

the artist  
as philanthropist  
strengthening the next generation of  
artist-endowed foundations  
a study of the emerging artist-endowed  
foundation field in the US  
study report supplement 2013  
Executive Summary

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# EXECUTIVE SUMMARY: HIGHLIGHTS OF UPDATED FINDINGS

An artist-endowed foundation is a tax-exempt, private foundation created or endowed by a visual artist, the artist's surviving spouse, or other heirs or beneficiaries to own the artist's assets for use in furthering charitable and educational activities serving a public benefit. Artists' assets derive from art-related activities, as well as other sources unrelated to art. Among assets conveyed to artist-endowed foundations are financial and investment assets, art assets (such as art collections, archives, libraries, and copyrights and intellectual property), real property (such as land, residences, studios, exhibition facilities, and nature preserves), and other types of personal property.

In deploying their assets for public benefit, artist-endowed foundations typically take up roles as one of four functional types: *grantmaking foundation*; *direct charitable activity foundation*, with a chief purpose such as a study center, exhibition program, house museum, artist residency program, art education program, and the like; *comprehensive foundation*, which combines multiple functions; and *estate distribution foundation*, formed without the intention of perpetuity in order to accomplish the posthumous, charitable distribution of an artist's assets. These roles can change over the course of a foundation's life cycle.

## PROJECT OVERVIEW

The Aspen Institute's National Study of Artist-Endowed Foundations is the first research effort focused on the emerging field of private foundations created in the US by visual artists. The Study's mission is to help the next generation of artist-endowed foundations make the most of its donors' generosity in service to a charitable purpose. It aims to do this by filling the significant information gap facing individuals involved in creating and leading new artist-endowed foundations, thereby shortening the steep learning curve inherent in these complex entities and helping to ensure that charitable resources can be spent on charitable purposes, not costly lessons.

The Study's findings were released in November 2010. The two-volume Study Report, *The Artist as Philanthropist: Strengthening the Next Generation of Artist-Endowed Foundations*, is available to view and download at [www.aspeninstitute.org/psi/a-ef-report](http://www.aspeninstitute.org/psi/a-ef-report). Volume 1 of the report provides an overview of the emerging field, its origins, current status, trends, and prospects. Volume 2, a handbook on practice, offers artists, their advisors, and foundation leaders a summary of considerations in forming and operating these organizations and their charitable programs.

Since publication of the Study Report, the artist-endowed foundation field has continued to expand, both the number of foundations identified as well as the aggregate assets held by members of the field. This publication—*Study Report Supplement 2013*—provides information on that growth, analyzes the factors shaping it, and explores its possible ramifications. It does this by updating the Study's initial findings using quantitative data on the scope and scale of the field. The data focus on benchmark years

addressed in the Study's initial findings (1990, 1995, 2000, and 2005) with the addition of 2010, which is the most recent year for which the chief source of data—the annual information return (Form 990-PF) filed yearly by private foundations with the Internal Revenue Service (IRS)—is available currently for the greatest number of foundations. In addition to updating the field's dimensions, this publication highlights several key trends that will shape its growth in the coming years.

## **THE ARTIST-ENDOWED FOUNDATION FIELD: FIELD DIMENSIONS – UPDATED**

### **Universe**

The number of artist-endowed foundations identified to date now totals 363, including the cohort of 261 foundations identified for research purposes initially. This includes extant foundations, as well as those existing previously that subsequently terminated. It does not include foundations in formation that have not yet been added to the public data bases listing private foundations whose tax exemption the IRS has recognized. Of the identified foundations, 2010 financial data were available for analysis on 285. Those without data had terminated prior to 2010, filed initial returns after 2010, or failed to file for the year.

### **Assets**

Artist-endowed foundations reported \$3.48 billion in aggregate assets in 2010, up 44 percent from \$2.42 billion in 2005. Over the 15-year period ending in 2010, assets have increased 360 percent. This compares with the greater foundation universe as a whole, which reported a 17 percent growth in assets for 2005 to 2010 and 184 percent growth for the 15-year period overall.

The great bulk of the growth is in art assets, which now account for a majority of the field's assets—\$1.99 billion (57 percent) out of \$3.48 billion assets overall, up 83 percent from 2005 when art assets of \$1.09 billion represented 45 percent of aggregate assets of \$2.42 billion. The field's liquidity has declined commensurately, with financial assets increasing by only 11 percent and dropping to 38 percent of all assets in 2010 from 49 percent in 2005. Land and building assets remained stable at five percent of all assets.

Alongside the growth in art assets, a majority of the field's assets now are reported as charitable use assets—those used or held for use directly in carrying out a foundation's charitable purposes and, as such, with a value excluded from calculation of the private foundation annual payout requirement. The field's charitable use assets increased 63 percent to \$2.06 billion in 2010 from \$1.26 billion in 2005, rising to 59 percent of all assets from 52 percent. Despite this trend, not all artist-endowed foundations classify art assets as charitable use assets; some consider these investment assets.

Different factors have contributed to the overall growth in the field's art assets. A group of 78 foundations that together reported 99 percent of all art assets saw these assets increase in value \$907.49 million (85 percent) overall between 2005 and 2010. Within this, however, 31 foundations together reported a \$62.94 million decrease in the value of art assets due to grants and sales of art,

while 23 foundations saw a \$641.97 million increase primarily due to donor gifts and bequests, and another 23 foundations reported an increase of \$355.46 million, generally due to appreciation. One foundation reported no change.

Even as the number of foundations reporting art assets increased, rising to 147 in 2010 from 107 in 2005, the percentage of all foundations reporting art assets grew only nominally, to 52 percent from 49 percent. More broadly, the portion of the field reporting art assets, or land and building assets, or art assets in combination with land and building assets, rose to 59 percent in 2010 from 55 percent in 2005.

### **Charitable Disbursements**

Artist-endowed foundations expended \$131.83 million for charitable purposes in 2010, including \$69.99 million (53 percent) in contributions, gifts, and grants, and \$61.83 million (47 percent) in charitable operating and administrative expenses—those that include costs to administer grantmaking programs, as well as conduct direct charitable activities, such as operating artist residency programs, exhibition programs, art education programs, study centers, house museums, and the like. Overall, charitable disbursements increased almost 60 percent between 2005 and 2010. While contributions, gifts, and grants increased 52 percent, charitable operating and administrative expenses grew 69 percent, continuing a trend identified in the Study's initial analysis.

More broadly, total giving by artist-endowed foundations increased 79 percent over the 2000 to 2010 decade, rising to \$69.99 million from \$39.03 million. During the same period, all foundations nationally reported a 66 percent increase in giving and family foundations reported an increase of 82 percent.

### **Grantmaking**

Not all artist-endowed foundations make grants, but the majority does and the proportional profile of this group's giving is similar to that of family foundations. Sixty-nine percent of artist-endowed foundations (197) reported contributions, gifts, and grants in 2010. Of this group, seven percent reported total giving of \$1 million or more while, at the other end of the scale, 48 percent reported total giving of less than \$50,000. In comparison, six percent of family foundations reported total giving of \$1 million or more in 2010 and 49 percent reported total giving of less than \$50,000.

While the field's giving rose 79 percent over the 2000 to 2010 decade, the single highest total grants paid by any one foundation grew 92 percent, to \$12.46 million from \$6.50 million, even as it held steady at just under 20 percent of all giving.

Grantmaking with artworks, typically to museums and educational institutions, continues to represent a distinctive aspect of the field's giving, often as a dimension of activities by estate distribution foundations. The value of art grants varies substantially from year to year. In 2010, three foundations made grants of artworks valued at \$1 million or more.

The focus of the field's grantmaking interest is squarely on the arts and culture, which represents 84 percent of all giving by foundations that reported total giving of \$100,000 or more in 2010. The

remaining 16 percent was dispersed across a range of interests, including: medical research and services, higher education, and human services (almost four percent each); social action, HIV/AIDS research and services, the environment, community improvement, and religious institutions (each about one percent); and historic preservation and animal welfare (less than one percent each).

## **Foundation Status**

Despite the field's growth in numbers, the percentage of the field that reported its status as that of operating foundation remained steady at 25 percent, as it has since 2000, even with evidence that some foundations change status during their life cycle. In the greater foundation universe, nine percent report as operating foundations.

Although they comprise just one-quarter of the field, operating foundations now report a decisive majority of the field's charitable-use assets, rising to 63 percent in 2010 from 53 percent in 2005 and nearly doubling in value to \$1.31 billion from \$672.76 million. Concurrent with this, their share of the field's overall assets increased to 43 percent from 33 percent. While they continued to report the bulk of their charitable purpose disbursements (86 percent) as charitable operating and administrative expenses, they also sustained an involvement in grantmaking, which accounted for 14 percent (\$5.10 million) of their charitable expenditures in 2010. This is consistent with research nationally pointing to a trend of grantmaking by operating foundations generally.

Nonoperating foundations reported a majority of the field's assets overall, but this share dropped to 57 percent in 2010 from 67 percent in 2005. At the same time, they continued to report significant charitable-use assets, rising to \$758.58 million from \$591.92 million, although their share of the field's charitable-use assets overall declined to 37 percent from 47 percent. With grants of \$64.89 million in 2010, nonoperating foundations accounted for the majority of the field's giving (93 percent) and grantmaking dominated their charitable expenditures (69 percent). At the same time, they also continued to report strong charitable operating and administrative expenses, comprising 31 percent of their charitable disbursements. This aligns with recent research nationally finding higher levels of charitable operating and administrative expense for nonoperating foundations with particular operating characteristics, several of which are found among artist-endowed foundations: conducting direct charitable activities, making grants to individuals, and making grants internationally.

## **Foundation Size**

Proportionally, the artist-endowed foundation field has more large foundations and fewer small foundations than is the case among foundations nationally. Continuing a trend, the largest foundations—those reporting assets of \$50 million and above, nearly doubled between 2005 and 2010, increasing to 20 foundations from 12. They now represent seven percent of all foundations. In contrast, just two percent of foundations nationally, as well as of family foundations, report assets of \$50 million or more.

While the smallest foundations—those reporting less than \$1 million in assets—increased 20 percent, rising to 128 from 107, they continued to see their portion of the field decline, dropping to 45 percent

from almost 50 percent. In comparison, 67 percent of foundations nationally, and 62 percent of family foundations, reported assets of less than \$1 million in 2010.

### **Foundation Formation**

Formation of artist-endowed foundations held steady in the past decade, but did not accelerate. One-third of all identified foundations (114 foundations, 32 percent) were formed during 2001 to 2010, down slightly from a high in foundation formation during 1991 to 2000 (121 foundations, 33 percent). The slower growth for this period is consistent with patterns among family foundations and in the greater foundation universe. That said, the two most recent decades saw the creation of two-thirds of all identified foundations.

The trend toward creation of foundations after the death of the associated artist continued, with posthumously formed foundations accounting for 63 percent of all foundations established in the 2001 to 2010 period. This sustains a long-term rise from the 1981 to 1990 period, when 36 percent of foundations were formed posthumously. Foundations established posthumously might be formed under artists' estate plans, or by surviving spouses or other heirs or beneficiaries. At the same time that posthumous formation prevailed, the age of those artists who did create foundations during their lifetimes continued to rise, with an average age of 73 for the 2001 to 2010 period, up from 64 for the 1971 to 1980 period.

Survivorship remains a factor related to motivations in foundation formation. The number of identified foundations reporting at least \$1 million in assets and associated with a deceased artist rose to 126 from 94 in the Study's initial findings. Consistent with prior findings, a majority of these foundations (58 percent) continues to be associated with artists without lineal descendants, although this share is down from 64 percent. In contrast, 42 percent of these foundations are associated with artists who did have lineal descendants, and this share is an increase from 36 percent previously.

### **Foundation Termination**

Continuing a pattern highlighted in the Study's initial findings, not all artist-endowed foundations exist in perpetuity. Across all decades, a total of 57 foundations (16 percent) have terminated to date. Among these are foundations that completed their function as estate distribution foundations and those that transferred assets in full to public charities to sustain operation of their programs. This also includes 15 foundations whose tax-exempt status was revoked by the IRS, in all but one case for failure to file annual information returns; most had been flagged as inactive in the Study's initial findings. Separately, eight foundations converted to public charity status and continued operations.

A closer look at the net effect of foundation formation and termination trends reveals the field's dynamism. While at least one estate distribution foundation that terminated by 2010 had reported \$1 million or more in assets in 2005, another nine foundations reporting \$1 million or more in assets were established after 2005.

## Associated Artists

Although the number of identified foundations has increased, the characteristics of their associated artists have changed little overall. Foundations associated with artists whose primary roles are not in the fine arts—photographers, illustration artists, and designers, including architects—have increased in number, but the majority of foundations (68 percent) continues to be associated with artists that have primary roles in the traditional fine art forms, those of painter and sculptor.

Likewise, the diversity of artists associated with foundations changed little. Foundations associated with female artists, individually or in combination with male artists, increased in number. Nonetheless, foundations associated with male artists (79 percent) continue to represent the bulk of the field. Separately, foundations associated with artists of color increased nominally and as a result, declined to eight percent from nine percent of the field.

Foundations associated with one artist continue to dominate the field (86 percent), although those associated with more than one artist increased in number. A small but growing portion of the field (two percent) is associated with multiple artists of the same gender, these being family members, professional associates, or life partners.

## KEY TRENDS

Art assets now comprise a majority of the field's assets, whereas art assets and financial assets were on par in 2005. Tied to this is a parallel shift, with charitable-use assets, once even with noncharitable-use assets, now in the majority.

The rising portion of the field's charitable purpose disbursements committed to charitable operating and administrative expenses parallels the growth in charitable-use assets, presumably the result at least in part of an increased emphasis on direct charitable activities involving those assets.

The growth in the field's giving is keeping pace with that of the greater foundation universe. The overwhelming focus of artist-endowed foundation giving on the arts and culture continues to be a hallmark of this field. Grantmaking with artworks is one aspect of that focus, particularly as a function of estate distribution foundations.

Larger artist-endowed foundations are increasing as a portion of the overall field and frequently are comprehensive foundations—those with multiple activities, often combining grantmaking with direct charitable activities that deploy charitable-use assets.

The field's dynamism remains evident, with entities forming as private foundations, changing between nonoperating and operating status, terminating, or converting to public charity status. No doubt tied to the growth of the field's art assets, the rise of estate distribution foundations is one dimension of this dynamism.



Artists without lineal descendants continue to account for a majority of the field's larger foundations. This suggests that for a substantial portion of artists creating foundations, estate tax considerations are not likely to be a primary motivation.

Nonetheless, foundations associated with artists survived by children are growing in number and also as a portion of the field, pointing not only to possible estate tax considerations on the part of such artists, but also to the increased potential for involvement by artists' family members in foundation governance.

## LOOKING AHEAD

While the number of artist-endowed foundations will continue to increase steadily, the field as a whole is on the cusp of exponential growth in the scale of its assets. Not reflected in 2010 data are pending bequests to established foundations made by artists deceased in recent years, including Louise Bourgeois, Helen Frankenthaler, Mike Kelley, LeRoy Neiman, Irving Penn, Robert Rauschenberg, Maurice Sendak, Dorothea Tanning, and Cy Twombly, among others. It is reasonable to project that these bequests ultimately could double the size of the field's assets. The potential increase in charitable disbursements and charitable activities that could result is significant.

Foundations' transparency and willingness to educate the public about their processes and programs will be vital in navigating the field's greater visibility resulting from its substantial growth. Likewise, sustaining the field's generous commitment to collegial exchange and peer assistance through networks such as the Council of Artist Foundations will be essential as it welcomes the next generation of foundations.

Foundation governance will continue to be a critical issue, as discussed in the Study's initial findings, particularly with respect to four concerns.

*Public Benefit:* As the number of art collections flowing into the artist-endowed foundation field grows, and the scale of assets classified as charitable-use assets continues to increase, effective realization of the charitable use of such assets, and clear evidence of their benefit to the public, will be ever more important to justify this classification.

*Conflict of Interest:* As more artists who have children consider forming foundations tasked in part to educate about and promote their works, and envision their family heirs in a governance role, a clear understanding of the conflict of interest risks that will result should these family heirs themselves own and sell the artist's works, potentially benefitting economically from the foundation's activities, will be crucial.

*Professional Development:* As the field expands, and greater numbers of individuals find themselves serving for the first time as a member of a foundation's governing body, a commitment to professional development to educate themselves about private foundation governance and regulation will be paramount for these new leaders and for the foundations they steward.

*Diversity:* Although foundations associated with artists who are women have grown in number, there remain few associated with artists of color. It is to be hoped this will change in the coming years. In

the meantime, given its commitment to generative support for the arts in our multicultural society, it will be important for the field as a whole to consider diversity in developing foundation boards and staff and in reaching out to new grantees.

Three trends evident with the emergence of new foundations will shape the field in the coming years.

*Incorporating in New York State:* Foundations increasingly deploy their art assets in direct charitable activities, such as study centers and exhibition programs. Those foundations forming in New York may find that their process of incorporation could fall under the purview of the state's regulatory system for collection-owning charitable organizations, which views such entities as educational institutions (as are museums) and their art assets as educational collections, potentially subject to limits on deaccessioning. Artists generally intend their art in part to be sold by their foundations in order to fund operations and endow charitable programs, intentions potentially at odds with this system.

*Artists' Corporations:* Starting in the 1970s, artists were advised in some cases to incorporate their studio practice, and foundations now are beginning to receive this generation's bequests. As a result, a growing number of foundations find themselves with ownership interest in artists' corporations, even as their governing boards learn about the complicated and expensive nature of this situation arising from limits by law on the business holdings of private foundations.

*Statutory Copyright Termination:* Artists' estate plans increasingly are prepared using will substitutes, such as trusts. On a technical basis, there remain questions as to whether transfer of copyrights by will substitute, as opposed to by will, leaves in place the statutory rights of family heirs to take possession of artists' copyrights at a later date, potentially presenting a challenge for those artists who intend to bequeath their copyrights permanently to a foundation.

From the vantage point of 2013, greater forces are likely to be at play as the field evolves. On the one hand, economic factors might contribute to spurring formation of artist-endowed foundations, including a strong global art market and a rising US stock market. Alternatively, federal tax policies might slow foundation formation, beginning with the newly permanent federal estate tax exclusion of \$5 million per person, with proper planning \$10 million for two spouses generally. Beyond this, with the newly recognized right of married same sex couples to be taxed as spouses, the federal estate tax marital deduction, which potentially can function to delay foundation formation, will extend to a broader universe of artists.

Lastly, although the number and scale of artist-endowed foundations will continue to increase, many artists will opt to use alternatives to the single-artist, private foundation form. This will include artists who choose to establish organizations that will depend on support from the general public and, as such, seek to qualify as public charities; those who forego an intervening mechanism and simply make their bequests directly to museums, educational institutions, and community foundations; and those who seek out opportunities enabling them to combine their bequests with those of other artists to achieve their goals for posthumous philanthropy.

## CONCLUSION

Artist-endowed foundations continue to represent a very small segment of the universe of 76,000 private foundations in the US. Likewise, their aggregate charitable contributions still pale compared to the \$2.3 billion committed to the arts in total by this country's private foundations. But such measures belie the field's potential influence. Despite their seemingly modest position, these distinctively endowed charities are increasing in number, and the focus of their activities holds particular relevance to the visual arts. Together they steward a growing cultural patrimony of modern and contemporary art, and they actively engage the visual arts field through their giving and by direct programs in ways that set them apart from most other private foundations. The updated findings presented here depict a field poised for substantial growth in its charitable resources and philanthropic impact.