

Turning Macro-appraisal Decisions into Archival Holdings: Crafting Function-based Terms and Conditions for the Transfer of Archival Records*

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RÉSUMÉ Depuis que les Archives nationales du Canada (dorénavant Bibliothèque et Archives Canada) ont introduit la pratique de la macro-évaluation en 1990, leurs archivistes responsables des documents gouvernementaux ont tenté d'établir des conditions et des modalités de transfert pour les documents d'archives en tenant compte de l'analyse fonctionnelle. En 2003, le groupe de travail des modalités de transfert (GTMT) des AN/BAC a fait le lien entre l'évaluation et l'acquisition en élaborant la méthodologie nécessaire pour assurer que les décisions de l'archiviste découlant de la macro-évaluation se traduisent en une documentation pour disposer des documents (les conditions et les modalités pour le transfert de documents archivistiques dans l'autorisation de disposer des documents, ainsi que le guide d'application complémentaire). Ces outils permettent aux archivistes d'assurer l'identification et la sélection de documents d'archives dans tous les médias. Cet article situe le travail du GTMT dans le contexte de l'évolution de la gestion des documents du gouvernement fédéral et de la méthodologie de la macro-évaluation telle qu'elle est employée à BAC, puis il présente un survol de la documentation produite par le GTMT pour disposer des documents.

ABSTRACT Since the National Archives of Canada (now Library and Archives Canada) introduced macro-appraisal in 1990, its government records archivists have sought to create terms and conditions for the transfer of archival records based on functions and activities. In 2003, the NA/LAC Terms and Conditions Work Group (TCWG) bridged the divide between appraisal and acquisition by developing the necessary methodology to translate an archivist's macro-appraisal decisions into disposition tools (the formal Terms and Conditions for the Transfer of Archival Records within the Records Disposition Authority, as well as a complementary Application Guide) that would ensure the identification and selection of archival records in all media. This article places the work of the TCWG within the context of the evolution of federal government record-keeping and macro-appraisal methodology as applied within LAC, and presents an overview of the disposition tools that it produced.

* I would like to thank Brian Beaven for his assistance and comments throughout the development of this paper and a summary version, which was delivered at the Association of Canadian Archivists Annual Conference in Saskatoon, Saskatchewan in June 2005. The detailed comments provided by the two anonymous reviewers were also very helpful in refining the text from its earlier form. The views expressed here are my own, and do not necessarily reflect those of Library and Archives Canada.

Introduction

The formation of a body of literature that supports the activities of a profession is the result of the merger of two key elements: the development of theory, the fundamental principles on which activities are based, and application of those theoretical principles to actual situations in order that the theory may be tested, analyzed, and altered where necessary to meet the situations in which it is used. In order for a profession to evolve, neither of these elements can exist in isolation; there must be a balance between the articulation of theory and critical analysis of that theory as revealed through methodology or practical application.

The archival profession is no exception to this observation, particularly in the area of appraisal. Many would argue that the archivist's decisions, in the face of a vast body of available information in a wide variety of media, as to the records of lasting value to a society ultimately determine the historical record left to succeeding generations. This determination, or identification of the archival record, also has a significant impact on all subsequent archival activities, such as arrangement, description, and reference service to the public.

Until the early 1990s, appraisal theory generally focussed on the search for secondary values within the records themselves. In the last decade, macro-appraisal theory has become the subject of numerous discussions and formed a significant part of the archival literature. Analysis of its application to real appraisal situations has also become more prevalent, thereby giving the profession a means to test and refine the theory.¹

1 The richness of archival appraisal literature is impossible to capture in its entirety, but a number of works stand out in terms of the initial development and subsequent refinement of macro-appraisal. They include: Hans Booms, "Society and the Formation of a Documentary Heritage: Issues in the Appraisal of Archival Sources," *Archivaria* 24 (Summer 1987), pp. 69–107; Terry Cook, "Mind Over Matter: Towards a New Theory of Archival Appraisal," in Barbara L. Craig, ed., *The Archival Imagination: Essays in Honour of Hugh A. Taylor* (Ottawa, 1992), pp. 38–70; Helen W. Samuels, *Varsity Letters: Documenting Modern Colleges and Universities* (Chicago, 1992); Richard Brown, "Macro-Appraisal Theory and the Context of Public Records Creator," *Archivaria* 40 (Fall 1995), pp. 121–72; Jean-Stéphane Piché, "Macro-appraisal and Duplication of Information: Federal Real Property Management Records," *Archivaria* 39 (Spring 1995), pp. 39–50; Catherine Bailey, "From the Top Down: The Practice of Macro-Appraisal," *Archivaria* 43 (Spring 1997), pp. 89–128; Victoria Lemieux, "Applying Mintzberg's Theories on Organizational Configuration to Archival Appraisal," *Archivaria* 46 (Fall 1998), pp. 32–85; Brian P.N. Beaven, "Macro-Appraisal: From Theory to Practice," *Archivaria* 48 (Fall 1999), pp. 154–98; and John Roberts, "One Size Fits All? The Portability of Macro-appraisal by a Comparative Analysis of Canada, South Africa, and New Zealand," *Archivaria* 52 (Fall 2001), pp. 47–68. Several new books also contribute to the discussion of archival appraisal, including Barbara Craig, *Archival Appraisal: Theory and Practice* (Munich, 2004); and Richard J. Cox, *No Innocent Deposits: Forming Archives by Rethinking Appraisal* (Lanham, MD, 2003). Finally, a forthcoming special issue of the journal *Archival Science* on "Macro-appraisal: Evolution and Application," edited by Candace Loewen, looks

However, the analyses of macro-appraisal's practical application have not necessarily addressed all of its aspects, particularly the manner in which appraisal decisions made using macro-appraisal theory and its resulting methodology are subsequently translated into actual archival holdings. As Terry Cook has recently reiterated, "Appraisal is the value-determination process that decides whether records should be kept on a long-term basis or be destroyed; it should not be confused with acquisition, which is a separate process (with separate variables) that determines whether records that have been appraised as archival *can* actually be transferred to, and preserved in, or for, an archive ..."² Indeed, not every positive appraisal decision necessarily leads to the acquisition of an archival record. An archives might decide not to acquire records of archival value based on any number of factors, including the availability of storage facilities or resource implications, such as the cost of acquiring, processing, or preserving the records; there might also be impediments to acquisition stemming from concerns over privacy or other restrictions imposed by statute or policy, or the need to sample a large body of case files that cannot be acquired in its entirety.³ But as pertinent as all of these statements are, they are cold comfort to the archivist struggling to transform his or her macro-appraisal decisions based on function/activity into the actual archival records that are acquired by an archives.

Since the introduction of macro-appraisal in 1990, the National Archives of

at the methodologies and application of macro-appraisal around the world, including historical overviews of the development of macro-appraisal theory and the terms and conditions for the transfer of archival records at the (former) National Archives of Canada (by Terry Cook and Brian Beaven, respectively). Other contributions by Normand Fortier, Margaret Dixon, Candace Loewen, and Kerry Badgley and Claude Meunier address specific aspects of the NA/LAC disposition program including the Records Disposition Authorities Control System (RDACS), the Case File Appraisal Working Group (CFAWG), the development of an accountability framework, and a disposition pilot project at the Department of Fisheries and Oceans. The influences of risk management and functional analysis on the prioritization of appraisal work in New Zealand are addressed by John Roberts, while Robyn Oswald and Adrian Cunningham describe the development of a function-based macro-appraisal framework in Australia. Agnes Jonker provides an overview of the Dutch PIVOT Project, while Robert Kretschmar summarizes one appraisal application in Germany. In addition, four review articles (by Terry Eastwood, Jeannette Bastian, Barbara Craig, and Karen Anderson) discuss the rich archival literature (as well as the literature from other related disciplines) that is used by archival educators to teach macro-appraisal.

2 Terry Cook, "Macro-appraisal and Functional Analysis: Documenting Governance Rather Than Government," *Journal of the Society of Archivists*, vol. 25, no. 1 (2004), pp. 6–7.

3 The complex issue of the relationship between appraisal and acquisition has been and certainly continues to be a matter for debate within the archival community. While resolution of this issue is well beyond the scope of this article, my own experience as a government records archivist continually reinforces my view that the act of appraisal and the resolution of specific acquisition issues, such as those observed by Cook, must be considered as separate, yet closely related elements within a larger acquisition process.

Canada (now Library and Archives Canada⁴) has sought to create Records Disposition Authorities (RDAs⁵) that encompass terms and conditions for the transfer of archival records based on functions and activities.⁶ Such a goal was only realized in 2003, when the Terms and Conditions Work Group (TCWG) developed the necessary methodology to turn an archivist's macro-appraisal decisions into real archival records, and thus bridge a divide between appraisal and acquisition. This article places the work of the TCWG within the context of the evolution of federal government record-keeping and macro-appraisal methodology as applied within LAC, and presents an overview of the disposition tools that it produced.

4 The National Archives of Canada (NA) became Library and Archives Canada (LAC) with the proclamation of Bill C-8, *An Act to establish the Library and Archives of Canada*, on 22 May 2004. As many of the events described occurred prior to the establishment of the new institution in 2004, I will generally refer to the former National Archives.

5 A Records Disposition Authority (RDA) issued by Library and Archives Canada has three parts, including Terms and Conditions. The first is the Authority form signed by the Librarian and Archivist of Canada, the legal instrument through which he gives his written consent to the destruction or disposition of the records of a government institution, as outlined in subsection 12(1) of the *Library and Archives of Canada Act* which states: "No government or ministerial record, whether or not it is surplus property of a government institution, shall be disposed of, including by being destroyed, without the written consent of the Librarian and Archivist or of a person to whom the Librarian and Archivist has, in writing, delegated the power to give such consents." This was formerly expressed within Section 5(1) of the *National Archives of Canada Act* of 1987. The second document is the Agreement for the Transfer of Archival Records attached to the RDA, a formal agreement signed by the senior official of the institution responsible for records disposition and by the senior official of the Library and Archives of Canada responsible for accepting transfer of archival records. The third is the Terms and Conditions for the Transfer of Archival Records (Ts&Cs), appended to the Agreement for the Transfer of Archival Records; the terms and conditions outline the records of archival value that must be transferred to the LAC at the end of their retention periods (or monitored within the institution, as required) as a condition of the authority granted to dispose of records. A fourth document, the Records Disposition Submission, a description prepared by the institution of the records for which the institution is seeking authority to dispose, was part of the formal authority package until this requirement was lifted during the revision of the government records disposition program in 2003.

6 While the term "function" is used across archival appraisal literature, in many cases it is done so without definition. A full discussion of how this term is defined, particularly in terms of macro-appraisal, would take an entirely separate article to do it justice; however, for the purposes of this article, it is important to understand how "function" is understood and used within the context of the macro-appraisal theory and methodology currently practised at LAC. Within the National Archives' methodological document "Appraisal Methodology: Macro-Appraisal and Functional Analysis Part A: Concepts and Theory," it is noted that "In Canada, as in many other countries, public administration is formally assigned responsibilities (*functions*) by an elected body of representatives with constitutional jurisdiction and mandate through the promulgation of laws, regulations, and policies." See <http://www.collectionscanada.ca/information-management/061101_e.html> (accessed 12 November 2004). The most detailed definition of a function in the NA's documentation is found within the Multi-Institutional Disposition Authority (MIDA) 2001/002 for the Real Property Management Function

Macro-appraisal Methodology and Canadian Federal Government Record-keeping, 1997–2004

Since 1997, the NA/LAC has significantly re-cast and re-codified the macro-appraisal methodology that underpins its government records disposition program, in part to incorporate the practical experience gained by archivists since the methodology's initial introduction in 1991, and in part to bring practice closer to theoretical precepts. The first set of guidelines on the conduct of macro-appraisal, prepared by Terry Cook in 1991, has now been replaced with an integrated suite of documents that outline the structured appraisal methodology officially adopted by the then National Archives in 2001. These documents – “Appraisal Methodology: Macro-Appraisal and Functional Analysis Part A: Concepts and Theory” (October 2001) and “Part B: Guidelines for Performing an Archival Appraisal on Government Records” – are intended “to provide an appraisal rationale and methodology for archivists” and to “encourage greater intellectual consistency in records disposition decision-making and in the logic of its explanation and presentation in Appraisal Reports (AR).”⁷ A third internal Government Archives Division (GAD) document, “Drafting an Appraisal Report for the Disposition of Government Records” (February 2001), complements these two methodological documents by providing guidance to archivists as to the information that needs to be included in the archival appraisal reports through which disposition recommendations are made to the Librarian and Archivist of Canada.

These documents (publicly available on the Web), incorporate and indeed stress several concepts that were just becoming key elements of appraisal

of the Government of Canada: “For the purposes of archival appraisal, records disposition, and records and file classification system design, a **Function** means: 1) any high level purpose, responsibility, task or activity which is assigned to the accountability agenda of an institution by legislation, policy or mandate; 2) typically common administrative or operational functions of policy development and program and/or delivery of goods or services; 3) a set or series of activities (broadly speaking a business process) which, when carried out according to a prescribed sequence, will result in an institution or individual producing the expected results in terms of the goods or services it is mandated or delegated to provide.” See 3.2 Appendix II – Profile of The Real Property Management Function of Institutions subject to the *National Archives of Canada Act*, available at <http://www.collectionscanada.ca/information-management/06040126_e.html> (accessed 12 July 2005).

7 National Archives of Canada, “Appraisal Methodology: Macro-Appraisal and Functional Analysis Part A: Concepts and Theory,” p. 1, available at <http://www.collectionscanada.ca/information-management/061101_e.html> (accessed 12 November 2004); “Part B: Guidelines for Performing an Archival Appraisal on Government Records,” available at <http://www.collectionscanada.ca/information-management/061102_e.html> (accessed 12 November 2004).

in the late 1990s, such as the identification of the “Office of Primary Interest.”⁸

The Canadian federal government information management environment in which LAC archivists apply macro-appraisal methodology, continues to feel the effects of the massive downsizing exercise of the mid-1990s, with greatly decreased personnel and resources to manage active records and to provide the archivist with much of the supporting information that formed the research basis of the appraisal.⁹ Such a reduction in resources generally means that the transition from record-keeping systems based on organization or subject to those based on function/activity has not progressed as far as archivists had hoped when macro-appraisal was first introduced, although there are some promising initiatives.¹⁰

8 As the “Concepts and Theory” document notes, “NA macro-appraisal theory holds that the National Archives should *only* acquire records which document the functions on a government-wide or on an institution-specific basis from the information created, accumulated or managed by *Offices of Primary Interest (OPI)*. The OPI is the administrative entity within government that is *exclusively* responsible and/or accountable for formulating policy, making decisions, or delivering a program or service to Canadians by virtue of law, regulation or mandate, and is the location for the best archival record. The identification of the *OPI* within the organization of government relevant to particular functions requires substantial and often complicated research and analysis. This is the main reason why the government records disposition program supports its macro-appraisal theory with a research agenda. The National Archives through this methodological research will achieve consistent appraisal outcomes to create a more focussed records preservation program.” Ibid., p. 6.

9 See Bailey, “From the Top Down,” pp. 117–18 for a discussion of downsizing and federal record-keeping. While the impact of the lack of information management resources on macro-appraisal research is not the focus of this article, it is interesting to note that its effects are being *somewhat* alleviated by developments within the Canadian federal government management infrastructure, most notably greater transparency for government activities engendered by modern notions of accountability and modern comptrollership, as well as the drive for an increased electronic government presence. Having information on government functions, activities, and programs available electronically makes the archivist’s background research easier to complete, particularly because the information is often organized in a fashion that dovetails with functions and thus with macro-appraisal methodology. This is not to say, however, that the effects of downsizing are not continuing to have a serious impact on Canadian federal government record-keeping. Over the past several years, the federal Information Commissioner has observed the effects of the “crisis” in information management in his annual reports to Parliament. In 2000–2001, he noted that “A decade or more of neglect of basic, good information management has devastated the abilities of most departments to create, maintain and effectively use an institutional memory,” and went on to devote an entire section of the report to information management (Chapter II - Resuscitating Information Management, pp. 14 and 23–42). The follow-up to this report was presented in 2002–2003 in Chapter II, “Addressing the Crisis in Information Management.” See *Annual Reports of the Information Commissioner for the Years 1998–1999, 1999–2000, 2000–2001, and 2002–2003*, available at <<http://www.infocom.gc.ca/reports/default-e.asp>> (accessed 12 July 2005).

10 Two such examples are Health Canada’s Recorded Information Classification Structure (RICS), and the LAC’s own Business Activity Structure Classification System (BASCS). Released in 1999, RICS is designed to situate records within their organizational, business, and

While function-based record-keeping supported by electronic document management systems (EDMS) are becoming more prevalent within federal government departments, the vast majority of institutions have not yet made the transition to this new environment. We are presently entering the second decade of this “transitional” environment, with no definite end in sight. This means that the biggest constraint on the use of macro-appraisal methodology, the difficulty in expressing appraisal recommendations based on function/activity as terms and conditions for the transfer of archival records, continues to exist and seriously complicates the ability of archivists to identify and preserve the archival record. It is as true in 2006 as it was in 1997 that

[t]erms and conditions for transfer must be tailored to the record-keeping systems in the individual institution. Above all, they must be clear and unequivocal, and easily applied by staff unfamiliar with both records management and archives, and the particular records in question. If appropriate terms and conditions cannot be crafted, the benefits derived from the entire macro-appraisal exercise will have been wasted, as the archivist will be forced either to re-appraise badly selected records upon their arrival at the archives, or not to acquire archival records at all.¹¹

The Evolution of Terms and Conditions at the National Archives, 1990–2002

The creation of purely “functional” terms and conditions for the transfer of archival records attached to a Records Disposition Authority (RDA) was

information contexts through the use of a department-wide coding system. The three part classification code, based upon the business line, organization, and subject, is applied to all records within the department, in addition to their existing classification codes. By using the combination of RICS coding and existing file classification systems, all Health Canada information can be intellectually mapped to the appropriate organization and business line/function within the department, regardless of where the records are physically located. The BASCS system was developed in 2000 as a result of the NA's replacement of the general records disposition authorities for common administrative functions of government – the General Records Disposal Schedules (GRDS) – with new Multi-Institutional Disposition Authorities (MIDAs). Unlike RICS, which is primarily a file coding system designed to provide additional context to records that are already classified, BASCS is “a logical structure for the classification of records which treats the information contained in records as by-products and evidence of institutional functions, and whose logical sequential structure is determined by the natural, spatial, temporal, and causal relationships which exist among the set or series of activities which compose the function.” For a full explanation of BASCS, see Paul Sabourin, “Constructing a Function-Based Records Classification System: Business Activity Structure Classification System,” *Archivaria* 51 (Spring 2001), pp. 137–54, and the LAC Web site at <http://www.collectionscanada.ca/information-management/0630_e.html> (accessed 1 February 2005).

11 Bailey, “From the Top Down,” p. 120.

something of a holy grail within the National Archives since the implementation of macro-appraisal in 1990. Between 1990 and 2000, several archivists, myself included, had attempted to translate our appraisal recommendations into terms and conditions expressed solely in relation to function and activity. For a variety of reasons, it appeared that no one had been able to create fully function-based terms and conditions that could be applied successfully by the creating institution, although several archivists had come close.¹²

These early complications confirmed for the majority of archivists in the NA's Government Archives Division (GAD) that function-based terms and conditions would not work for the identification and transfer of archival records, at least not in their purest form. Throughout the 1990s, in addition to the ongoing search for a method to make terms and conditions more "functional," there was an increasing awareness within and outside the NA of a lack of consistency between the contents of individual sets of terms and conditions attached to an RDA that was making it difficult to find essential information to carry out government records disposition. In 1997, following an internal review of existing terms and conditions documents crafted between 1990 and 1997 using the guidelines originally developed for the introduction of macro-appraisal, the NA introduced its first model terms and conditions for records disposition authorities. The new model clauses, which consisted of a mixture of standardized texts and elements that were customizable for a particular institution or situation, were intended as a guideline for archivists to ensure a higher degree of consistency in crafting terms and conditions for transfer. A companion document outlined "Guiding Principles for the Drafting, Editing and Translation of the Terms and Conditions." It is interesting to note that these documents marked some of the earliest appearances of assertions that terms and conditions, as part of a negotiated agreement, were to be treated as binding legal documents that defined the archival records to be acquired by the Archives. Unfortunately, while they did advance the aim of internal consistency, the documents left the formulation of function-based archival selection a highly problematic goal achievable only under ideal conditions.

Seven years of practical experience with macro-appraisal, combined with the effects of government downsizing on records management, had revealed the growing importance of several elements within this binding legal docu-

12 See Ibid., pp. 118–20, for a detailed review of the attempt to craft function-based terms and conditions for the records of the Social Service Programs Branch (SSPB) and the Income Security Programs Branch (ISPB). For a detailed examination of the evolution of macro-appraisal and terms and conditions related to function and activity within the National Archives of Canada, see Brian Beaven, "'But am I getting my records?' Squaring the Circle with Terms and Conditions Expressed in Relation to Function and Activity," *Archival Science* (special issue forthcoming in 2006 described in note 1).

ment, most notably the crucial need for a detailed definition of the scope of an authority.¹³ Other elements that were addressed within this first model were the organization of the terms and conditions into six standard sections (some of which equated to the media of the records),¹⁴ the directive to use language of command rather than request (“the institution *shall transfer*...” as opposed to “the National Archives *wishes to acquire*...”), and an emphasis on consistent use of terminology throughout terms and conditions documents.

As the disposition program progressed through the late 1990s, it became clear that although this new standardized approach to terms and conditions was a significant improvement on past practices, the model was still not meeting all of NA’s needs in crafting terms and conditions, nor was it addressing the needs of government institutions. There were, for example, problems related to specific wording of standard clauses that did not work in all appraisal situations, leading archivists to develop myriad specialized clauses to deal with the situation in a particular institution. However, the more important issue was that despite the NA’s successful implementation of macro-appraisal and functional analysis, appraisal decisions were still not being translated successfully into terms and conditions for the transfer of archival records that were based on an institution’s functions and activities. But how was an archivist to do this? Was it even possible to craft such terms and conditions in an environment where the record-keeping systems were still largely subject-based, and therefore appeared incapable of supporting such a disposition tool? How could this drive for functional formulation for archival selection be reconciled with the requirements for preserving records in media other than paper that are traditionally held outside of the formal subject-based classification systems that generally formed the basis of terms and conditions for paper records?

The Terms and Conditions Work Group (TCWG)

To answer these and other related questions, the Terms and Conditions Work Group (TCWG) was established in January 2002. Within its terms of refer-

13 In 1997, archivists defining the scope of an authority were directed to include: the coverage of the authority by the program and record types under the control of the institution; its geographic coverage (whether it applied to headquarters or regional offices or both); whether the authority was “continuing” or “one-shot”; the media of the records covered; the right of an institution to repossess any record that the NA subsequently determined to be of non-archival value; and any special considerations for its application to a defunct activity or function. National Archives of Canada, “General Instructions – Terms and Conditions for the Transfer of Archival Records” (September 1997), p. 1, on GAD file NA-6235-16.

14 The six standard sections were: Scope of the Authority; General Provisions; Retention Periods; Textual Records in Paper Format; Electronic Records; and Media Records.

ence, the eleven member group,¹⁵ which included archivists and information and disposition officers, had three main objectives:

- to review the Archives' experience in creating, negotiating, and applying terms and conditions within the context of macro-appraisal;
- to assess the nature and scope of issues relating to the mechanics of the transfer of archival records and propose appropriate responses for resolution; and
- to develop guidelines and model text for terms and conditions based on function/activity.¹⁶

Underlying the Group's mandate was the general consensus, among group members and management, that it would develop standard text and instructions for archivists to enable them to craft terms and conditions that would reflect an institution's functions and activities – more or less on the same lines as the functions and activities assessed during the archival appraisal in accordance with the NA's macro-appraisal methodology. It must be observed that there had been no dearth of function-based terms and conditions prior to this time. Since 1999–2000, various successful attempts had been made to formulate the archival selection along such lines, but no one had been able to craft a standard generic formulation that could be generally applied in all cases.

Further direction for the Group's work was provided by GAD manager Richard Brown in February 2002, in which he observed that he understood the Group's primary goals were “to bring [terms and conditions] up-to-date in light of new knowledge, experience and program direction” by:

- making terms and conditions “‘functional’ and generic ... [linking] NA disposition requirements to institutional business activities”;
- providing institutions with full implementation capacity, “i.e., [providing] business-activity based disposition directions with implementation maps or plans in the form of customized tools” to link functional analysis and institutional record-keeping systems);
- satisfying departmental legal requirements;
- and creating technical specifications for electronic records.¹⁷

In order to address Brown's third point on departmental legal requirements, it was agreed that the TCWG's new terms and conditions document would be

15 The members of the Terms and Conditions Work Group were Candace Loewen (Chair), Catherine Bailey, Brian Beaven, Rosemary Bergeron, Yvette Hackett, Jonathan Fotheringham, Caryn St. Amand, Don McGee, Diane Oelke, Susan Clarke, and Ginette Beaudry.

16 See “Terms and Conditions Work Group [TCWG] – Terms of Reference,” 18 January 2002, p. 1, on GAD file NA-6235-16-1.

17 E-mail, Richard Brown to Candace Loewen, 11 February 2002, on GAD file NA 6235-16-1.

reviewed and approved for language by the NA's legal counsel so that the language could be considered as standardized and applicable across government, thus assuring institutions that terms and conditions documents would meet their legal requirements for disposition. Institutional uncertainty on this question was quite often the strongest impediment to the approval and implementation of specific terms and conditions documents, as they were reviewed individually by legal counsel in each department, each of whom had their own interpretation and concerns.

Methodology

The TCWG began its work with a detailed review of all existing NA documentation on terms and conditions, particularly the 1997 model and its accompanying guidelines. The review led to a discussion of issues and various problems relating to terms and conditions that were then codified in the group's "Problem Definition and Recommendations Report" under three themes: the terms and conditions document's purpose, its structure (which included a number of specific observations relating to the wording of existing model clauses), and the move towards crafting terms and conditions based on function/activity. If the particular issue or problem could be resolved immediately, that resolution was noted in the report.¹⁸

At a very early stage in its work, the TCWG observed that in order to create new guidelines for the drafting of terms and conditions based on function/activity, it would need to discuss in some detail issues that touched on matters of disposition outside the parameters of the group's formal mandate, and make recommendations to NA management. Many of the issues that affected the creation of terms and conditions arose from NA guidelines for the application of the macro-appraisal methodology, or from the policies and procedures that governed the production of appraisals and their records disposition authorities, rather than the development of terms and conditions. For example, the NA procedural guidelines for the application of macro-appraisal assumed that the creation of specific terms and conditions was a later stage in the development of an authority, one that would come *after* the archivist completed background

18 National Archives of Canada, Government Records Branch, Terms and Conditions Work Group, "Problem Definition and Recommendations Report, Discussion Draft, Version 1.2" (22 March 2002), p. 6, on GAD file NA-6235-16-1. As an example, the TCWG noted early in the process that the underlying purpose of the terms and conditions (to identify and ensure the transfer of records of archival value to the National Archives) was not clearly stated within the document itself; it was assumed that all those working with the document understood its purpose, when this was not actually the case. This issue was resolved through a recommendation in the Problem Report that the new model document contain a preamble explaining the purpose of the terms and conditions, and allowing them to stand alone as a complete document, without reference to other parts of the authority package.

research, conducted the appraisal and then identified records of archival value. What the TCWG found during its deliberations was that the crafting of the archival selection based on function/activity was best initiated and negotiated informally by the archivist *during* the appraisal, rather than as a separate step later in the process. While this was something that the TCWG could address implicitly in its own guidelines, it did not have the mandate to change the existing NA procedural documents on macro-appraisal or the formal approval process for an RDA to reflect the Group's recommendations. In situations such as this one, where the solution was outside the Group's formal mandate, the constraints that prevented a solution were summarized within the Problem Report along with the proposed solution, in order to facilitate the ongoing redevelopment of NA macro-appraisal methodology and its supporting procedures. The Government Archives Division later chose to address this procedural gap as part of its detailed training sessions to introduce and explain its guidelines to archivists.

Throughout the terms and conditions project, there was input from NA archival staff, and ongoing vigorous debate and consensus seeking from the diverse representatives on the TCWG, who were often speaking for larger groups within the Archives such as textual records archivists, media specialists, information analysts, and staff of regional operations/federal records centres. Input was also sought from external stakeholders through a "Focus Day" event, held on 23 April 2002. Fifty-three information management professionals representing sixteen government institutions¹⁹ and eleven operational areas within the NA examined the strengths and weaknesses of the existing documentation as well as the disposition process itself, and proposed solutions to address the weaknesses. The feedback from that event was extensive and constructive, although occasionally contradictory.

One of the strongest themes expressed at Focus Day was a need for increased clarity within the terms and conditions document. Participants noted three principal issues: a lack of cross references between identified functions and activities and the file blocks in classification systems that supported them; the segregation of records by media and an accompanying lack of specific detail for records in formats other than paper or for the transfer of electronic records; and the use of a specialized vocabulary that was not always clear to those applying the document. Many participants commented that it appeared

19 Institutions represented included: Treasury Board Secretariat, Royal Canadian Mounted Police, Public Works and Government Services Canada, Privy Council Office, Indian and Northern Affairs Canada, Human Resources Development Canada, Health Canada, Department of Finance, Department of National Defence, Department of Foreign Affairs and International Trade, Canadian Heritage, Canada Customs and Revenue Agency, Agriculture Canada, Department of Justice Legal Services, and the Atlantic Canada Opportunities Agency.

as if a special guide was needed in order to be able to understand how to make the terms and conditions work. In fact, the suggestion was made that there be two documents. One would be the formal, legal terms and conditions that was part of the records disposition authority signed by the National Archivist. The other would be a more practically oriented and user-friendly guide, with simple language, designed to assist users with the application of the formal terms and conditions – an Application Guide. Participants further suggested that the terms and conditions document could be improved by: clarifying the scope statement; clearly indicating the relationship between the new authority and any existing ones; and integrating parts of Section D (Textual Records in Paper Format) and Section E (Electronic Records) into one consolidated section to define archival selection. Finally, contradicting their observations of the lack of cross references between functions and files, participants also called for the use of a functional description of archival records that could be applied for a longer period than specific file numbers, which were subject to change.

Gathering all the input and crafting the new guidelines for terms and conditions was an intensive (and intense) process, done in a fully collaborative fashion.²⁰ A full exposure draft of the document was completed in June 2003 and presented to the Director General of the Government Records Branch for approval on 6 October 2003. It was noted that the exposure draft “is the singular document that marries LAC archival appraisal theory and approaches to their practical application in real live record-keeping environments.”²¹ Following Branch approval, the exposure draft document was sent to the Archives’ legal counsel in the Department of Canadian Heritage for review, comment, and approval.

Since the draft guidelines had been approved at the divisional level, several new records disposition authorities were crafted with terms and conditions that followed the new model as outlined within the exposure draft, including for the former Department of the Solicitor General, the Correctional Service of Canada, Citizenship and Immigration Canada (Immigration Function), Status of Women Canada, and Indian and Northern Affairs Canada (Claims and Indian Government Sector). While archival records identified by these new

20 The full eleven-member work group met weekly between January and June 2002 to develop Focus Day activities and the initial content of the first two sections of the Guidelines, those relating to scope and the basic obligations common to all terms and conditions for transfer. A smaller core group of six, including archivists and information analysts, worked between July 2002 and March 2003 to develop the two most detailed sections of the document: the identification and selection of records of archival value in all media, and the technical specifications for preparing archival records for transfer.

21 Richard Brown (Director, Government Archives Division, NA) to Marilyn Osborne (Director General, Government Records Branch, NA), 6 October 2003, on GAD file NA-235-16-1. In the original, this statement is in bold italics.

terms and conditions are only now starting to be acquired by LAC, the creating institutions are supportive of the new format and encouraged that it will allow for effective disposition of records over the long term.

The TCWG Guidelines and the Application Guide

Overview

The TCWG was originally tasked with producing model text, or a template of standard clauses and language that archivists would use when drafting terms and conditions, along with guidelines for how this text should be used. Over the months of lengthy discussion, however, the TCWG's "Guidelines and Model Text for the creation of Terms and Conditions for the Transfer of Archival Records" (hereafter referred to as the Guidelines) evolved from a simple template or model text into a much more complex document in which detailed guidelines, presented as "Notes to Archivists," were combined with standardized and customizable text and practical examples, as well as links to existing NA procedural and methodological documents. The TCWG saw these "Notes to Archivists" as a sort of conversational guide in which one archivist would explain to another both the intellectual process of drafting function-based terms and conditions, and the actual "how-to" mechanics to craft specific wording.

Embedded in the Guidelines were two key concepts. The first related to the role this document would play within the broader context of training and instruction supporting the appraisal and disposition process. Like many other large archives, LAC experiences much staff turnover, and cannot assume that all new staff members will receive their training at the same time, nor that they will necessarily be able to receive such training prior to undertaking their first appraisal. While it was not designed to replace formal training for staff, the Group felt strongly that the document should be capable of providing all of the necessary guidance to any archivist charged with creating terms and conditions, regardless of his or her level of experience.

The second concept was that disposition is a team effort involving not only archivists but also a wide variety of staff from client departments. On several occasions, group members observed that the selection of the archival record by the archivist, the very heart of the appraisal process, is a pointless exercise if the tool that is provided to clients to express the selection is inadequate for the institution to actually identify what specific records are to be transferred. Feedback from clients at Focus Day had strongly emphasized this team approach, and provided the TCWG with a much better understanding of client needs, as well as a new way to address those needs while maintaining the

requirements of the legally-binding terms and conditions document to identify, select, and ensure the preservation of the archival record.²²

The notion of an application guide was not actually born at the Focus Day event. It had been floating around since early 2001, unfortunately without specific details as to the form it would take or the nature of its relationship to terms and conditions. The TCWG's Application Guide,²³ is an essential part of the LAC's new approach to the acquisition of archival records, and represents as much of a breakthrough as do terms and conditions based on function/activity. It is an administrative, non-legally-binding complement to the new style of terms and conditions. Intended as a customized "mapping" tool outside the authority that archivists and records managers can use to interpret the function-based criteria for selecting archival records expressed in the Terms and Conditions, the Application Guide document can be changed or updated as many times as is necessary as record-keeping systems evolve but institutional functions remain constant.²⁴ The Application Guide not only gives disposition authorities greater longevity, it can also highlight related record-keeping issues that must be taken into consideration when disposing of records (i.e., retention periods or security concerns), or provide detailed instructions on the actual mechanics of disposition, or the physical preparation of records for transfer. Acceptance of the Application Guide as a concept gradually permeated all of the discussions by the core TCWG charged with the task of developing the sections of the terms and conditions document relating to the selection and transfer of archival records, and allowed for a great deal of flexibility in developing appropriate language for the model terms and conditions, as well as the preservation of as much simplicity as is possible in such a complex process. It clarified that the systematic mapping of the records classification systems would be *outside* the formal authority.

It should be noted that the development of the application guide concept became a key mechanism to address the call from stakeholders for more "simplicity" in the expression of terms and conditions that was continually stressed throughout the entire consultation process, an issue that the TCWG wrestled with constantly during its deliberations. The identification and selection of

22 As previously explained in note 6, under section 12 (1) of the *Library and Archives of Canada Act*, no government records may be disposed of without the written consent of the Librarian and Archivist of Canada.

23 The sub-group of the Terms and Conditions Work Group that developed guidelines for crafting an Application Guide between March 2003 and February 2004 included Candace Loewen, Brian Beaven, Rosemary Bergeron, Jon Fotheringham, Margaret Dixon, Susan Clarke, and Caryn St. Amand.

24 If a function or activity is removed from one government institution and assigned to another, any existing RDAs covering its supporting records are transferred to the new institution for application. If a function ceases to exist, LAC becomes the custodian of the records.

archival records based on function/activity is inherently *not* a simple task, and the TCWG observed and demonstrated time and time again that to emphasize that such selection must be expressed “simply” is essentially self-defeating. Terms and conditions that are expressed with great simplicity, as much as highly complex and complicated formulations, do not necessarily allow an institution to identify the archival record with any accuracy. Neither extreme works.

The new TCWG model document is divided into four parts:

- Section A: Scope of the Authority;
- Section B: Basic Obligations Relating to Archival Records;
- Section C: Selection of Archival Records; and
- Section D: Transfer of Archival Records.

Each of the sections begins with a short purpose statement. The Preamble, which is the one element found in exactly the same form in all new RDAs, is a higher level purpose statement for the entire document, designed to place the terms and conditions within the context of the records disposition process as a whole. It consists of standardized wording drawn from official documents, most notably the *Library and Archives of Canada Act*. It outlines the legal authority of the Librarian and Archivist of Canada over the disposition of government records and defines the three documents that make up an RDA documentation package (the RDA, the Agreement for Transfer, and the Terms and Conditions document itself).

Section A: Scope of the Authority

The Scope section defines the parameters within which the institution may apply the terms and conditions of the authority, and is comprised of seven elements.²⁵ These elements provide a summary of the functions and activities, business lines, or programs that are covered by the authority, as well as its geographical coverage (i.e., whether or not it applies to records created in regional offices), its relationship to existing authorities including Multi-Institutional Disposition Authorities,²⁶ and its use by successor institutions. The

25 The seven elements are: Coverage; Reference to Other Authorities; Temporal Status; Geographic Status; Physical Attributes; Use of the RDA by Successor Institutions; and Disposal of Records Identified as Not Having Archival Value.

26 A Multi-Institutional Disposition Authority (MIDA) is “a Records Disposition Authority granted by the National Archivist to government institutions on a multi-institutional basis, which relates to records managed by all or a multiple number of government institutions, and which allows the institutions empowered to use the authority to dispose of records under certain terms and conditions.” As previously explained in note 11, MIDAs have replaced the former General Records Disposal Schedules (GRDS), which were records disposition authorities for common administrative functions of governments. This took place between 1998 and 2001. See “Multi-Institutional Disposition Authorities – Frequently Asked Questions” at <http://www.collection-scanada.ca/information-management/060402_e.html> (accessed 12 November 2004).

scope section also clearly states that the institution may dispose of records covered by the RDA that are not identified as archival, without further reference to LAC.

In the development of this section, the TCWG placed a great deal of emphasis on the clarity and precision of scope statements, and ensured that this emphasis was communicated to archivists through the appropriate Notes. Although the NA had recognized the importance of a scope statement for RDAs during the development of the initial model terms and conditions in 1997, the original template did not flesh out details or distinguish the necessary core elements. While ensuring the clarity of language for the majority of this section was relatively straightforward, the resolution of one issue – reference to other authorities – proved to be much more problematic than originally thought, largely because it had serious implications not just for the wording of model terms and conditions, but the entire government records disposition program.

This issue will no doubt be familiar to any archivist with responsibility for records disposition authorities. Whenever a new disposition authority is issued for records that were previously covered by an existing authority, the relationship between the authorities must be stated clearly in the new terms and conditions in order to avoid potential confusion during disposition. This requirement was not new at the NA; statements that a new authority superseded an older one in whole or in part had been included in authority documentation since authorities were first issued in the 1960s. Until the deliberations of the TCWG in the spring of 2003, however, very little detailed guidance had ever been given to archivists as to exactly *how* these relationship statements should be crafted, particularly to deal with a variety of complex situations. The instructions that accompanied the 1997 model simply advised archivists to

explain the relationship of this Authority to other disposition instruments. For example, a new Authority may supersede an existing one (including GRDS) in whole or in part; others may complement one or more Authorities. Be as descriptive as necessary in this section to allow those who apply it to understand the intention of the Archivist.²⁷

As the group analyzed the situation and sought to develop standardized text to put in the model terms and conditions that would clearly indicate “the intention of the Archivist,” the true complexity of the issue slowly became apparent.

When the relationship between the old and new authorities is clear and straightforward, for example, when the newer authority encompasses all

27 “General Instructions: Terms and Conditions for the Transfer of Archival Records,” 1997, p. 1.

aspects of the previous authority, it seemed that a simple statement in the new terms and conditions that the new authority supersedes the old would be sufficient. The institution would then be directed to apply the new authority in place of the old, starting from the day on which the new authority was approved. However, the situation becomes more complex, and creates difficulties for both archival staff and the client institution, if the institution has already used the previous authority for disposition prior to placing the records in dormant storage to await the end of their retention period(s). In fact, NA/LAC policy, now enshrined as a stated obligation in all terms and conditions documents, requires the segregation of archival records prior to their placement in a LAC Federal Records Centre for dormant storage. Therefore, if an institution adheres to this requirement and a new authority is approved between the time that the records were placed in dormant storage and final disposition is completed, the question immediately arises as to whether those dormant records need to be re-examined/re-selected at the time of final disposition, when the new RDA is now in force. Clearly, the simple statement of “this authority supersedes that one” becomes insufficient for disposition, especially if the Archives wishes to apply the new terms and conditions to dormant records in order to prevent the acquisition of records of no archival value that were previously identified for transfer, as the need for re-selection will have serious resource implications for both the Archives and the creating institution.

The situation can be further complicated if the two authorities are operating simultaneously – for example, if the older authority is only “partially superseded” by the new RDA. This has long been recognized as a definite source of confusion, as the superseded portions of the older RDA may be misconstrued in the institution as continuing to apply, especially if the details about its relationship to the new authority are inadequately communicated to all those responsible for disposition.

In order to address the myriad possible application scenarios, a single model clause or series of clauses would not suffice. An initial proposal to prohibit partial superseding of older authorities, which seemed to be a simple solution to the problem, was not only completely outside the mandate of the TCWG, but also conflicted sharply with the ongoing redevelopment of the NA’s government records disposition program, where disposition authorities are increasingly crafted to cover entire programs/sectors or even institutions.

After much discussion, the TCWG concluded that the appropriate resolution to this issue was to outline the complexity of the issue within the Note to Archivists, direct the archivist to exercise his or her professional judgement as to when and how authorities should be superseded and/or applied retroactively to dormant records, and require them to state that relationship clearly and succinctly within the new terms and conditions. While this does somewhat mirror the general advice given to archivists in 1997 to “be as descriptive as necessary in this section to allow those who apply it to understand the intention of the Archivist,” the TCWG went further, stressing the importance of this text

for disposition based on its extensive deliberations and developing a fully customisable model clause with several examples.

Section B: Basic Obligations Relating to Archival Records

In its early analysis of the 1997 model terms and conditions, the TCWG recognized that there was a certain type of clause that related to obligations, either on the part of the creating institution or the Archives, that were essential to ensure the effectiveness of the RDA and the preservation of archival records. It was determined that there were in fact five basic obligations for the institution and one for the Archives. The institution is obliged to: protect archival records until their transfer; segregate archival from non-archival records in preparation for transfer to the custody of the Archives; set retention periods for records of archival value; inform the Archives of any change to their functions or activities; and inform the Archives of any change to the record medium. The Archives, in turn, is obliged to inform the creating institution prior to any decision to de-accession or dispose of records acquired under the terms of the RDA, in order to allow the institution the opportunity to repossess the records.

The development of this section was relatively straightforward, with much of the discussion focusing on the clauses relating to the development of retention periods, of particular concern to Federal Records Centres, that handle dormant records of both archival and non-archival value. The work in Section B concentrated on the further refinement of existing standard text that had formed the base of the 1997 model in order to address all circumstances adequately, and thus be acceptable as template text to be used in all authorities – in essence, a codification of existing practice.²⁸

²⁸ One other issue related to a perceived obligation arising from an element that had been included in the 1997 model provoked prolonged discussion prior to its resolution. With the era of massive government downsizing in the mid-1990s, the NA had become concerned about the threat to records of archival value resulting from federal government functions being devolved to other jurisdictions (i.e., other levels of government, native bands, and special operating agencies), all of which were not subject to the *National Archives of Canada Act*. The 1997 model therefore had included standard clauses to govern records affected by such devolution and address the loan or copying of archival records. In the accompanying instructions, it was clearly indicated that the NA would be instructing the creating institution in the steps that it should take to ensure the preservation of archival records while they were in the hands of third parties over which the NA had no authority. Institutions still within the federal jurisdiction were of less concern because it was felt that it was reasonably certain that the NA could still acquire archival records in those circumstances. The TCWG observed that NA did not actually have the legal authority to prescribe how government institutions were to interact with third parties, whether or not they formed part of the federal jurisdiction; therefore, the clauses with detailed instructions as to what must be included in inter-jurisdictional agreements were unenforceable, and could not appropriately be included in the model. Instead, the NA could and should focus on ensuring that the creating institution is aware of its obligation

Section C: Selection of the Archival Record

The purpose of Section C, “to describe records of archival value that, according to the provisions of this Records Disposition Authority, must be selected and transferred to the care and control of LAC when they are no longer required by the institution,” makes this section the heart of every terms and conditions document. Unlike Sections A and B, Section C of the TCWG’s Guidelines begins not with standard template text, but an extensive introduction for archivists. It outlines four guiding principles for the development of formulations for archival selection, and provides directions for the inclusion of two additional sub-sections to this portion of the actual terms and conditions document: an introduction, and a structure summary for cases where the archival selection criteria become long and complex. The TCWG document then provides archivists with detailed instructions as to how to craft terms and conditions, divided into four categories: formulations of archival selection expressed in relation to function/activity; exceptional caveats that may be required to qualify or complement formulations of archival selection expressed in relation to function/activity; formulations of archival selection expressed in relation to media; and special caveats to ensure accurate application.

Because it centred on the heart of the TCWG’s discussions, and was indeed the focus of the entire records disposition process, Section C proved to be the most challenging section of the document to produce. My colleague and fellow TCWG member Brian Beaven has examined the history and evolution of macro-appraisal and functional analysis within the former National Archives of Canada as it relates to the development of terms and conditions, as well as the larger methodological issues that shaped the work of our group as it sought to answer to the key question – what is the best way to express an archival selection in disposition instruments?²⁹ While the focus of this article is on the actual work processes, discussions, and products of the TCWG, a summary of the key points of Beaven’s analysis of the larger theoretical aspects that shaped the environment in which we worked and ultimately guided those discussions to their conclusions is essential to a complete understanding of how the archival selection portion of the terms and conditions guidelines was crafted.

Beaven argues that when the TCWG was first given its mandate to produce a new template for the crafting of function-based terms and conditions, there

to protect the archival record prior to its transfer, including circumstances in which records are sent to jurisdictions outside the control of the federal government. Institutions are now required to ensure that a formal agreement is made with the external organization, one that will include archival provisions to protect the integrity of the records. Exact details of what should be in those agreements are provided to the institution by the (now) LAC as required.

29 Beaven, ““But am I getting my records?”” See also notes 2 and 13.

were two disparate groups of archivists within the government records disposition program: those who supported functionalism in its purest sense, and those that could be described generally as “neo-traditionalists,” recognizing and understanding NA management’s push towards the development of macro-appraisal, but also articulating a need for “pragmatism, flexibility, and simplicity for the sake of departmental clients.” Both groups recognized the need to “map” archival selection decisions, however expressed, to disposition tools that could be applied to the actual record-keeping system that supported the functions and activities of the institution; the disagreement essentially centred around where and how that mapping should occur. Both groups were strongly represented in the views of the members of the TCWG. Several held to the view of “pragmatic functionalism” – a commitment to the powerful benefits of a functional expression of terms and conditions where it is possible, tempered with an appreciation of the practical realities of the present record-keeping environment. The germ of a consensus lay somewhere between practical “functionalism” and the pragmatic insistence on making the terms and conditions “workable.”

With all of this information in the background, the TCWG approached the development of Section C (Selection of the Archival Records) in the fall of 2002. The Group began by developing four guiding principles for the development of formulations for archival selection to use as a set of “ground rules” to transcend the persistent dichotomy between the “functionalist” and “neo-traditionalist” positions:

1. Formulations of archival selection must be embedded within the terms and conditions document (in order to be legally enforceable). Additional, non-binding instructions intended to *facilitate* disposition may be included in the Application Guide.
2. Formulations must be understandable, clear, unambiguous, and applicable.
3. Formulations of archival selection must, as much as possible, be expressed in relation to function/activity.
4. The goal of crafting formulations of archival selection expressed in relation to function/activity is balanced by the need for flexibility.³⁰

Principle 2 provided the most fodder for discussion, as each member of the group had different views on what was meant by each of the four adjectives, both within and outside the Archives. The explanatory note to archivists that accompanied this principle observed that terms and conditions “must result in the identification, preservation and transfer of all records described as having

30 Terms and Conditions Work Group, “Guidelines and Model Text for the Creation of Terms and Conditions for the Transfer of Archival Records,” (13 February 2004), pp. 10–11, on GAD file NA-6235-16-9.

archival value.”³¹ In its refinement of Principle 4, the Group had to tread the fine line between permitting the inclusion of what became known as “exceptional” or “special caveats” (for particular record-keeping situations or media to complement or qualify formulations of selection based on functions and activities) while at the same time preventing the archivist from seeking to avoid the seemingly difficult exercise of crafting terms and conditions based on function and activity – in other words, taking the path of least resistance and relapsing into lists of file codes:

This principle of flexibility complements the principle that the archival selection must be expressed as much as possible in relation to function/activity. However, just as functional form is not an end in and of itself, undisciplined recourse to exceptional caveats in response to complex circumstances is not best practice or a justification in and of itself. The archivist adds exceptional caveats precisely to the extent that circumstances require them. The affirmation of the need for flexibility is not an invitation to make the terms defining the archival selection more complex than are required. Recourse to each caveat is made only where a simpler formulation of a functional generalisation involves risk to the archival record, or risk that a higher level functional generalisation will result in the transfer of an unacceptable extent of non-archival records.³²

An equally important early decision was that Section C of the Guidelines must look to the future of federal government record-keeping, rather than concentrate on full resolution of the obvious continuing difficulties of applying terms and conditions based on function/activity to the present subject-based record-keeping systems. The acceptance of the Application Guide concept certainly made this decision easier to work with, as it was recognized that the vast majority of the difficulties in application were related to the exercise of mapping the archival recommendations to a particular set of files that should be addressed within the Guide. The result was that the guidelines for crafting formulations of archival selection expressed in relation to function/activity were predicated on the projection that in the long term, the record-keeping system would be operating within an Electronic Document Management System (EDMS) environment.³³

31 Ibid., p. 11.

32 Ibid.

33 The Canadian federal government supports RDIMS (Records, Document and Information Management System), a set of specifications for a system of integrated commercial software products, including document management, records management, optical character recognition, imaging, the indexing, search and retrieval of full text, workflow, an on-line document viewer and reporting capabilities. See <http://www.rdims.gc.ca/index_e/RDIMS-overview.pdf> (accessed 12 November 2004).

Exceptional Caveats and Other Media

In developing its guidelines, the TCWG remained aware of concerns that “pure” functional formulations might not necessarily address all of the record-keeping situations that archivists would encounter during appraisal, particularly those related to media records. In keeping with the four guiding principles, the Group developed a clearly pragmatic approach that addressed both present needs and the belief that future record-keeping systems would be based on EDMS: exceptional caveats, or defined qualifications that would address anomalous record-keeping situations, or special media in or outside of the control of a formal record-keeping system. However, in order not to undermine the purpose of creating functionally-based terms and conditions, the TCWG sought to codify the situations in which such caveats could and should be used (Guiding Principle 4).

The subsection entitled “Exceptional Caveats that may be Required to Qualify or Complement Formulations of Archival Selection Expressed in Relation to Function/Activity” presents six scenarios that archivists were likely to encounter that might warrant the use of such caveats, and provides detailed examples and sample text. They include cases where:

1. the records keeping environment does not complement the functions as appraised, for example, where records are organized in a *subject-based* records classification system;
2. the scope of the Authority encompasses a closed series of records the organization of which will not be altered prior to disposition;
3. the identification, protection and transfer of archival records will be performed in a manner not associated with the function(s) as appraised, for example: periodic captures of electronic records of archival value, or the identification of a specialized sub-registry;
4. the identification, protection and transfer of archival records must extend beyond the corporate records keeping environment, for example, to non-corporate databases, caches of records in media forms not traditionally managed in the corporate records keeping environment, records held by individual employees, or records posted to institutional Intranet or Internet addresses;
5. any formulation of sampling of records is, by definition, an exceptional caveat;
6. formulations of what is not archival may bring greater precision to the archival selection. Such formulations may be essential in cases where the provisions of these terms and conditions reverse a significant or substantial portion of the terms and conditions of a previous Records Disposition Authority.³⁴

34 TCWG, “Guidelines and Model Text,” pp. 18–19.

The next subsection, “Formulations of Archival Selection Expressed in Relation to Media” is actually a blending of the styles of the two previous sets of instructions. As the introductory Note to Archivists states,

the formulations expressed in relation to function/activity, and any caveats of a more general nature that may qualify them, are followed by the qualifications where the formulations cannot be applied in a blanket fashion irrespective of media. Keep in mind that the considerations which may warrant the use of exceptional caveats, as described in the previous section, apply equally to the following section.³⁵

There are two groups of formulations in this subsection. One deals with electronic records held outside of the EDMS environment (e.g., stand-alone databases or documents posted to an institutional Intranet or Internet site), noting the two options – that the records are, or are not, of archival value. As was the case for the six scenarios of the exceptional caveats, here the TCWG was able to codify the situations that archivists were most likely to encounter, and provide both sample text and examples. For the second group, visual and sound records, the TCWG strove to balance the inclusion of these records within the broader formulations based on function and activity, yet at the same time account for cases in which non-textual records are not held within the controlled records environment to which those functional formulations would be most easily applied. At the beginning of this text, archivists are presented with the “degree of applicability of formulations expressed in relation to function/activity: options and principles”:

The extent to which the institution is able to apply the functional formulations to visual and sound media will vary from institution to institution and within parts of an institution. The need for caveats (that is, media-specific exceptions to the goal of terms and conditions that define archival records in relation to broad functions of the institution) depends on the degree to which institutions have control over their records in all media and hence have sufficient information to map them to functions. ... As institutions move toward integrated document management systems for records in all media, it is expected that they will improve their ability to map their visual and sound records to functions, requiring less assistance from [the Archives] to do so. When that occurs, fewer caveats should be necessary to target archival visual and sound records.³⁶

Archivists are directed to keep in mind the likelihood of an institution’s ability to apply one of two options. Option One, that “the application of the formulations expressed in relation to function/activity requires the assistance of visual and sound archivist(s),” is to be chosen in cases where the archivist

³⁵ Ibid., p. 28.

³⁶ TCWG, “Guidelines and Model Text,” p. 26.

has “little or no confidence that the institution is able to apply the functional formulation to specific visual and sound records.” Option Two, that “application of the formulation expressed in relation to function/activity is partial or not possible,” is to be chosen “when there are varying levels of confidence of the institution’s ability to identify the records.” In these latter situations, visual and sound archivists are forced to include very specific clauses to identify records of archival value based on the nature of the event documented, the location of the records, the nature of the creator (non-governmental), the duplication of records across the institution, their intrinsic value, or the need for a periodic review of increments.³⁷

The final subsection, “Special Caveats to Ensure Accurate Application,” does not relate to the identification of the sites of the archival record. Instead, it contains terms and conditions that relate to mechanisms for ensuring accurate application of the Authority, such as: the application of the authority to new records; the verification of the applicability of the terms and conditions through a test transfer in an EDMS environment only recently implemented; and the need to address anomalous information management practices, where such practices increase the risk of disturbing the function-based archival selection. The caveats are included in the terms and conditions to ensure that they are legally enforceable, while any other instructions that might facilitate the application of the terms are located within the Application Guide.

Section D: Transfer of Archival Records

While the identification and selection of the archival record is undoubtedly the key element within the appraisal process, such identification must be accompanied by technical specifications to ensure that archival records are transferred in an appropriate format to the archives for permanent preservation. In a record-keeping environment that more and more makes use of technology to create records, the need for detailed specifications for archival records in all media is becoming increasingly important.

Earlier terms and conditions documents had incorporated technical specifications for transfer within the section of the document that covered each specific medium: Textual Records in Paper Format; Electronic Records; and Media Records. Archivists and participants at the TCWG Focus Day had observed that one of the weaknesses of the earlier form of terms and conditions was the lack of specific transfer details for records other than those in traditional paper format. These difficulties were exacerbated by the need to use specialized technical vocabulary for non-paper records that was not always clear to those responsible for applying the terms and conditions.

³⁷ Ibid., pp. 26–31.

Recognizing the validity of these observations, and having accepted the concept of non-segregation of media within the section on the identification and selection of the archival record, the TCWG began its work on the technical specifications by outlining three guiding principles:

1. **Terms and conditions of archival selection must be complemented by specifications for transfer.** In other words, if an archival record is identified, specifications for its transfer must also appear in the document. Those specifications could be general (such as the requirement to segregate and box archival records in paper format and provide an appropriate list), or detailed (such as the requirement to place electronic records on certain media in specific logical formats, with accompanying documentation).
2. **Specifications for the transfer of archival records must be clear, unambiguous, comprehensive, and self-contained.** Here “self-contained” meant that any detailed information comprising instructions for the transfer of archival records to which the institution or the Archives could be held accountable would have to be fully contained within this section, without further reliance on any other part of the terms and conditions document or any other documents not found within the formal records disposition authority. Elements within the accompanying Application Guide could provide further guidance or interpretation of the specifications, but could not be part of the actual specifications.
3. **Minimum technical specifications sufficient to effect transfer must be embedded in every terms and conditions document.** This principle was intended to address what veteran archivists had come to see as a serious weakness of the previous method of determining technical specifications for the transfer of electronic records. Recognizing the need to be flexible to allow for changes or advances in technology between the time of appraisal and the eventual transfer of the archival electronic records, earlier terms and conditions documents had simply stated that the records were to be transferred “in a format to be mutually agreed upon between the NA and the institution at the time of transfer.” While this open-ended approach did allow for the use of newer technology to improve or facilitate the transfer process, these “minimal” technical specifications that lacked detailed instructions to the institution, generally left both archivists and institutional information managers without any solid basis on which to begin to prepare transfers of electronic records. This lack of direction had serious implications for the acquisition and processing of archival electronic records, effectively requiring both the Archives and the client institution to re-do the technical analysis of each and every transfer, which required a great deal of time, energy, and resources.

In dealing with the transfer of archival records in electronic form, archivists need to strike a balance between the need for flexibility to allow for technological change, and the requirement to state *minimum*, not minimal, specifications, applicable at the time of the appraisal, that will guarantee the preservation and transfer of these records. As the note to archivists explains,

minimum technical specifications embedded in the terms and conditions document provide the institution with a clear baseline of the requirements to extract archival records from any new or upgraded technology. This will ensure the preservation of archival records regardless of any technological change.³⁸

Transfer Specifications by Medium

The TCWG, after some deliberation, observed that within technical transfer specifications, there must continue to be a certain amount of segregation by medium. While there are certainly common requirements that can be identified across media (for example, all archival records must be segregated from non-archival material prior to transfer, and all archival records must be accompanied by the appropriate lists or documentation), the attempt to group common elements from within the various media creates potential obscuring of the specialized vocabulary and procedures that will ensure the successful transfer of archival records regardless of their medium.

As a result, Section D is divided into three parts: technical specifications for paper records; for electronic records; and for visual and sound records. Each of these subsections addresses three elements common to all archival transfers (although not necessarily in this order): the segregation of the archival record; the *containerization* of archival records; and the preparation of supporting documentation. In this context, the word “documentation” is intended to be taken in the broadest sense of the word in order to encompass traditional box lists and finding aids, system documentation for electronic records, and supporting documentation for visual and sound records that might incorporate both technical information and that related to the copyright restrictions for the records. Specific provisions directly associated with the particular medium (i.e., to address the format for transfer for electronic, and visual and sound records) are addressed at the end of each media subsection, where they can be outlined in sufficient detail.

The TCWG observed that this format greatly improved the clarity of technical specifications for all records in all media. While transfer specifications for paper records remained largely unchanged from earlier models, this new for-

³⁸ Ibid., p. 36.

mat codified minimum technical specifications for all archival electronic records by providing basic and specific provisions for all transfers.

Basic provisions for the transfer of archival electronic records include:

- The requirement for the institution to preserve the records until the time of transfer and to notify the Archives of any changes to technology that would affect the records;
- the requirement for the institution to keep the records technologically current;
- the need to maintain and transfer system documentation;
- the statement of the time of initial transfer and the requirement that the records be transferred only once;
- the obligatory decryption of records and removal of electronic signatures³⁹;
- the obligatory collaboration between Archives and the institution to modify transfer specifications in the event existing specifications no longer function;
- the need for test transfers as required; and
- the monitoring by the Archives of operational systems that hold archival records.⁴⁰

These basic provisions must appear in every terms and conditions document that identifies electronic records of archival value, as do terms covering two other key elements that require a certain amount of customization for each electronic record transfer: physical and logical formatting of the record, and data compression. It is at this point that Principle Three's "minimum technical specifications" are specifically addressed. Archivists are required to identify clearly both the logical and physical formats that the institution will use to transfer the archival records; once they are stated within the legally binding terms and conditions, both the institution and the Archives know that despite any changes to the technology, the archival electronic records will be transferable. In fact, the institution would be well advised to incorporate the confirma-

39 The Canadian federal government has developed and implemented a Public Key Infrastructure (PKI) that enables documents in electronic form to be encrypted and to carry a digital signature. Since such records could be transferred to the care and control of LAC at the end of operational retention periods, a set of guidelines were developed in order to explain the archival position and assist government institutions in the management and disposal of records created under PKI using encryption and digital signatures. See "Guidelines For Records Created Under a Public Key Infrastructure Using Encryption And Digital Signatures," available at <http://www.collectionscanada.ca/information-management/0618_e.html> (accessed 12 November 2004).

40 Ibid., p. 39.

tion of these basic transfer specifications into any of their system design processes.⁴¹

On the basis of several years of experience with the older forms of terms and conditions, the TCWG also recognized the potentially serious implications of data compression of electronic records. When records are copied directly from their host system without data compression, there is usually no effect on the nature and format of the archival records and thus no adverse impact on the long-term preservation of the records. Data compression, however, often affects the nature and format of the archival record, particularly if the compression is a “lossy” rather than a “lossless” process.⁴² This issue is most important when dealing with digital images, but as it can arise with other forms of electronic records, it must be clearly stated that the preparation for transfer of archival electronic records must not use a copying process that involves data compression unless the full implications of that process are understood and agreed to by both the Archives and the client institution.

Having addressed the basic provisions common to all electronic records, albeit with a certain amount of customization in the area of format, the TCWG then moved on to the specific provisions for the transfer of archival electronic records, grouped into three categories. Structured records with linked digital objects are systems such as electronic document management or imaging systems in which there is a structured component (i.e., a database containing a document profile) and an item to which it is attached (i.e., an image, document etc.). It is necessary to define technical specifications for both parts of these records in order to ensure the integrity, authenticity, and reliability of the

41 In June 2004, LAC developed “Guidelines for Computer File Types, Interchange Formats and Information Standards,” to provide guidance to creating institutions in the Government of Canada (GoC) on “computer file types, interchange formats and information standards [data presentation] that should be considered during the creation of digital information” in order to facilitate information exchange and, ultimately, the preservation of archival records. Intended to cover computer generated digital audio, digital still imagery, digital video, documents – textual, e-mail, geospatial data, structured data – databases and spreadsheets, and technical computer aided design (CAD) drawings, the formats within the Guidelines have been categorized into those “recommended” for use (the LAC’s preferred formats that it promotes based on a technical rationale), and those that are “acceptable” for use (only if certain criteria are met). GoC institutions that have archival information in formats other than those described in the Guidelines are directed to consult the Archives prior to transfer to determine if the format is acceptable. See <http://www.collectionscanada.ca/06/0612/061204_e.html> (accessed 12 July 2005).

42 “Lossy” compression techniques result in the loss of some of the data. Example formats resulting from this type of compression technique are the Moving Picture Experts Group (MPEG) and Joint Photographic Experts Group (JPEG) formats. “Lossless” compression techniques are those in which no data is lost. Examples of lossless formats include PKZIP, Tagged Image File Format (TIFF), and Graphics Interchange Format (GIF).

resulting archival electronic record. The second category, structured records without linked digital objects, is likely more familiar to archivists, as it generally relates to the extraction of records from databases.

The third category, individual data objects, includes items such as digital photos, word processing documents, or audio-visual records that are not stored in an electronic record-keeping system. In developing its guidelines, the TCWG attempted to provide the best current advice to archivists by encouraging the use of terms and conditions that would build upon format standards within the appropriate industry, either through formal standards or their widespread use (such as MP3 for audio), and to avoid formats using high compression ratios.

Finally, it should be noted that in the absence of a great deal of experience on the archival preservation of records from Web or Intranet sites, the TCWG determined that it could not provide archivists with standard terms and conditions. The Group observed that the ideal situation would be that the archival record is captured not from a Web site but through the corporate record-keeping system, the approach recommended by the Government of Canada's Information Management Forum (IMF).⁴³ In its guidelines, the TCWG therefore instructs archivists to provide minimum technical specifications for such transfers, developed through consultation with a wide variety of technical advisors both internal and external to the Archives to ensure their viability.⁴⁴

Specifications for Visual and Sound Records

The emphasis in technical specifications for visual and sound records of archival value is on the format for transfer and the containerization of these records. These records exist in a wide variety of physical formats that often indicate their stage in the production process or their technical quality, and many are subject to frequent format changes. Recognizing the potential impact of such rapid and frequent technological change, the TCWG advised archivists to consider three factors when developing the necessary technical specifications for visual and sound records:

- the likelihood that the institution will generate archival visual and sound records in formats not specifically named in the terms and conditions;
- the risk that named formats will become obsolete during the retention period; and

43 "An Approach to Managing Internet and Intranet Information for Long Term Access and Accountability" (Information Management Forum, September 1999) available at <http://www.imforumgi.gc.ca/iapproach2_e.html> (accessed 12 July 2005).

44 TCWG, "Guidelines and Model Text," p. 53.

- the degree of difficulty the institution will face in transferring highly-specific formats for which the institution has little or no media expertise.⁴⁵

Archivists are advised to describe formats in general terms (i.e., *professional format video*), adding specific format names where necessary to create the baseline minimum specifications (i.e., “professional format video [currently Digital Betacam]”).

Unlike paper and electronic records, visual and sound records can often be identified and appraised as non-archival based solely on their physical format.⁴⁶ The section on technical specifications for transfer of visual and sound records of archival value therefore includes a standard list of examples of photographic, documentary art, moving image, and sound recording records considered to be non-archival by virtue of their format that can be inserted into a terms and conditions document.

The final element that affects the technical specifications for visual and sound records is the fact that the majority of these records still reside outside the control of corporate record-keeping systems, and therefore do not have much in the way of existing supporting documentation that would be captured without specific directions to the institution. This is particularly true for documentation relating to the ownership of copyright and other rights that would become legally binding upon the Archives when the records are transferred to its custody, where special care must be taken to preserve the link between the documentation and the individual item. The TCWG document provides detailed example text to allow for the inclusion of terms directing the creation of comprehensive lists, the capture of index and finding aid systems in paper and electronic format, and the preservation of “rights documentation,” either

⁴⁵ Ibid., p. 56.

⁴⁶ This situation stems from what my visual and sound archivist colleague and fellow TCWG member Rosemary Bergeron once referred to as a “Solomon’s choice” with respect to visual and sound records. The archivist, while recognizing that a particular medium (carrier) may hold records of archival value, also understands that the nature of the medium clearly indicates that the record is likely not an original, and thus would not be the best archival record for long-term preservation due to technological concerns about the medium. Many of these issues are similar to those surrounding electronic records, such as readability and the difficulty of obtaining and/or maintaining equipment, or the instability of the physical carrier. As is often the case with the appraisal of paper records, visual and sound archivists must practice risk management when dealing with such media, trusting that the original record, produced by an Office of Primary Interest, will be preserved elsewhere. However, because a risk management assessment can be linked directly to the tangible medium, rather than the content of the record, a standardized list of carriers can be produced as a guideline for archivists to use while conducting appraisals of visual and sound records. It is also important to note that a format may be judged non-archival because the playback equipment is not available in-house or the expense of sending the records to another organization for playback and migration cannot be justified. This bars the acquisition of selected formats, even when the contents are unique.

within archival records identified in Section C, or through the capture of this information through the extraction of key information and the creation of a separate listing.

Conclusion

The Terms and Conditions Work Group has contributed in several important ways to the continual redevelopment of LAC's macro-appraisal methodology. Its terms and conditions guidelines are an essential complement to the theoretical documentation for conducting appraisals, one that strikes a balance among many competing and often contradictory demands from a variety of parties involved in records disposition. Through the codification of several portions of terms and conditions documents, notably the parameters used to define the scope of an authority, the obligations of LAC and the client institution, and the necessary technical specifications for transfer, the TCWG addressed clients' repeated calls for "simplicity" in terms and conditions. At the same time, the TCWG's guidelines preserved the archivist's need for precision in the face of a potentially complex record-keeping environment, particularly one in which records in media other than paper are held.

The development of the Application Guide was also a major innovation within the LAC disposition program. This concept solidifies the status of the records disposition authority and its accompanying terms and conditions as a legal disposition instrument, while providing an effective administrative means to address pragmatic disposition concerns. In effect, the Application Guide is an ongoing interpretation of the RDA. The placement of such a customized mapping tool *outside* the formal RDA places the responsibility for this interpretation squarely back in the hands of the working-level archivist, thus empowering him or her in the management of archival disposition to a degree not seen since the era prior to the implementation of macro-appraisal. This empowerment provides a substantial level of administrative simplification for the records disposition process that, combined with terms and conditions based on function/activity, further ensures the continuing longevity of the records disposition authority, and provides a buffer against many of the effects produced by the ongoing "transitory" subject/function based record-keeping environment.

Since the TCWG developed its guidelines document, several new records disposition authorities have been developed using the new methodology and its model terms and conditions. While it is too soon to have completed a formal review of the effectiveness of these new disposition tools, the feedback from archivists and information managers from those Government of Canada institutions that have been involved in the process has been very favourable. These real-life cases have revealed some questions that will require minor clarification of text, but the foundations of the Group's approach have remained solid.

As with all methodology, there will always be a need to address new and emerging issues related to its application. New types of records, such as Web-based documents and other forms of electronic records, will continue to provide challenges to archivists both in the selection method and the crafting of suitable technical specifications. Records in other media, increasingly brought under formal record-keeping control, may also spur the methodology's refinement to ensure that the requirements related to those records are fully met. Finally, as federal government institutions move more and more into the hoped-for function-based record-keeping systems, both the terms and conditions methodology and its model text will need to be continually updated to address these new situations and ensure their continuing applicability and longevity. In the meantime, through the work of the TCWG, Library and Archives Canada has gone a long way to establish a sound formula for crafting terms and conditions for the transfer of archival records that mirror the functional expression of the appraisal. The end results are powerful tools for archivists that may be applied by many public archives to ensure the acquisition and preservation of archival records in the emerging information age.

