committee has discharged its duty of being ‘responsible for the governance oversight of Artbank’s activities’ with yearly meetings (on average).

## Recommendation no. 2

2.25 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts ensures the Artbank Governance Committee appropriately monitors the Artbank program’s performance against its purpose and objectives, as set out in the committee’s terms of reference.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

2.26 *The Department is committed to the good governance (ie transparency, effectiveness, accountability and participatory governance processes) of the Artbank program including monitoring Artbank’s performance against the measures articulated in an overarching program-wide strategy. A return to more normal conditions post-pandemic will include resumption of convening governance committee meetings in line with the Artbank Governance Committee’s terms of reference.*

### 3. Acquisition approach

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#### Areas examined

The ANAO examined whether artwork acquisitions have been consistent with the Commonwealth Procurement Rules (CPRs) and the policy intent of the Artbank program.

#### Conclusion

The department's approach to acquisitions under the Artbank program has not been in accordance with the Commonwealth Procurement Rules (CPRs) and has not demonstrated strong alignment with the targets established in the program's collection plan designed to illustrate the department's strategy to deliver against the program's policy intent. Key shortcomings in the acquisition approach were: no open or competitive processes; value for money not being documented or demonstrated; and limited public reporting. Alignment with the program's purpose and objectives was not evident due to deviations from the department's Collection Plan for the Artbank program.

#### Areas for improvement

The ANAO made two recommendations aimed at improving and publishing upcoming procurement activities for the Artbank program on AusTender and demonstrating value with relevant money by implementing open and transparent processes for Artbank collection acquisitions.

3.1 Under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), an entity's accountable authority has a duty to promote the proper (efficient, effective, economical and ethical) use and management of public resources. The Finance Minister issues the Commonwealth Procurement Rules (CPRs) under the PGPA Act for officials to follow when performing duties in relation to procurement. The CPRs govern how entities buy goods and services and are designed to ensure the government and taxpayers get value for money. The acquisition of artworks for the Artbank program is a procurement activity governed by the CPRs.

3.2 In May 2006, an ANAO performance audit of the Artbank program<sup>28</sup> included three recommendations that were agreed to by the department in respect of its artwork acquisitions (see paragraph 1.3). The areas that those recommendations sought to address remain relevant to the findings of this audit, and in summary, were aimed at:

- establishing and publishing acquisition criteria based on the collection needs and endorsed policy direction;
- improving the transparency of, and accountability for, acquisitions by documenting the reasons that artworks were selected against the acquisition criteria and publishing purchases above \$10,000 on AusTender; and
- developing strategies, as an arts support program, to engage directly with artists.

3.3 Procurement continues to be a core activity for the Artbank program, with 674 new artworks acquired for the Artbank collection between 2015–16 and 2021–22, according to the Artbank program's records as at 27 July 2022.

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28 Auditor-General Report No.39 2005–06, *Artbank*.

## Is the acquisition approach in accordance with the Commonwealth Procurement Rules?

The department's acquisition approach for the Artbank program has not been undertaken in accordance with the Commonwealth Procurement Rules. Shortcomings in the approach include:

- while value for money is the core rule of the CPRs, there is no available evidence demonstrating that value for money has been considered by the department throughout its acquisition process;
- while there is a collection plan to identify acquisition needs, it lacks measurable targets and has not been used to guide acquisition activity;
- the department does not undertake open and transparent procurements, undertake and record comparative assessments of potential acquisitions, including assessing value for money, in its acquisition process for procurements under the Artbank program; and
- since 2015–16, 379 (76 per cent) acquisitions of artworks each valued at less than \$10,000 and four (12 per cent) acquisitions of artworks valued at more than \$10,000 did not have clear, recorded delegate approval. There was a marked improvement in the recording of delegate approval on all acquisitions after 2019–20.

### Planning the procurement

#### *Determining a need*

3.4 The CPRs state that a procurement begins when a need has been identified and a decision has been made on the procurement requirement.<sup>29</sup>

3.5 The need to procure artworks for the collection has existed since the Artbank program was established in 1980 (see paragraph 2.2).

3.6 The *Artbank Collection Plan*<sup>30</sup> was first developed in July 2019.<sup>31</sup> The plan is used to refine the program's acquisition needs by establishing 'five primary markers of breadth' against which to assess the collection profile. From this assessment, gaps identified across these markers were to be used to refine the requirements for and basis of acquisition decisions each year. The Collection Plan is intended to:

enable[s] the Director and the curatorial team to recommend acquisitions based on an assessment of the current collection strengths, collection gaps, client service requirements and an understanding of the future direction of the Australian contemporary art market.

29 Department of Finance, *Commonwealth Procurement Rules*, Finance, Canberra, 2022, para. 2.7.

30 The plan was to be reviewed annually to 'ensure it continues to reflect Artbank priorities'. Consistent with this, it was reviewed in August 2020 and July 2021.

31 Prior to the 2019 Collection Plan, 'Business Plans' were developed in 2010 (updated in July 2011) and 2016. The business plans mostly focused on marketing the program, and the performance of the art rental scheme. In the 2010 Business Plan it was noted 'mid-range artworks' as a focus, with no further detail provided. The November 2016 Business Plan outlined five 'critical success factors' for Artbank as a business, one of which was focused on the collection. Success for the collection was defined as being 'in line with acquisition criteria' and noted that the program's collection activity was a 'mechanism of support rather than for historical posterity' and focused on considering rentability and client preferences in collecting decisions.

3.7 The breadth markers, which have remained consistent across each version, are:

- artwork medium (collection area);
- regional distribution;
- diversity demographics of artist;
- career stage; and
- market (from which art is acquired).

3.8 Targets associated with each 'breath marker' have been established to support program goals around collection diversity. These breadth markers can be used to measure degree of direct support provided to artists through the program's acquisitions (see paragraph 3.62). ANAO's analysis is that the requirements established in the Collection Plan, at the program level, were not effectively used to scope the individual procurements undertaken or any approaches to market. Performance against each of these breath markers is included in 3.60–3.62, Figure 3.4 and Figure 3.5. ANAO's analysis is that the program's performance has not been closely aligned to the goals and targets established.

#### *Estimating the value of the procurement*

3.9 The department has a procurement-related Accountable Authority Instruction (AAI) established in accordance with section 20A of the PGPA Act.<sup>32</sup> Updated from time to time, the July 2020 AAI sets out that officials undertaking a procurement must, among other things:

- comply with the department's *Procurement Guide* and other relevant AAIs, policies and procedures; and
- estimate the expected value<sup>33</sup> of the procurement before deciding the appropriate procurement method: open tender or limited tender.

3.10 The expected value is used to identify which procurement method must be adopted, and accordingly, which sections of the CPRs apply to the procurement. Specifically, for non-corporate Commonwealth entities including the department, procurements (other than those for construction services) with expected values of more than \$80,000 (GST inclusive) must be conducted by open tender and in accordance with both Divisions 1 and 2 of the CPRs.<sup>34</sup>

3.11 For procurements below this threshold, the department's AAI outlines that where procurements are valued:

- at or above \$10,000 and under \$80,000 (GST inclusive), 'officials should undertake market research and seek sufficient quote(s) to be satisfied that value for money is achieved with the chosen supplier. The number of quotes will depend on the nature of the procurement and familiarity with the market'; and

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32 Accountable Authority Instructions are written instruments that may be issued by an entity's accountable authority to instruct officials on matters relating to the finance law. They assist accountable authorities in meeting their general duties under the PGPA Act and establishing appropriate internal controls for their entity.

33 Section 9.2 of the CPRs sets out that the expected value is the maximum value (including GST) of the proposed contract, including options, extensions, renewals or other mechanisms that may be executed over the life of the contract.

34 Unless that procurement is exempt in accordance with Appendix A of the CPRs or meets one of the conditions listed at paragraph 10.3 of the CPRs, which are known as the 'conditions for limited tender'.

- under \$10,000 (GST inclusive), 'officials can obtain a quote or quotes via phone, online or email.'<sup>35</sup>

### *Selecting the procurement method*

3.12 Consistent with the AAI, the department's Procurement Guide encourages officials to conduct research to, among other things: understand the market and what competition exists; and determine the type of approach to the market that is most appropriate to the particular circumstances. In addition to the estimated value of the artworks to be acquired, the characteristics of the Artbank program as an artist support program warrant careful consideration when determining the most appropriate procurement method to adopt, as required by the CPRs.

3.13 The internal budget for new acquisitions by the Artbank program has been set to at least \$400,000 for each of the past six years (see Figure 3.1). While this provides a reliable estimate for annual planning of the program's procurement activity, departmental records indicate that acquisitions have been ad hoc and not undertaken in a coordinated or open approach. The closed and uncoordinated approach to procurement is reflective of the lack of overarching program strategy to deliver against the program's purpose. This approach is also at odds with the CPRs and the department's procurement guide, which state that when a procurement is to be conducted in multiple parts with contracts awarded either at the same time or over a period of time, with one or more suppliers, the expected value of the goods and services being procured must include the maximum value of all the contracts.

3.14 While the department has typically acquired one or two artworks from each gallery it has purchased from in a single year, 34 works were acquired from a single gallery in 2017–18. Each individual artwork was less than \$10,000 and while there was approval from the then Director of the Artbank program for the acquisition, the value for one of the three invoices (being for 32 works) was \$43,636.<sup>36</sup> The two other invoices were for \$8200 and \$5800 (each for a single artwork), leading to a cumulative total spend at that gallery of \$67,636.

3.15 The department advised the ANAO in November 2022 that it relies upon research and 'the expertise of the program's curatorial staff gained from tertiary qualifications and visual art sector experience to identify suitable works for potential acquisition into the Artbank collection.' These works have predominantly been identified through professional market knowledge and experience to:

... assess [works] on a consistent basis throughout the year [identified through]:

- Catalogues in hard copy and digital format
- Individual submissions from galleries and artists made to us
- Gallery visits

35 The department's Procurement Guide states in respect to procurements below the \$80,000 threshold conducted by limited tender, that 'best procurement practice is to request 3 or more quotes from the market although officials can choose to request less than 3 quotes for low risk procurements, where there is sufficient justification documented'; and 'verbal quotes should be documented by an official in a file note. The note should include the date the quote was obtained, the name of the company who provided the quote and the person who gave the quote'.

36 This represented over four times more than the director's delegation. Approval for all acquisitions now rests with the Assistant Secretary responsible for the Artbank program.

- Key art fair attendance and preparation
- Biennales
- Online festivals/ fairs (especially during the pandemic)
- Contemporary art journals

3.16 Rather than informing the decision about which procurement method would be appropriate to adopt, this research is used to identify artworks to purchase. The works identified as suitable for the collection are recorded in acquisition proposals and provided to the program delegate for approval. The department advised the ANAO in November 2022 that only the works intended to be acquired are included in these proposals as it would not be possible to document every work reviewed by the team.

### *Approaching the market*

3.17 The department's August 2021 Procurement Guide outlines that 'Procurement Approval Requests' (or procurement plans) are mandatory for all procurements, with the format of that approval or plan depending on the value, risk and complexity of the activity. Regardless of the format, it must contain sufficient information on the project objectives, methodology and risk for the delegate to make an informed decision about whether undertaking the procurement would be value for money. This includes documenting and agreeing the procurement method to be used before approaching the market.

3.18 Approvals to approach the market (procurement plans) have not been documented for Artbank program-related procurement activities. Other Artbank program specific policies and strategy documents do not address how the art market is to be notified of a procurement opportunity or are otherwise to be approached to participate. Nor do they refer to, or otherwise seek to promote open, competitive and transparent processes. Accordingly, no coordinated approaches to market, or open calls for submissions from artists (or their representatives) have been employed.<sup>37</sup> The description included in the Artbank Acquisition Strategy of the procurement method to be employed was limited to:

The Artbank collection can be acquired through purchase ... Artworks are primarily purchased by Artbank on the primary market from Australian artists or their appointed agents (including galleries and dealers)'.<sup>38</sup>

3.19 The department agreed to an ANAO recommendation in 2006 (see paragraph 1.3) to 'consider alternative acquisition strategies to engage directly with artists [including], for example, a set period for submissions, an annual round similar to the Artbank Canada approach<sup>38</sup> and/or a competition.'<sup>39</sup> In response to an ANAO query seeking to confirm if the department had conducted an open call for applications, the department advised the ANAO, in November 2022 other than the now disbanded Roadshow program (see paragraphs 3.21–3.22 and Table 3.1), the department relies on the 'existing visual arts infrastructure' and considered it better relying on existing network of artist run initiatives, galleries and dealers. The department's approach of visiting galleries and art

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37 No tenders (open or limited) have been reported on AusTender, and there are also no standing offers or panel arrangements in place on AusTender for the purchase of artworks.

38 See <https://artbank.ca/our-collection#purchase-program> and <https://artbank.ca/our-collection/guidelines-art-bank-purchase-program> [accessed 14 October 2022].

39 Auditor-General Report No.39 2005–06 *Artbank*, p. 38.



fairs and identifying and selecting works for acquisition from an undocumented cohort of galleries does not support accountability and transparency in its processes. The lack of an overarching program strategy enables the department's uncoordinated and closed approach to acquisitions.

3.20 Although the CPRs do not require artworks to be procured via an open tender, an open approach would afford potential suppliers fair and equitable access to opportunities to compete for the purchase of their work. Such an approach would also enhance the transparency and integrity of the department's processes. While a public version of the Artbank Collection Plan<sup>40</sup> is available on the Artbank program's website, the annual procurement activities associated with it are not included in it or foreshadowed as part of the department's annual procurement plan on AusTender.<sup>41</sup>

### *Artbank Roadshows*

3.21 The majority of art has been acquired from commercial galleries, with the identification of those galleries selected and approached not recorded. The closest resemblance to a documented process for identifying potential acquisitions were the Artbank program's series of 'roadshows' (see Table 3.1), conducted in 2016–17, 2018–19, 2020 and 2021. This involved departmental officials travelling to selected metropolitan and regional locations for artists to 'pitch' their work. While this approach has the potential to be consistent with the CPRs, the available records did not capture the full list of applicants; how artists were selected for interview from those who had applied; or identify whether any assessment was undertaken to inform acquisition decisions. Within the details that were captured by the available records, there were inconsistencies between what was recorded as to be purchased and which artworks were physically acquired.<sup>42</sup>

3.22 As illustrated by Table 3.1, Roadshows have generated a declining number of applications each year, with a significant reduction in the number of interviews and resulting acquisitions (in terms of both the number and value, and also as a proportion of total acquisitions each year).

**Table 3.1: Key Roadshow metrics 2016–2017 to 2021**

Roadshow Year	# of Applicants	# of Interviews	# of Acquisitions from Roadshow	Value of Roadshow Acquisitions
2016–17	558	292 (52.33%)	40 <sup>a</sup>	\$108,616.10
2018–19	393	172 (43.77%)	9 <sup>b</sup>	\$30,445.22
2020 (Covid Impacted)	167	15 (8.98%)	4 <sup>c</sup>	\$9,966.37
2021 (Covid Impacted)	24 <sup>d</sup>	5 <sup>e</sup> (20.83%)	3 <sup>f</sup>	\$7,391.00

Note a: With the exception of Alice Springs and Kandos, at least one artwork was acquired from each of the cities visited on the 2016–17 Roadshow. Of the 518 unsuccessful applicants, there were acquisitions totalling

40 See paragraph 5.6.

41 The public release of the Collection Plan is consistent with the intent of the CPRs requirement to 'maintain on AusTender a current procurement plan containing a short strategic procurement outlook' (sections 7.8 to 7.9).

42 From the 2018–19 Roadshow, evidence of assessment for six of the purchased artworks was located, as was approval to purchase for a total value of \$13,520 from the Assistant Secretary with responsibility for the Artbank program. Records indicate that nine pieces were actually acquired for a value of \$30,445, with the approval relating to an artwork that was acquired a year later in June 2020. There was no clear assessment or subsequent approval to ultimately acquire four works from Roadshow applicants for a total value of \$15,000.

\$58,769 from 11 of these artists at later dates: two in 2018 (\$10,877), three in 2019 (\$17,421), two in 2021 (\$3100), and four in 2022 (\$27,371).

- Note b: Of the nine artworks acquired: one was from an artist already included in the Artbank collection; and another was from an artist for which there is no record of an interview. Of the 384 unsuccessful applicants, there were acquisitions totalling \$13,056 from five of these artists at later dates: two in 2020 (\$4700), two in 2021 (\$4165), and one in 2022 (\$4191).
- Note c: Of the four artworks acquired, two were acquired from artists for which there is no record of an interview being conducted, \$5555 of the total acquisition value. Of the 163 unsuccessful applicants, acquisitions were made from three of these artists later in 2022, for a total value of \$26,091. For two of these subsequent acquisitions, the ANAO could not identify evidence indicating that Artbank program officers interviewed the artist during the 2020 Roadshow.
- Note d: In November 2022, the department advised ANAO, in response to a request for updated data for the 2021 number of applicants and interviews that 25 submissions were received. ANAO can only locate 24 submissions in the department's records.
- Note e: This round of the program was only open to applications from artists in Canberra. The interviews were conducted using online video conferencing. The five interviews held includes a scheduled interview with an artist where no 2021 application can be located.
- Note f: Two of the three artworks were acquired from new artists who were interviewed during the 2021 Roadshow. The other artist who had work acquired through the 2021 Roadshow was previously represented in the Artbank collection, with a work acquired in 1989 (the piece was since deaccessioned). An alternative work from this artist was identified for provisional acquisition into the collection in August 2022, with a value of \$2800 that has yet to be accessioned (as of January 2023).

Source: ANAO analysis of departmental records

### *Unsolicited proposals*

3.23 The department advised the ANAO in August 2022, that the Artbank program is open to, and does receive, unsolicited submissions directly to the Artbank program's Curator and Director by way of: email; direct conversation at galleries; social media direct messaging; and word of mouth. These unsolicited proposals have not been documented, formally assessed or their associated risks outlined and reported upon. It is not clear which acquisitions, or how many, have resulted from unsolicited proposals.

3.24 In response to ANAO's request to confirm or provide data on the number and assessment of unsolicited submissions and the number of acquisitions stemming from these submissions; the department did not provide any data, or figures outlining the number of unsolicited submissions or the number of acquisitions. Instead, the department noted that:

Of the unsolicited artwork acquisition suggestions, we receive from individual artists – none have been purchased for the last four years since the current senior curator commenced employment. This is predominantly because the work is not of a standard suitable for Artbank – the artist may be before what we would call even the emergent phase of a professional career not only in artistic merit, but also in artistic scale and ambition. We have acquired works from more established artists through unsolicited donation, with donations going through the Cultural Gifts program (so the artist gets a financial return in the form of a tax break) – because they are artists working at a standard and scale suitable for Artbank – i.e. highly rentable.

## Identifying artworks to acquire

### *Evaluating candidates for acquisition, including the value for money proposition*

3.25 Under the CPRs evaluation criteria should be included in relevant request documentation to enable the proper identification, assessment and comparison of submissions on a fair, common and appropriately transparent basis.<sup>43</sup>

3.26 The Artbank Acquisition Policy contains eligibility criteria that all artworks must meet to qualify for purchase through the program. If used in conjunction with one another, the Acquisition Policy and Collection Plan could provide a framework from which to develop appraisal criteria for evaluating acquisitions.<sup>44</sup> The CPRs outline a range of factors to consider when assessing value for money<sup>45</sup>, including whole of life costs<sup>46</sup> and benefits, and fitness for purpose. In addition to these, the Artbank program's specific business requirements include considerations such as: rentability and appeal to client base; alignment with collection goals; suitability to the rental nature of the collection; and collection management considerations.<sup>47</sup>

3.27 As illustrated by Case Study 1, the department does not undertake a transparent assessment and comparison of available artworks. Instead, 'Acquisition Proposals' are generated only for the preferred artworks already determined by Artbank program officers. The considerations applied and basis for these determinations by the Artbank program officers have not been documented. Acquisition proposals consider only the single preferred work and include: an assessment against eligibility criteria; and narrative commentary from the officers managing the art rental scheme, the officer responsible for the storage and maintenance of the collection, and from the curatorial team. The recorded comments are limited to views on the eligibility criteria in the Artbank Acquisitions Policy, specifically: rentability; storage; conservation and installation considerations; and artistic merit. The proposals do not:

- consider alternative artworks, or alternatively, apply a score against a baseline standard expected for the program's acquisitions;
- inform the delegate on how the work was identified and selected;

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43 Finance, *Commonwealth Procurement Rules*, paragraph 7.12.

44 The Artbank program's Collection Plan and Acquisition Policy contain three eligibility criteria: the artwork is produced by a living Australian artist; the artwork has aesthetic, historic, cultural, social and/or national significance that related to contemporary Australia; and be appropriate for potential rental by being appropriate for public display and being in sound condition and reasonably resistant to deterioration in the routine operations of an art leasing scheme.

45 Finance, *Commonwealth Procurement Rules*, paragraph 4.5, which requires an entity to consider all relevant financial and non-financial costs and benefits of each option or submission

46 Relevant examples of whole-of-life costs include: the initial purchase price of the goods and services; maintenance and operating costs; licensing costs (when applicable); the cost of additional features procured after the initial procurement; and decommissioning, remediation and disposal costs.

47 Artbank Canada includes eligibility criteria, and states that a 'peer assessment committee will evaluate all applications in a national competitive context' and consider the availability of funds and three assessment criteria. The three assessment criteria are:

1. Artistic merit (50%). A evaluation of the quality of the artwork, and the quality of the work within the artist's practise, its cultural tradition or Canadian contemporary art;
2. Relevance (30%). That the work reflects current or emerging artistic practises, consideration given to the artistic rationale and/or statement; and
3. Feasibility (20%). That the price reflects the current market value or the artwork, that the artwork is suitable for rental in an office setting and the long-term viability of the artwork

- include a value for money assessment; and
- apply weightings to the considerations provided by the three program teams. There is no evidence that comparative analysis is applied to the considerations and selection of artworks for acquisition to demonstrate competition.

### *Approval by the delegate*

3.28 Since October 2018, Acquisition Proposal templates have been completed by the program’s curatorial team when seeking delegate approval to acquire an artwork.<sup>48</sup> A proposal is developed only for artworks that have been selected for acquisition (see paragraph 3.27). The ANAO has not identified any acquisitions proposals where the delegate has sought further information, such as:

- references in these proposals to suggest other artworks have been considered, or that the program officers considered some works to be more meritorious or more value for money than alternative artworks; nor
- evidence of any assessments of works considered but determined not to be a suitable or appropriate acquisition.

3.29 This approach limits the delegate’s ability to make an informed decision as it does not provide a comparative assessment between alternatives on which the delegate’s decision and approval should be based.

3.30 Almost all acquisition proposals provided to the delegate for approval are approved. For the two instances where proposals were not approved (between 2019 and 2022), the basis for this decision was not recorded on the acquisition proposal.

3.31 The department advised the ANAO in September 2022 that since 2019, the approach to evaluation of potential acquisitions involves whole of program office discussions to compare the relative merits of artworks being considered. The department further advised in November 2022 that these meetings are held weekly and if out of session discussion is required, for example ‘during an art fair where decisions need to be made quickly to secure works’, then the curatorial team may discuss the works at other set meetings or ‘convene an urgent ad hoc meeting of all staff available’.

3.32 These discussions have not been recorded, and consistent with previous practices, the details of the artworks or artists that were not proposed to the delegate for approval were not recorded. The lack of documentation around key decisions, including how value for money was determined is not consistent with the CPRs and does not promote transparency and accountability.

3.33 In response to the ANAO’s queries in August 2022 about written comparative evaluations and value for money assessments, the department adjusted its approach by recording in writing at a September 2022 program office meeting the group of artworks to be assessed and considered to determine which work or works to propose to the delegate for approval. Case Study 1 provides an overview of this process.

#### **Case study 1. Artbank program all staff acquisition meeting in September 2022**

Artbank program officials held an acquisition meeting to discuss potential acquisitions identified at the Sydney Contemporary art fair. Information on seven artworks from six artists

<sup>48</sup> Prior to October 2018, the template was used to seek approval when acquiring artworks greater than \$10,000. and is used for all desired acquisitions since

were compiled and circulated to all 13 attendees. The information included: artist name, location, artwork title and details, purchase price and expected rental price. A new artwork was introduced during the meeting that was not previously in the list circulated.

Three decisions-makers were identified in the meeting records: the Artbank program Director, Curator and Assistant Curator. The other 10 staff in attendance participated in the discussion.

Records from the meeting indicate that votes were taken against each artwork, with staff in attendance to indicate whether they agreed that that artwork was suitable for the collection or not. While concerns and other comments were noted, they were not clearly linked to assessment criteria nor the expertise of the staff making the contribution (see paragraph 3.26). Where comments were reported to be ‘overwhelming yes’ there were no documented comments on the rentability, conservation needs/requirements of the work; alignment to Collection Plan; or any other value for money considerations.

Of the eight works considered in the meeting, six works were agreed by the majority of the officials in attendance to be ‘suitable for the Artbank Collection’.

It is not clear from these records how this suitability was determined; which of the six works were to proceed to Acquisition Proposal; at what point a value for money assessment would be completed; and how (and when) the Artbank Collection Plan and budget limitations would be considered when determining which works to acquire, and where these decisions would be recorded.

3.34 There would be benefit in the department examining the acquisition approach taken by other similar entities as well as entities such as the Australia Council. For example, both Canada Council for the Arts and the Australia Council employ open funding rounds and identify successful applicants through a peer assessment process.

### **Recording the procurement decisions and approvals**

3.35 Consistent with the CPRs, the department’s Procurement Guide requires officials to document how value for money was considered and achieved, including sufficient information to justify the recommendations to the delegate on the procurement outcome. In particular, documentation for each procurement should capture:

- the requirement for the procurement;
- the process that was followed;
- how value for money was considered and achieved;
- relevant approvals; and
- relevant decisions and the basis for those decisions’.<sup>49</sup>

3.36 Records of approvals and rationale for decisions, especially for artworks acquired for a value less than \$10,000 were not available for all acquisitions.

3.37 Since October 2018, all artworks acquired have required the Acquisition Proposal template to be completed, and written approval from the delegate, Assistant Secretary Creative Industries which is recorded by their signing the template (see paragraph 3.27). The template does not include

49 Department of Finance, *Commonwealth Procurement Rules*, Finance, Canberra, 2022, para. 7.3–7.4.

any reference to ensuring and recording how value for money was achieved in the absence of a competitive process.

3.38 Prior to October 2018, according to the department’s financial delegations, the Artbank program’s Director had delegated authority to approve a commitment of money and to enter into, vary and administer arrangements, providing the terms and basis of the approval were recorded and the delegation was exercised in accordance with the Commonwealth Procurement Rules.

3.39 The administrative processes and arrangements specific to the Artbank program in place prior to 2019<sup>50</sup> limited the Director’s authority to commit up to \$10,000 excluding GST.<sup>51</sup> For acquisitions greater than this, it was the Artbank program’s policy that an Acquisition Proposal<sup>52</sup> be developed by the Artbank Curatorial team, endorsed by an EL1 equivalent<sup>53</sup> and by the Director, before seeking approval from the Assistant Secretary responsible for the Artbank program. As set out in Table 3.2, there are a number of acquisitions where the ANAO was unable to locate written evidence of delegate approval.

**Table 3.2: Acquisitions for the Artbank program: 2015–16 to 2021–22**

Year	Total acquisitions		Acquisitions greater than \$10,000			Acquisitions equal or less than \$10,000		
	#	Invoice amount	#	Invoice amount	# with clear delegate sign off	#	Invoice amount	# with clear delegate sign off.
2015–16	116	\$365,983	2	\$25,345	0 (0%)	114	\$340,637	3 (3%, 5% of invoiced amount)
2016–17	179	\$507,993	5	\$97,152	5 (100%)	174	\$410,841	2 (1%, 2% of invoiced amount)
2017–18	121	\$408,808	3	\$80,916	2 (67%, 57% of invoiced amount)	118	\$327,892	63 (53%, 33% of invoiced amount)

50 Since 2019, the officers who have held the role of Artbank Director have not approved the acquisition of any artworks, only of framing and repairs. All acquisitions since 2019 have gone to the Assistant Secretary responsible for the Artbank program, with an acquisition proposal for approval regardless of value.

51 It is not clear how Artbank determined the delegation to be \$10,000 for Artbank EL2 Director. Initially in 2015 the departmental delegation threshold for this officer level was \$50,000 (including GST) and was increased December 2016 to up to \$80,000 (including GST). Public reporting requirements for AusTender are for all acquisitions greater than \$10,000 to be reported.

52 The Acquisition Proposal template and content has not changed since 2015. A proposal is only for one acquisition and does not compare acquisitions.

53 Restructures within the Artbank program has seen this role been applied by the Assistant Director (Commercial) from 2015 to October 2018. The departure of the previous Director resulted in a range of acting Directors assuming this role for short periods, and internal processes changes to require acting Director and Branch Manager approval for all acquisitions. This change in process has remained in place to date. Since the appointment of the current Artbank Director in late 2019, acquisition proposal have been endorsed by the Head Curator and the Director, before receiving the Branch Manager’s approval.

Year	Total acquisitions		Acquisitions greater than \$10,000			Acquisitions equal or less than \$10,000		
	Count	Value	Count	Value	Percentage of invoice amount	Count	Value	Percentage of invoiced amount
2018–19	65	\$379,348	7	\$152,038	6 (86%, 93% of invoice amount)	58	\$227,310	21 (36%, 32% of invoiced amount)
2019–20	66	\$355,415	7	\$138,745	6 (86%, 78% of invoice amount)	59	\$216,670	58 (98%, 98% of invoiced amount)
2020–21	52	\$296,375	6	\$117,797	6 (100%)	46	\$178,578	46 (100%)
2021–22	75	\$396,462	8	\$152,545	8 (100%)	67	\$243,916	67 (100%)
<b>Total</b>	674	\$2,710,384	38	\$764,540	30 (88%, 89% of invoice amount)	636	\$1,945,844	260 (41%, 43% of invoiced amount)

Source: ANAO analysis of departmental records.

### *Reporting decisions taken*

3.40 The CPRs require entities to report contracts and amendments on AusTender within 42 days of entering into or amending a contract if they are valued at or above \$10,000.<sup>54</sup> Reporting publicly is to support transparency and accountability with public resources and is required by the CPRs.

3.41 Since 1 July 2015 through to 30 June 2022, the departments with responsibility for the Artbank program have reported 34 contracts for the acquisition of artworks for the program on AusTender, the most recent of which was on 24 April 2020. As outlined in Table 3.2, between 2020–21 and 2021–22, 14 artworks each valued at more than \$10,000 were approved for acquisition by the delegate. The acquisition of these works has not been reported on AusTender. In response to queries from ANAO, the department advised that the 'contracts and procurement team have offered to assist with registering the artworks on AusTender not previously included' and that a 'process document is in train' to outline 'steps and responsibilities' to ensure reporting in line with Commonwealth Procurement Rules.

<sup>54</sup> Finance, *Commonwealth Procurement Rules*, paragraph 7.18

### Recommendation no. 3

3.42 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts:

- (a) increase the transparency of, and accessibility to, Artbank program acquisitions by publishing the program's annual procurement activities as part of the department's annual procurement plan on AusTender, to guide and provide advanced notice to the market about the program's upcoming procurement activities; and
- (b) ensure that complete, accurate and appropriate data is collected and used effectively to monitor procurements and report against planned collection targets.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed in part.*

3.43 *The Department has instituted procedures to ensure that all future acquisitions for works over \$10,000 (GST inclusive) in value are reported on AusTender.*

3.44 *Having considered Department of Finance Resource Management Guide 423 guidance on requirements for Annual Procurement Plans, the Department considers Artbank's planned acquisitions do not meet the criteria for inclusion in the Department's Annual Procurement Plan (APP). However, Artbank's Collection Plan is now publicly available at <https://www.artbank.gov.au>.*

3.45 *Artbank has refined its data collection around acquisitions to ensure compliance with the Commonwealth Procurement Rules, in particular it is now explicitly documenting considerations of value for money in all artworks that are proposed for acquisition.*

**ANAO comment:**

3.46 Annual Procurement Plans are focused on open procurement opportunities whereas the department has not been employing open approaches for Artbank acquisitions. Resource Management Guide 423 published by the Department of Finance states that an entity's annual procurement plan should not include limited tenders. If the department moved to incorporate open procurement approaches into the Artbank Acquisition Policy, as per ANAO Recommendation 4, then Artbank acquisitions could be included in the annual procurement plan as per this recommendation. While the Collection Plan was already published prior to this ANAO performance audit, it does not include information about when and how the department will be undertaking procurements for Artbank.



## Recommendation no. 4

3.47 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts develop a fit for purpose procurement framework for the Artbank program which is consistent with the Commonwealth Procurement Rules, including open and transparent opportunities for Australian contemporary artists (or their representatives) to submit their artwork for acquisition, with clear records made at each step throughout the procurement processes employed.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Noted.*

3.48 *The Department understands the Commonwealth Procurement Rules and is committed to abiding by them to ensure that acquisitions of artworks are made in compliance with their requirements — especially in relation to the obligations under Division 1 of the Rules, such as ensuring value for money and impartiality.*

3.49 *Artbank will always consider unsolicited submissions from artists and gallerists and, will periodically run ‘Artbank Unpacked’ information sessions across Australia to increase awareness of its activities amongst the visual arts community.*

3.50 *Open tendering for artwork has its place in Artbank’s Acquisition Plan, but is not considered the primary procurement methodology. Procurement by limited tender is Artbank’s predominant procurement methodology (as is the industry practice for most public art institutions), and remains consistent with the CPRs. Procurement of works of art satisfy the conditions for limited tender under Rule 10.3(d) of the CPRs. We understand this provision exists due to the particular nature of artworks as original and unique articles (where there is no reasonable alternative or substitute), and the established market conditions for the acquisition of artworks into public collections.*

### **ANAO comment:**

3.51 Rule 10.3(d) permits entities to conduct limited tenders for works of art ‘when the goods and services can be supplied only by a particular business and there is no reasonable alternative or substitute’. In considering the application of this Rule to the Artbank program, it is important to recognise that the focus of the Artbank program is on supporting contemporary Australian artists, including emerging artists, rather than seeking to acquire particular works of art.

## Does the acquisition approach effectively support artists?

The effectiveness of the Artbank program in supporting artists through its acquisitions has progressively declined over time, from a high of 179 acquisitions in 2016–17 to 75 in 2021–22. Accordingly, the amount of financial support provided to artists through acquisitions for the Artbank collection has also been declining, with the \$396,462 spent on acquisitions in 2021–22 being less than the \$507,993 spent five years earlier in 2016–17. The program has budgeted \$400,000 each year for the acquisition of artworks since 2019. Decisions taken to acquire more than one artwork from an individual artist in a financial year further limits the program’s ability to support a broader range of artists. The cohorts of artists intended to be targeted through

the department’s Collection Plan, are often not the artists actually targeted by the program’s acquisition approach.

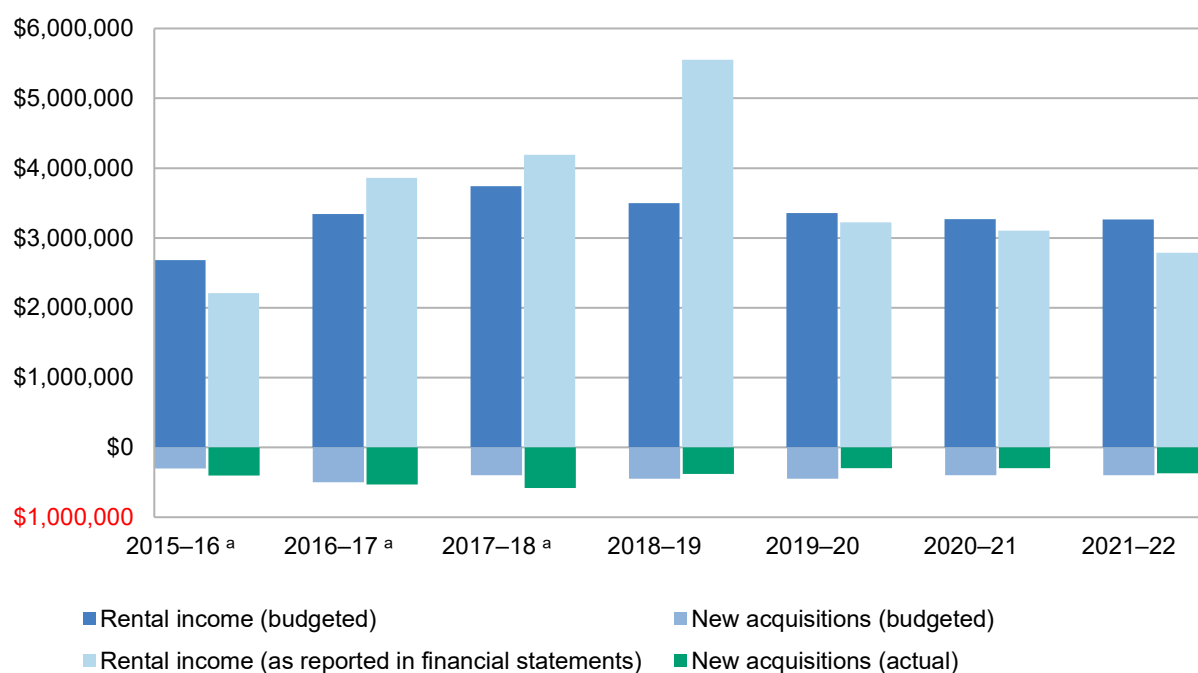
3.52 One of the Artbank program’s objectives is to ‘provide direct support to Australian contemporary artists through the acquisition of their work’. Illustrating the importance of an effective acquisition strategy, the department’s *Artbank Governance Committee – Terms of Reference* outlined that one of the ‘key critical success factors for Artbank is the continued collecting of artwork’.

### Past acquisitions enable future acquisitions

3.53 The department’s need to buy art is complemented by its need to provide the artworks in its collection for lease. This is not only to achieve the Artbank program’s purpose to ‘operate an Art Rental Scheme’, but also to generate the revenue required to fulfil its purpose to ‘encourage contemporary Australian artists by acquiring their work’ (see paragraph 2.2).

3.54 The annual budget for new artwork acquisitions for the Artbank program is based on the rental revenue generated in the previous period, less other ongoing costs. As demonstrated in Figure 3.1, the budgeted amounts for future acquisitions represent a small portion the annual rental income reported by the department for the Artbank program. Although not reflected by the amounts publicly reported, the amount of revenue generated from the rental of the Artbank collection began to decline from 2017–18. This corresponded with a decline in the budgeted amount for future acquisitions and a decline in the actual amount spent on new acquisitions.

**Figure 3.1: Comparison of rental receipts with new artwork acquisition expenses (budgeted vs actual across financial years)**



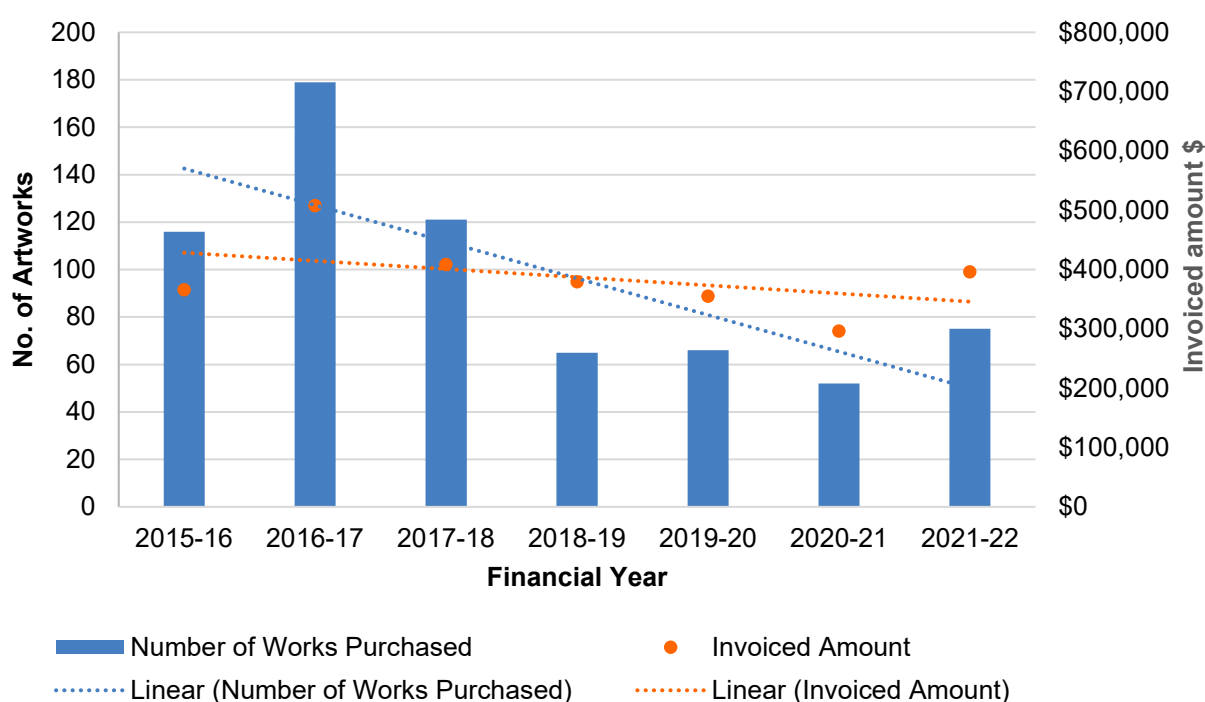
Note a: Publicly reported rental receipts prior to 2018–19 included amounts that were non-rental receipts such as sales of the program’s magazine, consultancy fee charges and reimbursements for freight and other costs from clients. These amounts were removed in subsequent years, improving the accuracy of the rental income figures reported.

Source: ANAO analysis of departmental records.

3.55 The Artbank program's ability to continue to support artists is limited by what it can generate from its art rental scheme and the volume of its other expenditure (the department's approach to its leasing from the art rental scheme is discussed in Chapter 5.)

3.56 While the Artbank program's budgeted allocation for new acquisitions has remained relatively stable compared with declining rental revenue since 2017–18, the program's actual expenditure on acquisitions has been declining since 2016–17 (see Figure 3.2). The number of works procured each year has declined over time from a high of 179 in 2016–17 to 75 in 2021–22. Accordingly, the amount of financial support provided to artists through acquisitions for the Artbank collection has also been declining, with the \$396,462 spent on acquisitions in 2021–22 compared to the \$507,993 spent five years earlier in 2016–17.

**Figure 3.2: Artworks acquired since 2015–16**



Source: ANAO analysis of department records.

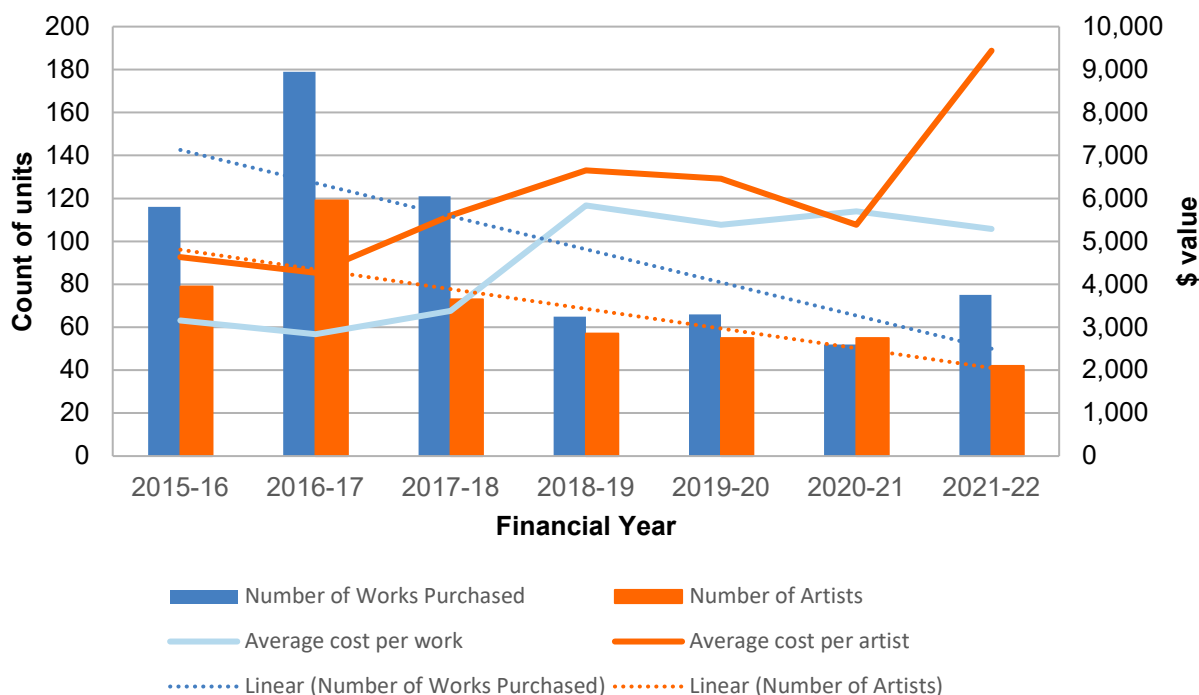
### Maximising the support provided with the budget

3.57 As the number of acquisitions is trending downwards, the amount spent on new artworks has also been trending downwards (but not as significantly), with a total acquisition expenditure of between \$300,000 and \$400,000 for most years. The amount spent on each artwork has progressively increased over time, resulting in an increase to the average cost per artwork in 2021–22 to \$5286 compared with 2016–17, where the average cost per artwork was \$2838.

3.58 This decline in the number of artworks acquired each year indicates that the Artbank program's ability to support contemporary artists is diminishing over time. The department's approach of acquiring more than one artwork from some artists in a single financial year has the potential to further diminish the breadth of the program's support for other artists. Figure 3.3 illustrates the relationship between the number of artworks and artists acquired from, the average

cost per artwork and the average financial support provided per artist. As the number of acquisitions each year has declined, the department has been less likely to acquire more than one artwork from individual artists in the same financial year. The Collection Plan (see paragraphs 3.6–3.8) is silent on this matter.

**Figure 3.3: Average amount spent per artwork and per artist by financial year**



Source: ANAO analysis of department records.

### Supporting artists

3.59 Most of the artworks in the collection have been acquired from galleries (see paragraph 3.19). To allow for more acquisition funding to go directly to artists, the ANAO’s May 2006 performance audit report (see paragraph 1.3) recommended that acquisition strategies that engage directly with artists be considered including, for example, a set period for submissions, an annual round similar to the Artbank Canada approach<sup>55</sup> and/or a competition. These approaches have not been employed beyond the ‘roadshows’ which have declined in both usage and effectiveness (as outlined in Table 3.1).

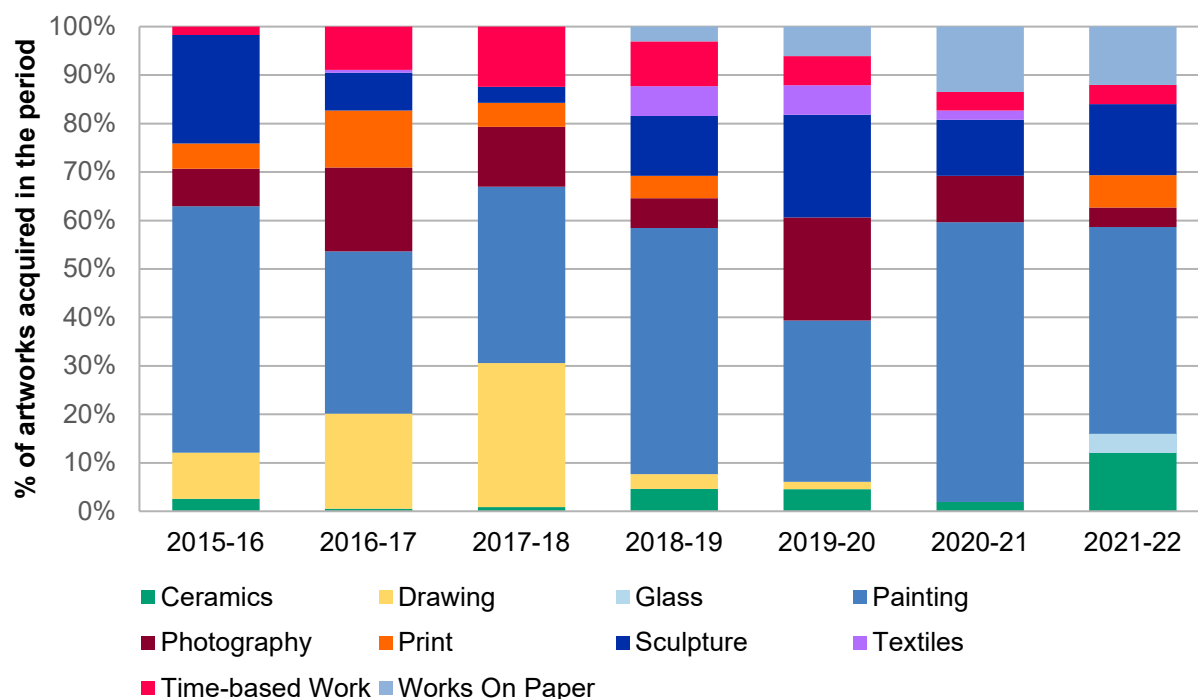
3.60 The department developed the Artbank Collection Plan in 2019. The plan established five breadth markers and associated targets to measure achievement against collection diversity goals (see paragraphs 3.6–3.8). Analysis against some of these measures provides an indication of the degree of support provided to different cohorts of artists through the program’s acquisitions.

3.61 For example, in regards to the ‘artwork medium’ marker, the Collection Plan identified that the collection was ‘dominated by two-dimensional artworks [...] as these media are well suited to current clients’. While the plan proposed to maintain the level of paintings and increase acquisitions of photography, the ANAO’s analysis was that acquisitions have continued to be dominated by

55 See <https://artbank.ca/our-collection#purchase-program> and <https://artbank.ca/our-collection/guidelines-art-bank-purchase-program> [accessed 14 October 2022].

paintings over the past three years and there has been no increase in photography. There was however an increase in the acquisition of sculptures (see Figure 3.4). This indicates that the department has provided the most support to painters, increased its focus on sculptors and not focused on photographers.

**Figure 3.4: Artwork medium as a proportion of total annual acquisition**



Source: ANAO analysis of departmental records.

3.62 In relation to the other four markers, the ANAO's analysis was that for:

- regional distribution;
  - while the plan stated that representation from Western Australia, South Australia, Queensland and Far North Queensland<sup>56</sup> needed to be targeted, art has continued to be mostly acquired from Victoria, Northern Territory and New South Wales<sup>57</sup>;
  - detailed location data (such as postcode or suburb of the artist) is not consistently captured. As a result, performance against the target to increase the representation of artists from Far North Queensland and non-indigenous artists from Western Australia and South Australian cannot be assessed;
- diversity demographics of artist;

56 While Far North Queensland was identified as a targeted area, departmental analysis and data held is not of sufficient granularity on location to measure or determine 'Far North Queensland' as a region.

57 In the 2021 update to the collection plan, the regional marker target was updated to increase acquisitions from first nations artists in 'the South East of Australia'. It was not clear how this was identified, or by what degree to increase the number of acquisitions.

- some diversity data is either not collected<sup>58</sup> or the fields have not been consistently populated where it was meant to be collected<sup>59</sup>;
- consistent with a commitment for equal gender representation in the collection, more art has been acquired from female artists each year since 2016–17;
- career stage;
  - while the plan indicates a focus on emerging artists, no data is collected on the career stage of artists at the time of acquisition;
  - the department advised ANAO in November 2022 that:
 

We believe that acquiring works from artists who have demonstrated their suitability on the professional visual arts market is a better use of government money than acquiring works from those who are aspiring at best and often at the student level of art making. They are not only better financial investments in terms of potential future gain, they are also better rental propositions for Artbank’s client leasing purposes.’

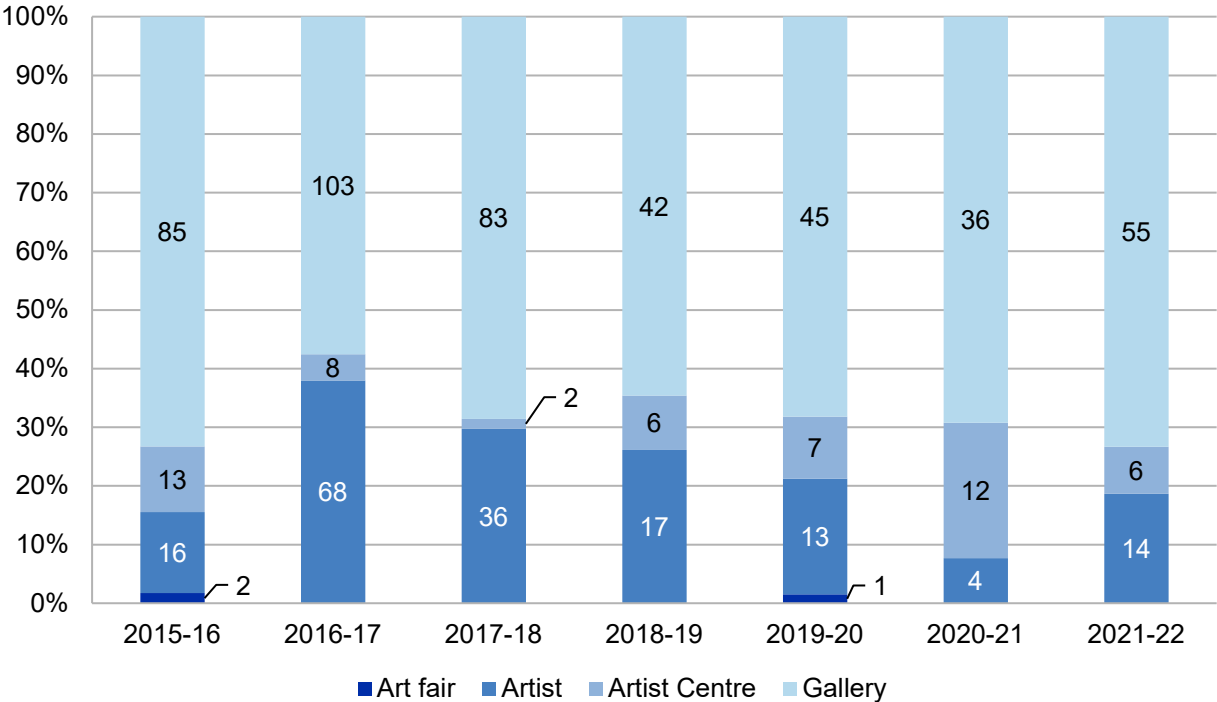
This does not align with the collection plans which have set goals to commit between 20–30 per cent of the acquisition budget to emerging artists. As data is not collected on career stage it is not possible to determine whether the department is meeting its goal to support emerging artists; and
- market (from which art is acquired); while the plan states that ‘[t]hrough acquisition, Artbank helps support the sustainability of commercial galleries, art centres, artist run initiatives, unrepresented artists, art fairs, art festivals and biennales’, analysis of the available data is that art continues to be acquired largely from galleries (see Figure 3.5).

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58 The department does not collect LGBTQI+ or disability demographics of the artists in the collection management system.

59 Data for recording Aboriginal and/or Torres Strait Island status and cultural and linguistic diversity status fields is mixed into a single field. Gender has been recorded on a binary basis and this field has not been populated since the 2019 update to the collection management system.

Figure 3.5: Acquisitions made each financial year from each primary market segment



Source: ANAO analysis of departmental records.

## 4. Managing the collection

### Areas examined

The ANAO examined whether the Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the department) has appropriately managed the Artbank collection.

### Conclusion

The department's management of the Artbank collection is insufficient to ensure the integrity of the collection. Conservation activities are not consolidated, prioritised, committed and reviewed against a planned, wholistic schedule. Records of deaccessioning, the formal removal of artworks from a collection, are unreliable. Approvals were obtained retrospectively for the deaccessioning of over 70 artworks from the collection, with the records for those approvals not identifying that the artworks had already been disposed of via sale over four years earlier. Where deaccessioning has been recorded appropriately, it has not been undertaken in a timely manner with the artworks continuing to add to the costs of the program through storage, management and conservation expenses, rather than being activated (through rental or sale) to continue to support contemporary Australian artists. The integrity of the collection has been placed at risk by the absence of a policy to guide the management of digital or time-based artworks. Fifteen duplicate copies of 14 time-based digital works were created so that those works could be rented 22 times to more than one client at a time.

### Areas for improvement

The ANAO made two recommendations aimed at improving the processes around the deaccessioning of artworks and strengthening the approach for the preservation of artworks in the collection.

4.1 Effective collection management is essential for the ongoing operations of the Artbank program. Selling artworks that no longer meet the intent or eligibility criteria of the program can potentially contribute to the achievement of the program's policy objectives. It has the potential to remove unrented works from the collection while generating additional revenue that could be reinvested into supporting artists through the acquisition of their work while reinvigorating the selection of artworks available for lease by Artbank clients.

4.2 Other artwork collection management aspects relevant to the effective administration of the Artbank program include: appropriate storage and maintenance of the collection; thorough and integrated policies and procedures; a well-documented collection; and appropriate controls over the collection with regards to stock movements and security. The ANAO examined whether the department's approach to managing the Artbank collection has appropriately addressed these aspects.

### Is the approach to preservation fit for purpose, particularly for artwork on lease?

The department's preservation activities for the Artbank collection are focused on artworks: being prepared for imminent leasing; returning from lease; or identified as having a high prospect of rentability. While the results of individual condition checks are recorded, this



information is not consolidated, or used to develop a preservation or maintenance plan for the Artbank collection, leaving conservation activity ad hoc rather than systematic and strategic.

4.3 As a lending collection, damage, loss and security requirements are different for the Artbank collection than those for standard collecting institutions (such as museums and galleries). This is because the artworks in the rental scheme are income generating assets that are expected to be widely leased, transported frequently, and not held in storage for extended periods of time.

4.4 Prior to 2019, the conservation treatments undertaken on artworks were not recorded centrally in the collection management system<sup>60</sup> (see paragraph 4.13).

4.5 Finalised in 2019, the *Artbank Preservation Policy* outlines the approved approach for maintaining, storing and conserving the works of art in the collection. While the policy notes that the Artbank program has an ‘ongoing and routine collection maintenance schedule’ to help ‘reduce the likelihood of serious damage to collection objects’,<sup>61</sup> the ANAO was unable to locate evidence of a schedule or list of known maintenance activities, prioritised based on business factors (such as rentability, artwork significance, conservation budget, broader plan for conversation) in the department’s records. The department advised the ANAO in November 2022 that it:

does prioritise works going out on lease to Artbank clients and this is strategic since there is the likelihood of an immediate return on the expenditure.<sup>62</sup> Excel spreadsheets have formed a basis for review of conservation treatments and decision making. These are not centralised and [are] held outside the collection management system.

4.6 These excel spreadsheets were not stored in the department’s formal records management system and the department provided spreadsheets for only the 2018–19 and 2022–23 financial years. These two records did not evidence an ongoing and routine maintenance schedule or demonstrate a strong alignment between maintenance activities and relevant policies, including the department’s Asset Accounting Policy.

4.7 This policy sets out five asset management principles and defines the roles and responsibilities for asset management in the department, including that ‘asset owners’ are responsible for the whole-of-life management of the assets used within their management domain. This comprises ‘all aspects of planning for, acquiring or building, using, managing, and disposal’ of the assets. Artworks in the Artbank collection are assets for the purposes of the policy. Limited consistency has been demonstrated between the management of the Artbank collection and the asset management principles. Specifically, there was no evidence:

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60 The collection management system has always had a conservation module in which to record conservation activities so that treatments undertaken on individual artworks can be recorded. The department commenced using this function in 2019, after the approval of the Preservation Policy. Prior to 2019, program officers saved records (quotes and invoices) of individual conservation activities into shared folders on a network drive, sorted by year. Since 2019, recording has been across both the collection management system and the shared folders.

61 While details of the schedule are not provided, ‘strategies’ for collection maintenance are set out, which include: monitoring the condition of artworks on an ongoing basis; taking action to protect or treat individual items identified as being damaged or at risk; using appropriate packaging material; maintaining cleanliness in storage areas; endeavouring to clean artworks on a systematic basis; providing appropriate storage conditions; promoting the provisions of ideal storage conditions to clients; and adhering to the department’s pest management plan.

62 See paragraph 4.22–4.24.

- of asset disposal and life-cycle management being integrated into strategic and organisational planning (with neither the Collection Plan or Business Plan referring to the Preservation Policy or Deaccession Policy);
- of asset planning decisions being based on the ‘evaluation of alternatives, which assess risks and benefits, to apply the Government’s core procurement principal of value for money across the asset’s life cycle’;
- that an ‘effective control structure’ has been established for the asset management aspects of the collection. For example, there was no evidence to demonstrate that approvals had been obtained to commit funds to conservation activities;
- that clear accountability has been ‘established for asset condition, use and performance’ particularly while there are no clear links between the results of condition checks and the conservation activities undertaken, or where conservation activity records are incomplete; or
- that ‘disposal [deaccessioning] decisions are based on analysis of the methods which achieve the best available net return’.

4.8 It is not clear that the ‘ongoing and routine’ review of works is centrally managed, consistently and comprehensively recorded, or that the outcomes of those reviews are fully documented. Maintaining this information consistently and centrally would provide a clear understanding of the scale of conservation activities required and support effective decision-making that considers value for money and is within the budget planned for those activities.

4.9 The department undertakes an annual stocktake of all works in the collection and a three-year rolling revaluation of artworks as part of its financial statements reporting processes. When artworks are sent out or returned from lease, the Artbank Registration Team undertakes a condition check process.

4.10 The Preservation Policy does not outline what constitutes an artwork determined to be in ‘poor’ condition, nor does it provide guidance on the next considerations or other processes to be triggered should the condition check conclude that an artwork is in ‘poor’ condition. Considerations could include deaccessioning. Not all works with a condition status of ‘poor’ will be subject to conservation activity immediately.<sup>63</sup> A recorded conservation and maintenance schedule of the works would support conservation activity decision making and tracking of works in progress or considerations for repair.

4.11 Between 1 July 2015<sup>64</sup> and 30 June 2022, 4358 unique artworks from the 7669 leased over the same period had a total of 6896 condition checks recorded (for more on the number of artworks leased see Table 2.1, Figure 5.1 and paragraph 5.24). Of these condition checks 154 checks related to 88 artworks reported with ‘poor’ condition outcomes. There is no detailed forward plan, including the consideration of budget, for the conservation activities known to be required as a result of condition checks.

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63 In response to ANAO queries, the department advised in November 2022 that ‘the condition status of “poor” may be applied following an inspection of an artwork, but this does not always mean it requires conservation treatment or repair. Inherent value may still result in the artwork leasing if the artwork is poor but may still be displayed in its current condition.’

64 Condition check data was first entered into the Artbank program’s collection management system in 2015.

4.12 Reported separately in the collection management system, as at July 2022, 47 conservation activities were recorded between 1 July 2015 and 30 June 2022, relating to 45 artworks.<sup>65</sup> Only six of these conservation activities are traceable to condition checks of the 88 works where the condition was assessed as 'poor'. Conservation activity was recorded against 29 artworks that were condition checked, but not assessed as being in 'poor' condition, and 12 were not traceable to any condition checks reported in the system.

4.13 Records for damage reports, conservation quotes and invoices have been located outside of the collection management system for 303 artworks.<sup>66</sup> Of these 303 artworks, 28 have been recorded in the collection management system as having had conservation activity completed (out of the 63 records of conservation activity) and 167 are recorded in the system as having had a condition report completed (including four of the six works assessed as having 'poor' condition).

4.14 The ANAO's analysis of these records, along with correspondence between the Client Services team and the Curatorial and Registration teams, indicated that the requirement for conservation activities is mostly identified when artworks are being prepared for lease to clients. The most common solutions adopted were either a fast turnaround using a sole-sourced arrangement for the conservation activity, or the work being leased in its current state and flagged for conservation activity at the end of the lease. In the absence of any further evidence, it is not clear that the department follows through on these end-of-lease activities.

4.15 Where artworks have been set aside in storage for conservation (or deaccessioning) activities, they are placed on a 'hold' status in the client leasing system. This restricts the artwork in the leasing system and alerts the program officer preparing the potential rental agreement to first consult with the registration and curatorial team prior to discussing with the client. The impacts from storing artworks for prolonged periods are discussed at paragraphs 5.25 to 5.26.

4.16 The absence of a clear pipeline of conservation activity (see paragraphs 4.4–4.5) makes it difficult for the department to plan for and manage conservation activities more strategically.<sup>67</sup> A rolling activity log to track the upcoming conservation activities required would support timely conservation activity and enable artworks to be leased immediately when selected by clients. This is particularly important for managing the program's conservation budget, which is limited by and based on the rental revenue generated in the previous financial year (similar to the acquisition budget, as discussed at paragraphs 3.53 to 3.56).

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65 A total of 63 conservation activities were recorded in the system, relating to 60 unique artworks.

66 In November 2022, the department provided ANAO with an updated data set from the collection management system, with a further 13 conservation activities added, and dated between 2019–2022. When asked about the change in historical data the department advised that 'some Artbank staff manage information on conservation jobs outside of the collection management system' (as noted in paragraph 4.7), and that the information for these 13 conservation activities were 'added to the Emu conservation module'. ANAO notes that these 13 newly recorded historical conservation activities impacted on 16 artworks.

67 For example, as considered in the department's Asset Accounting Policy and International Standard for Asset Management 55000, more strategic approaches to conservation activities could include:

- targeting particular types of artworks with similar conservation needs;
- grouping works into larger packages of conservation work to attract bulk discount prices from conservators;
- investigating alternative or boutique conservation approaches for more challenging conservation activities to ensure value for money is achieved.

## Recommendation no. 5

4.17 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts:

- (a) develop and implement a conservation work plan with a more strategic and systematic approach to the conservation (or deaccessioning) of artworks; and
- (b) maintain complete and accurate data on condition checking and conservation activities for reporting on the condition and status of all artworks.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Not Agreed.*

4.18 *The department considers the existing conservation work plan and approach to the conservation and deaccessioning of artworks meet industry practice, based on guidelines set by the world authority on this area, the International Council of Museums, and are being managed systematically and professionally. The current method for managing this area is considered by the department to be appropriate for the maintenance of the Artbank collection commensurate with the collection's size and nature, and the resources available. In the department's view, the approach recommended by the ANAO has significant resourcing implications for no discernible benefit.*

4.19 *The department notes that the analysis undertaken by the ANAO has not referred to conservation records Artbank provided access to in its internal drive covering the years 2015 to 2019.*

4.20 *The department submits that the level of accuracy and completeness of its conservation and deaccessioning records are consistent with industry standard and the department's internal policies, including their documentation.*

**ANAO comment:**

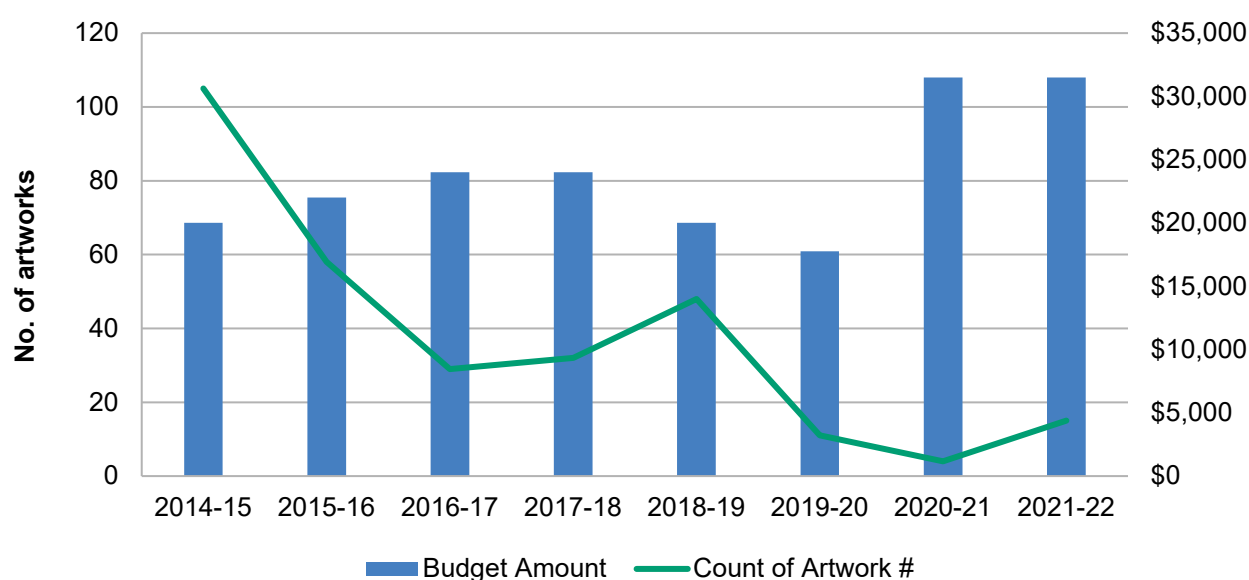
4.21 As a program established to support contemporary artists by acquiring and leasing out their work, Artbank's conservation requirements are in some important respects different than those for collecting institutions such as museums and galleries. This is because the artworks in the rental scheme are income generating assets that are expected to be leased and transported rather than being held in storage or on display for extended periods of time (a situation that the Artbank Acquisition Policy recognises places 'more pressure on holdings than a museum or gallery setting'). Paragraphs 4.4 to 4.16 set out the audit findings in relation to the department's conservation activities, including the 2015 to 2019 period referred to by the department, including findings of departmental practices that do not accord with guidance from the International Council of Museums.

4.22 As set out in paragraph 3.1, procurement activities for the Artbank program must accord with the Commonwealth Procurement Rules (CPRs). The procurement of conservation services is a corollary to the ongoing need to purchase new artworks under the program. Similar to the acquisition process, the conservation budget is limited and decision-making around the selection of and payments for conservation services should be directed at ensuring maximum value is achieved from that budget, with reference to Artbank program's purpose and policy objectives.

4.23 While correspondence between the Registration Team and the Artbank program’s Director has included occasional references to the merits of conserving one artwork over another, it has been rare for more than one quote to be obtained when engaging conservation services. For instances where multiple quotes were sourced, it was usually due to cost of the conservation activity in the initial quote being so costly that conservation activity was deemed economically unviable.<sup>68</sup>

4.24 Figure 4.1 illustrates the conservation budget for the Artbank program each year and the number of artworks identified for conservation treatment each year, where the ANAO was able to locate departmental records. In November 2022, the department advised ANAO that in ‘2020 and 2021, it was difficult for the Artbank staff to make assessments or send works out for conservation due to COVID-19 lockdowns and at times inability to access the collection.’

**Figure 4.1: Conservation activities by financial year where records were identified**



Note: The ANAO’s analysis of the conservation activities undertaken each year was limited by the availability of evidence. Since provision of data in July 2022, the department has updated its records of conservation activities, adding a further 13 records of historical conservation activity; 17 records of potential conservation activities after July 2022 (with two of these activities not yet completed); and corrections to the artworks linked to two conservation activities.

Source: ANAO analysis of departmental records.

4.25 The Artbank Preservation Policy requires that artworks only be rented to clients with evidence of insurance cover and who can demonstrate an ability to provide satisfactory facility

68 In February 2016, the Artbank program entered into a Memorandum of Understanding for conservation services with an artwork conservation provider for a year. This agreement was extended twice, once in December 2016 and again in April 2018, each time for a further year. This MOU initially guaranteed supply of work from the program to this MOU partner, with the Artbank program benefiting from two years of gratis conservation services valued at \$25,000 per annum. All agreements included the provision of discounted conservation rates for the department and Artbank program clients. The MOU partner benefit from the use of student conservators. The ANAO was not able to identify any records indicating that the department undertook an open approach to market for this arrangement. In September 2019, this artwork conservation service provider continued to report a partnership with the Artbank program, with that information still listed on the provider’s website. In November 2022, the department advised ANAO that the ‘partnership has fallen into abeyance — partly due to COVID. Artbank considers there are benefits of it being taken up again if managed correctly.’

conditions that meet basic requirements of security, environmental control and adhere to the conditions of Artbank's rental agreement. In instances where an artwork is damaged while with a client, the department seeks the conservation cost (or if deaccessioned due to damage, the insurable value) to be recovered from the client.

## Is the deaccession process timely and appropriate?

Deaccessioning activities are not timely and rarely initiated. Once initiated there are significant delays throughout the deaccessioning process, particularly between the receipt of approval and disposal of artworks, leading to increased storage and maintenance costs. Processes to establish the timely deaccessioning of artworks after receipt of approvals have not been successfully implemented.

- In 2018, 78 artworks were approved for deaccessioning from the collection by sale while only ten artworks have been recorded as sold since 2015–16.
- Approvals to deaccession a further 424 artworks prior to 2015 were not implemented for over seven years, with 288 of these artworks placed back into the collection in 2021.
- Since establishment in November 2019, the Artbank Governance Committee has only once discussed and endorsed deaccessioning activities from the collection.

4.26 Deaccessioning is the process of formally removing artworks from a collection.<sup>69</sup> The *Artbank Collection Deaccession Policy* provides three methods of disposal of artworks to facilitate deaccessioning from the collection, comprising:

- sale (including auction; consignment private sale through artist or artist representatives; or private sale);
- transfer (to a local, state or Commonwealth government collection in the first instance; not-for-profit organisations; or return to artist); and
- destruction (only when damaged beyond repair or where repair is not cost effective and/or where there is a public liability risk).

4.27 Deaccessioning is an essential collection management process that can be used to increase the funds available for further acquisition and conservation activities. It can also assist with managing or reducing ongoing expenses, including conservation fees and added storage requirements.

4.28 The deaccession policy was last updated in October 2019. It sets out that artworks should remain in the collection so long as they: are consistent with the purposes of the Artbank program; continue to be of significance; and are able to be appropriately utilised and protected. When these standards are no longer met, deaccessioning may be considered against one or more of the five 'eligibility criteria' listed in the policy and summarised below:

- (a) Physical condition: artwork is not suitable for leasing in the scheme for reasons including being too fragile; deteriorating at a rapid rate; being damaged beyond restoration; and having become hazardous.

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69 Museums and Galleries of NSW, *Fact Sheet: Deaccessioning and Disposal* [Internet], available from <https://mgns.org.au/sector/resources/online-resources/collection-management/deaccessioning-and-disposal/> [accessed 30 October 2022].

- (b) Redundancy: the artwork is over-represented by more suitable examples and/or there is duplication, with other editions or duplicates being in better condition.
- (c) High and low cultural significance:
  - significance and market value of the artwork deemed too great for the risk of loss or damage to be leased; or
  - artwork is considered of low cultural significance and a superior or more suitable example of the artist’s work becomes available to the Artbank program.
- (d) Offensive content: artwork is or has become inappropriate for display in public spaces because of offensive content.
- (e) Illegitimate possession:
  - there is reason to suspect that the artwork has been falsely documented, described or attributed; or
  - its ownership is the subject of a substantiated request for return by the owner.

4.29 The update in October 2019 included consolidating the eight previous criteria to five, and:

- removing the criterion ‘[t]he artwork has not been successfully leased (to the full-term of the agreement) for a period of five years or longer’, and
- adding the statement:

In the event an artwork has not being [*sic*] leased through the Artbank art leasing scheme for over 10 years it is not automatically considered of high or low cultural significance. In these circumstances Artbank will attempt to generate interest from clients by reviewing leasing fees and ensuring greater visibility before considering deaccession against each of the five criteria listed in this policy.

4.30 This change has limited the effectiveness of deaccessioning as a tool to manage the Artbank collection, with the revised approach adopted in the 2019 policy:

- not encouraging whole-of-life costs such as the storage, marketing, and transport fees for the retained artworks to be considered or used to inform deaccession decision-making; and
- restricting access to an alternative income stream that could be used to purchase more artworks.<sup>70</sup>

4.31 Departmental records do not reflect the basis for this change in the policy and no cost-benefit analysis by the department has been recorded for maintaining artworks that have not been leased for over five years. Therefore, the rationale for increasing the timeframe to 10 years was not evident.

4.32 The ANAO noted in its 2006 audit of the Artbank program that the establishment of Artbank program’s trust account (now a special account) provided it with an impetus to regularly sell artworks as part of a deaccessioning program, with the proceeds of those sales being reinvested into the scheme.<sup>71</sup> The ANAO also observed that the department took ‘a vigorous and strategic

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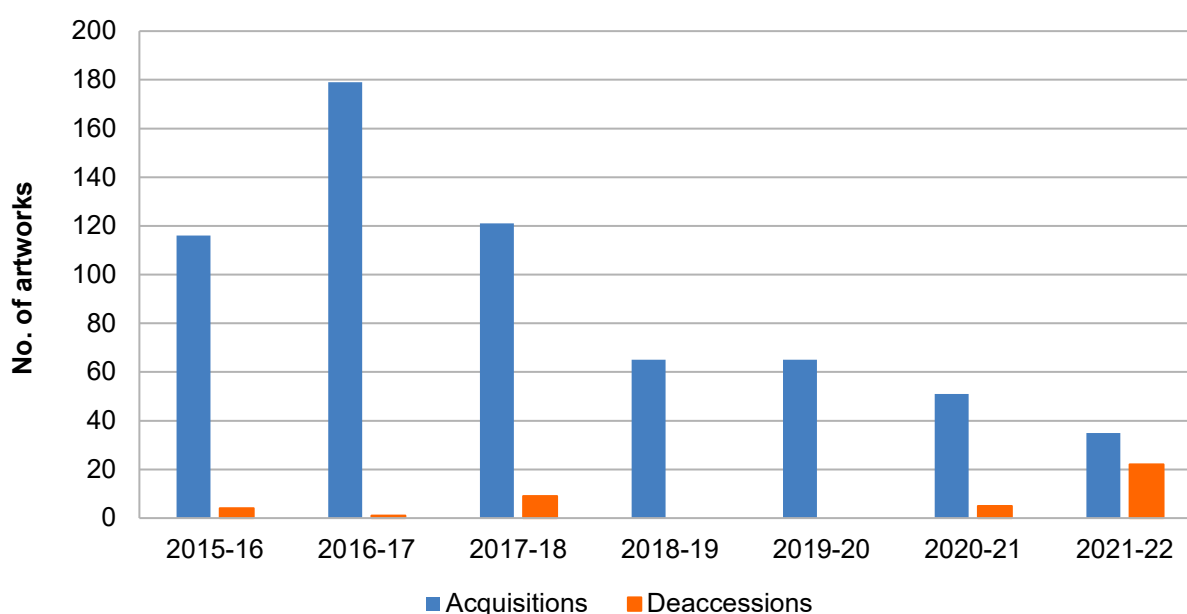
70 The sale of artworks is consistent with the terms of the legislative instrument issued by the Finance Minister under the PGPA Act establishing the Artbank Special Account.

71 Auditor-General Report No.39 2005–06 *Artbank, Department of Communications, Information Technology and the Arts*, paragraphs 4.15 to 4.17.

approach to maintaining the integrity of the collection through its deaccessioning program' in respect to non-significant artworks in the collection.<sup>72</sup> As shown in Figure 4.2, this is no longer the case as deaccessions have occurred at a lesser rate than its acquisitions between July 2015 and June 2022.

4.33 It is important that the department's policies support an appropriate approach to deaccessioning artworks from the collection. A more active, systematic and strategic approach to deaccessioning would enable conservation and storage costs to be contained; and keep the collection manageable, appropriately sized, and suitable for renting.<sup>73</sup> In this respect, the large proportion of artworks in the collection not on lease, and the potentially foregone income and increased storage costs associated with these are discussed in Chapter 5 (see paragraphs 5.25 to 5.26).

**Figure 4.2: Deaccession of artworks by financial year**



Source: ANAO analysis of departmental records.

### Approval to deaccession artworks

4.34 The deaccession policy was updated in April 2014 prior to the abolition of the Artbank Board. After this and consistent with the department's financial delegations at the time, recommendations for the deaccessioning of artworks were to be provided by the Director of the Artbank program to the Assistant Secretary responsible for the Artbank program. Where the proposed method of disposal was for the sale of works (that is, the sale of Commonwealth assets), further approvals

72 *ibid.*, paragraphs 4.18 to 4.25. As part of the 2006 audit of the Artbank program, some issues were identified in relation to the deaccessioning of some significant artworks in the collection. The department agreed to a recommendation that it develop a consistent framework to classify significant artworks (cultural assets) and govern their deaccessioning.

73 The Artbank program's purpose is not to collect art, but to maintain an art rental scheme and to acquire art to support artists. This is in contrast with the purposes of national collections where a collection is intended to be culturally significant, and deaccessioning works is undertaken when a collection's focus is being refined.



were required to be obtained from either the First Assistant Secretary; the Chief Financial Officer; or the Secretary of the Department.

4.35 The deaccessioning policy was updated in 2019 and similarly maintained that the authority for approving deaccessions rests with the Secretary of the department as the Accountable Authority, or an authorised delegate. A clear pathway to the department's Chief Financial Officer was provided in November 2019 with the establishment of the Artbank Governance Committee.<sup>74</sup> The committee has only met on three of the 12 occasions anticipated, with deaccessions considered at one of those meetings. More frequent meetings in line with the committee's terms of reference would assist with timely consideration of the deaccessioning of artworks from the collection. The Artbank Governance Committee's role is discussed from paragraphs 2.20 to 2.23).

### *Record-keeping for approvals*

4.36 In examining the written records for the approval of deaccessions, the ANAO identified deficiencies in the implementation of approvals and failures to obtain approvals before the sale of some artworks.

4.37 At least 425 artworks approved for deaccessioning prior to the 2014 dissolution of the Artbank Board had not been deaccessioned in accordance with approvals. Rather:

- one of these artworks had not been deaccessioned because gratis conservation treatment had returned the work to an exhibitable state in 2016; and
- records indicate that the other 424 artworks were returned to the status of 'accessioned' in 2021 by the Assistant Secretary responsible for the Artbank program.<sup>75</sup>

4.38 As July 2022, 28 artworks (valued at \$63,350) of those 424 artworks were recorded as being on loan and 260 (valued at \$396,800) are active parts of the collection and available for lease by clients. The remaining 136 are either under continuing consideration for deaccession or have been approved again for deaccession and are pending disposal.

4.39 The ANAO examined an April 2018 approval by the Chief Financial Officer for the disposal by sale of 77<sup>76</sup> artworks. This approval was provided on the basis of a recommendation by the division head responsible for the Artbank program. The minute listed the book value for each artwork (totalling \$73,340) and stated that:

The 78 artworks listed in Attachment A have been assessed against Artbank's Acquisition and Deaccession Policy and have been identified as meeting one or more of the criteria for deaccessioning and are suitable for disposal by sale.

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74 The terms of reference for the governance committee state that is 'responsible for the governance oversight of Artbank's activities, including acquisitions to and deaccessions from the Artbank collection' and that the committee will 'endorse all deaccessioning recommendations prior to [them] being provided to the appropriate delegate for approval.'

75 The Assistant Secretary requested that any artworks under consideration for deaccessioning at the time be 'done afresh', with all works that had not yet been deaccessioned or identified as being damaged to be returned as active parts of the collection and made available to clients.

76 While the brief to the Chief Financial Officer noted that there were 78 works, this was an error, with a duplicate artwork reference number included in the brief. Only 77 works were considered.

4.40 There was no indication in the approval minute that 76 of the artworks had already been sold at least four years earlier. Specifically, of the 78 artworks listed:

- 21 had been sold at auction in August 2013;
- 55 had been sold at auction in April 2014;
- one artwork had been donated to a museum in July 2013; and
- one artwork has not been deaccessioned and as of July 2022 is currently rented out.

4.41 The department advised ANAO in November 2022, that ‘record of any correspondence with then Director and Curator with the Assistant Secretary on the status of the 76 works could [not] be located in the files.’

4.42 The tension between cumulative artwork acquisitions, maintaining a rental program, and challenges with timely approval processes when selling Commonwealth assets have culminated in an ever-growing collection with increasing cost implications for the Artbank program.

## Recommendation no. 6

4.43 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts:

- (a) revisit its deaccessioning policy to ensure it is consistent with Artbank program objectives, including the maintenance of an appropriately sized collection that is suitable for leasing; and
- (b) ensure that the Artbank Governance Committee meets in accordance with its Terms of Reference, such that decisions on deaccessioning may be actioned in a timely manner.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed in part.*

4.44 *The department does not agree that a revision of the Artbank Deaccession Policy is currently necessary, though along with all Policies and Procedures it will be considered from time to time and updated to reflect industry best practice and compliance with relevant Commonwealth finance laws and policies. Artbank's collection size is sufficient and with fit-for-purpose storage to house our collection, enabling Artbank to provide clients with sufficient choice from which to select works for different premises.*

4.45 *The department accepts the need for the Governance Committee to meet in accordance with its Terms of Reference.*

4.46 *By way of clarification, deaccession decisions are not made by the Artbank Governance Committee. Until recently, only the Departmental Chief Financial Officer (CFO) had the delegation under the relevant Accountable Authority Instruction to approve disposal of artworks. Consistent with the delegation, the CFO's approval was sought for the most recent deaccessions from the Artbank collection.*

4.47 *Deaccession proposals are reported to the Governance Committee for visibility and to assure the Governance Committee that they are being completed in accordance with the Deaccession Policy.*

### **ANAO comment:**

4.48 Artbank exists to support contemporary Australian artists by acquiring and leasing out their work. If 'Artbank's collection size is sufficient', then the rate of deaccession needs to reflect the rate of acquisition to maintain, rather than increase, the size of the collection. In contrast, the ANAO's analysis was that there have been few works of art deaccessioned by the department relative to the number of artworks acquired (see Figure 4.2). This is notwithstanding that, between 1 July 2015 and 30 June 2022, nearly 60 per cent of the collection was either not leased at all or had spent more time stored than rented. This situation indicates that an improved approach to deaccessioning would enable conservation and storage costs to be contained, improve the focus of the collection on work that is suitable for renting and (through sales) bring in additional revenue to enable greater support to be provided to emerging artists through new acquisitions.

## Does the management of the collection support artists and the reputation of Australian contemporary art?

The department's approach to collection management does not appropriately support artists or the reputation of Australian contemporary art. The Artbank program does not actively engage in a deaccessioning approach that increases the public's awareness of and appreciation for Australian contemporary art. The integrity of the collection has been placed at risk by the absence of a policy to guide the management of digital or time-based artworks. Fifteen duplicate copies of 14 original digital artworks were created to enable those artworks to be leased concurrently to more than one client on 22 occasions.

4.49 As outlined at paragraph 2.7, a range of Artbank program specific policies have been established to contribute to achieving the program's objectives, including supporting artists through the acquisition of their work. Any changes to these policies will therefore have an impact on the artists that the program aims to support.

4.50 Changes made to the deaccession policy in between 2014 and 2019 removed or weakened provisions in respect to supporting artists. Specifically, the:

- 2014 deaccession policy:
  - outlined that the best interests of the artist or their estate must be considered when deciding which method of deaccessioning to adopt;
  - provided a hierarchy between deaccession methods, with sale being the preferred approach, followed by transfers<sup>77</sup>, then destruction where a sale or a transfer was unsuccessful or the artwork was damaged beyond the cost of effective repair; and
  - noted that any income from sale of artworks from the Artbank collection are returned to the Artbank program to be used for activities in support of Artbank's program objectives; whereas
- 2019 deaccession policy:
  - was revised to note that 'where possible' the interests of artists or their estate would be considered as part of the deaccessioning process;
  - provides no hierarchy or guidance for selecting deaccession methods, instead noting that with the exception of destruction as a result of irreparable damage, artworks identified for deaccessioning will 'enter into a no action period' before any deaccession decisions are finalised to allow for any new research or consultation to be actioned; and
  - no longer mentions how the proceeds of sales from deaccessioning could be used.<sup>78</sup>

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77 Transfers were to be considered where artworks were valued at less than \$2000 and/or there was no commercial market for the artwork. Transfers to local, state or Commonwealth government collections were the preferred option for a transfer, followed by transfers to appropriate not-for-profit organisations, and finally, transfers involving the return of artworks to the artist.

78 In response to ANAO noting this difference, the department advised, in November 2022, that 'Artbank would ordinarily commit proceeds from deaccessioned artworks to its acquisition budget, as we will amend the Deaccession Policy to reflect this.' As at January 2023, no update has been made to correct for this.

4.51 Notably, one of the deaccession criteria, is that the ‘cultural significance and market value of the artwork is deemed too great for the risk of loss or damage to be deemed acceptable to be leased through the Artbank art leasing scheme’. This criterion does not prescribe a preferred deaccessioning approach for such works or when they should be deaccessioned. Such culturally significant works are often recorded as having a high valuation and may have been by deceased artists. For example:

- of the nearly 1987 artworks (valued at \$15.9 million) where the department has recorded a date of death for the artist, more than 100 of these works (valued at \$3.1 million) were also created over 50 years ago, often by well-established artists; and
- of the 34 high value asset artworks recorded with individual values of \$100,000 or more (collectively valued at \$7.8 million — more than three times the total amount spent on new acquisitions over the seven-year period to 2021–22), have not been included in considerations for deaccessioning.

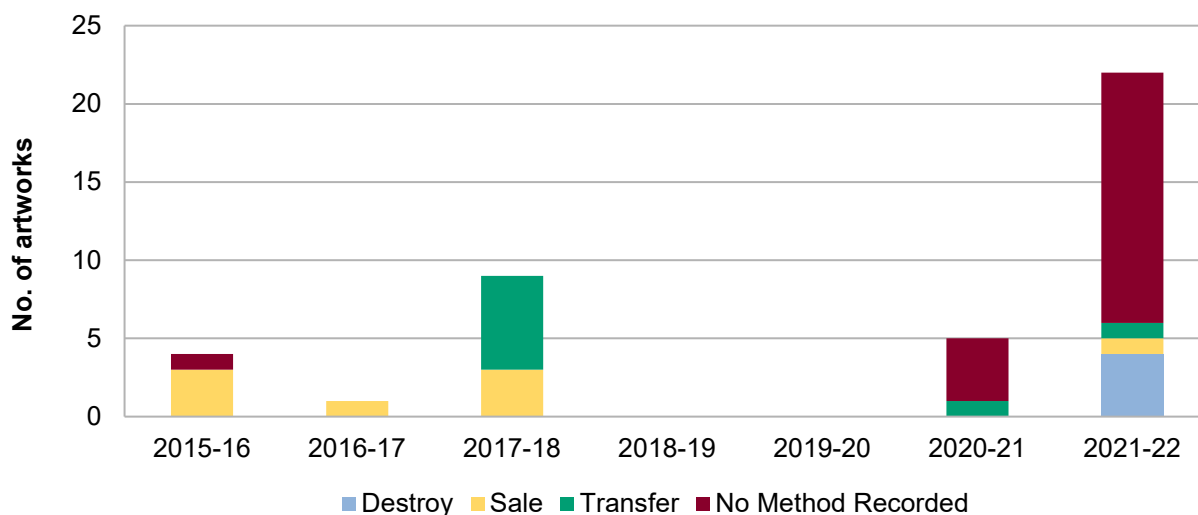
4.52 The benefits of the sale or transfer of significant works from the collection (particularly those where the artists are now deceased) have not been regularly considered by the department. Consistent with the deaccessioning policy, considerations would include a focus on: helping to protect those artworks; allowing the works to be displayed publicly; the ongoing benefit to the artist of being included in the collection; or the potential to provide a source of further support for living Australian contemporary artists.

### *Public reporting*

4.53 The absence of public reporting on planned sales and transfers of artworks from the Artbank collection limits public and market awareness of the collection and limits achievement of the Artbank program’s second objective of promoting the value of Australian contemporary art by increasing the interest in the market for contemporary Australian art. Public reporting of deaccessioning was introduced in the 2019 Deaccession Policy update, stating that details pertaining to each deaccessioned artwork during the preceding year would be published on the Artbank program website. The ANAO was not able to locate any such reporting on planned or actual deaccessions on the Artbank program’s website. In response to the ANAO’s queries regarding the location of this reporting, the department confirmed that it is not publicly reported and that ‘Artbank plans to publish on its website all deaccession activity’.

4.54 As outlined in Figure 4.3, the Artbank program’s deaccessioning activities vary across deaccessioning methods, with this detail on deaccessioning methods increasingly less accurately recorded over time.

**Figure 4.3: Deaccession methods recorded by financial year**



Note: The one sale recorded in 2021–22 was actually a transfer that had occurred in 2018–19; two of the six transfers recorded in 2017–18 were instead sales to a gallery in 2018; and the other four transfers had occurred by way of donation to galleries in 2013–14.

Source: ANAO analysis of departmental records.

4.55 The department seeks to increase the diversity of the Artbank collection’s representation of artists and of collection areas through its acquisition activity, as set out in its Collection Plan (see paragraph 3.7). Comparable planning of its preservation and deaccessioning efforts could be an additional means of achieving diversity. For example, the Collection Plan notes that ‘40 per cent of works in the collection are by female artists’ and the department notes in its Collection Plan that it ‘is working to address this disparity through new acquisitions’. The Collection Plan does not consider deaccessioning at all (see paragraphs 3.6–3.8 and 3.60 for information on the Collection Plan’s ‘breadth markers’).

### Integrity of the collection

4.56 Managing and maintaining the Artbank collection also includes protecting the collection’s integrity and completeness from damage, loss, theft and fraud. The Artbank program’s Preservation Policy 2019 references the application of the International Council of Museums code of ethics for museums. This states that ‘the governing body should ensure appropriate security to protect collections against theft or damage in displays, exhibitions working or storage areas and while in transit’.

4.57 The Preservation Policy further outlines that the range of protection measures adopted for the Artbank collection include museum-standard registration practises for all individual objects and appropriate registration methods for the recording of technological items within the collection, including management of future format transfers.

4.58 The ANAO identified in August 2022 that 15 duplicate artworks had been recorded in the collection management system, including a history of associated rental activity. In response to ANAO queries, the department advised in September 2022 that: the 15 artworks in the Artbank collection were duplicated copies of 14 unique artworks that had been generated by Artbank program staff under the direction of a previous Director of the Artbank program; and this direction

stemmed from the consideration that time-based works (digital videos) when duplicated could be rented to more than one client, and therefore could be continuously available for rent. There is no written record of this direction. The most recent duplication occurred in 2019, after the departure of the previous Director who had directed the duplication of artworks.

4.59 The ANAO's analysis of this approach to collection management and circumstances suggests possible risks including:

- an overstatement of the Artbank collection by including these 15 duplicated copies;
- *Copyright Act 1968* implications;
- misleading clients of the art rental scheme who believed they were leasing a unique artwork;
- potential infringement of the artist's intellectual property, with no evidence that artist approval was sought or provided before, during or after copies of their work was made; and
- bringing the overall Artbank collection into disrepute.

4.60 Since 2012, the department has leased these 15 duplicate copies through the art rental scheme to six separate clients across 22 agreements, with one of those copies out on rent as recently as June 2022.

4.61 From the leasing arrangements, the Artbank program potentially generated a rental return in the order of \$13,300 from these copies. It is difficult to calculate the exact amount as artworks are rented in agreements with multiple artworks for which discounts were applied.

4.62 In August 2022, after queries were raised by ANAO, the Director of the Artbank program advised all Artbank program staff, and recorded in the meeting minutes, that:

Time based works we have in collection will now have 1 master file kept and ONLY 1 COPY to go to clients. The only possible exception is if we talk to the artist to get a licenced copy made, although this is not suggested. This is to be really clear.

All of the rogue copies which have been made over time will all be coming back and will be deaccessioned.

4.63 The department does not have a policy for the management of digital and/or time-based artworks. No other policies or procedures, such as the Acquisition Policy, the Deaccessioning Policy or the Acquisition and Accession Procedure, have been updated to reflect this August 2022 direction.

4.64 In response to the ANAO's queries about the circumstances and the department's proposed remedial actions, the department sought advice regarding the duplication and leasing of the works. The department advised in November 2022 that 'Artbank's simultaneous copying was arguably permitted, given that the scope of the sub-licence [*including in the Acquisitions Agreement, the purchase contract between the artists/gallery and the department*] was broadly expressed and not limited in any way and in accordance with s196(4) of the *Copyright Act* a licence of the copyright could extend to the full suite and scope of rights otherwise held by a copyright owner, including the right to authorise simultaneous use of copyright material.'

4.65 The October 2022 legal advice noted that:

the multi-user licensing approach adopted to date by Artbank for video artworks may be less acceptable today under commensurate licensing terms to those in the Acquisition Agreement. Should Artbank wish to re-commence multi-licensing arrangements, it would be prudent to give consideration to revising the terms of the standard Acquisition Agreement to more explicitly clarify the potential for simultaneous sub-licensing for video artworks (and any associated need for the creation of duplicate copies of artworks for distribution for multi-user purposes). It may also be appropriate to give consideration to a revised fee structure for video artwork compared to tangible / non-ephemeral artwork to account for the increased commercial revenue that the Commonwealth can obtain from multi-user licensing over time, compared to non-ephemeral [*sic*] artworks that can only be individually leased on a consecutive basis.

4.66 The department's records noted that its considerations were:

mainly confined to an analysis of the contractual terms of the Agreement. We have not included an analysis of broader issues, including ethical issues in licensing and procurement practices used by Artbank at the time. Artbank Acquisition policy sets out the framework, which demonstrates a commitment to compliance with the Public Governance, Performance and Accountability Act 2013 (PGPA Act):

*Artbank is committed to the responsible acquisition of all works of art, with the principles that all collecting be done according to the highest standards of ethical and professional practice, and that it complies with both Australian legislation and Artbank's acquisition policies and plans.*

While we have come to a conclusion that on a broad interpretation of the licence, Multi-user Leasing and Duplicate Copying is arguably permitted, or could otherwise be reasonably implied, should you wish to consider broader issues around transparency in the acquisition and licensing practices from such practices, and potential areas for improvement, we'd be happy to provide [*the Artbank program*] with further and separate advice.

4.67 The department advised the ANAO in November 2022 that the 'offer for further advice has not been taken up yet'.



## 5. Leasing approach

### Areas examined

The ANAO examined whether the department had an appropriate approach in place for leasing the artworks in the Artbank program's collection.

### Conclusion

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts' (the department's) approach to leasing the Artbank collection has not been appropriate. Rental revenue has been in decline since 2017–18. The department's documented target is to have at least 70 per cent of the Artbank collection out on rent. The department has recognised that its performance has leased approximately 40 per cent of the collection, which is well below this target. Between 1 July 2015 and 30 June 2022, nearly 60 per cent of the collection was either not leased at all during the period (30 per cent) or had spent more time stored than rented (29 per cent).<sup>a</sup> There was no recorded basis for how the pricing methodology for individual artworks was established. Given the extent of undocumented deviations from that methodology, it is not clear how the majority of rental prices (and discounts, where applicable) were ultimately set. Achievement of the full breadth of the program's purpose has not been a focus, with no reporting to provide assurance that the department's approach to leasing supports artists or the reputation of contemporary Australian art.

### Areas for improvement

The ANAO made two recommendations focused on improving the department's approaches to setting and reviewing rental prices and discounts for artworks in the collection.

Note a: ANAO's analysis mapped against each artwork's rental availability (based on accession and deaccessioning dates) the rental activity of the artwork. If an artwork was only available for part of the year, it was assessed against the artwork's availability period, not the entire period.

5.1 One of the Artbank program's key purposes, as outlined in its Charter of Operations, is to 'operate an Art Rental Scheme directed to both private and public sector clients'. Consistent with this purpose the department is required to lease artworks and collect rent. This rental income constitutes public resources, and under the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act), responsibility for the proper use of public resources rests with the Accountable Authority of each entity. Accountability for entering into rental agreements and setting rental prices has been delegated to the Director of the Artbank program, with commitments to discount rental fees by greater than \$10,000 resting with the Assistant Secretary Creative Industries.

### Is the approach to setting and collecting rent appropriate?

The approaches to setting rental prices, including the approach to setting individual rental agreement prices, including discounts, have not been appropriately documented and it is not clear how or on what basis the pricing methodology was decided. Implementation of the pricing methodology was incomplete and where there have been deviations from the methodology there is no recorded rationale as to why. While there was a reasonable basis for offering discounts and concessions during the COVID-19 pandemic, the reasons for other discounts and concessions being provided were not documented. The approach to collecting rent has been

sound for new agreements, and the department undertakes weekly monitoring of debts to manage the existence and age of bad debtors.

5.2 The department's methodology for setting rental prices for individual artworks in the Artbank collection has varied over time. From 1980, rental price was 'set as a fixed percentage of the current value of the artwork'. This percentage has ranged between 12 and 18 per cent 'of valuation', with this rate being noted in 1991 as 'only as a guide'.

5.3 A ceiling rental price was introduced in 1988, allowing 'Artbank to limit rental charges on an individual work of art to a maximum of \$1000 per annum or 18 per cent of the original purchase price.' The intent of the ceiling rental price was to 'encourage the rental of artworks with a high valuation'.

5.4 Although there had been plans to remove the ceiling price in 1991, by 2005 the Artbank program had established both floor and ceiling rental prices for artworks, with rates for individual works starting from \$100 (exc. GST) and ranging to \$5000 (exc. GST). In 2005, the Artbank program had also established a minimum rental fee of \$500 (exc. GST) irrespective of the number of artworks leased.

5.5 The 2006 ANAO performance audit of the Artbank program<sup>79</sup>, noted that while the pricing structure had historically been set as a percentage of the value of the artwork, rental prices were 'based on a sliding scale, using a percentage of [*the artwork's*] current value'. The ANAO found that 'the pricing structure could be more closely aligned to a documented strategy of meeting [*the Artbank program's*] objectives', which 'may include targets for the percentage of artworks rented and targets for funds for the purchase of new artworks.'

### Setting rental prices

5.6 While some price points have been modified since 2006, little has changed in the department's approach to, and documentation of, its rental pricing structure. In 2019 the department commenced renewal of its Leasing Policy. Part of this involved considering whether to include a rental rate calculator within the policy document. While earlier drafts included the rate calculator, it was deleted from the final version of the Leasing Policy endorsed by the Artbank Governance Committee in January 2021 (dated March 2020) and an internal version was not maintained.<sup>80</sup> The rate calculator existed only in earlier drafts.<sup>81</sup> The rate calculator in the draft policy included:

- a floor price of \$150 per artwork;
- a ceiling price of \$5000 per artwork; and

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79 Auditor-General Report No.39 2005–06 *Artbank, Department of Communications, Information Technology and the Arts*.

80 The Artbank Program's Collection Plan in contrast was maintained as two versions — a public version for the website and an internal version which includes measures and targets that were removed from the publicly released document. There is an opportunity for the department to publish a public version and maintain an internal version of the Leasing Policy with more detail, such as the rental rate calculator (as is done with the Collection Plan).

81 The rate calculator, dated 2017, was removed from the Leasing Policy on the basis of commercial concerns, with the Artbank Governance Committee advised that it was not included in the copy to be endorsed as 'the document will be published on the Artbank website'.

- graduated rates to be used to calculate rental prices across six staged artwork value brackets.<sup>82</sup>

5.7 In response to the ANAO's queries regarding the basis on which these amounts had been determined, the department provided analysis and advice that was developed in 1980 to establish the original pricing model.<sup>83</sup> This advice recommended:

- the rental pricing rate be 12 per cent per annum, subject to review every two years.
- that the planned \$50 minimum amount was 'too low' and recommended \$1000. The floor price is currently \$150 for low-cost artworks; and
- that agreements have a minimum term of two years and a maximum term of four years. The maximum term of an agreement is one year with indefinite renewal options.

5.8 It is not clear from the department's records that a review was undertaken or any analysis conducted to better align the department's pricing structure with Artbank program strategies (see paragraph 5.5). Such a review would provide the department with assurance that all rental price considerations have been fully canvassed and carefully considered. Potential considerations when setting price points could include, but are not limited to:

- options to increase profit in order to enhance the acquisition budget;
- accommodating for changes in the Artbank program's cost base such as increased storage costs; or
- global, client and market factors.

5.9 In response to the ANAO's queries about the periodic review of rental prices, in November 2022 the department advised the ANAO that 'at the commencement of the pandemic Artbank was considering increasing the ceiling price' or to introduce two new rental fee levels. No analysis to support these considerations was provided or otherwise located.

5.10 Rental prices for individual artworks, once established, are added to the Collection Management System, which updates the advertised rental price on the Artbank program's website. The March 2020 leasing policy notes that the Artbank program reviews individual artwork prices 'regularly to reflect any increase in the market value of artwork', and that it 'may reasonably adjust the rental pricing according to market expectations or any other relevant considerations.' While revaluation of the collection occurs periodically and in line with the department's financial reporting obligations, the ANAO's analysis indicated that the recorded and advertised rental prices for over 50 per cent of the available artworks do not align to the most recent rent price calculator (see footnote 81). Specifically:

- there are direct linkages between individual prices and the rental rate calculator for 53 per cent of the available artworks in the collection. This comprised:
  - 2822 currently accessioned artworks (26 per cent); and

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82 The Artbank Governance Committee was advised that the rate calculator was removed from the final Leasing Policy as 'the document will be published on the Artbank website'

83 This analysis considered: interest rates for medium to long term government bonds (at the time of the analysis); long term semi-government securities; Australian Savings Bonds; the Trading Banks' rate for overdrafts over \$100,000 for prime customers; the Finance Company rate for leasing of small items (such as motor vehicles); and the commercial leasing rate for larger items (such as plant and equipment).

- a further 2905 artworks (27 percent) when rounding the calculation to the nearest \$100, \$75 or \$50 is allowed for; and
- it is not clear how the rental price was determined for the remaining 47 per cent, comprising:
  - 435 artworks (four per cent) where the recorded rates appear to align with the previous floor price of \$100<sup>84</sup>; and
  - 4577 artworks (43 per cent) where the expected rental value calculation does not match to the recorded rental value advertised.

5.11 In November 2022, the department advised ANAO that it: ‘Agreed that rental rates should ordinarily reflect artwork values assessed at tree-yearly [*sic*] revaluations. Technical issues<sup>85</sup> are impeding Artbank’s desire to implement rental rate changes that should flow from the recent revaluation of the collection.’ The department noted that the technical issues have been raised internally and ‘accepts this as an action point’.

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84 The current floor price is \$150 per artwork.

85 The department’s advice explained that the technical issues included: in 2012 changes were made to the rental values of works not on hire, but it was not clear that the changes were made to the hired work when they returned from clients; the previous financial management system not supporting changes between 2015 and 2018, the transition to the next financial management system did not resolve this issue, meaning rates were not changed; and the move to a third (and the current) financial management system preventing updates from occurring, where the current system will override the rental rates in the collection management system every night.

## Recommendation no. 7

5.12 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts undertake a review of the rental pricing methodology, with a view to ensuring among other things, that:

- (a) rates are appropriately informed by all relevant strategic, operational, client and market-related factors; and
- (b) appropriate processes and procedures are established to ensure:
  - periodic reviews of rates against these factors are conducted with the analysis, results and any changes to rates approved and documented in writing; and
  - new rates and pricing details are implemented accurately across all artworks and in a timely manner across all relevant departmental systems.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

5.13 *The Department accepts this recommendation and will implement in line with any overarching program-wide strategy plan it adopts in line with Recommendation 1. Changes to rates will be documented in writing.*

5.14 *The Department is committed to ensuring rates and pricing related to Artbank's artwork assets are current, including implementing any updates to these in a timely fashion.*

## Discounts and concessions

5.15 Historically, the Artbank program Director has been authorised to consider and offer discounts or concessions to rental clients. The ANAO's analysis is that discounts have been provided through 1 July 2015 to 30 June 2022. These discounts are reflected in adjustments to the rental agreement's total invoice amount. The rationale for the discount is not documented in the rental contract.

5.16 Discounts can be used effectively for a range of business reasons, including but not limited to: promotion of the scheme; supporting continued or larger scale leasing; and incentivising the leasing of hard to lease, or historically unleased artwork/s. The department's approach to discounting should be undertaken in line with approved departmental processes that are open, transparent and appropriately documented. At a minimum, this should include: the department's considerations and rationale for the discount; value for money assessments and determinations; probity considerations and resolutions; approach to negotiation with the client; and the offer and approval of discounts by authorised delegates.

5.17 The Artbank program's current leasing policy (approved March 2020) is silent on who has the approval authority to provide discounts and concessions, the manner in which discounts are to be considered, and how consideration and value for money decisions are made regarding discounting. A December 2018 leasing procedures document indicated that approvals were to be obtained from the Artbank program's Director. This situation was:

- consistent with the Artbank program’s Director approving waivers and discounts for clients during 2020–21 due to the COVID-19 pandemic.<sup>86</sup> Reporting to the Artbank Governance Committee noted that in the first six months of the pandemic, Artbank program reported the impact of these concessions and discounts to fifty clients to amount to \$87,547.91; but
- at odds with reporting to the Artbank Governance Committee in January 2021, which outlined that ‘[r]equests for fee waivers or financial discounts requires approval by the Assistant Secretary with responsibility for Artbank through the Artbank Director’.

5.18 Between 1 July 2015 and 30 June 2022, 684 new agreements were entered into, with a potential rental value of \$3,123,463. Discounts totalling \$162,025 were offered for these new agreements (equivalent to five per cent of total potential rental income). Annualised discounts offered to new agreements were mostly between 0–2 per cent of expected rental value, however in 2016–17 and 2017–18, annualised discounts offered to new agreements were 11 per cent for each year. Case study 2 sets out an example of a discount applied to new agreements in 2017–18.

#### Case study 2. Discounts provided to a rental client

In June 2017 two rental agreements commenced with a single client, a corporate function centre, with three ‘locations’ in the centre that required artworks.

- One contract, for the ‘primary and secondary’ locations, was for 100 artworks and ended in May 2018.
  - Upon renewal, 99 works were leased, with the renewed agreement to end in May 2019 (consisting of: one artwork not previously leased; and 98 of the originally contracted artworks being retained and the other two returned).
- A second contract, for the ‘accommodation’ locations, was for 122 artworks and ended in May 2018.
  - Upon renewal, 140 works were leased, with the renewed agreement to end in May 2019 (consisting of: 40 new artworks not previously on the lease; and 100 originally contracts works being retained and 22 returned).

According to email correspondence from 2019, the lease was split over two agreements due to system limitations on the number of artworks per lease.

The 2017 proposal noted that standard pricing would be applied with a discount provided only if additional works from the ‘secondary and accommodation’ locations were also leased and for a minimum of two years. Two package offers were described in the proposal, one that considered over 300 works and one based on 220 works. The second package, based on 220 works, applied a ‘flat fee’ (which equated to a 50 per cent discount) to the artworks selected for the ‘accommodation’ location and a 40 per cent discount to artworks selected for the ‘primary and secondary’ locations. The single invoice of \$40,000 (exc. GST) was issued to the client in May 2017 for the initial 222 works with a discount of \$33,500 (or 46 per cent discount) already applied.

86 These included three-month waivers of all rental fees (i.e. to \$0); a 25 per cent discount over the life of a contract; and ‘other discounts’ applied to specific works, rather than an entire contract.

The lease agreement was signed by the Director of the Artbank program. The 2017 proposal noted that due to the 'the scale the proposal', the offer and provision of a discount was the 'most cost-effective structure'. No approval could be located from the Assistant Secretary Creative Industries, despite the discount being more than three times the Director's delegation. The 2017 proposal was not supported by a documented value for money assessment, nor any recorded details of how the discount rates were arrived at.

In May 2018, three artworks were identified on the client's premises that were not included in the contracts. Staff from the department undertook a physical review of the works on the client premises in June 2018, with contracts not revised to include these works until May 2019.

In June 2018 the client changed their artwork selection, totalling 240 works at a potential cost of \$76,105 with a 47 per cent discount applied to the invoice, capping the fee to \$40,000 (exc. GST).

Approval from the Assistant Secretary to continue applying the package discount rate was obtained in May 2019. A contract for a further year was issued, with an expected end date of 31 May 2020. This included 239 works at a potential cost of \$80,795 with a 50 per cent discount applied to the invoice, capping the fee to \$40,000 (exc. GST).

Over the three-year lease period, the Artbank program earned \$120,000 from these contracts, discounted down from a potential rental income of \$230,400 for the contracted works.

In July 2019 the client sought a change of terms to the unexecuted contract, from one year to six months. By November 2019, payment for this final invoice was not received, nor was an executed 6 month contract. At this point the client sought to enter into a payment plan, paying for works on a monthly basis in advance, rather than the full term in advance. A six month contract was never formalised, with the final agreement ending on 31 May 2020.

By April 2020, approval continued to be discussed and sought within the department for the payment plan, with the Artbank program contact noting that 'I anticipate that in the current COVID-19 environment the client (being a large conference venue) is very likely going to experience increased difficulty meeting their financial commitments'.

The 239 artworks were returned in November 2020, six months after the agreements were expected to cease.

## Recommendation no. 8

5.19 The Department of Infrastructure, Transport, Regional Development, Communications and the Arts review the approach to providing discounts to clients to ensure:

- (a) approvals are provided by officials with the appropriate financial delegations; and
- (b) the rationale and value for money considerations informing these approvals are recorded before offering and entering into discounted agreements.

**Department of Infrastructure, Transport, Regional Development, Communications and the Arts response:** *Agreed.*

5.20 *The Department has taken appropriate steps since 2019 to ensure every discount applied to a client agreement (and associated rationale for its application) has been recorded in writing, and will continue to ensure discounts are appropriately approved and the rationale and value for money considerations are documented.*

### Collecting rental fees

5.21 Clients of the Artbank rental scheme enter into three, six or 12-month contracts and are invoiced for the full period of the rental agreement in advance. This usually occurs prior to installation of the artwork for new clients or clients changing their artwork selection. Clients who are renewing their contracts for a further period already have their artworks and are therefore invoiced while the artwork remains with the client.

5.22 The department reviews client compliance with contracting requirements and payments on a weekly basis. Where there is non-compliance, it has an appropriate escalation process in place to insist full contractual compliance and payment, with the artwork ultimately collected from the client if the account is not settled. Guidance in the Artbank program's agreement management process document provides for four program level engagements with the client:

- first follow up 30 days after issue of rental agreement;
- second follow up 45 days after issue of rental agreement;
- third follow up 52 days after issue of rental agreement;
- initial escalation internal to the program office, 59 days after issue of rental agreement;
- final escalation outside of the program, to the department's finance team to commence debt recovery processes, 68 days after rental agreement issued.

5.23 The department advised ANAO in November 2022 that as at February 2019, 287 clients were classified as aged debtors (payments 60 days or more overdue). As at April 2022, 25 clients had outstanding payments of more than 30 days, two of which were escalated internally within the program (60 or more days overdue), and 17 of which were sufficiently overdue to be eligible to be escalated to the department finance team (six that were older than 140 days, approximately five months overdue).



## What contribution has the management of rental income had on the funds available for new acquisitions?

Progressively declining rental income since 2017–18 has reduced the department’s ability to fund new acquisitions for the Artbank program. A large contribution to this was that nearly 60 per cent of the Artbank collection (as an income generating asset) spent more time stored than rented. This was recognised by the department in 2020, where an estimated actual leasing rate of 40 per cent was identified by the department as well below the 70 per cent program target, established in the Business Plan. Thirty per cent of the Artbank collection, while available for lease, was not rented at all between July 2015 and June 2022. A further 29 per cent of the collection was leased for less than half of the time the work was available for lease. The Artbank program’s client base — both by number of clients and by number of artworks per client — has also been declining.

5.24 The Artbank program, was designed to reinvest revenue from the art rental scheme into acquisitions of new artworks from contemporary Australian artists. While the program may deliver other billable services (historically this has included art consulting services and sales of the Artbank program’s Sturgeon magazine), almost all of the Artbank program’s billable income is earned through its art rental scheme.<sup>87</sup>

5.25 Between 1 July 2015 to 30 June 2022, the majority of the Artbank collection spent the majority of its time stored not rented. As discussed at paragraph 2.8, the department’s May 2020 Artbank Business Plan was developed in response to a decline in the recorded collection leasing rate from 70 per cent of artworks to ‘approximately 40%’. ANAO analysis<sup>88</sup> was that:

- 59 per cent of the collection (6553 artworks) was on lease for less than half the available period (30 per cent not leased at all);
- 33 per cent (3537 artworks) were on lease for at least half the available period; and
- eight per cent of the collection (932 artworks) were always on lease.

5.26 Storage and conservation costs for non-leased artworks add to the Artbank program’s cost base, reducing the value for money proposition of unleased portion of the collection. Additional costs further constrain the funding available for new acquisitions. While the program’s Business Plan establishes a leasing target rate of 70 per cent, the ANAO was unable to identify any business planning records including targets or strategies to identify and promote artworks that have not been leasing. Amendments to the deaccessioning policy in 2019 (see paragraphs 4.28–4.30) removed the previous deaccessioning criterion that considered the rental performance of the artwork.

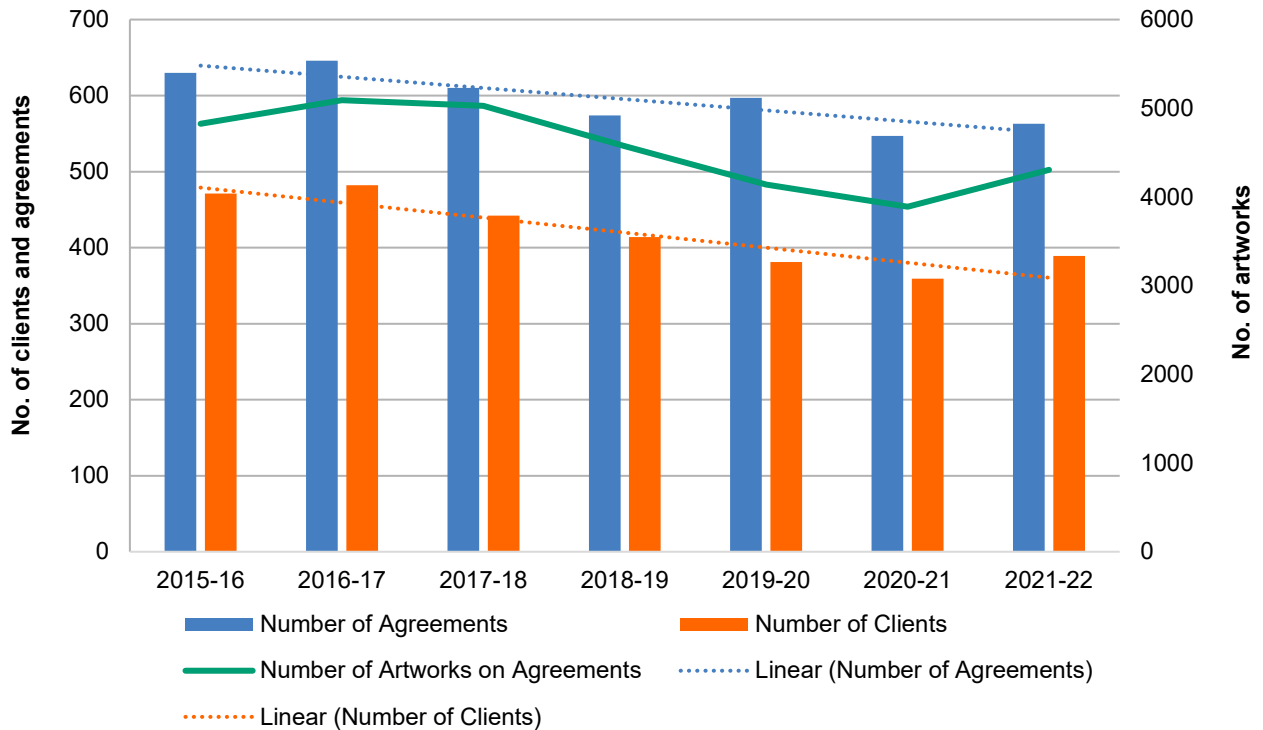
5.27 The department advised in November 2022 that promotion of the unleased artworks is conducted via: social media (“behind the scene” posts); Visible Storage and Window displays at the Artbank program’s Sydney office (see Table 2.1); and plans to reframe poorly framed works.

87 The Artbank program may also generate non-billable income through deaccessioning artworks by way of sale, or contributions from the department.

88 ANAO’s analysis mapped against each artwork’s rental availability (based on accession and deaccessioning dates) the rental activity of the artwork. If an artwork was only available for part of the year, it was assessed against the artwork’s availability period, not the entire period.

5.28 Consistent with the large proportion of artworks in storage, ANAO analysis was that there has also been a downward trend in the size of Artbank program’s client base, measured by number of clients and by number of agreements (where clients may hold more than one agreement at any time<sup>89</sup>). The ANAO’s analysis was that the number of unique clients across the government and private sectors (the two largest sectors by client number and by artworks leased) has been declining, along with the number of works leased by clients within these sectors. Figure 5.1 illustrates the changes in the Artbank program’s client base since 2015–16.

**Figure 5.1: Artbank program’s annual client base (by number of unique clients and agreements)**



Note a: Reporting to the Artbank Governance Committee in March 2022 indicated that the main client of the art leasing program was Department of Foreign Affairs and Trade (DFAT), accounting for 87 overseas missions and embassy clients. The ANAO has accounted for DFAT as one client within the government sector for the purposes of this audit. The dominance of this client within the government sector remains reflected through its number of agreements, and number of artworks leased. Across the audit period, DFAT represents 56 per cent of all government agreements, and 57 per cent of all artworks leased to government. This equates to 17 per cent of all agreements and 23 per cent of all artworks leased across the entire client base.

Source: ANAO analysis of departmental records.

89 It would be expected that a large client may be party to more than agreement. This may result from the client being located across more than one location or entering into agreements for different locations at different times. For example, Department of Foreign Affairs and Trade has embassies all over the world under many different agreements, including multiple agreements for each embassy, however the client ultimately is only the one single department.

5.29 Rental activity, measured by number of clients, number of agreements, number of works leased (see Figure 5.1) and rental income (see paragraph 3.52 and Figure 3.1), have been in decline since 2017–18, limiting the Artbank program’s ability to support artists.

5.30 Continual decline in rental activity has corresponded with a decline in the budgeted amount for future acquisitions and an actual decline in the amount spent on new acquisitions (see Figure 3.2), limiting the program’s ability to support artists through the acquisition of their work.

### Does the leasing approach support artists and the reputation of Australian contemporary art?

The department measures the success of the leasing program by the number of artworks leased in a period. Of the four purposes outlined in the program’s Charter of Operations, the focus of the program has been on supporting artists through new acquisitions, with limited attention given to supporting artists and the reputation of Australian contemporary art through the leasing program. The department does not measure the achievement of the full breadth of the program’s purpose, including the location at which works are displayed, and the public accessibility of those locations.

5.31 The Charter of Operations (see paragraph 2.2) set out the program’s four purposes, including to ‘stimulate a wider public appreciation of Australian art by making it available for display in public places, particularly work locations, throughout Australia and in official posts overseas’.

5.32 The Charter of Operations also set two policy objectives for the Artbank program, one of which was to ‘promote the value of Australian contemporary art to the broader public.’<sup>90</sup>

5.33 In assessing achievement against these, it would be reasonable for the department to consider the balance of display locations for the collection against leasing metrics. These might include: number of works on lease; balance of works on display in public places; and balance of leased works displayed in overseas posts (see Table 2.1). There is no record of the department considering these factors for the program.

5.34 As noted in paragraphs 5.25 to 5.28, the majority of the Artbank collection spends the majority of its available time in storage. Storing artworks does not actively support artists, or the reputation of Australian contemporary art.

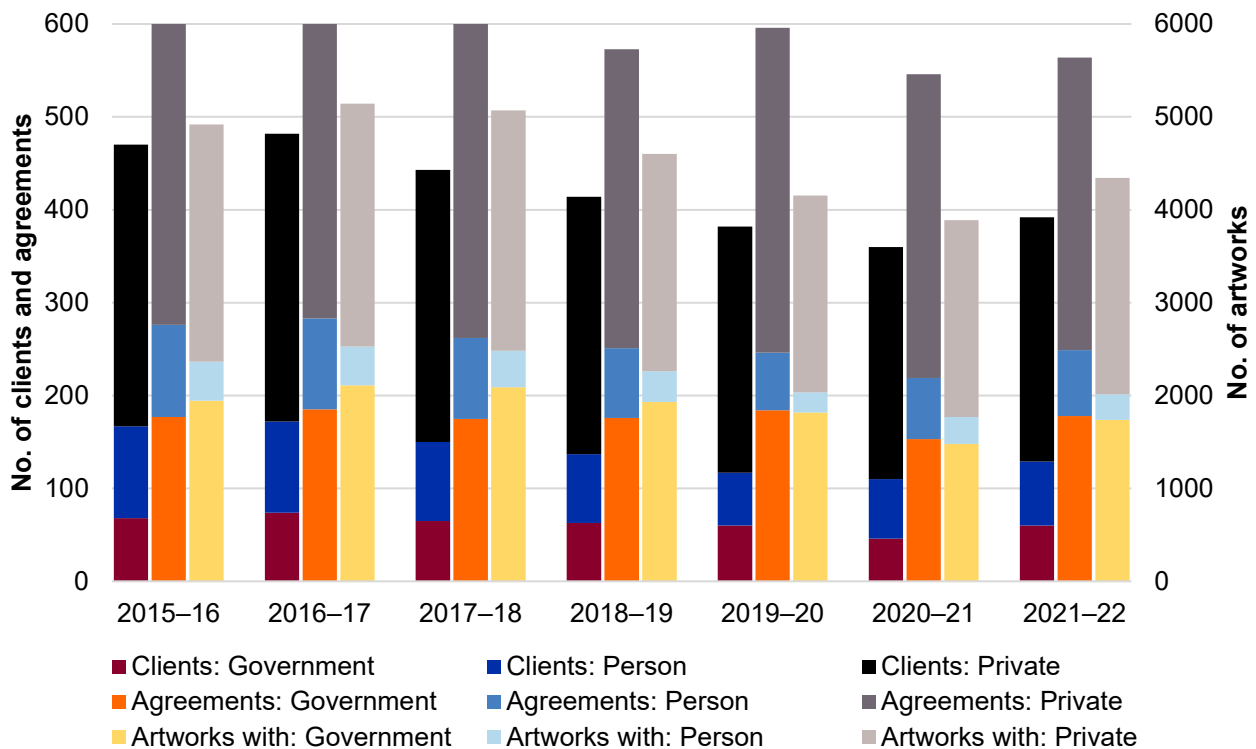
90 Artbank, *About Artbank* [Internet], available from <https://www.artbank.gov.au/about-artbank> [accessed 14 October 2022].

5.35 The Business Plan does not include strategies to promote and activate interest in the unrented portion of the collection, or of particular artists or unleased mediums.<sup>91</sup> Increasing the volume of artworks leased would assist the program to achieve this purpose. While works from the Artbank collection are made available by exhibitions held by other galleries and museums, the department does not have a regular, systematic or strategic approach to holding its own exhibitions (see Table 2.1 for the number of exhibitions held by the department). In response to ANAO’s November 2022 queries seeking to clarify the department’s approach to holding public exhibitions, the department advised that:

The previous exhibition program did not result in an enhanced activation of the collection. The introduction of Visible Storage has instead been far more successful.<sup>92</sup>

5.36 The department’s Annual Report from 1992–93 noted that ‘an essential strategy in the transition to self-funding was the need to diversify Artbank program’s client base from its previous dependence on the public sector.’ Consistent with this, and as illustrated in Figure 5.2, the art leasing program client base consists of public sector, private sector, and individual people.

**Figure 5.2: Changes in the client base over time**



Source: ANAO analysis of department records.

5.37 Reporting to the Artbank Governance Committee in March 2022 was that the main client of the art leasing program was Department of Foreign Affairs and Trade, specifically overseas missions and embassies, with 87 clients reported. ANAO has counted this as one client within the

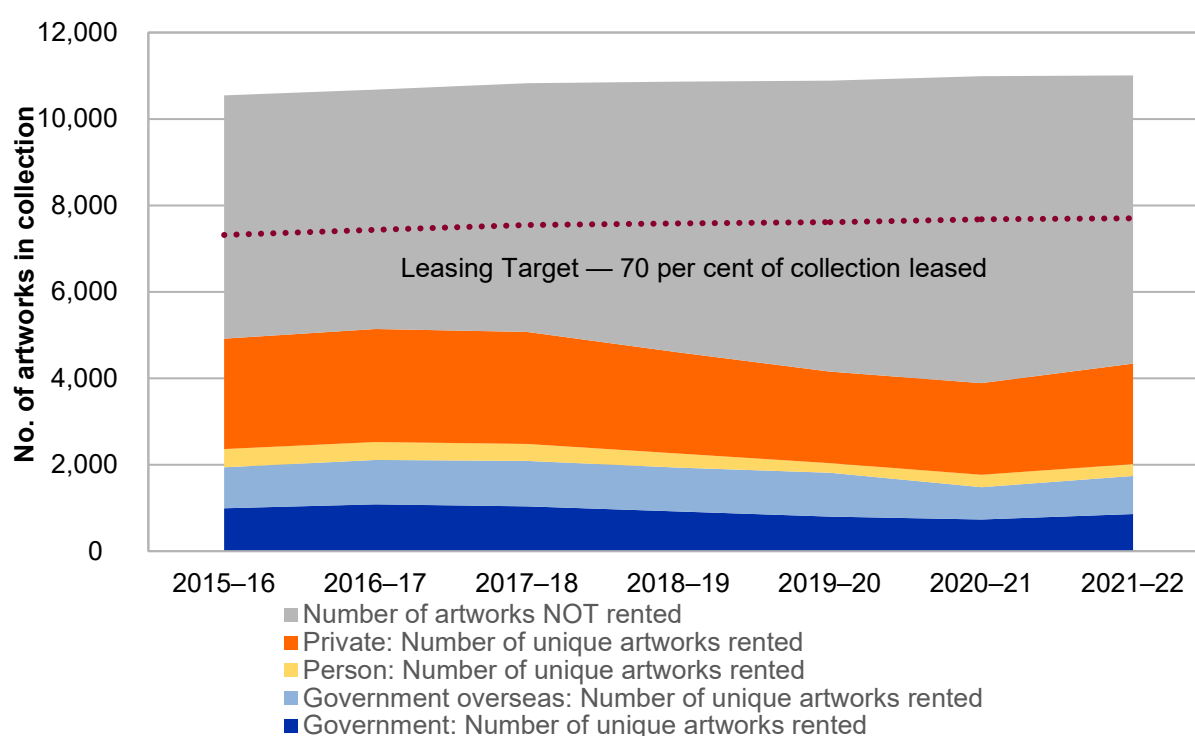
91 The deaccessioning policy was updated in 2019 so that rather than long term unleased artworks be considered for deaccessioning, the department would instead ‘attempt to generate interest from clients by reviewing leasing fees and ensuring greater visibility before considering deaccession’ (see paragraphs 4.29–4.30).

92 Visible storage is a public facing window display at the Artbank program’s Sydney office.

Government sector. One of the Artbank program's purposes is to support the reputation of Australian contemporary art, and leasing to overseas missions and embassies can be seen to achieve this at an international level.

5.38 Between 2015 and 2022, private sector business clients represented the largest client base by quantum, number of artworks leased, and potential rental revenue (before discounts). Since 2019, private sector clients have rented more valuable artworks (in the higher rental fee bracket), which are more likely to be by established artists, rather than emerging artists. Figure 5.3 illustrates changes in the client base by sector, within the context of the entire collection size. It shows that, within the context of the Artbank collection available in each financial year, government sector clients leased a more stable number of works and more works per agreement (30 works per client across the period, compared to nine works per private sector client, and four works per person).

**Figure 5.3: Leasing activity and changes in client base**



Source: ANAO analysis of departmental records.

5.39 The number of individuals (i.e. persons) who leased from the art rental scheme increased during the pandemic, from 57 clients in 2019-20 to 71 clients in 2021-22. This cohort did not rent as many individual artworks as the other two sectors, with an average of four works per agreement.

5.40 The department does not collect or hold data on whether the display location of leased artworks from the Artbank collection are in public or private locations. Since 1991, private offices, and government offices have become increasingly access restricted, and not open to the general public. It is unclear the extent to which the leased portion of the Artbank collection is on display in public places. It is also not clear that the leasing activity and client base is targeted to deliver against the program's purpose of making works available in public locations.

5.41 The Business Plan that considers the Artbank program's leasing rate does not consider differences in client type, whether the proposed leased location of the work is accessible to the

public, behaviours and trends across and within the client sectors, nor does it address strategies to respond to and target particular client types.

5.42 The Artbank rental scheme continues to lease works to both public and private sector business and to individuals. The department does not have a strategy to identify, target, and tailor offerings to potential clients (or expand existing clients) that display leased works in public locations (in line with the Charter of Operations — see paragraph 2.2) in order to support artists and the reputation of Australian contemporary art.

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Grant Hehir  
Auditor-General

Canberra ACT  
6 April 2023

# Appendices

## Appendix 1 Entity response



**Australian Government**  
**Department of Infrastructure, Transport,  
Regional Development, Communications and the Arts**

**Secretary  
Jim Betts**

Appendix B - Department response to Proposed Audit Report

PDR ID: EC23-000xxxx

Mr Grant Hehir  
Auditor-General  
Australian National Audit Office  
GPO Box 707  
CANBERRA ACT 2601

  
Dear Mr Hehir

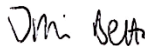
**Auditor-General Proposed Audit Report on the acquisition, management and leasing of artworks by Artbank.**

Thank you for providing the Department of Infrastructure, Transport, Regional Development, Communication and the Arts (the Department) with the opportunity to comment on the Australian National Audit Office's (ANAO) proposed audit report on *the acquisition, management and leasing of artworks by Artbank*.

The Department acknowledges the ANAO's overall conclusions and welcomes the recommendations. The Department's summary response and response to each of the recommendations is attached. Artbank plays an essential role in both supporting emerging artists, and making Australian artworks accessible to the broader community. The Department is committed to the continuous improvement of the Artbank program, which is unique in its nature, to ensure it continues to achieve its objectives. While I acknowledge that the ANAO is looking to support the Department in improving the performance of the Artbank program, I am concerned that aspects of the narrative may unduly and adversely impact the reputation and operation of Artbank.

I would like to thank the ANAO for the cooperation of the audit team and the professional manner in which the audit was conducted.

Yours sincerely

  
Jim Betts  
Secretary

9 March 2023

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## Appendix 2 Improvements observed by the ANAO

1. The existence of independent external audit, and the accompanying potential for scrutiny improves performance. Improvements in administrative and management practices usually occur: in anticipation of ANAO audit activity; during an audit engagement; as interim findings are made; and/or after the audit has been completed and formal findings are communicated.
2. The Joint Committee of Public Accounts and Audit (JCPAA) has encouraged the ANAO to consider ways in which the ANAO could capture and describe some of these impacts. The ANAO's 2021–22 Corporate Plan states that the ANAO's annual performance statements will provide a narrative that will consider, amongst other matters, analysis of key improvements made by entities during a performance audit process based on information included in tabled performance audit reports.
3. Performance audits involve close engagement between the ANAO and the audited entity as well as other stakeholders involved in the program or activity being audited. Throughout the audit engagement, the ANAO outlines to the entity the preliminary audit findings, conclusions and potential audit recommendations. This ensures that final recommendations are appropriately targeted and encourages entities to take early remedial action on any identified matters during the course of an audit. Remedial actions entities may take during the audit include:
  - strengthening governance arrangements;
  - introducing or revising policies, strategies, guidelines or administrative processes; and
  - initiating reviews or investigations.
4. During the course of the audit, the ANAO did not observe changes in Department of Infrastructure, Transport, Regional Development, Communications and the Arts' approach to the acquisition, management and leasing of artworks by Artbank.