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## Digital Project Copyright Status and Risk Assessment Workflow

These guidelines, as well as the workflow and documents discussed, will ensure that you do your due diligence in determining copyright status and risk assessment. UCLA Library Special Collections is responsible for ensuring that professional standards for copyright are evaluated and met. **In following the steps outlined below and in documenting the copyright status of project materials selected for digitization, you will create a safeguard to infringement lawsuits.**

Copyright research and risk assessment begins with the Digital Project Risk Assessment Workflow. The Digital Project Risk Assessment Workflow will take you from the initial digital project proposal to in-depth information gathering to risk evaluation. This workflow also provides possible exit streams for materials that don't require detailed research. [Refer to [Appendix D](#) for a visualization of the workflow, as you review these guidelines.]

The first step in risk assessment is the information-gathering phase. At this stage you will consult the following resources:

- Catalog record, via the [UCLA Library website](#);
- Finding aid on the [Online Archive of California](#), if any;
- Collection folder, which may contain the deed of gift and other helpful contextual information;
- Curator and/or accessioning archivist, if you are unable to find information through any of the former sources.

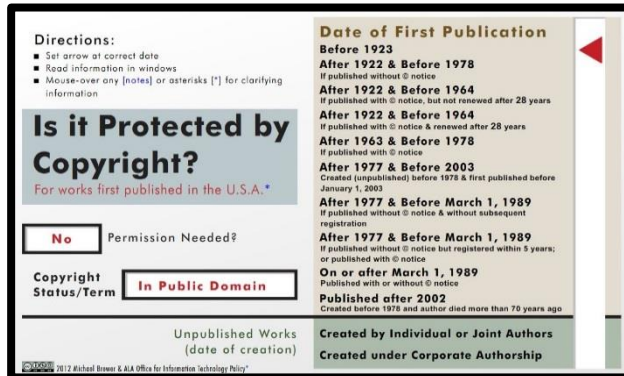
If you need help locating or using any resources, ask your project supervisor for assistance. As you review the information, keep an eye out for creator(s), genre types, date ranges, publication status, and material type (see categories below). During this review, also ensure that you read the deed of gift, if included in the collection folder. At this point, the deed of gift may provide you with an opportunity to immediately exit the workflow and move on to documenting your findings. Look for indications that explicit permission has been given to digitize materials in the collection, materials have been licensed through a Creative Commons license, or copyrights have been transferred to the UC Regents.

After the initial information-gathering phase, determine the material type. Each material type has its own workflow, so this categorization is essential to your assessment. The differentiation of materials by type is based on probable risk level, as well as authorial intent. For example, the records of a corporate body, particularly 20<sup>th</sup> and 21<sup>st</sup> century records, pose a medium- to high-level of risk because of copyright status and the authorial intent of monetary gain.

The material types are:

1. **Books and/or publications**
2. **Anonymous or orphan works**
3. **Records of an organization or corporate body**
4. **Personal papers of an individual or family**
5. **Photographs**
6. **Government records**

7. **Mixed materials**, which are projects that include a mix of the above and below material types. For example, a family's personal papers may include the records of an organization they ran, correspondence with an author that cannot be identified, and books. These papers would be categorized as mixed materials.
8. If any project has **foreign works**, **architectural drawings**, and/or **audio-visual materials**, then consult the project lead and/or your supervisor. These items have difficult-to-determine copyright statuses.



Screenshot of the Digital Copyright Slider, an interactive tool used to determine copyright status/term.

Once the material type has been identified, follow the path of the appropriate material-type workflow. [Note: Each material type has its own workflow visualization in [Appendix D](#).]

For each material type, you will begin your evaluation with the [Digital Copyright Slider](#). At this point in the workflow, there is a possible exit stream. If all of the project's materials are in the public domain, then you will create a brief Risk Assessment Report that indicates "no risk." Using the information obtained during the information-gathering

phase of the workflow, utilize the slider to determine the copyright status or term of a project's materials. To expedite your work, you may pull a sample of materials. The sample size will be relative to the scope of the digital project: the larger the project, the larger the sample size. Variables influencing sample size are date ranges [i.e. contemporary collections may warrant a larger sample size]; genre type [i.e. sample of each type of genre type]; and materials filed under miscellaneous labels or other such

outlier groupings. Ensure that you pull a sample that is representative of the materials proposed for digitization and publication.

## Tips and Tricks

If dealing with a large project, or with materials of varying risk, simplify your work by creating risk assessment reports for each series or sub-series or box/folder. Remember to only evaluate the materials selected for digitization.

If you have materials that come from multiple collections, when completing the Risk Assessment Matrix and the Risk Assessment Report, group materials by their collection number.

If at any time you have questions regarding copyright status and risk evaluation, seek counsel from your project supervisor or a staff member with expertise in intellectual property.

For **books and/or publications** and **anonymous or orphan works**, you will create a Risk Assessment Report using research culled during the information-gathering phase. You will also provide the copyright status of the item(s) and an evaluation of risk. [See the next section for a more detailed explanation of the Risk Assessment Report.]

The same approach may be followed for **personal papers**, but only if the materials' original purpose was personal in nature. For example, personal correspondence serves as communication between two or more people. There is no commercial intent in this use, and it is more likely that the publication

of this type of material will not deprive the copyright owner of income. If this is the case for all of the project's materials, then you may proceed to the Risk Assessment Report.

However, if, for example, the papers belong to an author, who has registered copyrights in the past or has generally created materials for commercial gain, then you should proceed with caution and exercise due diligence in conducting further copyright research. In such cases, you will fill out the Risk Assessment Matrix, which is described in the following section, and a Risk Assessment Report.

The workflow for **organization or corporate body records, photographs, government records, and mixed materials** will move from the analysis using the [Digital Copyright Slider](#) to the Risk Assessment Matrix to the Risk Assessment Report. Again, information about Risk Assessment Matrix and Report is given in the following sections.

## Risk Assessment Matrix

The matrix is an Excel spreadsheet tool that allows you to identify specific information that will help you determine copyright status and assess risk in digitizing and publishing a collection, series, subseries, folder, or item online. The Risk Assessment Matrix will primarily be used when engaging in analysis of the following material types: records of an organization or corporate body, personal papers, photographs, government records, and mixed materials. The matrix will be used later to draft a Risk Assessment Report, an assessment of risk involved in publishing archival material in an online environment.

You will fill out each matrix row for either an item or folder. It is not imperative to fill out each field for an item/folder; however, it is beneficial to enter values for the majority of the fields, especially publication status, author, date created/published, format type, and, if published, copyright notice.

There are two author types to consider. Depending on the author type, you may be able to bypass the Risk Assessment Matrix. These author types are the **homogenous** author type (one author) and the **heterogeneous** author type (more than one author).

For projects with a **homogenous** author type, copyright risk can be much more easily identified. Consult the collection folder, the deed of gift, finding aid, and catalog record to develop a Risk Assessment Report. You may bypass the Risk Assessment Matrix.

For projects with a **heterogeneous** author type, copyright risk is much higher. Performing research on each individual creator within a collection will be time-consuming and difficult. However, the following methodology will allow for addressing risk in a much more efficient manner.

1. To determine whether a collection has a homogeneous or heterogeneous creator type, consult the notes you collected during the information-gathering phase of the Digital Project Risk Assessment Workflow. If necessary, conduct another review of the collection folder, deed of gift, finding aid, and catalog record. If these resources don't exist or are sparse, consult the curator or accessioning archivist for additional data.

2. If the collection has a homogeneous author type, bypass the Risk Assessment Matrix, and create a Risk Assessment Report of your findings.
3. If the collection has a heterogeneous author type, utilize the Risk Assessment Matrix to conduct additional research of the materials under consideration.
  - a. Examine a sample of the project's materials to help develop a sense of the copyright risk. Again, the sample size will be relative to the scope of the digital project: the larger the project, the larger the sample size. Variables influencing sample size are date ranges [i.e. contemporary collections may warrant a larger sample size]; genre type [i.e. sample of each type of genre type]; and materials filed under miscellaneous labels or other such outlier groupings. Ensure that you pull a sample that is representative of the materials proposed for digitization and publication.
  - b. As you sample the project's materials, fill out the Risk Assessment Matrix. As mentioned above, try to fill out as many of the fields as is efficiently possible. Fill out column R with any extraneous notes, such as those relating to the questions in the text box below. Information relating to these questions may be found through the resources utilized during the information-gathering phase, as well as Google, [Ancestry](#), and the [WATCH File](#).

Who is the current copyright holder?

If the creator is an organization—has the organization dissolved? If so, what were the dates of dissolution?  
Has it been acquired by another organization?

What resources did you use to find this information?

4. After you finish your review of a folder, go back and fill out column S with the copyright status determination and column T with the risk evaluation.
5. Compile findings into a Risk Assessment Report.

### Analyzing Photographs

It may prove difficult to determine the owners and status of some items. Photographs, for example, can fall into numerous categories: originals, reproductions, works made-for-hire, photos that identify the printing studio but not the photographer, etc. When gathering information about photographs, keep the following questions at the forefront of your mind:

1. Who is the photographer?
2. Was the photograph a work-for-hire?
3. Was the primary use of the photograph for personal reasons, i.e. family photographs, or for publication and/or monetary gain?
4. If dealing with a group of photographs, do they have the same provenance? Or were they amalgamated for a specific reason? For example, individuals may collect thematically similar photographs for research or publication purposes.
5. Is the photograph attributed to an author, photography studio, publisher, or collector? These attributions may help you trace the lineage of the photograph, in order to find the copyright owner.
6. Is the photograph a reproduction or an original?

If you cannot answer these questions, ask a staff member to help you figure it out. There may be a staff member who has worked closely with the collection/materials in question or the donor of said collection/materials.

It is important to record any information you consider significant or anomalous in the Risk Assessment Matrix and the Risk Assessment Report. Attributions are especially important to note as they actuate the need for even greater diligence. Attributions may hinder the identification of a photograph's copyright status. For example, if the photograph has the name of an individual, it may prove difficult to determine the individual's relation to the photograph. The individual could be the photographer, publisher, or collector.

Utilize all of the information that you've gathered to make an informed decision of copyright status and risk. Your research, which will be compiled in a Risk Assessment Report, will undergo review to ensure that you've made a sound judgment call.

## Risk Assessment Report

For each digital project, you will draft at least one report of risk. For larger projects, you will likely draft more than one. For example, if your project includes the digitization of materials from multiple collections, you may want to draft a report for each of the collections. Another example is mass digitization projects for a single collection. For collection such as those, it is helpful to create reports for each digitization batch, series, subseries, or folder. It is up to you and your supervisor or project lead to decide how to break up these reports into manageable batches.

The report is a compilation of the information accumulated either during the information-gathering phase of the workflow or for the Risk Assessment Matrix. This report will become part of the records of the project, as well as the individual collection's collection file.

Using the template, fill out each category of the Risk Assessment Report to the best of your ability. [See [Appendix E](#) for the template.] Evaluate the project using the following risk rubric, and use the criteria to determine which category best suits your findings.

<p>High risk</p> <ul style="list-style-type: none"> <li>▪ Author has or has a high public profile;</li> <li>▪ Creator is alive or has a literary estate and is known to actively defend copyrights;</li> <li>▪ Material appears to have been published/broadcasted, and/or prepared for commercial gain rather than to advance academic knowledge or in a not-for profit environment.</li> </ul>	<p>Low risk</p> <ul style="list-style-type: none"> <li>▪ Most of the items are in the public domain;</li> <li>▪ Materials include some orphan works;</li> <li>▪ Creator is dead, has no literary estate, and materials were created with academic and/or personal intent;</li> <li>▪ Deed of gift allows for digitization and/or assigns copyrights to the UC Regents and the project <b>DOES</b> include items with 3<sup>rd</sup> party copyrights.</li> </ul>
<p>Medium risk</p> <ul style="list-style-type: none"> <li>▪ Creator is alive, but materials were created with academic and/or personal intent;</li> <li>▪ Materials include mostly orphan works;</li> <li>▪ Materials were created by local and state governmental agencies.</li> </ul>	<p>No risk</p> <ul style="list-style-type: none"> <li>▪ All of the items are in the public domain;</li> <li>▪ Deed of gift allows for digitization and/or assigns copyrights to the UC Regents and the project <b>DOES NOT</b> include items with 3<sup>rd</sup> party copyrights.</li> </ul>

Post your final draft on Confluence, where it will be reviewed and approved by the project lead and staff with expertise in intellectual property, both of whom will provide notes and recommendations for how to proceed. Examples of recommendations include:

Additional research needed	Further information is required for the report reviewers to evaluate and confirm risk level. Specific directions will be provided in the report's feedback.
Permissions letter(s)	A cover letter that provides information about the project, a list of proposed items to be published, and a Copyright Permission Agreement to be reviewed and signed by the copyright holder.
Fair use statement	Provides evidence of fair use in digitizing and publishing copyrighted materials based on the four factors of fair use, as well as best practice guidelines for fair use, developed by specific cultural heritage communities. [See <a href="#">Appendix F</a> for more information about when the Fair Use Statement is used and how to fill out the document.]
Move project to the Digital Project Holding Stage	Project is unable to move forward in the digital projects pipeline due to high copyright risk.
Print report and add to the project's collection folder	The report has been reviewed and no additional information is needed. A copy of the report is placed in the project's collection folder, as well as the individual collection's collection folder, to document that risk assessment was undertaken for the digital project.



## Appendix A: Definitions

Copyright	A right given to an author to reproduce, use [in performance, recording, etc.], and license the work he or she created. Copyright can only exist in works fixed in a tangible medium of expression, such as paper, DVDs, hard drives, etc. The majority of materials physically held by Library Special Collections are under copyright.
Copyright registration	Formal registration of one's copyright provides additional proof of copyright owners and aids in the event of a legal claim or infringement case. American authors register their copyrights with the U.S. Copyright Office. Copyright terms for registered works are outlined in Peter Hirtle's <a href="#">Copyright Term and the Public Domain in the U.S.</a> chart.
Copyright renewal	Pertains only to published works. A process to extend one's copyright protection for a second term for works published before 1964. Copyright terms for renewed works are outlined in Peter Hirtle's <a href="#">Copyright Term and the Public Domain in the U.S.</a> chart.
Copyright notice	Pertains only to published works. A statement of an individual's copyright ownership, such as "This work is copyrighted by...." A copyright notice may also take the form of the © symbol, followed by the author's name and date.
Creative Commons [CC] license	Authors may assign their rights via a Creative Commons license. This allows users to more freely engage with copyrighted works and takes shape in varied ways, depending on the rights granted by the author. The baseline right given to users is the right to distribute the copyrighted work worldwide, without changes and at no charge. Other rights articulated by the CC licenses include attribution, share-alike, non-commercial use of work, etc. More information about CC licenses may be found here: <a href="http://creativecommons.org">http://creativecommons.org</a> .
Deed of gift	A formal agreement between the donor and Library Special Collections that transfers ownership in physical materials to LSC. Sometimes deeds of gift include a transfer of intellectual property ownership or permission to use materials in specific ways, such as digitization. For auditing purposes, deeds of gift are required for all LSC donations.
Orphan work	A work, whose current copyright holder cannot be identified or located, used specifically in regards to obtaining copyright permission.

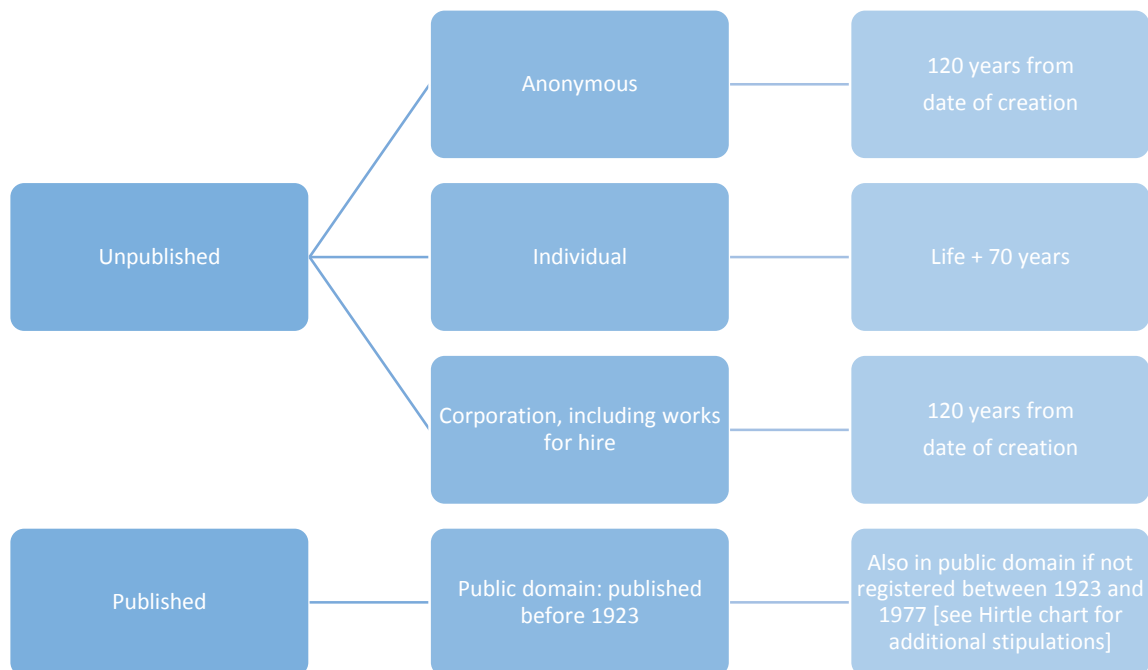
Public domain	Works in the public domain are not subject to copyright and belong and have been made available to the public, in order to be freely reproduced and incorporated into new works. Works enter into the public domain when its copyright status expires; copyright has been forfeited by the author or donated to the public through a CC license; or if the work is not copyrightable, as is the case with works created by the U.S. federal government, though there are a few exceptions. Works can also enter into the public domain if the works were published either without a copyright notice or with a notice but without renewal, during periods of time when a copyright notice and renewal was required. [Tools listed in <a href="#">Appendix B</a> will aid in your determination of public domain status.]
Published	A work is published if it has been made available to the public at large.
Works made for hire	These are works created by an individual during the course of his/her employment or on behalf of a client, such as a contract worker or works created on commission.

## Appendix B: Selected Bibliography on Copyright

Category	Site	Description
Copyright owners, heirs, and contacts	<a href="#">Ancestry Library Edition</a> <a href="#">Ancestry.com</a>	A collection of family history research databases, including U.S. Federal Census images from 1790 to 1930
	<a href="#">WATCH File</a>	A searchable database of copyright contacts for writers, artists, and prominent figures in other creative fields
Copyright registration	<a href="#">Catalog of Copyright Entries</a>	A full library allowing you to view or search through copies of all scanned volumes of pre-1978 Catalog of Copyright Entries
	<a href="#">U.S. Copyright Office</a>	A searchable database of works registered and documents recorded by the U.S. Copyright Office since January 1, 1978
Copyright renewal	<a href="#">Stanford Copyright Renewal Database</a>	A searchable database of copyright renewal records received by the U.S. Copyright Office between 1950 and 1992 for books published in the U.S. between 1923 and 1963
Copyright terms	<a href="#">Copyright Term and the Public Domain in the U.S.</a>	A table of copyright terms and public domain statuses for published and unpublished materials [Developed by Peter Hirtle]
	<a href="#">Digital Copyright Slider</a>	An interactive tool to help determine copyright status and terms for published and unpublished materials [Developed by Michael Brewer and the ALA Office for Information Technology Policy]
	<a href="#">State Copyright Categories</a>	A project that provides information about state government copyright status [Developed by the authors of the Free State Government Information Project; currently incomplete]
Fair use	<a href="#">Measuring Fair Use: The Four Factors</a>	Factors used in fair use determinations [Developed by Stanford University Libraries]
	<a href="#">Code of Best Practices in Fair Use for Academic and Research Libraries</a>	Best practices for determining fair usage of materials within the context of library functions and services [Developed by the Association of Research Libraries]

	<a href="#">Copyright and Fair Use</a>	Best practices for determining fair usage for dance-related materials [Developed by the Dance Heritage Coalition]
	<a href="#">Documentary Filmmakers' Statement of Best Practices in Fair Use</a>	Best practices for determining fair usage of materials within the context of documentary filmmaking [Developed in collaboration by the Association of Independent Video and Filmmakers, Independent Feature Project, International Documentary Association, National Alliance for Media Arts and Culture, and Women in Film and Video, Washington, D.C., Chapter]
	<a href="#">Statement on the Fair Use of Images for Teaching, Research, and Study</a>	Best practices for determining fair usage of visual resources, specifically within the context of teaching, research, and study [Developed by the Visual Resources Association]
Orphan works	<a href="#">Orphan Works: Statement of Best Practices</a>	Best practices for assessing and working with orphan works [Developed by the Society of American Archivists]
Public domain	<a href="#">Public Domain Sherpa</a>	A website that provides information about finding and using public domain material created in the U.S.

## Appendix C: Copyright Status At-A-Glance

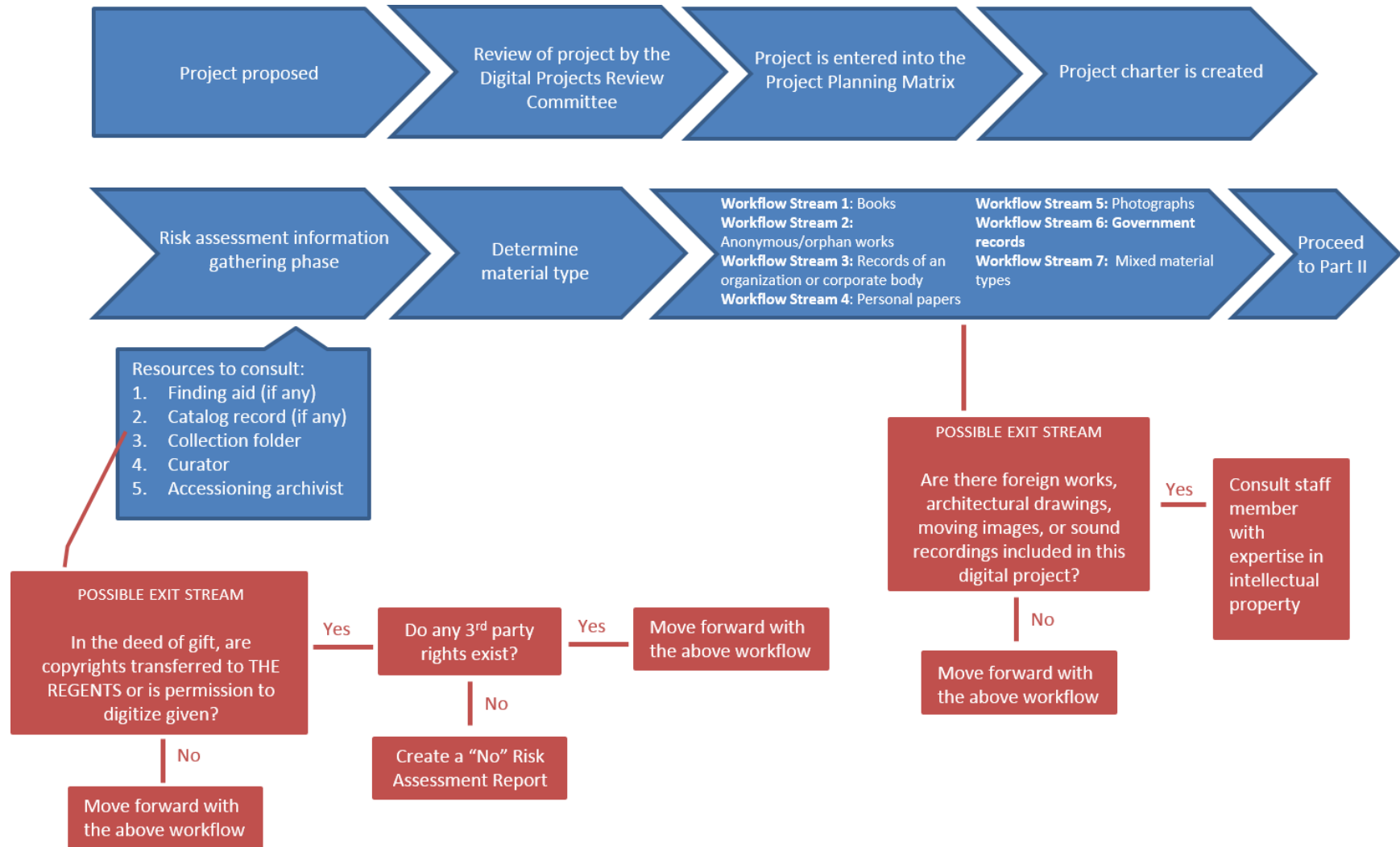


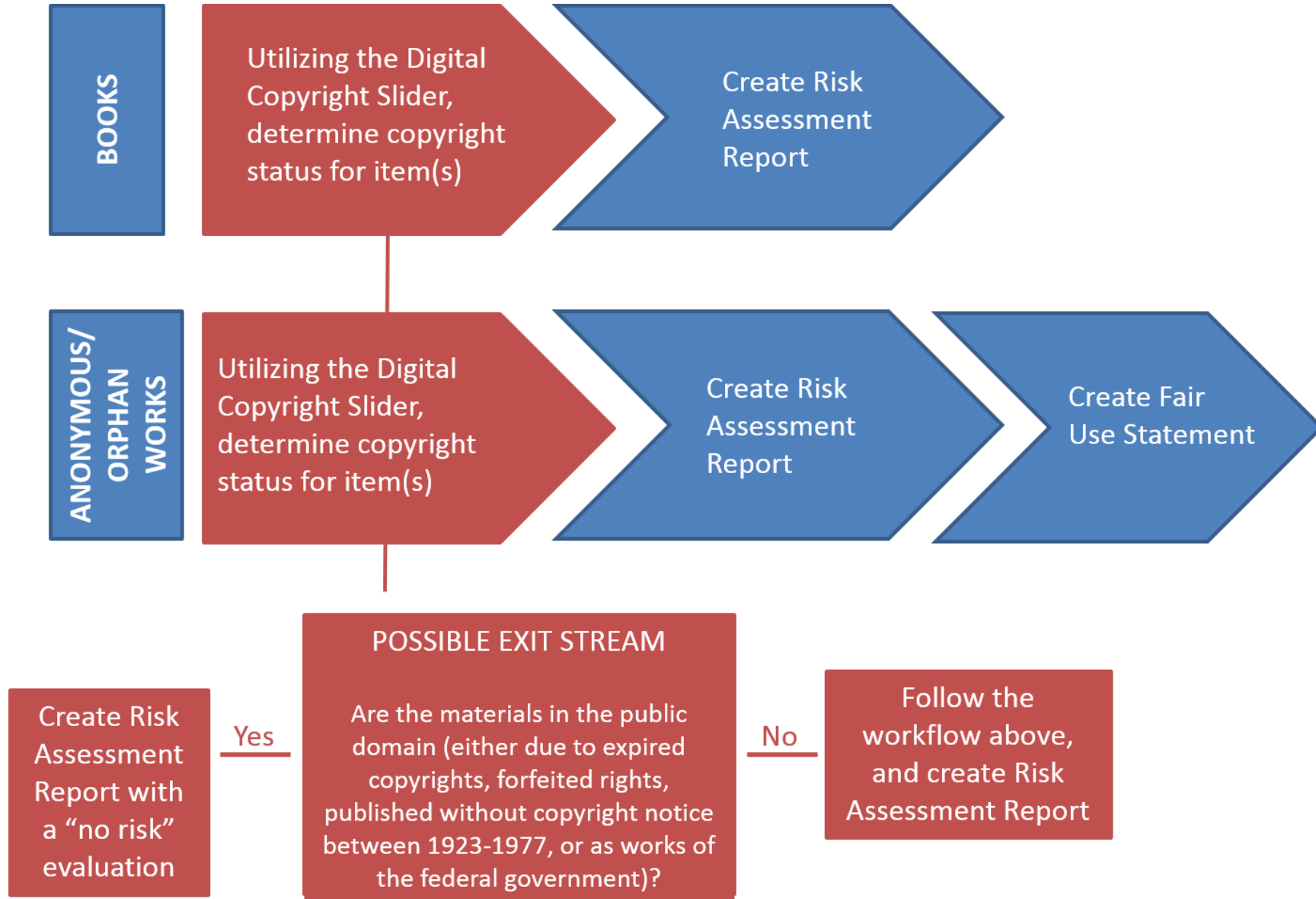
This chart provides a basic outline of copyright terms. However, copyright terms may be nuanced, depending on the type of material, the date the item was published, and specific conditions of registration and renewal, etc. Therefore, you will be utilizing two tools to help you determine copyright status and term. These tools are the [Digital Copyright Slider](#), developed by Michael Brewer and the American Library Association’s Office for Information Technology Policy, and [Copyright Term and the Public Domain in the U.S.](#), developed by Peter Hirtle.

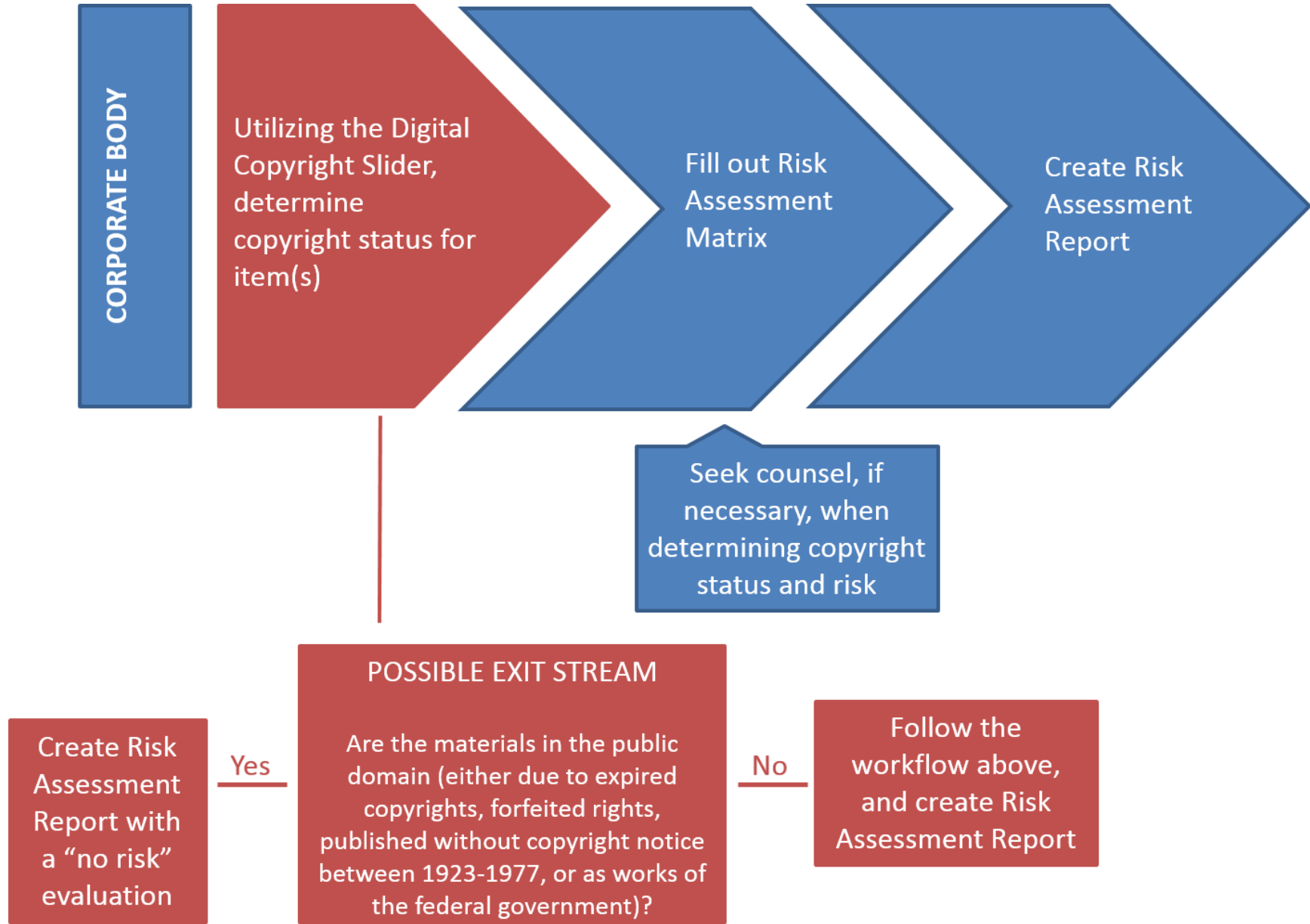
### Copyright for Government Documents and Publications

- Most federal government works are not copyrightable, though there are some exceptions: works produced by contractors, copyrights that are transferred to the federal government, and exempt agencies, such as the U.S. Postal Service.
- Official acts, laws, or ordinances of federal, state, and local authorities cannot be copyrighted and are in the public domain.
- Copyright varies from state-to-state and locality-to-locality. This means that publications and records of state and local governments may not be in the public domain, except for those listed in the above bullet point. With state and local government records, the approach with the least risk is treating them as copyrighted documents.

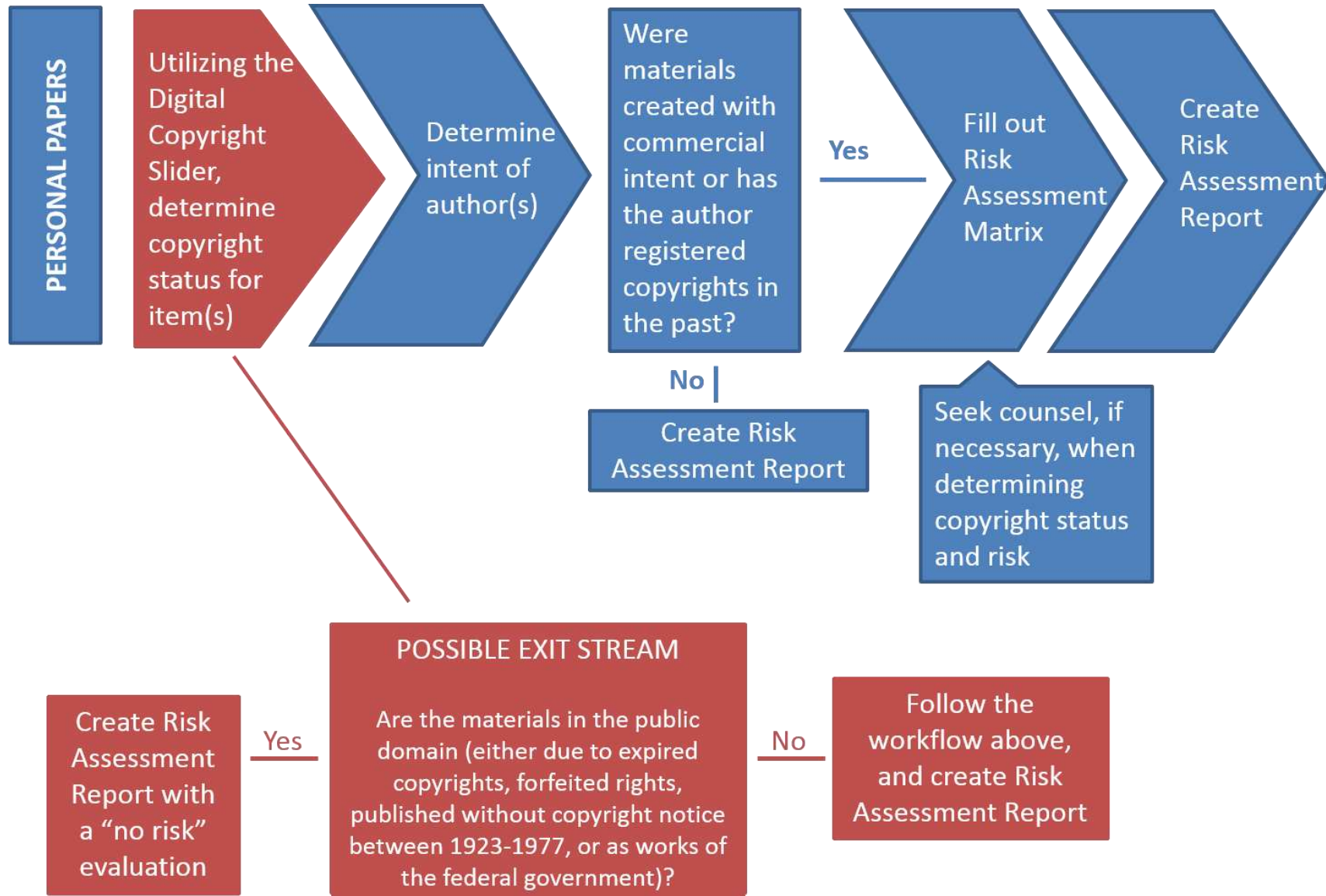
## Appendix D: Risk Assessment Workflow Chart

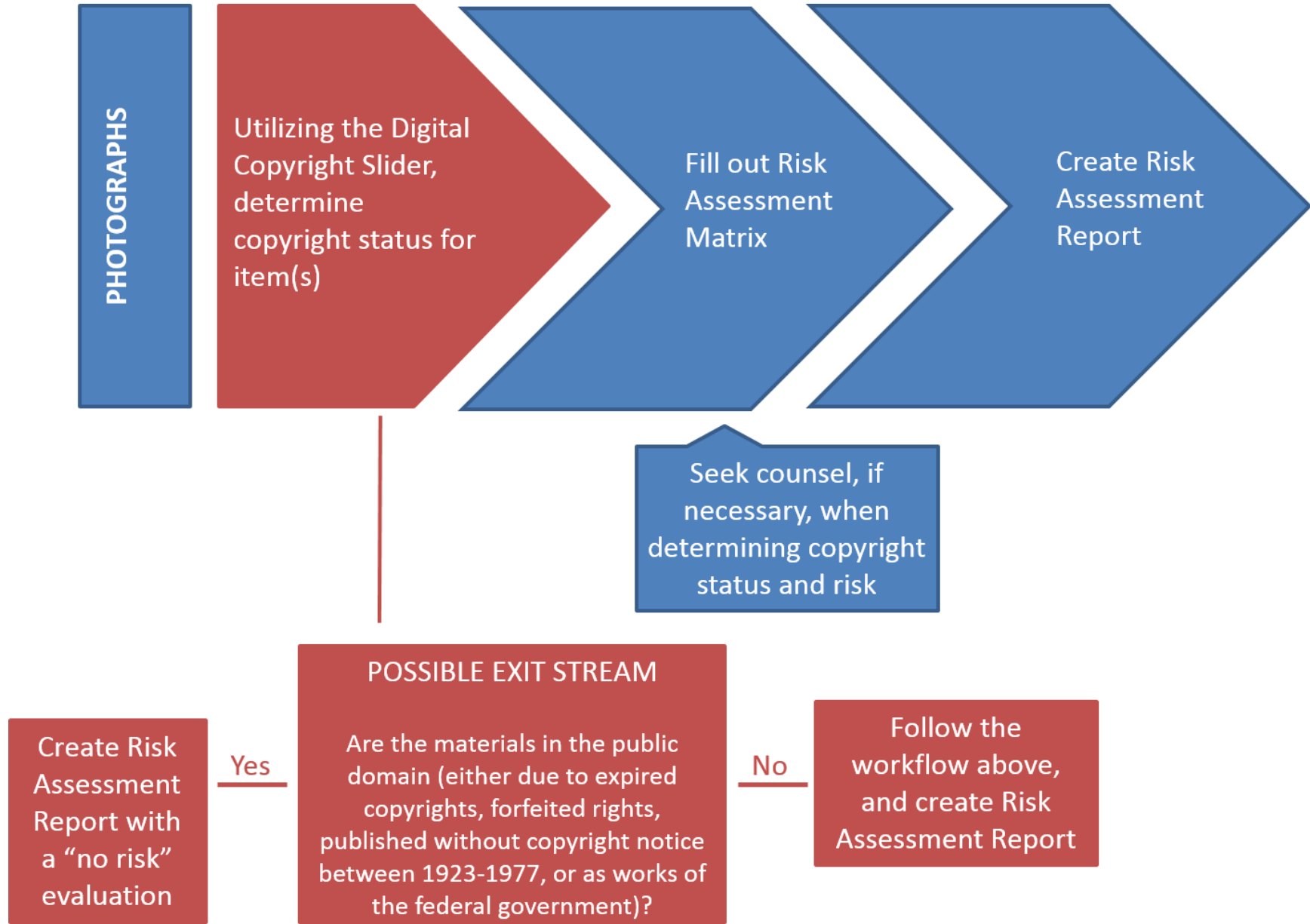


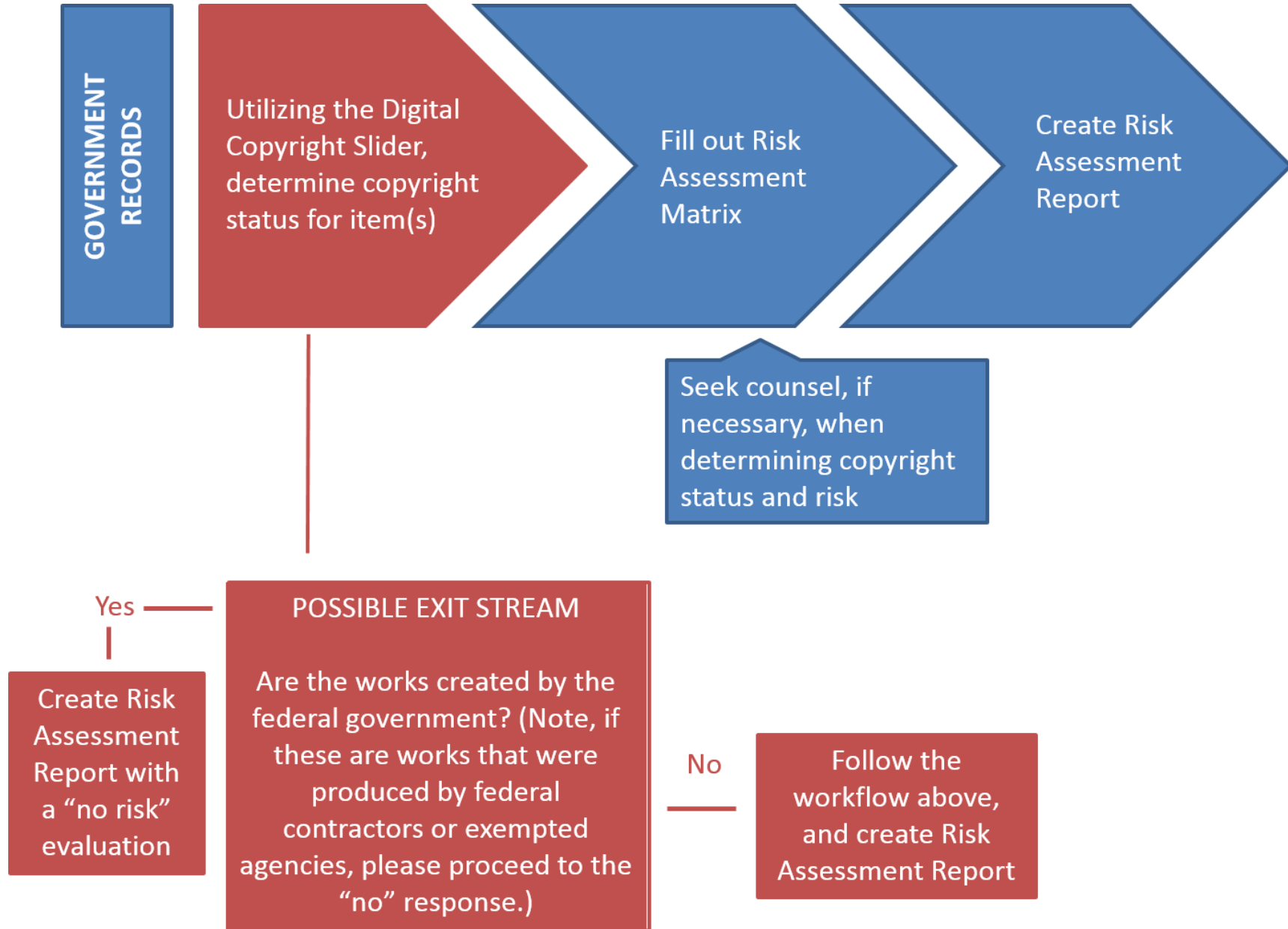


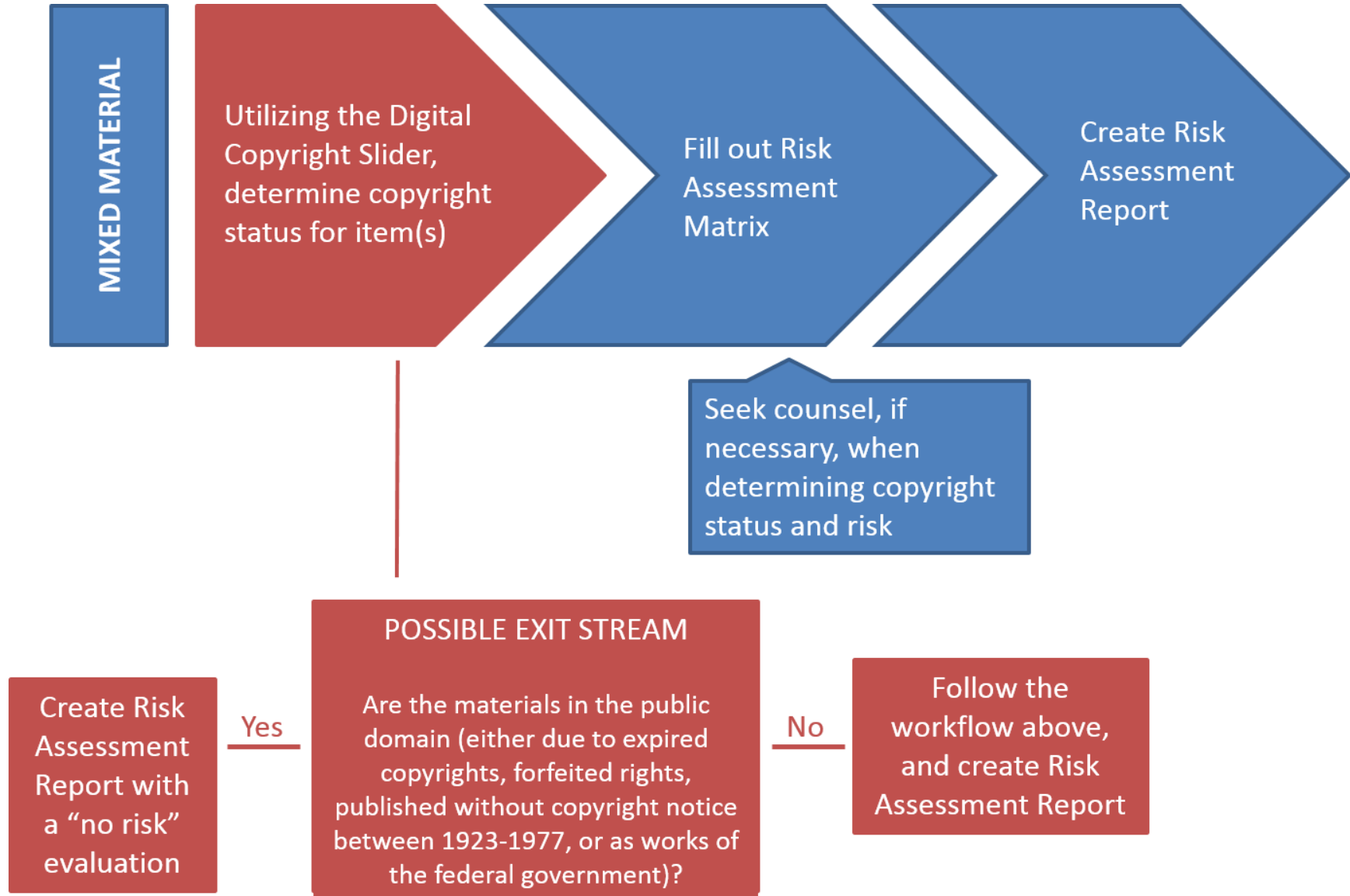












## Appendix E: Risk Assessment Report Template

### [Collection Name]: Risk Assessment Report

Collection	[Repository], [Collection number], [Collection title]
Description	Brief scope and content of the materials proposed to be digitized. Include notes on any significant identification marks on items.
Division	The [collection name] is part of [division name].
Note	<p>Answer the following questions:</p> <ul style="list-style-type: none"> <li>▪ How many items of folders from the collection will be scanned for this project?</li> <li>▪ How many items were sampled when filling out the Risk Assessment Matrix and Report?</li> <li>▪ Were the items that were evaluated a representative sample of the different material types in the digital project?</li> </ul> <p>Also include any anomalous information about the collection. For example, "Collection 99 is a collection of miscellaneous photographs grouped by general subject."</p>
Research	<p>Information about the author(s) or current copyright holder, including information about research conducted to find the creator and heirs, if such research was conducted.</p> <p>Also include information about the material(s), such as date(s) of creation and/or publication. [If there is no discernable date, then provide an estimated guess.]</p> <p>Include pertinent information from the deed of gift or collection file that is relevant to the evaluation of risk, as well as the copyright status of the material(s), e.g. copyrighted, orphan work, public domain.</p>
Evaluation	High, medium, low, or no risk [refer to the Risk Assessment Guidelines for criteria]

<p>Have you done your due diligence and checked the:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Collection file</li> <li><input type="checkbox"/> Deed of gift</li> <li><input type="checkbox"/> Ancestry database</li> <li><input type="checkbox"/> HRC WATCH and FOB File</li> <li><input type="checkbox"/> Google [cursory search]</li> </ul>	<p>Does this selection contain:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Published material(s)</li> <li><input type="checkbox"/> Unpublished material(s)</li> <li><input type="checkbox"/> Copyrighted material(s)</li> <li><input type="checkbox"/> Orphan work(s)</li> <li><input type="checkbox"/> Material(s) in the public domain</li> <li><input type="checkbox"/> Material(s) licensed under Creative Commons</li> <li><input type="checkbox"/> Material(s) with copyrights transferred to the UC Regents</li> </ul>
<p>Recommendations</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Additional research needed</li> <li><input type="checkbox"/> Draft permissions letter</li> <li><input type="checkbox"/> Draft fair use statement</li> <li><input type="checkbox"/> Move project to Digital Project Holding Stage</li> </ul>	<p>Actions</p> <p>Drafted by _____   [date]</p> <p>Reviewed by _____   [date]</p> <p>Approved by _____   [date]</p> <p><input type="checkbox"/> Print report and add to the collection folder</p>

## Appendix F: Fair Use Statement Template

### [Project Name] Fair Use Statement

The fair use statement should be utilized when recommended as a course of action, based on the evaluation given to the proposed digital project materials in a risk assessment report or when developing a digital scholarship project that includes copyrighted or orphan works. This statement provides evidence of fair use in digitizing and publishing copyrighted materials based on the four factors of fair use, as well as best practice guidelines for fair use, developed by specific cultural heritage communities. Materials that could be considered in a fair use statement include orphan works and those materials evaluated as low or medium risk.

Collection description	Brief description of the collection—including the collection title and collection number—or publication under consideration. Include a link to the risk assessment report here, if any. [Fair use statements may be created for digital scholarship projects, which do not require a risk assessment report.]
Description of the proposed fair use items	Provide a thorough description for items to be considered for the fair use designation, including publisher and/or creator information, genre types, dates, copyright status(es). Please note that the items described here may be a subset of those sampled in the risk assessment report.
Description of how the proposed fair use items will be used	Describe where the proposed items will be published, i.e. online exhibition, thematically curated platform, digital textbook, digital scholarship project, etc. Also describe how the publication/platform will be used.

### Four Factors of Fair Use<sup>1</sup>

How does use of the materials fall under the four factors of fair use? Complete the following checklist and questionnaire, as prompted below.

#### I. Purpose and Character of Use [The Transformative Factor]

Favoring Fair Use	Disfavoring Fair Use
<input type="checkbox"/> Educational [i.e. teaching, research, scholarship, criticism, comment]	<input type="checkbox"/> Commercial or entertainment use
<input type="checkbox"/> Transformative use [i.e. work differs from the original presentation or is transformed to serve a new purpose]	<input type="checkbox"/> Non-transformative or exact replica of work for original purpose
<input type="checkbox"/> Non-commercial use	<input type="checkbox"/> For-profit use

<sup>1</sup> The Four Factors of Fair Use checklist has been modified from Cornell University's [Checklist for Conducting Fair Use Analysis before Using Copyrighted Materials](#).

Briefly describe the transformative nature of the piece. Use these questions, derived from the Stanford University Libraries resource, [Measuring Fair Use: The Four Factors](#), to guide your explanation:

- Has new expression or meaning been added to the original work(s)?
- Have there been any modifications made to the work(s)? If so, what?
- How is *value* being added to the original work(s)?
- How is the current use of the material markedly different from the use, for which it was originally created?

## II. Nature of Copyrighted Work(s)

Favoring Fair Use	Disfavoring Fair Use
<input type="checkbox"/> Factual	<input type="checkbox"/> Creative
<input type="checkbox"/> Published	<input type="checkbox"/> Unpublished

Provide context to the items under consideration and answer the following questions:

- Why do you consider this to be factual or creative work(s)?
- What illustrates that the works are published or unpublished?

Also describe the contribution of these works to the greater whole of the project.

- Why are these specific works important to include in this project?
- Does the nature of the copyrighted work add in any significant way to the project?

## III. Amount and Substantiality of the Portion of the Work Used

Favoring Fair Use	Disfavoring Fair Use
<input type="checkbox"/> Small quantity	<input type="checkbox"/> Large portion or entire work
<input type="checkbox"/> Portion used is not central to the whole of the work	<input type="checkbox"/> Portion used is central to the work
<input type="checkbox"/> Amount is appropriate for education purposes	<input type="checkbox"/> Includes more than is necessary for education purposes

Explain why the amount of the work(s) used is required for the project. How does the amount used relate to the transformative use? [Note: It is generally more favorable to use only the amount needed for transformative use and no more than that.]

## IV. Effect of the Use on the Potential Market for the Work

Favoring Fair Use	Disfavoring Fair Use
<input type="checkbox"/> No significant effect on the market or potential market of the work(s)	<input type="checkbox"/> Major effect on the market or potential market of the work(s)



<input type="checkbox"/> One or few copies will be distributed	<input type="checkbox"/> Numerous copies will be distributed
<input type="checkbox"/> No longer in print	<input type="checkbox"/> Able to obtain permission to use work(s)
<input type="checkbox"/> Restricted access to the work(s) [e.g. restricted to UCLA IP]	<input type="checkbox"/> Will be making it publicly available on the Web
<input type="checkbox"/> One-time use	<input type="checkbox"/> Repeated or long-term use

Explain why use of the work(s) is important to the project, either in spite of selecting factors disfavoring fair use or in bolstering the argument for fair use. If the items under consideration are orphans, indicate it here and include a statement, such as the following: “In the risk assessment report, X item was found to be an orphan work, therefore the effect on the market is low.”

## Additional Support for Fair Use Argument

If additional support is needed with regard to the fair use nature of usage, please provide it here. Feel free to use best practices that speak to the nature of material, i.e. using the Dance Heritage Coalition’s [Copyright and Fair Use](#) for dance-related or performing arts materials or the Visual Resources Association’s [Statement on the Fair Use of Images for Teaching, Research, and Study](#) for visual resources. Use the template below to develop your argument.

Applied fair use principles	<p>Provide the following statement, indicating which fair use principles—from the Association of Research Libraries, Dance Heritage Coalition, Visual Resources Association, or other association’s best practice guidelines—apply to your case:</p> <p>“In the context of the [title of the best practices statement], specifically Principles [X] and [Y, if any], an argument of fair use can be made for these proposed items.</p>	
Fair use documentation	Description	Argument
Principle [number]	List the principle given in the best practices that you are using.	N/A
Limitations [if any] <sup>2</sup>	List the limitations given in the best practice guidelines that you are using.	Provide evidence of how the limitations of this principle will be mitigated.
Enhancements [if any]	List the enhancements given in the best practice guidelines that you are using.	Provide evidence of how the enhancements of this principle will be met.

<sup>2</sup> The last two fields of this table will change based on what is used in the best practices guidelines. For example, the Association for Research Libraries’ guidelines provides *limitations* and *enhancements* for each principle,

Drafted by \_\_\_\_\_ | [date]

Reviewed by \_\_\_\_\_ | [date]

Approved by \_\_\_\_\_ | [date]

☐ Print statement and add to the collection folder

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whereas the Visual Resources Association's guidelines provide *suggestions* for each principle. Amend this field based on the best practice guidelines that you are utilizing.