

FINE ARTS POLICIES AND PROCEDURES

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Executive Summary

The Fine Arts Policies and Procedures is intended to be a guide and a resource for U.S. General Services Administration (GSA) staff who are involved in the care of the Fine Arts Collection, at the national, regional, and field levels.

This document is a compilation of best practices for the care of artworks, directives from the Office of the Inspector General's 1994 audit of the Public Buildings Service (PBS), and applicable Federal laws.

1. Introduction includes information on the goals, responsibilities, and roles of Fine Arts Program staff in Central Office and the regional offices.

2. The Collection defines the scope of the Fine Arts Collection and how artwork is accessioned (brought into the collection) and deaccessioned (removed from the collection).

3. Use of Artworks details: GSA's commitment to install artworks permanently; criteria for relocating artworks; the requirement for public access; occasions for temporary installation; loan procedures; and how and when images of artworks in the collection can be reproduced.

4. Care of the Collection explains: the cyclic maintenance as well as the conservation of artworks; the review that must occur when public spaces in GSA-owned buildings are altered or other artwork is placed in those spaces; the importance of providing information about artworks to employees and the public; procedures for incorporating artwork in each region's Continuity of Operations Plan (COOP).

Appendices provide greater detail, background, and legal opinions related to the Fine Arts Collection.

NOTE: The Fine Arts Desk Guide is a companion to the Policies and Procedures. The Desk Guide contains sample forms, step-by-step instructions for common activities, and guidance on issues not directly covered by the policy.

1. Introduction

1.1. Mission and Vision Statements

1.1.1. Fine Arts Program Mission

The Fine Arts Program provides national leadership and expertise in fine art care, policy, and project management for the U.S. General Services Administration (GSA) Fine Arts Collection. The program seeks to manage the Fine Arts Collection at the highest ethical and stewardship standards; to ensure the preservation, legal compliance, accessibility, and understanding of the Fine Arts Collection; and to contribute to high-quality Federal buildings for Federal employees and the public they serve.

1.1.2. Vision

By preserving the legacy of Federal works of art, the Fine Arts Program ensures access to cultural heritage, fosters an appreciation of the importance of creative freedom, and inspires future generations to add their expressions to American democracy.

1.2. Adherence to Ethical Standards

In all practices and procedures, the Fine Arts Program seeks to uphold the rigorous ethical codes established by the American Alliance of Museums (AAM) (www.aam-us.org), the International Council of Museums (ICOM) (<http://icom.museum/>), and the American Institute for the Conservation of Historic and Artistic Works (AIC) (<http://www.conservation-us.org/>).

1.3. The Fine Arts Program

1.3.1. Fine Arts Program Within GSA

The Art in Architecture and Fine Arts Division (AiAFA) is composed of two interrelated programs—Art in Architecture and Fine Arts— located in the Public Buildings Service (PBS), Office of Design and Construction (ODC), Office of the Chief Architect (OCA) in GSA’s Central Office. PBS is responsible for providing safe environments, quality facilities, and sound management of the Federal Government’s real property assets. PBS directs the Federal Government's multibillion-dollar civilian building program, which includes construction, historic preservation, renovation, alteration, and repair of Federal office buildings, courthouses, land ports of entry, and other facilities.

For the purposes of this document, routine matters can be handled by OCA and do not require the approval of the PBS Commissioner.

1.3.2. Responsibilities of the Fine Arts Program

The Fine Arts Program is responsible for safeguarding the Fine Arts Collection against waste, loss, unauthorized use, and misappropriation. (Hereafter, "Fine Arts Program" refers to Central Office in Washington, D.C.) Responsibilities include but are not limited to:

- Developing and implementing collections policy for the management of the Fine Arts Collection
- Conducting inventory, assessment, and conservation of all artwork
- Allocating Central Office funds for conservation services
- Administering all works of art on loan
- Maintaining the national central archives
- Maintaining a national artifact preservation center
- Researching and interpreting artwork in the collection
- Developing training, educational, and outreach programs for GSA, other Federal agencies, and the general public
- Determining the need for peer reviews and acting as liaison with the PBS Commissioner's National Register of Peer Professionals
- Making final determinations for routine matters that would otherwise go to the PBS Commissioner

1.3.3. Regional Fine Arts Officers

Each of GSA's eleven regions has at least one regional fine arts officer (RFAO). The RFAOs, with assistance from AiAFA staff, are responsible for implementation of and adherence to all Fine Arts Program policies and procedures. Responsibilities include but are not limited to:

- Implementing Fine Arts Policies and Procedures within their respective regions
- Inspecting artwork biennially
- Managing conservation projects within the region and serving as liaison with the Fine Arts Program
- Developing, coordinating, and completing cyclic maintenance for installed works of art
- Coordinating handling, protection, conservation, and other concerns related to art during building modernizations and renovations
- Coordinating disposition of artworks in the Fine Arts Collection in buildings declared excess
- Developing the regional fine arts emergency preparedness plan
- Forwarding copies of all artwork-related reports to the Fine Arts Program for the national central archives
- Serving as regional experts on fine arts issues

References and Authorities

GSA Delegations of Authority Manual (ADM 5450) – Chapter 5, Part 1, Section 8.c

40 U.S.C. 101 et seq., formerly the Federal Property and Administrative Services Act of 1949 (the Property Act), provides GSA with the authority to procure and supply real and personal property and non-personal services. It also transferred all functions of the Federal Works Agency, including artwork from the Works Progress Administration (WPA), to GSA.

The Federal Managers Financial Integrity Act of 1982 (31 U.S.C. 3512), as implemented by OMB Circular No. A-123, Management Accountability and Control, establishes procedures for internal financial and managerial accountability and control. Section 2 (ii) states, “funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation.” Internal controls and risk assessments require that GSA’s Fine Arts Collection is properly maintained, accounted for, and accessible to the American people. The AiAFA division director is responsible for this role for GSA.

2. The Collection

2.1. Scope of the Fine Arts Collection

The Fine Arts Collection includes works of art integral to the architecture of GSA Federal buildings, works of art acquired through the Art in Architecture Program, portable works of art created under the Federal patronage of the New Deal art projects, site-specific artwork where Federal ownership is demonstrated, original artworks submitted as part of Art in Architecture proposals, and existing artworks that relate to or add to the understanding of the works already in the collection. (See appendix B for a history of the Fine Arts Program.)

The collection does not include:

- Decorative arts, such as furniture and light fixtures (unless commissioned through the Art in Architecture Program)
- Architectural ornamentation or details, such as historic mosaic flooring, stenciled borders, ceiling medallions, coffered ceilings, cast eagles, and ornamental molding (unless commissioned through the Art in Architecture Program or of significant artistic merit)
- Commemorative works of art, such as busts, statues, and portraits
- Artwork purchased for office space, such as reproduction prints and posters
- Architectural models
- Artworks that give the appearance of personal, commercial, or political endorsement

2.2. Description of the Fine Arts Collection

The Fine Arts Collection consists of paintings, sculpture, architectural or environmental works of art, time-based media, and works on paper located in Federal buildings, land ports of entry, and courthouses across the United States. The collection also includes portable New Deal works of art that are on long-term loan to museums and other nonprofit institutions and site-specific artwork where Federal ownership is demonstrated.

2.3. Asserting Title on New Deal Works

During the New Deal era, the Federal Government administered four public art programs: the Public Works of Art Project, the Works Progress Administration Federal Art Project, the Treasury Relief Art Project, and the Section of Fine Arts. Between 1933 and 1943 these programs produced thousands of federally owned sculptures, murals, easel paintings, and prints.

In 1934, the Federal Government initiated indefinite loans of portable New Deal works of art to museums, schools, historical societies, hospitals, and

other nonprofit agencies. In 1949 all functions of the Federal Works Agency, including New Deal artwork, were transferred to GSA. Using these program records, GSA continues to update the initial agreements. Tracking and administering portable New Deal works of art is a centralized function and is managed by the Fine Arts Program.

The Fine Arts Program manages all activities associated with asserting title to New Deal artworks. This includes legal review with Central Office's Office of the General Counsel and, if necessary, with the Office of the Inspector General. New Deal artworks determined to be Federal property, whether found in public or private custody, are inventoried by the Fine Arts Program staff.

If a New Deal artwork is offered for sale or reported to regional staff, the RFAO must notify AiAFA.

(For more information, see Legal Title to Art Work Produced Under the Works Progress Administration, appendix F.)

References and Authorities

Legal Title to Art Work Produced Under the Works Progress Administration, GSA Office of General Counsel, 2005.

40 U.S.C. 101 et seq., formerly the Federal Property and Administrative Services Act of 1949 (the Property Act), provides GSA with the authority to procure and supply real and personal property and non-personal services. It also transferred all functions of the Federal Works Agency, including New Deal artwork, to GSA.

The Postal Reorganization Act, as amended, (39 U.S.C. 101 et seq.) of August 12, 1970, provided for the transfer of selected Federal properties from GSA (and other agencies) to the Postal Service. Included in this transfer was "all real property 55 percent or more of which is occupied by or under the control of the former Post Office Department..." (39 U.S.C. 2002(c).)

2.4. Accessioning Artworks Into the Fine Arts Collection

Accessioning is the formal process of adding artworks to the collection. Artworks can be added to the collection in a number of ways, as outlined in sections 2.4.2 through 2.4.5. The Fine Arts Program does not actively seek out artworks.

References and Authorities

The Public Buildings Act of 1959, as amended (40 U.S.C. 3175), authorizes the Administrator of GSA to accept unconditional gifts of real, personal, or other property in aid of any GSA project or function. Under the GSA Delegations of Authority Manual, 5450.1, chapter 5, section 2-n, the Administrator has delegated to the Commissioner and Deputy Commissioner of PBS the authority to accept such gifts on behalf of GSA. Regional Administrators are not authorized to accept gifts on behalf of GSA.

The Federal Management Regulations (FMR), 41 CFR 102, Sections 35-39, define requirements for the utilization, donation, and sale, abandonment, or destruction of personal property.

Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.) (NHPA) mandates that Federal agencies: identify historic properties that may be affected by their projects; take historic properties into account when planning an undertaking; and allow the State Historic Preservation Office, certified local governments, and the Advisory Council on Historic Preservation a reasonable opportunity to comment on Federal projects that have the potential to affect historic properties. This process may be lengthy and must be initiated as early as possible (41 CFR 78).

41 CFR 102-77--Art-in-Architecture establishes that Federal agencies must incorporate fine arts as an integral part of the total building concept when designing new Federal buildings and when making substantial repairs and alterations to existing Federal buildings, as appropriate.

2.4.1. Collection Criteria

The following conditions must be met for a work to be considered for accession into the Fine Arts Collection:

- The artwork is consistent with the scope of the collection and has importance within the context of the Fine Arts Collection
- The artwork is significant and merits inclusion. Significance is determined by evaluating the artwork's historical importance, aesthetic merit, and rarity
- The provenance of the artwork has been investigated and clear title is obvious
- GSA has the ability to care for the artwork, and appropriate exhibition or storage space has been identified
- The gift to GSA is unconditional. Artwork is only accepted without restrictions on the title, exhibit, or placement. (Authority – 40 U.S.C. Section 3175).

2.4.2. Art in Architecture Program

The Art in Architecture Program is the Fine Arts Program's means of acquiring new works of art. The Art in Architecture process serves as the formal approval for inclusion in the Fine Arts Collection.

Elements of artists' proposals for Art in Architecture commissions may also be added to the Fine Arts Collection. These items may come in the form of maquettes, models, sketches, renderings, or other media. After presentation to the Art in Architecture panel, the RFAO must submit the proposal materials to Central Office to be considered for inclusion in the collection. Materials not added to the collection are kept by Central Office as part of the project record.

2.4.3. Donation of Artwork From Non-Government Sources

Occasionally artworks are offered to GSA. The donation must be unconditional. Whether initially offered to a regional office or Central Office, Fine Arts Program staff must assess the artwork based on the collection criteria. If the staff and the AiAFA division director determine the work is appropriate for the collection, a recommendation to accept is reviewed by the Chief Architect and then forwarded to the PBS Commissioner. The Commissioner and the Deputy Commissioner have authority delegated from the Administrator to accept donations on behalf of GSA in accordance with 40 U.S.C. 3175 and the GSA Delegations of Authority Manual.

NOTE: Commemorative works of art, such as portraits, statues, or busts, do not support the mission or the scope of the Fine Arts Collection and will not be accepted as donations to the collection. In addition, artwork that gives the appearance of personal, commercial, or political endorsement will not be accepted.

NOTE: In accordance with 40 U.S.C. 3175 and the GSA Delegations of Authority Manual, Regional Administrators are not authorized to accept gifts on behalf of GSA.

For procedures related to the placement of artworks other than those in the Fine Arts Collection in Federal buildings, see section 4.2 regarding public space.

2.4.4. Artwork Transferred From Other Federal Agencies

Works of art may be transferred from other Federal agencies to GSA. The Chief Architect has the authority to approve the accessioning of artwork based on the collection criteria.

2.4.5. Artwork Accepted Through Building Acquisition

Works of art that accompany newly acquired buildings may be accessioned into the Fine Arts Collection. The RFAO must inform the Fine Arts Program when GSA acquires a building with existing artwork. Works of art created under New Deal art projects that clearly fit the scope of the collection are accessioned. Fine Arts Program staff evaluates the accessioning of other works of art according to the collection criteria. Because the artwork under consideration is the property of GSA, the Fine Arts Program staff evaluates the appropriateness of the artwork and makes a recommendation to the AiAFA division director on whether the work warrants accessioning. The Chief Architect decides whether the artwork will be accessioned.

NOTE: Non-acceptance of an artwork into the Fine Arts Collection does not relieve GSA or regional staff of responsibility for the work. It is considered real property if it is part of the fabric of the building; it is considered personal property if it is movable. The regional office directly responsible for the building will be the steward of the artwork, and is required to fund its protection, maintenance, and any conservation of the work that may be required. (For responsibilities for artwork that is not owned by GSA but is located in a GSA-owned building, see section 4.2.) 41 CFR 102-71.20 details the definitions that apply to GSA's real property policies. 41 CFR 102-35.20 details the definitions that apply to GSA's personal property policies.

2.4.6. Accessioning Procedure

The Fine Arts Program is responsible for formally accessioning artworks and assigning accession numbers. A request to accession an artwork is submitted to the AiAFA division director. Following review by AiAFA staff, the Fine Arts Program informs the requestor of the decision.

All accession requests must include the following information:

- Artist's name
- Title of work
- Date of creation
- Dimensions
- Edition number (if applicable)
- Medium (list material specifications if possible)
- Provenance
- Current location
- Visual images
- A condition assessment by a professional conservator, when possible

- Artist statement and intent, when possible
- Brief narrative explaining how the work fits the collection (see 2.4.1 for collection criteria) and any other relevant information (e.g., whether the work will need to be shipped).
- Associated short- and long-term costs
- Source of funding, if needed
- Justification for accessioning, and implications if rejected

Based on the source of the acquisition (see sections 2.4.2 through 2.4.5), the request must also include the following information:

Art in Architecture – for Art in Architecture works and project materials:

- The artist’s final concept presentation materials generally become the property of GSA at the conclusion of the meeting. RFAOs should take possession of them at that time and make arrangements to have them shipped to Central Office for review by the Fine Arts Program staff (RFAOs must refer to the artist’s contract for details on individual projects).
- The completed artwork is automatically accessioned upon acceptance by the Government – NO ACCESSION FORM NEEDED

Donations – donations from non-government sources:

- Proposed location for work
- Contact information for and relevant correspondence from potential donor

Transfers – transfers from other Federal agencies:

- Contact information for agency representative
- Proposed location for work

If accepted, Fine Arts Program staff completes a GSA Form 525, Property Transfer Authorization, or other approved Federal form documenting the transfer, and provides a copy to the region for its files.

Building acquisitions:

- Complete inventory of artworks in a newly acquired building
- Building name and address
- Date building acquired
- Method of acquisition for building

- Relevant acquisition documentation

2.5. Deaccessioning Artworks

Deaccessioning is the formal process by which GSA permanently removes works of art from the Fine Arts Collection. GSA's policy is to not deaccession; however, exceptions can be made in certain circumstances, when specific criteria are met. The final disposition of deaccessioned artworks is done in accordance with Federal law.

References and Authorities

40 U.S.C. 543 – An executive agency designated or authorized by the Administrator of GSA to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, on terms and conditions that the Administrator considers proper. The agency may execute documents to transfer title or other interest in the property and may take other action it considers necessary or proper to dispose of the property under this chapter.

40 U.S.C. 521 et seq. defines requirements for the disposal of surplus property.

The Visual Artists Rights Act of 1990 (VARA), Section 106A, U.S.C. Annotated, Title 17, Copyrights, Public Law (PL) 101-650 provides "moral rights" to artists creating works of visual art after June 1, 1991. These rights are chiefly the rights of attribution and integrity. They provide that all artists have rights controlling the use of their name in relation to their work, the right to prevent any modification of their work that would be prejudicial to their reputation, and the right to prevent the destruction of their work if it is of recognized stature. These rights are vested with the artists throughout their lifetimes, and may prohibit removal, modification, or destruction of artwork.

Section 106 of the National Historic Preservation Act (54 U.S.C. 300101 et seq.) mandates that Federal agencies: identify historic properties that may be affected by their projects; take historic properties into account when planning an undertaking; and allow the State Historic Preservation Office, certified local governments, and the Advisory Council on Historic Preservation a reasonable opportunity to comment on Federal projects that have the potential to affect historic properties. This process may be lengthy and must be initiated as early as possible.

2.5.1. Deaccessioning Criteria

A work of art may be considered for deaccessioning in the following situations:

- GSA does not hold legal title
- The artwork has suffered destruction:
 - Vandalized beyond repair
 - Destroyed by fire, flood, or other disaster
 - Destroyed by biological or chemical attack
 - Destroyed by inherent vice
- The artwork is clearly not within the scope of the collection
- The artwork poses significant life safety risks
- The artwork is considered real property and conveys during the official disposal or transfer of a GSA building, however, GSA can decide to not deaccession artwork that remains in situ (see section 3.5)

The request to deaccession an artwork must be reviewed by the AiAFA division director and the Chief Architect.

The Chief Architect may recommend convening an expert panel that includes members of the PBS Commissioner’s National Register of Peer Professionals, to review the proposed deaccessioning. The AiAFA division director is responsible for organizing the peer review.

Final approval for deaccessioning rests with the PBS Commissioner or designee.

If a deaccession proposal in conjunction with a building disposal is denied, see section 3.4 for information on the relocation of artwork.

2.5.2. Deaccessioning Procedure

Deaccession requests are submitted to the AiAFA division director.

The request must include a brief narrative explaining why the work is being recommended for deaccession, as well as the following information:

- Accession number
- Artist’s name
- Title of work
- Date of creation
- Dimensions
- Edition number (if applicable)
- Medium
- Provenance
- Current location
- Visual images
- Artist statement and intent, when possible

The Fine Arts Program staff and AiAFA division director review the request and forward it with a recommendation to the Chief Architect. All appropriate reviews will be completed prior to the recommendation of a final decision.

The PBS Commissioner or designee will make the final decision.

If the deaccession is approved, Fine Arts Program staff handles all processing and provides necessary information to the RFAO.

Documentation of the deaccession process and final disposition is kept in national central archives.

3. Use of Artworks

3.1. Public Display

The Fine Arts Program makes artworks in the collection available to the public through permanent and temporary installations.

3.1.1. Permanent Installation in GSA-Owned Buildings

The program's primary display method is the permanent installation of artworks in the public spaces of GSA-owned buildings.

3.1.2. Temporary Display in GSA-Owned Buildings

Artworks from the Fine Arts Collection are not available for temporary display in GSA-owned buildings with the exception of GSA headquarters.

3.1.3. Installation in Leased Properties

Artworks from the Fine Arts Collection that are to be relocated may be installed in the public spaces of GSA-leased properties, following an evaluation of potential locations as detailed in section 3.4.3. Placement of artwork in leased space is subject to recall if appropriate GSA-owned space is located.

Installations in leased space are not permanent. Artwork must be removed when the building is no longer leased by GSA or occupied by Federal tenants.

3.2. Access

Artworks, as well as information about the Fine Arts Collection, are available to the public to the greatest extent possible.

3.2.1. Physical Access

Access to artworks in GSA buildings is controlled by the GSA building manager. Varying security restrictions may apply.

Access to artworks in non-Federal repositories is subject to the borrowing institutions' policies and procedures.

Access to Artifact Preservation Center (APC) (see 4.4.8) – in general the APC is not accessible except to Central Office Fine Arts staff.

Requests to view artworks in storage are considered on a case-by-case

basis. Visits are approved only when there is a valid business case need (i.e., exhibition research or loan consideration), and are subject to the availability of resources and staff. Requests for access should be submitted to the AiAFA division director for approval.

3.2.2. Collection Information

The Fine Arts Program makes every effort to provide interpretive information for all artworks via on-site plaques, brochures, or other programmatic endeavors.

Central Office can provide (and must review) the interpretive language; RFAOs and the Regional Offices are responsible for production and installation of materials.

Limited collection information is available online at www.gsa.gov/fa.

Records in the national central archives may be available to scholars by appointment only, based on staff availability to process the requested records.

References and Authorities

The Art in Architecture Program Policies and Procedures (April 2009) detail the requirements for public affairs, education, and identification of works of art commissioned for GSA. See appendix C.

3.3. Loans

All loans are handled through the Fine Arts Program.

The loan of an artwork is authorized and approved by the AiAFA division director.

Under no circumstances does GSA agree to permanent loans of artwork (either outgoing or incoming).

NOTE: Artworks allocated to non-Federal repositories are considered loans and are renewable (see section 2.3).

3.3.1. Outgoing Loans

Non-Federal repository program

The Fine Arts Program honors New Deal–initiated loans and allocations under updated terms.

New loans

The Fine Arts Program loans artworks from the Fine Arts Collection for approved purposes to eligible institutions.

Eligible institutions:

- Must be nonprofit institutions or Federal, State, or municipal government museums that have educational or scholarly missions
- Must have full-time professional staff to care for objects
- Cannot be connected with any commercial product or endorsement
- Must have the ability to securely store and display object(s)

The loan's purpose must have intellectual merit and public and educational benefits, e.g., a temporary exhibition or a research project.

GSA reserves the right to recall a loan at any time.

NOTE: GSA honors loan agreements that were established before the inception of GSA or during a time when GSA did not have an established policy regarding the loan of artwork. GSA makes every effort to update agreements with loan forms or a formal Memorandum of Agreement acknowledging specific terms.

NOTE: Loans to Federal officials are strictly prohibited.

Most outgoing loan periods span two years or less. Fine Arts Program staff considers renewal on a case-by-case basis. The maximum initial loan period is five years.

GSA may request a certificate of insurance from non-Federal institutions while the artworks are in their possession.

Art in Architecture artist proposal materials

The Fine Arts Collection's Art in Architecture artist proposal materials are records of a project in progress, and serve a different purpose from the traditional artworks in the collection.

The loan policy for artist proposal materials reflects this fact. Artist materials are made available for loan to regional offices for display in association with the project.

Private entities involved in a project may have the materials on loan for up to one year following completion of the project; after that time, the policy for loans of artworks applies.

3.3.2. Incoming Loans

The Fine Arts Program may borrow works of art from nonprofit institutions, Federal, State, or local agencies—and, on rare occasions, the private sector—for installation in the public spaces of GSA buildings or inclusion in GSA-generated exhibitions. Authority for approval of incoming loans rests with the AiAFA division director and is administered through the Fine Arts Program.

The works of art may only be borrowed for the purpose of public display and are not intended for personal use or installation in private offices.

NOTE: Incoming loans cannot be used to replace, displace, or otherwise interfere with Art in Architecture projects.

Most incoming loan periods span one year or less; Fine Arts staff considers renewals on a case-by-case basis. The maximum loan period for an incoming loan is five years.

3.3.3. Loan Procedure

All loans, both incoming and outgoing, are processed and administered by the Fine Arts Program.

If requested to arrange an incoming or outgoing loan, the RFAO must send the AiAFA division director a brief narrative outlining the nature of the request, contact information for the parties involved, and the following information about the artwork:

- Artist's name
- Title of work
- Date of creation
- Dimensions
- Edition number (if applicable)
- Medium
- Completed AAM Standard Facility Report from the requesting institution (if applicable) or the Questionnaire for Outgoing Loan of Works of Art

3.3.4. Loans to Tenant Agencies

GSA does not loan artworks from the Fine Arts Collection to tenant agencies.

3.3.5. Insurance

The Federal Government is self-insured. This means that GSA does not have an insurance policy for works in the Fine Arts Collection. If an artwork is damaged or destroyed, then the Federal Government considers it a loss and has no means of acquiring replacement funds from an insurer. If a GSA artwork is placed on loan to another institution or a conservator's studio, then GSA may request a certificate of insurance while the artwork is in the institution's or conservator's possession.

3.4. Relocation of Artworks

3.4.1. Relocation Eligibility

GSA's policy is to retain the existing location of an installed artwork—be it the original location or a permanent relocation—and to honor the artist's original intent. Adverse public or tenant opinion does not justify the relocation, covering from public view, or removal of artwork.

The PBS Commissioner or designee has final approval for the relocation of an artwork, except in the case of a new location within the existing building or campus, which can be approved by the AiAFA division director.

NOTE: Relocation refers to moving an artwork to a different building, while re-siting refers to installing the artwork at a new site in the original building. Both activities follow the same procedure, but re-siting requires only the approval of the AiAFA division director.

Relocation will be considered in the following circumstances:

- The artwork is endangered
- The artwork endangers life safety
- The artist's original intent is compromised
- The original site is no longer available due to reconfiguration, destruction, or building disposal (see specific instructions for relocation in conjunction with building disposal, section 3.5)

NOTE: GSA will comply with all applicable laws, including but not limited to the Visual Artists Rights Act (VARA) and Section 106 of the National Historic Preservation Act (NHPA), when determining if relocation is warranted.

3.4.2. Requesting Relocation

The RFAO submits a formal request to the AiAFA division director. Section 3.4.5, Relocation Procedure, lists the items that must be included in the request.

3.4.3. New Location

GSA's policy is to relocate artwork permanently rather than to store it.

The final decision regarding new placement of relocated artworks is made by the PBS Commissioner or designee and is based on certain factors that include:

- Keeping art accessible to the public
- Remaining true to the artist's original intent
- Adhering to the requirements of Section 106 of the National Historic Preservation Act
- Recommendations from regional personnel

Site preference is given to another location at the original facility. If a site within the original facility is unavailable, then preference is for a GSA-owned or GSA-managed space located within the same region as the artwork's original site, followed by space owned or managed by GSA in other regions.

Placement of an artwork in GSA-leased space is implemented through a Memorandum of Agreement (MOA) with the Federal tenant agency. The Federal tenant agency has no authority to abandon, sell, transfer, or otherwise dispose of the artwork. The MOA also requires the acknowledgement of the landlord, as well as acknowledgement that the artwork is the property of the Federal Government and at no time is the property of the landlord.

The MOA, which is prepared by the Fine Arts Program staff, details the rights and responsibilities associated with the artwork and must be renewed annually. (See section 3.1.3 for information on installation in leased properties.)

If appropriate GSA space cannot be found, Fine Arts Program staff may evaluate loaning the artwork to other Federal agencies, State or local governments, or nonprofit institution for public display. This placement of a GSA artwork is considered a loan, and is subject to recall if appropriate GSA space is located. See section 3.3 for information on loans.

NOTE: In selecting a new location, GSA will comply with all applicable laws, including but not limited to VARA and Section 106 of the NHPA, when determining whether relocation is warranted.

NOTE: For requests concerning relocation as well as selection of a new location, the AiAFA division director may convene an expert panel, which includes members of the PBS Commissioner's National Register of Peer Professionals, to advise GSA. The Fine Arts Program organizes the review.

3.4.4.Funding

The relocation of artwork resulting from construction projects, such as modernization, must be funded through the construction project. If the relocation is due to building disposal, then funding may be provided under GSA's Relocation Authority (see 3.5.2).

3.4.5.Relocation Procedure

The RFAO must submit an initial proposal for relocation to the AiAFA division director. The proposal must contain a brief narrative explaining why the work is being recommended for relocation, a justification for relocation (based on the stated policy), and the following information about the artwork:

- Artist's name
- Title of work
- Date of creation
- Dimensions
- Edition number (if applicable)
- Medium (list material specifications if possible)
- Building name, city, and State
- Provenance
- Intended, original, and current location, as applicable
- Reason for relocation
- Visual images
- A condition assessment by a professional conservator, when possible
- Original artist statement and intent, when possible
- Response and commentary from artist, artist's estate or representative, or an explanation of why it is not included
- Proposed new location
- Project funding plans

The RFAO is responsible for ensuring the final request complies with all applicable laws (e.g., Section 106 of the NHPA and VARA) and fulfills the Fine Arts Program's mission of appropriate stewardship.

The RFAO is responsible for preparing a final request for relocation and submitting it to the AiAFA division director. Following review in OCA and approval by the Chief Architect, the PBS Commissioner or designee makes a final decision. The AiAFA division director informs the RFAO of the decision.

3.5. Building Disposal

3.5.1. Artworks in Buildings Being Considered for Disposal

The Fine Arts Program makes decisions regarding final disposition of artworks in disposed buildings on a case-by-case basis. The overarching goals are to protect the artwork in the best way possible and to ensure the public's access to the artwork. Possible actions include:

- Transfer of limited title of Artwork to New Owner and Remain in situ: The artwork remains in its current location. An agreement to protect the work(s) is put in place with the new owner. The agreement must include protective covenants in the transfer paperwork.
- Retain full title of Artwork and Remain in situ: The artwork remains in its current location and GSA retains full title. An agreement to protect the work(s) is put in place with new owner/occupant. This agreement may be protective covenants or a loan agreement between AiAFA and the new owner.
- Retain full title of Artwork and Relocate: If the new owner's plans for the building are not conducive to retaining the artwork, or if the new owner is unwilling or unable to protect the artwork and make it available to the public, then AiAFA will remove the artwork from the building for relocation to another GSA Federal building (see section 3.4).
- Transfer of full title of Artwork to New Owner and Artwork is Deaccessioned: Deaccessioning is the act of formally removing an artwork from GSA's Fine Arts Collection. A decision to deaccession an artwork indicates that GSA has no intention of exercising any claim on the work in the future (see section 2.5).

Each RFAO is responsible for informing the Fine Arts Program of all artworks in buildings being considered for disposal in their region. It is critical that the RFAO directly engage with the reality specialist responsible for the disposal of a building, to ensure the RFAO's involvement throughout the disposal process.

If the artwork is to remain in the building, then the RFAO is responsible for ensuring that protective covenants are included in all transfer paperwork and for providing copies of all paperwork to the Fine Arts Program for inclusion in the national central archives. Given the specific circumstances of the disposal, the RFAO must review the proposed plan for public access with the Fine Arts Program.

3.5.2. GSA's Relocation Authority and the Fine Arts Collection

If the Fine Art Program approves the relocation of an artwork from a disposed GSA building, then the RFAO should estimate costs associated with relocation. The following costs may be covered by GSA's Relocation Authority:

- Charges for contractual services associated with an art appraisal conducted by a certified art appraiser
- Charges for a condition assessment conducted by a professional art conservator
- Charges for relocation of artwork

(For internal guidance from the Office of Real Property Utilization and Disposal, see appendix I.)

References and Authorities

40 U.S.C. 101 et seq., formerly the Federal Property and Administrative Services Act of 1949 (the Property Act) provides GSA with the authority to procure and supply real and personal property and non-personal services. Specifically, the Property Act authorizes the Administrator of GSA to maintain, operate, and protect buildings, property or grounds, including the construction, repair, preservation, demolition, furnishing, equipping, and disposal of such buildings. It also authorizes GSA to enter into leases of real property not exceeding 20 years in duration.

Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255, Sept. 8, 1982, 96 Stat. 814 repealed; provisions contained in 31 U.S.C. 3512)

The Federal Managers' Financial Integrity Act (31 U.S.C. 3512), as implemented by the Office of Management and Budget (OMB) Circular No. A-123, establishes procedures for internal financial and managerial accountability and control.

Acceptance and Disposal of Property Given to the United States
These laws authorize GSA to:

- Accept unconditional gifts of real and personal property in aid of any agency project or function (40 U.S.C. 3175)
- Accept gifts of property for reduction of the national debt (31 U.S.C. 3113)
- Real property disposal regulations, 41 CFR 102-75.

The Federal Management Regulations (FPMR) (41 CFR 101, Sections 43-45) defines requirements for the utilization, donation and sale, abandonment or destruction of personal property.

National Historic Preservation Act of 1966, as amended (54 U.S.C. 300101 et seq.) requires the identification and preservation of historic properties under the custody and control of Federal agencies, including GSA. In general terms, the NHPA requires that GSA consider and minimize the effects of its actions on all historic properties and districts. In certain circumstances, the NHPA requires consultation with State Historic Preservation Officers, the National Advisory Council on Historic Preservation, and other interested parties before the commencement of agency projects (e.g., building construction or repair-and-alteration projects).

The Visual Artists Rights Act of 1990 (17 U.S.C. 106A) provides "moral rights" to artists creating works of visual art after June 1, 1991. These rights are chiefly the rights of attribution and integrity. They provide that all artists have rights controlling the use of their name in relation to their work, the right to prevent any modification of their work that would be prejudicial to their reputation, and the right to prevent the destruction of their work if it is of recognized stature. These rights are vested with the artists throughout their entire lifetimes, and may prohibit removal, modification, or destruction of artwork.

The Copyright Act of 1976 (17 U.S.C. 102(a)) provides protection to authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works.

Chapter 102 – Federal Management Regulation
 Subchapter C–Real Property, Part 102-77--Art-in-Architecture (41 CFR 102-77) establishes that Federal agencies must incorporate fine arts as an integral part of the total building concept when designing new Federal buildings and when making substantial repairs and alterations to existing Federal buildings, as appropriate.

3.5.3. Disposal Procedure

The RFAO must create an inventory of all artworks located in buildings scheduled for disposal. The inventory must include the following information about each artwork:

- Artist's name
- Title of work
- Date of creation
- Dimensions
- Edition number (if applicable)
- Medium (list material specifications if possible)
- Building name, city, and State
- Provenance
- Intended, original, and current location, as applicable
- Visual images
- A condition assessment by a professional conservator, when possible
- Original artist statement and intent, when possible
- Response and commentary from artist, artist's estate, or representative or an explanation of why it is not included

The RFAO must forward this list to the Fine Arts Program for a determination on final disposition.

NOTE: In determining appropriate disposition, the Fine Arts Program staff considers but is not limited to the following criteria:

- Is the artwork site specific? Preference is usually to leave site-specific artworks in their original locations.
- Was the artwork created after June 1, 1991? If so, it is protected by VARA and legal counsel should be sought.
- Does Section 106 of the NHPA apply to the artwork? If so, or if it is unclear, legal counsel should be sought.
- Is the new owner capable and willing to provide public access and ensure the future preservation of the artwork?

3.5.4.RFAO Responsibilities for Building Disposal

If an artwork is left in situ in a disposed building, then the RFAO is responsible for working with GSA disposal officials to ensure that proper protective covenants are included in all transfer or conveyance paperwork and for providing copies of the paperwork to the Fine Arts Program for inclusion in the national central archives. All excessing, deeding, or transferring paperwork must contain the following:

- Artwork information – artist, title, artwork date, dimensions, material, and location within the building
- Description of the disposition of the artwork
- Requirements that ensure the artwork will be preserved and made available for public viewing

- Requirement to display an interpretive plaque with the artwork; the plaque is provided by the Fine Arts Program

Central Office will generate loan paperwork, if needed.

In the case of relocation decisions, see section 3.4 for relocation options.

In the case of deaccessioning decision, see section 2.5.2 for deaccessioning procedure.

Regardless of disposition, the RFAO must submit copies of all finalized excessing, deeding, or transferring documents to the Fine Arts Program for the national central archives.

3.6. Rights and Reproductions

3.6.1. Image Reproduction Policy

Fine Arts Program images may be made available for noncommercial use, educational research, or scholarly use.

When images are reproduced in publications, the author must cite the artist, the title of the artwork, and the source.

The citation must include all copyright information and must credit GSA.

The images may not be visually altered, distorted, or modified. If the image of the artwork is cropped, then it must be clearly labeled as a detail of the original artwork.

The author and publisher must comply with all other terms or restrictions that may be applicable to the individual image.

The author and publisher accept that the original artwork and/or photo may be copyrighted, and they assume all responsibility for researching copyright restrictions and for acquiring permissions from the artist, photographer, or owner of the copyright. The author and publisher accept accountability for copyright infringement (see appendix G for information on copyright).

New Deal Artworks – A majority of the works created through New Deal programs are now in the public domain and GSA retains no copyright.

Art in Architecture Works – Copyright for artworks commissioned through the Art in Architecture program are defined in the artist’s commission contract.

3.6.2.Photo Caption and Credit Line

When photographs of artworks from the Fine Arts Collection are used, the following information and credit line must be included and photographers credited, when known:

Artist name

Title

Date

Location/building

Fine Arts Collection

U.S. General Services Administration

3.6.3.Fair Use Policy

The Fine Arts Program’s policy is to permit use of images of artworks from the GSA website (www.gsa.gov/fa) for casual, noncommercial redistribution; that is, redistribution of information where no commercialism is involved. Use is subject to copyright restrictions. GSA does not warrant or represent that the use of images displayed on www.gsa.gov/fa will not infringe the rights of third parties.

4. Care of the Collection

The Fine Arts Program is responsible for the documentation, inventory, protection, conservation, and accessibility of the Fine Arts Collection.

4.1. Documentation

The Fine Arts Program is responsible for maintaining the national central archives, which includes physical and electronic records on the collection. The RFAOs are responsible for submitting, in a timely manner, any documents related to artwork to keep the records complete and current. Original documents are requested.

Types of documents needed for the national central archives include, but are not limited to:

- Installation records
- Inspection records
- Maintenance records
- Conservation treatment reports
- Photographic records
- Property disposal documents
- Artist correspondence

Some documentation information on the collection is accessible to qualified PBS personnel through the eMuseum application available on the PBS Portal (<http://pbsportal.pbs.gov>).

4.2. Public Space in GSA Buildings

4.2.1. Integrity of Public Spaces in GSA Buildings

Maintaining the aesthetics of public spaces is an important consideration for GSA. Artworks not in the Fine Arts Collection may not be installed in the public areas of buildings and grounds unless reviewed and approved by the AiAFA division director and the Chief Architect. RFAOs must contact the AiAFA division director if purchased, commissioned, loaned, or donated artworks from outside the Fine Arts Collection are proposed for installation.

Long-term installations

Before any artwork not in the Fine Arts Collection can be installed on the grounds or inside a GSA-owned building, the RFAO must secure a written agreement with the owner or lender of the artwork ensuring the following conditions:

- Confirmation that the artist has agreed to waive all rights granted under VARA pertaining to removal and relocation
- The artwork is removable and its installation will not damage the fabric of the building
- The owner or lender is responsible for the maintenance and conservation of the artwork and all associated costs
- GSA has the right to remove or relocate the artwork at any time
- The owner or lender of the artwork will provide a plaque to identify the artwork and ownership to distinguish it clearly from artworks in the GSA Fine Arts Collection. The RFAO is responsible for reviewing the text, design, and placement of the plaque and ensuring that it is installed.

A copy of the signed agreement must be held by the RFAO, the building manager, and the owner or lender of the artwork. The RFAO must also provide a copy of the agreement to the Fine Arts Program.

Temporary and short-term installations

These activities are generally left to the discretion of the facilities staff, unless impacted by other sections of the Fine Arts Policy. These exhibitions and installations are subject to GSA policy regarding space use.

4.2.2. Integrity of Space in the Vicinity of Fine Arts Collection Artworks

As part of its stewardship responsibility, the Fine Arts Program strives to retain the artist's original intent or conception of the artwork to the fullest extent possible.

Many artworks in the collection are site-specific. Often the artist designed the artwork under the direct supervision of, or in collaboration with the building architect as a permanent installation for a particular location, and took the surrounding context into account. The walls, flooring, plaza, landscape, grounds, and furnishings within the sightlines of the artwork are all part of that context.

Once an artwork has been installed, the RFAO is responsible for protecting the integrity of the space and evaluating the impact of any proposed changes in the vicinity of the artwork. The RFAO must consult with the GSA regional historic preservation officer (RHPO) regarding actions that may have an effect on public or ceremonial spaces in historic buildings.

Before making any modifications, the building or project manager should consult the RFAO. Examples of modifications include:

- Renovations or changes in color or materials of the surrounding walls, flooring, landscape, or grounds
- Rearrangement of public space layout, or the addition of furnishings or equipment
- Placement of other artwork, signage, objects, or seating that intrudes on the work physically or visually

When tenant agencies, other organizations, or individuals wish to place artworks in the public spaces of GSA buildings, these artworks must not interfere with already installed works from the GSA Fine Arts Collection.

See section 4.2.1 for guidance on placing artwork in public spaces of GSA-operated buildings.

The RFAO must request a review by the Fine Arts Program staff if an artwork in the collection is affected by non-GSA artworks or by modifications of the space. The Fine Arts Program may convene an expert panel to review the proposed installation and recommend the placement of the non-GSA artwork, or to review proposed modifications to a space.

NOTE: If non-GSA artworks are approved for placement, then the RFAO should prepare a Memorandum of Understanding (MOU) between GSA (as landlord) and the tenant, organization, or individual who has placed non-GSA artwork in the building. The MOU carefully outlines responsibilities, including that GSA is not responsible for the maintenance or conservation of the artwork. Copies of the signed MOU must be held by the RFAO, the building manager, and the tenant agency, organization, or individual. The RFAO must provide a copy of the MOU to the Fine Arts Program. If the artwork has been borrowed, the entity placing the artwork in the building is responsible for any agreements.

4.2.3. The Visual Artists Rights Act

In 1990, Congress passed the Visual Artists Rights Act (VARA). VARA grants certain rights to artists exclusively, regardless of physical ownership of a work, specifically to "...prevent any intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation..."

All GSA staff members involved with works of art are encouraged to familiarize themselves with VARA and understand the possible implications of changing space that surrounds artworks. If there is any chance that VARA may apply, then RFAOs are responsible for seeking legal counsel and should consult the Fine Arts Program staff, who will contact the artist if necessary.

4.3. Installation Standards

4.3.1. Aesthetic Concerns

Works of art must be installed to the artist's specifications, and in a manner that facilitates viewing the artwork. This may include, but is not limited to:

- Specific lighting requirements
- Specific placement requirements (e.g., hang-height)
- Limitations on appropriate protective barriers

Portable works of art are secured in frames that are original, from the period in which the work was created, or reproductions of such frames. Artworks are reframed only when the current frame endangers the artwork. Fine Arts Program staff is responsible for arranging for artwork to be framed.

4.3.2. Ensuring Accessibility

All installed artwork must comply with the Architectural Barriers Act Accessibility Standard.

RFAOs and building managers are encouraged to increase accessibility when possible. Please see www.arts.gov/accessibility/accessibility-resources.

References and Authorities

The Architectural Barriers Act of 1968 (42 U.S.C. §§ 4151 et seq.) requires access to facilities designed, built, altered, or leased with Federal funds. The United States Access Board develops and maintains accessibility guidelines under this law; these guidelines serve as the basis for the standards used to enforce the law.

4.3.3. Interpretation

Central Office Fine Arts or Art in Architecture staff must review and approve all text and interpretive materials.

Plaques

All artwork in the Fine Arts Collection must be identified. An interpretive plaque must accompany artwork installed in Federal buildings. Plaques should coordinate with the materials, format, and

finish of the building's signage program when possible. Plaque details should follow these criteria:

- Artist, title, date, materials, commissioning program, and a brief description
- 11" x 14" for large works
- 3" x 5" for smaller portable works
- Minimum 18-point font

4.3.4. Physical Protection

Although it is understood that the Fine Arts Collection is installed in buildings that do not have the environmental conditions and security capabilities found in museums, every effort must be made to acknowledge and mitigate environmental and security risks.

The principal causes of environmentally induced damage are water, light, temperature, relative humidity, air pollutants, and pests. To protect the Fine Arts Collection from these and other forms of damage, the installation standards should be applied whenever possible. (See appendix D for Fine Arts Program installation standards.)

The RFAO must determine the best way to work with building managers to ensure that regular maintenance such as floor polishing, dusting, window washing, or routine painting will not damage artwork, and to identify and mitigate any site-specific hazards such as pests, air pollutants, and so on (see appendix D).

Protection during special events and construction or renovation

The RFAO must also inform building managers and facility personnel of their responsibilities during non-routine occurrences, such as the following:

- **Special Events:** Facility personnel must anticipate protecting artworks during special events. Risks can include additional furniture and equipment, food service, lighting, crowds, and decorations such as flowers or candles. Temporary measures—portable stanchions for example—may need to be used. Extra care should be taken during the setup and take-down of special events.
- **Building Maintenance and Small Projects:** Facility personnel must understand the risk(s) that small projects (e.g., painting, skylight repair, flooring repair or replacement, or First Impressions projects) may pose to artworks and take protective measures accordingly.

- Construction or Renovation: Project and building managers must protect works of art during construction or renovation. The advice of a professional conservator must be sought to determine whether the work can remain in situ during the construction or must be moved off-site. The RFAO or Fine Arts Program staff can assist in locating a suitable conservator.

If an artwork must be moved during construction or renovation, then the RFAO must notify Fine Arts Program of any changes in the location of the artwork so that the national central archives can be updated.

4.4. Physical Care

Preventive measures and periodic monitoring of the collection are crucial to the well-being of the artworks.

4.4.1. Cyclic Maintenance

Cyclic maintenance is the periodic and routine maintenance of artwork to ensure its preservation. The RFAO is responsible for implementing a regional cyclic maintenance program.

Cyclic maintenance instructions are jointly developed or reviewed by a professional fine arts conservator, the artist or fabricator, representatives of the Fine Arts Program, and GSA property management upon completion of each artwork's installation or conservation treatment.

A copy of the cyclic maintenance instructions must be maintained in:

- Property manager's office
- RFAO office
- National central archives

Who performs cyclic maintenance?

The approved cyclic maintenance instructions will specify who can perform cyclic maintenance activities.

Cyclic maintenance funding

Regions are responsible for funding cyclic maintenance. Regions are encouraged to work with field offices and property staff to include cyclic maintenance as a cost related to annual building operations.

4.4.2. Cyclic Maintenance Documentation

RFAOs are responsible for maintaining a complete and accurate record of all maintenance. Reports for more extensive maintenance should be sent to Central Office immediately; at a minimum, a copy of the two-year maintenance record should be submitted alongside biennial inspection reports. These maintenance records become a part of the artwork record.

Cyclic maintenance information is available to qualified PBS personnel through eMuseum on the PBS Portal (<http://pbsportal.pbs.gov>).

4.4.3. Inspection

All installed works in the Fine Arts Collection must be inspected every two years. The RFAO is responsible for the inspections within a region. The biennial inspection has the following goals:

- Document the current condition of the work of art
- Verify the location
- Document cyclic maintenance
- Identify upcoming construction or other projects
- Identify the responsible building manager
- Identify conservation priorities
- Aid in efforts to locate previously missing artworks

4.4.4. Inspection Procedure

The Fine Arts Program conducts condition inspections of all installed artworks, including those in disposed buildings, on a biennial basis. RFAOs are responsible for ensuring timely completion of the forms by an appropriate GSA staff member (RFAO, building manager, service center, etc.) within the timeframe determined by Central Office.

RFAOs must review all inspection reports before sending them to the Fine Arts Program. RFAOs must gather additional information on any work rated as 4 (FAIR) or 5 (POOR) in overall condition and, if further information is needed, inspect the work in person.

4.4.5 Missing Artwork

If a work of art is discovered missing, the RFAO must contact the Fine Arts Program to verify its last known location and to rule out possible loan or other explanation. Once a work is verified as missing, the RFAO must:

- Notify the Federal Protective Service (FPS) that the artwork is missing, providing the artwork's last known location
- Complete a missing artwork worksheet and include the FPS's case number

- Submit the worksheet and case number to the Fine Arts Program

The Fine Arts Program will notify the Office of the Inspector General. If the artwork is not located after their investigation, then the Office of the Inspector General will submit the artwork to the Federal Bureau of Investigation's National Stolen Art.

The Missing Artwork Worksheet and any other follow-up information will be maintained in the national central archives.

4.4.6. Damage

All damage or vandalism must be reported immediately via telephone call or email to the RFAO by the building personnel who discover it. The initial contact is to be followed by a written report with photographs. The RFAO must notify the Fine Arts Program.

If an artwork is damaged or broken, then it must only be handled by qualified art handlers unless it is in immediate risk of additional damage or poses a life safety concern.

The RFAO and the Fine Arts Program will work together to develop an appropriate course of action.

If tenant agencies, contractors, or other personnel are responsible for damage or vandalism, intentionally or through negligence, then they are responsible for funding repair or conservation.

4.4.7. Damage and Incident Report Procedure

It is important to fully document any occurrence that causes even suspected or minimal damage to any work in the Fine Arts Collection.

The RFAO is responsible for ensuring that appropriate building staff are aware of the artworks for which they are responsible, as well as the appropriate measures to take in case of any damage.

As soon as damage occurs or is suspected, building staff must:

- Notify the RFAO
- Complete the Fine Arts Program Damage Report

The RFAO must then:

- Visit the site within a reasonable time period and ensure that the report has been accurately completed

- Notify and forward all documentation of the occurrence to the Fine Arts Program

4.4.8.Storage

Artwork that is not on display must be stored in a secure and climate-controlled location.

Artifact Preservation Center (APC)

The Fine Arts Program manages a secure, museum-quality, temperature and relative humidity controlled storage space (see appendix D for industry standards) for the Fine Arts Collection. The space is available to the regions when there is a need for temporary storage, and, in unusual circumstances, long-term storage of artworks. The APC is designated specifically for works of art from the Fine Arts Collection, or, in certain circumstances, objects that have direct association with a specific work of art. Access to the APC is available through the AiAFA division director (See 3.2.1).

Objects that are not acceptable for storage at the APC include artifacts of contemporary or historical nature, books, furniture, or paper documents.

If other storage facilities must be used for works in the collection, then the RFAO must notify the Fine Arts Program staff and explain why the APC cannot be used. The AiAFA division director must approve the use of an alternate facility. Alternate storage facilities must meet the minimum requirements for the protection of the works of art (see appendix D).

The RFAO must immediately notify the Fine Arts Program staff of any change in a work's location.

4.4.9.Handling and Transportation

Art handling and transportation must be conducted by a reputable art handling company. The Fine Arts Program can provide information on art handlers.

4.4.10.Conservation

GSA's policy is that the principal goal of conservation is to stabilize the artwork. All conservation procedures should be fully documented, be as reversible as possible, and follow the guidelines of the American Institute for Conservation of Historic & Artistic Works (AIC) Code of Ethics and Guidelines for Practice.

All conservation must be conducted by a fine arts conservator.

A conservator must meet one of the following minimum qualifications:

- Master's degree in conservation from an accredited university graduate program and a minimum of five years' experience in his or her specialized field of fine art conservation
- Ten years of experience in his or her specialized field of fine art conservation
- Qualifications and experience equivalent to those required to be a Professional Associate or Fellow of the AIC

(See appendix E for more information on conservation and conservators.)

Before any conservation treatment is undertaken the RFAO must submit a treatment proposal prepared by a qualified fine arts conservator for the AiAFA division director's review and approval.

If conservation treatment is to be procured as a subcontracted service, the RFAO must approve the proposed conservator. Any conservation treatment plan must be approved by the AiAFA division director.

RFAOs must submit copies of any and all documentation of conservation projects to the Fine Arts Program for inclusion in the national central archives.

NOTE: Conservation policies and procedures apply to all conservation work performed on Fine Arts Collection artworks, irrespective of who does the contracting.

4.4.11. Conservation Procedure

Conservation needs can be identified through biennial inspection reports, reports from the region, or site visits. Once a conservation need is identified, a professional fine arts conservator should assess that need and develop a treatment proposal.

The fine arts conservator prepares an assessment report documenting the condition of the work and outlining any recommended treatment. These reports must contain:

- Detailed analysis of the materials and techniques used in the artwork
- Description of deterioration, including probable causes

- Time and cost estimates for recommended treatment along with a detailed work plan
- Photographic illustrations, documenting analysis techniques and evidence of deterioration

The AiAFA division director must review and approve the proposed work before any treatment proceeds. Fine Arts Program staff and the RFAO work together to schedule and manage the work.

All treatments must include a final report that provides:

- Detailed description of treatment, including products and techniques used
- Cyclic maintenance instructions with specific recommendations that include product specifications and recommendations on who can conduct maintenance
- Photographic illustrations documenting work before, during, and after treatment

The RFAO must send a copy of the treatment report to the Fine Arts Program for inclusion in the national central archives.

4.4.12. Conservation Funding

Conservation for the Fine Arts Collection is generally funded through three means:

- Central Office funds – Conservation on a nationwide basis may be coordinated and funded through the Fine Arts Program:
 - Art associated with historic buildings may be funded through general operating funds (Budget Activity 61) or Budget Activity 64. The Fine Arts Program sets priorities for BA64 fine art funding request and administers the response to the annual BA64 solicitation.
 - Non-historic and contemporary artworks may be funded through Budget Activity 61
- Regional funds – Each region may conduct a conservation program using its own funds as available. These monies may be acquired through the minor repairs and alterations fund (Budget Activity 54), or through Budget Activity 61.
- Prospectus projects – When existing art needs conservation, services may be subcontracted through the A/E firm that has been contracted for the renovation of the building.

4.5. Emergency Planning

GSA's Continuity of Operations Plan (COOP) provides site- or activity-specific plans and procedures that "help ensure the safety of GSA personnel and

allow GSA organizational elements to continue operations in the event of an emergency or threat of an emergency.” RFAOs are encouraged to include emergency planning for the Fine Arts Collection in relevant COOPs.

Emergency preparedness elements fall into the following four categories (see appendix H for additional information):

- Mitigating measures
- Preparedness measures
- Response measures
- Recovery measures

4.5.1. Fine Arts Emergency Preparedness Plan

The RFAO is responsible for preparing and updating an emergency preparedness plan, which must:

- Identify a local responsible party (e.g., RFAO, asset manager, building manager)
- Identify emergency personnel (e.g., local museum professionals, conservators), and provide contact information and guidance on when to contact
- Outline procedures for removing portable works of art from the location of the emergency to a previously identified secure location (e.g., local museum or university gallery)
- Outline procedures for securing and protecting work installed at the site (e.g. cover, wrap, or enclose artwork away from the emergency)
- Outline procedures for salvaging artwork, if appropriate
- Provide instructions for assessing damage to artwork using a Fine Arts Damage Report

4.5.2. Fine Arts Staff and RFAO Responsibilities

The Fine Arts Program staff is responsible for:

- Ensuring that accurate information on artwork location and condition is available
- Providing support with any necessary recovery efforts

The RFAO is responsible for:

- Ensuring that protection of artwork is adequately addressed in the emergency preparedness plan
- Checking accuracy of the Fine Arts emergency preparedness plan and of its listed contact information annually

- Providing a current copy of the emergency plan to be maintained in:
 - The office of the locally appointed staff member responsible for initiating the response
 - The regional office
 - National central archives
- Notifying the Fine Arts Program of any emergency that involves artworks in the Fine Arts Collection, and of the response and recovery measures

References and Authorities

41 CFR 101-20.103-4, Occupant Emergency Program (OEP) focuses on protecting life and property in Federally occupied space under certain emergency conditions and directs the formation of an occupant emergency organization to perform OEP tasks.

The GSA Emergency Management Program ADM P 2400.18 includes the National Security Emergency Preparedness (NSEP) Program as defined in Executive Order (EO) 12656, Assignment of Emergency Preparedness Activities. It fulfills the requirements in that EO, by ensuring that GSA can perform its mission under all disaster or emergency conditions in accordance with existing laws, regulations, and other national-level guidance.

APPENDIX A. Federal Legal Requirements

40 U.S.C. 101 et seq., formerly the Federal Property and Administrative Services Act of 1949 (the Property Act)

Provides GSA with the authority to procure and supply real and personal property and non-personal services. Specifically, the Property Act authorizes the Administrator of GSA to maintain, operate, and protect buildings, property, or grounds, including the construction, repair, preservation, demolition, furnishing, equipping, and disposal of such buildings. It also authorizes GSA to enter into leases of real property not exceeding 20 years in duration.

Federal Managers' Financial Integrity Act of 1982

(Public Law 97-255, Sept. 8, 1982, 96 Stat. 814 repealed; provisions contained in 31 U.S.C. 3512)

The Federal Managers' Financial Integrity Act (31 U.S.C. 3512), as implemented by the Office of Management and Budget (OMB) Circular No. A-123, establishes procedures for internal financial and managerial accountability and control.

Public Buildings Act of 1959, as amended

(40 U.S.C. 3302-3315)

Authorizes GSA to acquire any building and its site by purchase, donation, condemnation, exchange, or otherwise. It provides that only the Administrator of GSA may construct public buildings, including the repair and alteration of such buildings. It establishes requirements for the acquisition, alteration, and construction of public buildings and provides the authority for the Administrator of GSA to delegate authority to other Federal agencies. The act authorizes GSA to conduct building surveys at the request of Congress and to conduct continuing investigations and surveys of public building needs and to submit prospectuses of proposed building projects to Congress. The act also contains a limitation on GSA's ability to spend money above a certain threshold for the acquisition, construction, alteration, or lease of a building without the submission of a prospectus to Congress.

Public Buildings Amendments of 1972

(40 U.S.C. 581,586, 592, 3305, 3307)

This provision amended the Property Act to establish a fund (Federal Buildings Fund) in the United States Treasury into which Federal agency rental payments and certain other moneys are deposited. Moneys deposited into the fund are available, subject to congressional appropriation, for real property management and related activities. This law also amended the prospectus requirements in the Public Buildings Act of 1959 and established a purchase-contract building program.

Public Buildings Cooperative Use Act of 1976

(40 U.S.C. 3301, 3306)

Authorizes the Administrator of GSA to enter into leases of certain space in public buildings with persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities or to make such space available on an occasional (temporary) basis (or by lease) to persons, firms, or organizations engaged in cultural, educational, or recreational activities where the GSA Administrator deems the activities are in the public interest and where the activities will not disrupt the operation of the building. This act also encourages GSA to acquire and use buildings of historic, architectural, and cultural significance.

Acceptance and Disposal of Real Property Assets Given to the United States

These laws authorized GSA to:

- Accept unconditional gifts of real and personal property in aid of any agency project or function (40 U.S.C. 3175)
- Accept gifts of real property for reduction of the national debt (31 U.S.C. 3113)
- Dispose of real property acquired by devise (40 U.S.C. 1305)

Postal Reorganization Act, as amended, August 12, 1970

(39 U.S.C. 101 et seq.)

Provides for the transfer of selected Federal properties from GSA (and other agencies) to the Postal Service. Included in this transfer was "all real property 55 percent or more of which is occupied by or under the control of the former Post Office Department..." (39 U.S.C. 2002(c)(4))

National Historic Preservation Act of 1966, as amended (NHPA)

(54 U.S.C. 300101 et seq.)

Requires the identification and preservation of historic properties under the custody and control of Federal agencies, including GSA. In general terms, the NHPA requires that GSA consider and minimize the effects of its actions on all historic properties and districts. In certain circumstances, the NHPA requires consultation with State Historic Preservation Officers, the National Advisory Council on Historic Preservation, and other interested parties before the commencement of agency projects (e.g., building construction or repair-and-alteration projects).

Historic Sites Act of 1935

(16 U.S.C. 461-467)

Gives certain authorities to the Secretary of the Interior to preserve historic sites, buildings, and objects, including the authority to acquire, operate, and manage historic and prehistoric properties.

Antiquities Act of 1906

(16 U.S.C. 431-433)

Authorizes the President to declare historic landmarks, structures, and other objects on lands owned or controlled by the Federal Government as national monuments. Establishes penalties for anyone who excavates, injures, or destroys any historic or prehistoric ruin, monument, or object of antiquity on lands owned or controlled by the Federal Government.

Visual Artists Rights Act of 1990

(17 U.S.C. 106A)

Provides "moral rights" to artists creating works of visual art after June 1, 1991. These rights are chiefly the rights of attribution and integrity. They provide that all artists have rights controlling the use of their name in relation to their work, the right to prevent any modification of their work that would be prejudicial to their reputation, and the right to prevent the destruction of their work if it is of recognized stature. These rights are vested with the artists throughout their entire lifetimes, and may prohibit removal, modification, or destruction of artwork.

The Copyright Act of 1976

(17 U.S.C. 102(a))

Provides protection to authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works.

Architectural Barriers Act of 1968 (ABA)

(42 U.S.C. 4151-4157)

Establishes standards for accessibility by physically handicapped persons and requires compliance with the standards in the design, construction, and alteration of buildings and facilities owned or leased, in whole or in part, by the Federal Government. The ABA also includes certain record-keeping and reporting requirements.

Americans with Disabilities Act of 1990

(42 U.S.C. 12181 et seq. and 28 CFR Part 36)

Prohibits discrimination on the basis of disability and requires the design, construction, and alteration of places of public accommodations and commercial facilities in compliance with the Americans with Disabilities Act Standards for Accessible Design. The Accessibility Guidelines are contained 28 CFR Part 36.

Chapter 102—Federal Management Regulation

Subchapter C—Real Property, Part 102-77--Art-in-Architecture (41 CFR 102-77)

Establishes that Federal agencies must incorporate fine arts as an integral part of the total building concept when designing new Federal buildings or making substantial repairs and alterations to existing Federal buildings, as appropriate.

General Services Delegations of Authority Manual

PBS 5450.1, March 4, 2015, Chapter 5, Public Buildings Service, Part 1, 8.c (PBS 5450.1)

Provides for the safety, accessibility, preservation, and appropriate use of fine arts assets.

APPENDIX B. Fine Arts Program History

Since the beginning of the American republic, architecture and art have played a fundamental role in creating our national identity. The Federal Government has commissioned inspiring civic architecture and art intended to celebrate the nation's democratic ideals. In communities across America, this artistic legacy represents the history and culture of our country. The Fine Arts Collection consists of permanently installed murals and movable easel paintings, sculptures, architectural and environmental artworks, and works on paper dating from the 1850s to the present. The artworks include the heroic, allegorical figures of the late 19th-century Beaux-Arts style, monumental Art Deco and Art Moderne forms and the American Scene works of the 1930s and 1940s, postwar painting and sculpture, and the diverse expressions of artists today. In addition, more than 23,500 movable New Deal artworks are on long-term loan to museums and other nonprofit institutions. Maintained by GSA as a part of our national and cultural heritage, the Fine Arts Collection serves as a reminder of the important American tradition of individual creative expression.

From its inception to the present, the Fine Arts Collection has possessed two distinct characteristics: artworks in the collection are commissioned to adorn and enhance civic structures, and they are paid for with taxpayers' funds. The collection is maintained in public trust by GSA, and belongs to the American people.

Early Years

The Office of the Supervising Architect of the Department of the Treasury administered the construction of Federal buildings throughout the nation from 1852 to 1939. The earliest works in the Fine Arts Collection date from about 1857, when Auguste de Frasse was commissioned to create bas-reliefs for the Marble Hall of the U.S. Custom House in New Orleans, Louisiana. Following the devastation of the American Civil War, the Federal Government used architecture and art to inspire and promote national unity. In the 1880s, as travel became easier and the nation enjoyed growing prosperity, architects and artists had increased opportunity to study abroad. Their encounter with the Second Empire style in France is reflected in the public architecture that was constructed over the following decades. Painting, sculpture, and architectural ornamentation of the era were inspired by a rediscovery of classicism. Symbols and allegorical figures adorn the facades and interiors of the buildings of this period.

New Deal Art Projects

During the New Deal era,¹ the Federal Government administered four separate public art programs: the Public Works of Art Project (PWAP), the Federal Art Project (FAP), the Treasury Relief Art Project (TRAP), and the Section of Fine Arts. During their operation from 1933 to 1943, these programs proved unprecedented in both

¹ The phrase "new deal" was first used by Franklin D. Roosevelt in 1932, when he accepted the Democratic nomination for president and promised a "new deal for the American people." Since then, "New Deal" has been used as a label for Roosevelt's administration and its numerous achievements in domestic economic reform during the 1930s and 1940s.

their size and scope. Though public art had been commissioned by the Federal Government in the years prior to the New Deal era, never before had it administered a formal art program, let alone four distinctive programs. By the end of 1943, artists working for these programs had created hundreds of thousands of civic artworks.

Each of the programs had distinguishing characteristics and purposes:

Public Works of Art Project, 1933–1934: The PWAP was the first Federal relief program for artists. Almost 4,000 artists were on the PWAP payroll, receiving weekly salaries. When the program ended, more than 15,000 artworks had been created. Many of these artworks were lent to Federal officials and agencies or allocated to public institutions such as orphanages, libraries, schools, and museums.²

The Section of Fine Arts, 1934–1943: Originally called the Section of Painting and Sculpture, the Section (as it was commonly referred to under both names) was administered by the U.S. Treasury Department. The Section's primary objective was to "secure suitable art of the best quality available" for the embellishment of public buildings.³ Artworks created under the Section comprised site-specific murals and sculptures for newly constructed Federal buildings and post offices. Unlike the other New Deal art programs, the Section awarded commissions through competitions, and paid artists a lump sum for their work. In total, the Section commissioned more than 1,300 murals and 300 sculptures.⁴

Treasury Relief Art Project, 1935–1938: Although TRAP was under the supervision of the Treasury Department, it received funding from the Works Progress Administration (WPA). TRAP provided paintings and sculptures for new Federal buildings such as post offices and courthouses when no funds were available from the building appropriation. In addition, TRAP also made possible the decoration of Federal buildings that had been erected before the Section came into being. Following employment guidelines similar to those of the WPA, TRAP typically selected artists from relief rolls and paid them a weekly or monthly wage. During its three-year existence, TRAP employed more than 400 artists to create paintings, murals, and sculptures.⁵

Works Projects Administration, Federal Art Project (later called the WPA Art Program), 1935–1942: The FAP was the largest of the New Deal art programs in both scope and number of artists employed. Its most

² Report of the Assistant Secretary of the Treasury to Federal Emergency Relief Administrator, PWAP, (Washington: U.S. Government Printing Office), 1934.

³ U.S. Treasury Department Press Release, October 1938.

⁴ Final Report, Section of Fine Arts, Public Buildings Administration, October 16, 1934 to July 15, 1943.

⁵ Cecil H. Jones, Acting Chief, TRAP, Memorandum to Edward Bruce, May 26, 1937.

productive period lasted until 1939. During a massive reorganization of all New Deal relief programs, FAP was reduced in size and renamed the WPA Art Program. By the time it was discontinued in 1942, the WPA's Federal Art Project and Art Program had produced more than 108,000 easel paintings, 11,300 fine prints, 2,500 murals, and 18,800 sculptures.⁶

Established in 1939, the Federal Works Agency (FWA) consolidated the public works and infrastructure functions spread across a number of agencies and departments, and assumed responsibility for the administration of Federal grants and loans for construction to State and local governments or other agencies. The work and activities of the FWA included public roads, public buildings, and community facilities. The Federal Property and Administrative Services Act of 1949 transferred all functions of the FWA, which included responsibility for New Deal artwork, to GSA.

WPA Artwork in Non-Federal Repositories

In 1934, the Federal Government began the process of loaning or allocating (a restricted transfer of title) portable artworks that had been produced under the various New Deal art projects to museums and other public agencies. In 1994, GSA began cataloging New Deal artwork as part of a National Survey of Federally Associated Collections Housed in Non-Federal Institutions conducted by the Department of the Interior Museum Property Program. This initial inventory identified more than 10,000 GSA artworks in non-Federal repositories. Today, GSA's Fine Arts Program continues to locate and inventory these artworks. To date, over 23,500 artworks have been identified in museums, libraries, and universities across the United States.

Postwar Period

In the late 1940s and 1950s, the commissioning of artwork for new Federal buildings continued through GSA's Public Buildings Service, in cooperation with the Commission of Fine Arts in Washington, D.C. GSA consulted with the Commission on the recommendation of painters and sculptors for the "decoration" of Federal buildings.

Art in Architecture Program

The Art in Architecture Program was established in 1963, based on the recommendations of President Kennedy's Ad Hoc Committee on Federal Office Space. The Committee's report contained the Guiding Principles for Federal Architecture, which recommended that "where appropriate, fine art should be incorporated into the designs of Federal buildings, with emphasis on the work of living American artists." To accomplish this, GSA allocates at least one-half of one percent of the estimated cost of construction of each new Federal building or major repair and alteration of an existing building to commissioning civic artwork appropriate to the design, function, and location of the building.

⁶ Final Report on the WPA Program, 1935-1943, (Washington: U.S. Government Printing Office), 1947. p. 65.

Initially known as Fine Arts in New Federal Buildings, the program was renamed Art in Architecture in 1972. Since then, GSA has commissioned more than 500 artworks.

APPENDIX C

GSA ART IN ARCHITECTURE POLICES AND PROCEDURES

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1. Introduction

Art has always been an essential feature of civic architecture. From the sculpted frieze of the Parthenon in ancient Athens to the painted frescoes of the U.S. Capitol in Washington, government-sponsored art and architecture are long-time partners in expressing the values and identity of a nation. As the primary patron of Federal architecture in the United States, the General Services Administration (GSA) bears a special responsibility to sustain and enrich this tradition. Accordingly, the agency's Art in Architecture Program commissions American artists to create publicly scaled and permanently installed artworks for Federal buildings nationwide. The incorporation of contemporary art within the nation's important civic spaces celebrates the best of American culture and exemplifies how democratic societies benefit immeasurably from the unique, creative talents of individual citizens.

The source of GSA's policy to commission art for the American public is the Guiding Principles for Federal Architecture, issued by the Kennedy administration in 1962. These guidelines established a new, quality-conscious Federal attitude toward architecture, and advocated the inclusion of fine art in public buildings. The Guiding Principles state that "...the Federal Government, no less than other public and private organizations concerned with the construction of new buildings, should take advantage of the increasingly fruitful collaboration between architecture and fine arts," and, "where appropriate, fine art should be incorporated in the designs [of Federal buildings], with emphasis on the work of living American artists." The primary goals of the Art in Architecture Program are to commission American artists who are producing the most critically esteemed and thought-provoking work of our era, and to integrate their creative contributions in meaningful ways with an equally vibrant Federal architecture.

GSA has developed the following policies and procedures to ensure that the quality of American art in federally owned properties continues to meet the highest possible standards. This edition revises and replaces the Art in Architecture Policies and Procedures issued in April 2009. These new procedures begin by defining the key individuals associated with the artist selection process and then prescribe a detailed account of how to commission artists in compliance with GSA Acquisition Letter V-10-01. Additional references to the Art in Architecture Program can be found in Subchapter C – Real Property, Part 102-77 of the Federal Management Regulation.

2. Stakeholders and Responsibilities

Art in Architecture projects are not solo endeavors. They require the commitment and close cooperation of artists, architects, fabricators, construction contractors, Federal clients, private-sector art professionals, and regional and national GSA project teams.

2.1 Regional Project Team

The GSA's regional project team includes the Project Manager, the Contracting Officer, and the Regional Fine Arts Officer (RFAO). The regional Project Manager is responsible for managing all aspects of the construction project's delivery, of which the art is just one component. The Contracting Officer is the individual authorized to enter into contractual agreements for goods and services on behalf of GSA. The RFAO oversees the Art in Architecture Program for the

regional office, monitoring each art project from inauguration through the installation of the completed artwork, and implementing its maintenance plan.

2.2 Office of Design and Construction

The Office of Design and Construction ensures that the Art in Architecture Program and its commissions are administered efficiently, effectively, and in concert with the national goals and objectives of the Public Buildings Service (PBS).

The Art in Architecture Program Specialist (Program Specialist) and the Art in Architecture Program Manager (Program Manager) work closely with the regional project team. The Program Specialist and the Program Manager serve as the PBS professional experts in all matters pertaining to art commissions.

The Program Specialist directs the implementation of the Art in Architecture project for the national office, providing technical advice, guidance, and recommended solutions throughout the length of the project. The Program Manager is engaged in each artist selection to ensure that agency policies and procedures are carried out in a consistent manner from project to project and region to region. At strategic points in the process, the GSA Fine Arts Program Manager is consulted on issues having to do with art conservation and maintenance.

The Design Excellence and the Arts Division Director reviews the selection of the artist and the development of the artwork at key points in the process. The Chief Architect, in accordance with GSA Acquisition Letter V-10-01, serves as the Selection Authority for all Art in Architecture selections.

2.3 The Art in Architecture Panel

Commissioning artists to participate in GSA projects requires the professional guidance of an Art in Architecture Panel (Panel) that includes a Federal client representative and industry experts from the fields of art and architecture. This Panel is critical to the success of each Art in Architecture commission and the overall building project. Each member of the Panel contributes distinct expertise to the project, including knowledge of contemporary American art and its long-term care, the design philosophy and practice of the Architect/Engineer lead designer, the programmatic and functional needs of the Federal client, and the character of the community in which the project is located.

The primary responsibilities of the Panel members are to recommend artists for inclusion in the National Artists Registry (Registry), to review the competitive field established by the Technical Evaluation Board (Board), to recommend a short list of finalists to the Board, and to review and provide critiques—for both artistic merit and long-term maintainability—of the commissioned artist's final design concept.

Each Panel consists of the following seven individuals:

- One GSA art peer from the PBS Commissioner's National Register of Peer Professionals. The Design Excellence and the Arts Director (or designee), in consultation with program staff, is responsible for appointing the art peer. The peer assumes the role of educator, advocate, consensus builder, and communicator during the panel meetings. The Design Excellence and the Arts Division coordinates and funds the peer's travel.
- One art professional from the city or geographic region of the building project. The Design Excellence and the Arts Director (or designee), in consultation with program staff, is responsible for appointing the regional art professional. To qualify as an art professional, individuals must have knowledge of contemporary American art, as evidenced by their profession (e.g., art curator, art museum director, public arts administrator, art educator, art historian, art critic, or artist); their education (e.g., a master's degree or higher in art history, fine arts, or other art-related field); or their association (e.g., representatives of arts organizations or individuals recognized for their knowledge of and leadership in the visual arts). Art gallery owners or employees, consultants or agents representing individual artists, and artists under consideration for GSA commissions in other locations cannot be considered, given the conflict or the appearance of a conflict of interest. The art professionals on Art in Architecture Panels cannot be elected officials or representatives of the project's Federal client agency.
- One representative of the building project's primary Federal client. The Regional Commissioner (or designee) is responsible for appointing the Panel's primary Federal client representative. This representative should serve in a leadership position in his or her agency and must have the ability to make decisions on its behalf. If the Regional Commissioner determines that more than one Federal client representative should attend the Panel meetings, the regional project team will explain to the clients that any additional attendees are non-voting observers.
- One community representative. The Regional Commissioner (or designee) is responsible for appointing the Panel's community representative. Such individuals should be recognized by the community as spokespersons for the cultural, political, and social issues of the locality. Suggested individuals include representatives of the mayor or city council, congressional delegation, civic organizations, and county government.
- The Regional Commissioner's representative. The Regional Commissioner (or designee) is responsible for appointing a representative, who is usually the RFAO.
- The Architect/Engineer (A/E) lead designer for the building project. The A/E lead designer is substantially involved in the integration of art into the design of new or existing Federal buildings and must personally participate as a member of the Panel.

- The Art in Architecture Program Specialist. The Program Specialist is a staff person in the Art in Architecture Program with an in-depth knowledge of GSA policies and procedures and expertise in commissioning, developing, fabricating, and installing public works of art.

2.4 The Technical Evaluation Board

The Technical Evaluation Board comprises GSA subject-matter experts and executes several key responsibilities in the artist selection process. The Board consists of the RFAO, the Program Specialist, and the Program Manager. The Contracting Officer serves as an advisory member.

The primary responsibilities of the Board are to establish the relative weights of the selection criteria for the project, to conduct an initial screening of the Registry in order to establish the competitive field, and to conduct a technical evaluation that assesses the qualifications and past work of the short-listed project finalists.

3. Planning and Funding

Art in Architecture projects are an integral part of PBS's overall mission and as such are incorporated into the standard planning for prospectus-level projects.

3.1 Planning Documents for Art in Architecture Projects

The Comprehensive Project Plan (CPP) addresses all aspects of project management and acquisitions for the construction or modernization of Federal buildings. The CPP includes a comprehensive acquisition plan, which meets the requirements of FAR Part 7. The acquisition of artists' services and their works of art will be included in that plan. A separate acquisition plan for art is not necessary. Upon request, the Office of Acquisition Management, in collaboration with the Design Excellence and the Arts Division, will provide prototypical language for including Art in Architecture projects in the CPP.

The RFAO will work with the regional Portfolio Management office and other appropriate offices to ensure that all planning documents reference appropriate funding, goals, and milestones for the Art in Architecture project.

Opportunities for Design Excellence contracts for lead designers and A/E teams are listed on the Federal Business Opportunities (FedBizOpps) government procurement Web site. The RFAO will ensure that the following information is included in each opportunity: "The lead designer will participate in GSA's established process for commissioning project artists and assist with the successful integration of their artworks into the architectural design, per the GSA Art in Architecture Policies and Procedures." The Contracting Officer will include or append the Art in Architecture Policies and Procedures to the A/E contract so that the lead designer and A/E team will be aware of their responsibilities during the commissioning process and can budget accordingly. The A/E contract will require the lead designer to work with GSA and all project artists to ensure that art is an integral component of the building project.

3.2 Funding for Art in Architecture Projects

The funding for each Art in Architecture project is at least 0.5 percent of the building project's total Estimated Construction Cost (ECC). Historically, Congress has appropriated project funds in two allocations: an initial allocation for the building's design, followed by a second allocation for its construction. During the design phase, congressional funds normally include one-quarter of the total Art in Architecture budget—i.e., 0.125 percent of the current ECC. This first distribution of art money pays for the artist's development of a design concept. The distribution given at the time of construction includes the remaining three-quarters of the Art in Architecture budget—i.e., 0.375 percent of the current ECC. These percentages are based on the historic norms for these projects; actual funding and payment should be based on the individual determination for each project. The Project Manager and the RFAO will ensure that funds are available for the art commission during both the design and construction phases of the building project.

If the building project's ECC escalates prior to GSA's selection of the project artist, the regional office will increase the dollar amount reserved for Art in Architecture so that it again equals 0.5 percent of the ECC. If the ECC escalation occurs after GSA awards the artist's contract, the regional office will determine if an increase to the artist's contract price is warranted and justified. In either case, if the ECC escalation is substantial, the regional office may also consider selecting additional project artists. See Section 5.5 for further information on possible ECC escalation and recalculating the Art in Architecture funding.”

The regional office, in consultation with GSA's Chief Architect, may increase a building project's percentage of funding allocated for art if the project team believes this would benefit the overall project. One instance when the regional office may wish to increase the minimum 0.5 percent for art would be for a building project with a comparatively small ECC, but where art is still warranted. Other instances may be for a new building that will serve a pivotal role in a community's urban redevelopment, or where the Federal client's interest in the project's art commission is particularly strong.

The Project Manager will request funds for Art in Architecture commissions separately from design and construction allowance requests. The Chief Architect (or designee) will concur with the art allowance.

3.3 Use of Art in Architecture Funds

Art in Architecture funds are used to pay for artists' design services and for the fabrication and installation of their artworks. Art in Architecture funds are also used for the payment of artists' expenses—such as travel, concept presentation models or maquettes, shipping, insurance, photography, maintenance instructions, and other allowable costs.

In most cases, the Art in Architecture budget is intended to fund the entire material, fabrication, and installation costs of the artwork. However, the project team is sometimes able to make more economical use of overall GSA project

funds by including some portions of art fabrication and installation in the general construction budget. This method is most common and beneficial when the artwork is incorporated into an architectural element of the building (such as a floor or ceiling) or its site (such as a plaza or landscape space). For example, if a project artist designs a stained-glass window to replace a standard A/E-designed window, the base costs for the standard window are still paid by the building construction budget, and the artist's budget pays only for the added costs (for materials, labor, shipping, installation, and the like) incurred by replacing the standard window with an art window.

By the end of a project artist's design development phase, the project team and the artist will decide whether the artist or the general contractor and subcontractors will be responsible for fabrication and installation of the artwork. Based on this decision, the regional office will make a final determination from the funding options (Art in Architecture budget, general construction budget, or some combination of the two) about how to complete the artwork.

Art in Architecture funds will not be used to pay consulting, project management, or any other type of fees to A/E teams or other consultants to GSA. The regional office will fund site preparation and related technical costs, such as A/E or Construction Manager fees. Art in Architecture funds will not be used by the building project's general contractor or subcontractors to fabricate, construct, or install items that have not been designed or selected by the project artist and approved by the regional office. To ensure appropriate use of Art in Architecture funds, the Chief Architect (or designee) will approve the release of these funds to the regional office.

Art in Architecture funds will not be used to commission memorials or commemorative artworks, as these types of work fall outside the scope of the GSA Fine Arts Collection.

3.4 Determining Suitability with Major Modernization or Repair-and-Alteration Projects

Art in Architecture funds are appropriated for prospectus-level modernization or repair-and-alteration projects. The RFAO and the Program Specialist, in collaboration with the Project Manager, will evaluate the building project and determine if appropriate public spaces for artwork should result and if newly commissioned artwork would contribute to the enhancement of the project.

If the building already contains artwork from the GSA Fine Arts Collection, the Art in Architecture and Fine Arts Program Managers and the RFAO will assess if some or all of the Art in Architecture project funds should be dedicated to the existing artwork before GSA commissions any new artwork. Appropriate uses of these funds include conservation, reinstallation, improved artwork lighting, and the development of new interpretive materials (e.g., plaques and brochures) for the existing artwork. If the building is historic, the RFAO and the Program Specialist may propose using the project's Art in Architecture funds to hire qualified artists or artisans to restore the building's existing or lost historic ornamentation and decorative elements.

For projects involving historic buildings or sites, the RFAO and Program Specialist will also work with the Regional Historic Preservation Officer (RHPO) and the Historic Buildings Division to determine the most suitable approach, since any action may require review under the National Historic Preservation Act, as amended.

The RFAO and the Fine Arts and Art in Architecture Program Managers will make a recommendation to the regional office and the Design Excellence and the Arts Director as to how the Art in Architecture funds should be applied. The regional office will not initiate an Art in Architecture project for a prospectus-level modernization or repair-and-alteration project without written concurrence from the Design Excellence and the Arts Director.

4. Artist Selection

The artist selection and approval process must be integrated into the overall project schedule, in order to afford the opportunity for a successful collaboration between the project artist and A/E team.

4.1 Commencing Art in Architecture Projects

Once GSA approves the lead designer and A/E team, the Art in Architecture process commences. During the time between the A/E selection and contract award, the Regional Commissioner and the Design Excellence and the Arts Director will identify the project's Panel members. Once GSA awards the A/E contract, the RFAO and Program Specialist will schedule the first Art in Architecture Panel meeting. This meeting will occur early in the project schedule, before the lead designer and A/E team have produced a design concept for the project.

GSA will select and approve the project artist before the A/E team presents the building's design concept to the PBS Commissioner in Washington, D.C. The artist's contract does not have to be awarded prior to the Commissioner's concept presentation, but the selected artist should be brought under contract as soon as possible.

The project's Contracting Officer will post a synopsis for the artist selection in FedBizOpps. The Project Manager will notify the Contracting Officer when to post the synopsis for the upcoming artist selection. The synopsis will provide information on how to be included in the National Artists Registry, and will state that all artists who want to be considered for any potential GSA commission must be included on the Registry. The synopsis will list the technical criteria used to evaluate Registry artists for all GSA projects, and will state that the combined weight of these criteria is significantly more important than price. The synopsis will give the Registry submission deadline for the project being advertized, and will state that artists' submissions received after the deadline will not be considered for this project, but will be eligible for consideration on future GSA commissions alongside the other artists on the Registry. Artists already on the Registry need not resubmit, but may elect to update their information prior to the deadline. The Design Excellence and the Arts Director (or designee) will

approve the content of the synopsis prior to publication. Upon request, the Design Excellence and the Arts Division will provide a sample synopsis.

The FedBizOpps synopsis will be posted for a minimum of 30 days and the deadline will be calculated so that it occurs at least 4 weeks after the initial meeting of the Art in Architecture Panel.

At least one meeting of the Panel will take place at or near the building project's site so that the members of the panel can develop an understanding of the local context in which the selected artist's work will be installed.

4.2 Inaugural Meeting of the Art in Architecture Panel

The purpose of this meeting is to provide the Panel with an introduction to the Art in Architecture Program goals; to discuss how these goals are an important part of the overall Design Excellence process; to learn about the A/E lead designer's existing body of work and design philosophy; and to explore potential sites, concepts, and approaches for integrating art into the project.

Members of the Panel are required to sign a "Conflict of Interest Acknowledgement and Nondisclosure Agreement" before the activities of the panel commence. No persons may serve as Panel members if they or any member of their family has any direct financial or employment interest in any of the artists considered for the project. Each Panel member is responsible for identifying any possible conflict of interest once artists are identified. Any conflict should be reported to the Contracting Officer. All observers at Panel meetings are required to sign a "Nondisclosure Agreement."

The Program Specialist and the RFAO will explain the Design Excellence and Art in Architecture Programs' objectives by presenting to the Panel an illustrated overview of existing GSA building projects and art commissions. They will convey to the panel GSA's goal to commission the broadest possible spectrum of America's most talented artists, and its mandate—as with Federal architecture—not to endorse or promote an official or preferred style for art in Federal buildings. The Program Specialist and the RFAO will explain that the Art in Architecture Program has a national scope, and so artists who were born in and/or currently reside in the city or state where the building project is located will not be afforded preference in selection. The Program Specialist and the RFAO will show completed GSA art commissions as examples of artists' diverse approaches to Federal commissions, and they will describe the steps the Panel will use to identify the best artists for the project.

The lead designer will outline his or her architectural design philosophy as exemplified by past building projects, including those that featured collaborations with artists, and will discuss ways he or she can envision working with artists on the GSA project.

The Federal client representative will be asked to describe the function and uses of the proposed building, and to share any philosophical viewpoint (e.g., about the mission and history of the Federal agency, or the role of the judiciary) that may aid the panel in its search for and review of artist candidates.

Similarly, the Panel's art professionals and community representative will be invited to share their thoughts or questions about the role of civic art, the identity of the project city and region, as well as the character of any local art community.

The Project Manager will outline the project's design milestones and projected construction schedule.

Once familiar with the Art in Architecture Program goals and the overall building project, the Panel will review the criteria used to evaluate Registry artists for all GSA projects. The Panel will discuss the standards and weights that they recommend assigning to each of these criteria in evaluating artist candidates for this specific project. The Program Specialist and the RFAO will record the Panel's recommendations and report them to the project's Technical Evaluation Board.

The RFAO and the Program Specialist will prepare meeting minutes and distribute them to the panelists for their review and written concurrence. The meeting minutes will be included in the evaluation report prepared by the Board.

4.3 Technical Evaluation Board Meeting

The Technical Evaluation Board will convene soon after the inaugural meeting of the Art in Architecture Panel. The Board will finalize the weights of the project's selection criteria in response to the Panel's recommendations. These selection criteria represent the areas of importance and emphasis that the Panel and the Board will use during the artist selection process. The specific standards for the selection criteria may be tailored to suit the unique conditions of a particular project. Past Performance and Experience are mandatory technical criteria for all projects, and are evaluated by the Board following the Panel's review of artist candidates, as described in section 4.6. The additional technical criteria that are evaluated are:

Media: This criterion considers the extent of the artist's past work in any of the artistic media determined by the Board to be appropriate for this commission. These are broad, overarching categories that include but are not limited to: sculpture, painting, architectural media (e.g., windows, floors, and ceilings), electronic media, landscape media, and graphics. The standard for evaluation is met when the artist has worked successfully in those media selected by the Board. It is also possible for the Board to exclude certain types of media, based on the requirements or limitations of the project.

Materials: This criterion considers the extent of the artist's past work in the materials determined by the Board to be appropriate for this commission. Materials may include, but are not limited to: oil or acrylic paints on canvas, cast metals, stone, glass, mosaics, neon, LEDs, or any other durable and non-toxic material. The standard for evaluation is met when the artist has demonstrated proficiency in the use of durable materials from among those determined by the Board to be suitable for the project.

Content: This criterion considers the subject matter, meaning, range, and focus of the artist's work. The standard for evaluation is met when the Board determines the content of the artist's past work is applicable to the project.

Scope: This criterion considers the recognition of an artist's work by art institutions as documented by the artist's history of exhibitions, commissions, honors, awards, and public collections that hold the artist's work. The standard for evaluation is met when the artist's history is of the scope that is suitable for the project.

Style: This criterion considers the stylistic or aesthetic skill demonstrated by the artist's past work. Style encompasses the formal qualities of the artist's work, such as the use of color, shape, scale, volume, texture, composition, and other visual elements. The standard for evaluation is met when the artist has produced a body of work that is determined by the Board to be aesthetically well-suited for the architectural design, function, or location of the building project or its site. The Board must not prescribe any one acceptable artistic style for the project, such as "abstract" or "representational." Rather, this criterion evaluates the skill with which the artist composes the stylistic elements within his or her own body of work.

4.4 Establishing the Competitive Field of Artist Candidates

The National Artists Registry is the qualified list of eligible artists. To establish the competitive field, the Board will screen the Registry using the criteria and the specific standards it has established for the project. The Selection Authority must approve the relative weights and standards established for the criteria before the selection process commences.

The Program Specialist will notify artists who are recommended by the Panel, but who are not yet on the Registry. These artists or their representatives must confirm the artists' interest in being considered for a commission and submit their materials to the Registry before the deadline posted in the FedBizOpps synopsis.

Artists in the competitive field will affirm that they are citizens, Lawful Permanent Residents, or Permanent Workers of the United States. The Program Specialist will document the competitive field by recording the project criteria, the names of the artists who constitute the competitive field, and the total number of artists on the Registry.

4.5 Review of the Competitive Field by the Art in Architecture Panel

The Panel will meet to review the portfolios of all artists in the competitive field. The Program Specialist and the RFAO will facilitate the discussion. The Panel will evaluate these artists against the selection criteria (see Section 4.3) and will recommend a short list of at least three artists for the Board's final consideration. Each Panel member will provide a written or verbal assessment of the short-listed artists, describing how each finalist meets or exceeds the project criteria and standards. This short list represents the most highly qualified artists for the project.

The Program Specialist and the RFAO will advise the Panel members that GSA can offer a commission to any of the short-listed artists, so only those artists who are acceptable to the panelists should be included on the short list. All individuals attending this meeting will maintain the confidentiality of the finalists' names until GSA awards a contract to the project artist.

The RFAO and the Program Specialist will prepare meeting minutes that record the discussion of the competitive field, the evaluation criteria, the Panel members' individual assessments of the finalists, and the overall recommendations of the Panel. The minutes will be distributed to the panelists for their review and written concurrence, and will be included in the evaluation report prepared by the Board.

4.6 Review of the Short List of Artists by the Technical Evaluation Board

The Program Specialist or the RFAO will notify the short-listed artists of their selection as finalists and will request the submission of additional information to determine their suitability for the commission. This information (the proposal) will include: a list of references (such as public art administrators or museum curators) the Program Specialist or the RFAO can contact to verify the artist's past performance on completed projects; a list of sales figures and/or commission budgets for the artist's completed projects; the artist's brief written statement of an overall approach to the GSA project; an explanation of how the artist's experience prepares him or her to accomplish the project; and the artist's statement that he or she can perform the work associated with the GSA commission within the identified budget.

At a minimum, the short list of finalists must include three artists. If fewer than three finalists elect further review, the Program Specialist and RFAO will reconvene the panel—either in person, via correspondence, or by conference call—to add artists to the short list. It is not necessary to reconvene the panel if at least three artists remain on the short list.

Upon receipt of the proposal information from the finalists, the Board will assess the artists on the criteria and standards that it used to develop the short list, as well as the following required criteria. The specific standards for these required criteria may be tailored to suit the individual project.

Past Performance: This criterion considers the relevant information regarding an artist's performance under previous contracts or agreements. The standard for evaluation is met when the artist's record demonstrates the ability to complete the project requirements, apply standards of good workmanship, adhere to schedules and budgets, and behave in a reasonable and cooperative manner.

Experience: This criterion considers the extent of an artist's past experience with similar commissions or projects, based upon the scale, complexity, predictability, budget, and range of production over time. The standard for evaluation is met when the artist's record demonstrates the ability to take into account the nature, use, design, and constraints of the site in order to create a unique and engaging artwork.

Separate from the evaluation of the technical criteria, the Board will conduct a price evaluation. For the Art in Architecture Program, GSA has determined that the combined weight of the technical criteria is significantly more important than price. The Art in Architecture project budget should represent a price that is a reasonable estimate of the fair-market price that one should expect to pay for artworks by the short-listed finalists. The Board will determine an individual “should-pay” price for each artist submitting proposals, and will assess each short-listed artist’s documentation of his or her ability to produce an acceptable artwork for the GSA project budget and the determined “should-pay” price. This assessment will include a comparison of the artist’s completed projects and corresponding prices to the GSA project’s scope and budget. The Board will use the recent sales figures and/or commission budgets to confirm whether the artist’s proposal can be accomplished for the GSA project budget and the determined “should-pay” price.

The Board’s evaluation will contain explanatory narratives and numerical or adjectival scores for each technical criterion (including Past Performance and Experience) as well as price evaluation for each artist, and will incorporate the Art in Architecture Panel’s assessments of the finalists. The Board will recommend GSA’s selection of the artist(s) with the highest overall rating, considering both technical scores and price evaluation, which represents the best value to GSA.

The Technical Evaluation Board Report will be composed of the technical evaluation, the Art in Architecture Panel meeting minutes, the nondisclosure and conflict of interest forms, and the Contracting Officer’s written concurrence that the Art in Architecture acquisition process has been followed.

4.7 Approving the Project Artist

The Design Excellence and the Arts Director will review and approve the Technical Evaluation Board Report before it is forwarded for regional review and approval.

The RFAO will coordinate regional review and approval by the Regional Commissioner. The RFAO will then prepare a memorandum from the Regional Commissioner to the Chief Architect—who serves as the Selection Authority for all Art in Architecture projects—recommending approval of the artist(s) evaluated as most advantageous to the government.

If the artist selected by GSA declines or is otherwise unable to accept the commission, then the second-highest ranked artist from the approved Technical Evaluation Board Report will be recommended to the Chief Architect, followed—if that artist declines—by the third-most highly ranked artist, and so forth.

If the Chief Architect declines to approve the Board’s recommended artist(s) or any of the other short-listed artists, GSA will reconvene the Board, and if necessary the Panel, for a meeting with the Regional Commissioner and the Chief Architect, to resolve the selection. The decision to cancel a selection and reinitiate the process must occur through an action of the Contracting Officer with the concurrence of the Office of General Counsel.

Once the Chief Architect approves the project artist, the Contracting Officer will notify the artist of his or her selection.

4.8 Contracting the Project Artist

The Contracting Officer will develop and award a fixed-price contract in an amount consistent with the artist's individual price evaluation, not to exceed the project budget as established in Section 3.2. The Project Manager will confirm the current ECC so that the Contracting Officer can determine the limit of the project budget. The contract will establish a fixed price for the artist to develop preliminary and final concepts and, as a contract option, a not-to-exceed price for the fabrication, installation, and documentation of the resulting artwork once GSA has approved the final concept.

The Contracting Officer will consult with the RFAO and the Program Specialist to develop the documents necessary to award the contract. This contract will describe the scope of services or work, roles and responsibilities, the sequence of tasks, schedules (including travel and meeting attendance), payments, and requirements for photographic documentation and maintenance instructions for the completed artwork. The RFAO—if qualified by the necessary training—will serve as the Contracting Officer's Representative. The Office of Acquisition Management, in consultation with the Design Excellence and the Arts Division, will provide sample contracts or templates as needed. Contract templates will also be available on PBS One Source.

The Contracting Officer, the RFAO, and the artist will discuss and negotiate the contract—including project and payment schedules, the fixed price for the concept services, and the not-to-exceed price for the fabrication and installation contract option. The Contracting Officer will provide the artist adequate opportunity to review the contract prior to its award. The Program Specialist will also review the contract prior to award, to insure that the correct contract template was used and the technical scope of work is appropriate to the project.

Contracting Officers will use the Art in Architecture Contract template posted at <http://insite.pbs.gsa.gov/acqtemplates> for all Art in Architecture contracts. The templates contain all necessary clauses for a complete contract with the exception of state specific taxation issues. Any supplementing clauses add must be coordinated with legal counsel to ensure proper applicability to the Art in Architecture program.

Each artist's contract will require that the artist and regional project team coordinate all activities related to installation of an artwork with the A/E team and GSA's contractors, in order to avoid any duplication of labor, any removal and reconstruction of building elements affected by an artwork, and any negative impact to the project schedule.

After GSA awards the project artist's contract, the RFAO or the Program Specialist will notify the Panel of the selection and the Contracting Officer will post notice of the award in FedBizOpps. The announcement, citing the artist contracted for the project, will serve as the public notification of award. The

announcement will include a notice that all artists on the Registry will remain available for consideration for all future Art in Architecture works. The short-listed artist will receive notification letters with a brief explanation of why the artist who received the award was chosen. The explanation is considered a debriefing of the short list similar to the schedule process found at FAR 8.405-2(d).

The Art in Architecture contract is to be administered in accordance with the terms, conditions and regulatory clauses (as prescribed in the regulations) found in the template. The following is the required minimum documentation for the contract file:

- Synopsis
- Non-Disclosure documents for the Art in Architecture Panel and Technical Evaluation Board
- Record of the Art in Architecture Panel meetings
- Documentation of the Competitive Field
- Technical Evaluation Board Report
- Artist's Approval
- Pre-Award correspondence with selected artist
- Document contract agreements
- Funding Approval
- Contract Documents with Signatures
- Administration Records

5. Concept Development, Fabrication, and Installation

Once GSA awards the artist's contract, it is important for the artist to be introduced to the project and the members of the team. The artist then develops a concept proposal, which moves through the approval process and ultimately results in the fabrication and installation of the artwork.

5.1 Artist's Site Visit

Each project artist will visit the building site and meet with representatives of GSA and the Federal client agencies to learn about client-agency missions and to develop an understanding of the site's geography, history, and identity. The payment schedule of the artist's contract will contain a line item for this visit.

5.2 Artist's Preliminary Concept

The artist will be responsible for developing a preliminary concept that determines the artistic expression of the work, including its scope, design, location, size, material, color, texture, and all other aesthetic and material aspects of the work. The artist's preliminary concept will consist of drawings, models, photographs, or digital renderings and animations, as applicable, plus supporting narrative materials that clearly convey a meaningful concept of the artwork and its relationship to the building or site design. In developing this preliminary concept, the artist will work in consultation with the A/E lead designer and the regional project team.

The artist will forward a copy of the preliminary concept to the RFAO and to the Program Specialist. The RFAO will review the preliminary concept with the Contracting Officer and the Project Manager, and will advise them on the acceptability of the concept. The RFAO is responsible for any other briefings and approvals in the regional office. The Program Specialist will review the artist's preliminary concept with the Design Excellence and the Arts Director and the Program Manager.

The artist's preliminary concept is intended for internal GSA review only, and not a review by the Art in Architecture Panel, which instead reviews a final concept that is presented in person by the artist. However, if the Federal client requests a review of the artist's preliminary concept, the Program Specialist and the RFAO may consider these requests when the preliminary concept has been determined acceptable by GSA. In such instances, both the Program Specialist and the RFAO may present the preliminary concept to the Federal client. The presentation will be in person, in order to ensure a full, clear, and accurate presentation of the artist's ideas and to address any of the client's questions about the preliminary concept. Copies of artists' concepts will not be forwarded to Federal clients prior to a presentation meeting with both the Program Specialist and the RFAO.

Once the Design Excellence and the Arts Director (or designee) and the Regional Chief Architect accept the artist's preliminary concept, the Contracting Officer will notify the artist of the acceptance and issue a notice to proceed on the development of the final concept.

5.3 Peer Workshop

If GSA determines that the project would benefit from a peer workshop, GSA usually will schedule one after approving the artist's preliminary concept, and while the artist is developing a final concept. Engaging the project artist in a dialogue with other peer professionals who possess similar knowledge and experience reinforces the seriousness of the project and can enhance the quality of the artwork.

A peer workshop, which is normally held in the artist's studio, will offer individual and independent professional expertise to the artist in areas such as design, fabrication, installation, maintenance, and conservation. Members of the PBS Commissioner's National Register of Peer Professionals will participate. At least one of the participants should be a peer knowledgeable in conservation issues to ensure that the proposed art materials are stable, durable, non-toxic, environmentally sound, and suitable for their proposed locations. The regional office may invite the Federal client to attend the peer workshop.

Additional peer workshops may be arranged at other points in the process if GSA determines that supplementary reviews are necessary.

5.4 Artist's Final Concept

The artist will be responsible for developing a final concept that describes his or her approach to the artwork, proposed materials, and preliminary fabrication and

installation techniques. The artist will include drawings, models, photographs, digital renderings and animations, written narratives, or other materials as necessary to fully convey the final concept. The final concept will include a cost estimate for fabrication and installation of the artwork, and also address maintenance requirements, including descriptions of any special materials or techniques that will be required for proper maintenance of the artwork.

Unless otherwise stipulated by the artist's contract, the artist's final concept presentation materials will become the property of GSA. These drawings, maquettes, or other materials will be of a quality that is suitable for public exhibition and will represent as closely as possible the appearance of the full-scale, finished artwork. GSA's Fine Arts Program is responsible for cataloging and tracking artists' concept presentation materials and maquettes.

The artist will present his or her final concept to the Art in Architecture Panel. Panel members will discuss the merits or drawbacks of the concept and make recommendations to GSA on whether fabrication and installation of the artwork should proceed. The RFAO and the Program Specialist will prepare minutes of the artist's final concept presentation meeting.

If not previously addressed in a peer workshop, a fine arts conservation peer must review the concept to assess the materials and the proposed fabrication and installation details.

After the final concept presentation, the RFAO will incorporate the Panel's comments into a memorandum from the Regional Commissioner (or designee) to the Chief Architect, who authorizes the final approval of the artist's concept. The RFAO is responsible for any briefings and approvals in the regional office.

5.5 Fabrication and Installation of Artwork

Before the fabrication and installation phase begins, the Project Manager will recalculate the project's total dollar amount reserved for Art in Architecture funding based on the current ECC. If an ECC escalation results in an increase to the project's overall Art in Architecture budget, the Project Manager, Contracting Officer, RFAO, and Program Specialist will determine whether a modification to the artist's contract for additional funds is warranted. If the ECC escalation is substantial, the regional office may also consider selecting additional project artists.

The fabrication and installation of all artworks—or artist-designed elements of a building or its site—are achieved with the close cooperation of the project artist, the lead designer and A/E team, and the regional project team, regardless of who assumes primary responsibility for fabrication and installation of the artwork.

The Project Manager, with the support of the RFAO, will coordinate all installation activities with the artist and his or her subcontractors, ensuring adequate and appropriate access to the construction site, security clearances, etc. The Project Manager and the RFAO are responsible for monitoring the progress of the artist's work, and the artist is responsible for completing the project in accordance with the construction schedule. All parties will take appropriate measures to protect

the artwork if its installation must occur while building construction is ongoing. Depending on the nature of the project, the installation should occur by the time construction of the building is complete or substantially complete, and before the building is officially dedicated.

5.6 Final Acceptance of Installed Artwork

Each artist's contract will require the artist, at completion of an Art in Architecture commission, to provide two identical sets of photographic documentation; information on fabrication, materials, and installation; and any special maintenance instructions for the fully installed artwork. The artist must send one full set of these materials to the Program Specialist and an identical set to the RFAO.

Please consult with the Design Excellence and the Arts Division on the exact requirements for the photographic documentation of the artwork.

The photographs of the artwork will be properly archived by the national and regional offices of GSA. The photographs will be part of the official record of the commission, and will be used to develop educational materials and to provide a standard for cyclic maintenance and future conservation needs.

The artist will also provide a statement about the completed artwork that contains the artist's thoughts about the genesis, fabrication, installation, meaning and defining characteristics of the completed artwork, as well as any other details the artist can provide about the commission. The artist will forward a copy of this statement to both the RFAO and the Program Specialist.

Upon final acceptance by GSA, the artwork is accessioned into the Fine Arts Collection. The artwork's official project file—including correspondence, technical evaluation, contracts, photographs, maintenance instructions, and the artist's statement—will be stored in the Office of Design and Construction and a duplicate file will be stored in the regional office.

6. Canceling Artist's Contracts or Art in Architecture Projects

If the regional office intends to cancel an artist's contract, the Regional Commissioner will forward a memo that outlines reasons for recommending the cancellation to the Chief Architect for concurrence. The cancellation or postponement of an artist's contract must occur through an action of the Contracting Officer and with the concurrence of the Office of General Counsel or Regional Counsel's Office.

If the regional office wants to cancel a building's overall Art in Architecture project, the Regional Commissioner will forward a memo that outlines reasons for recommending the cancellation to the PBS Commissioner for approval. Only the PBS Commissioner can cancel or postpone Art in Architecture projects.

7. Activities after Installation of the Artwork

7.1 Public Affairs and Education

The RFAO and the Program Specialist will work with GSA's public affairs offices to ensure that artworks are introduced to the public through various outreach activities. Such events may include the public exhibition of other work by the artist at a nearby art institution, speaking engagements, receptions, public inaugurations or workshops, media coverage, educational brochures, interpretive plaques, and other means.

The RFAO ensures that the project artists and members of the Art in Architecture Panel are invited to the building dedication and that the artists are recognized by appropriate officials during the ceremony.

Interpretative materials such as brochures and plaques are critical tools in assisting employees, visitors, and the general public to gain understanding and appreciation of the full content and meaning of artworks, beyond just their physical appearances.

The Program Specialist and RFAO are responsible for providing or obtaining the text for brochures and plaques, will coordinate the printing of brochures, and will arrange for the fabrication and installation of a plaque (in an appropriate size, material, and location) that provides identifying information about the artwork. When possible, the plaque's design should be consistent with the signage standards established for the building.

7.2 Commencing Cyclic Maintenance for Installed Artwork

The RFAO is responsible for acquiring a cost estimate for yearly maintenance of the artwork and for developing an annual maintenance plan that will be shared with the building manager.

Cyclic maintenance instructions will be reviewed by, or developed in conjunction with, a fine arts conservator to ensure that the instructions offer the best techniques possible. In addition, conservator peers, fabricators, and property managers will review cyclic maintenance instructions. Copies of the cyclic maintenance instructions will be maintained in the building manager's office on site, in the files of the RFAO, and in the project file in the Office of Design and Construction.

APPENDIX D. Fine Arts Program - Industry Standards

The Fine Arts Collection is installed in a working office environment and therefore not subject to the protection of temperature and humidity controls, security, and light filtering found in museum environments.

The principal causes of environmentally induced damage are water, light, temperature, relative humidity, air pollutants, and pests. To protect the Fine Arts Collection from these and other forms of damage, the following standards must be applied whenever possible.

1. Light

Museum standards for lighting works of art range from **5 to 10 footcandles** for extremely light-sensitive materials such as **paper and textiles**, and range from **20 to 40 footcandles** for moderately sensitive materials such as **oil paintings and wood**.⁷

To prevent damage from light, the following precautions must be followed:

- a) Reduce daylight – Because natural light causes significantly more damage than an equivalent amount of incandescent light, light-sensitive artworks must be placed in a location that minimizes daylight exposure. If this is not possible, then light levels must be minimized with curtains, blinds, or tinted solar reduction window films.
- b) Create efficient lighting solutions– The eye adapts to a wide variety of illumination intensities. Reduction in contrast between sources of illumination, wall surfaces, and the art permits lower levels of satisfactory illumination. For example, a dark painting against a dark wall is easier to look at than if it were exhibited on a highly reflective white wall. Techniques for glare reduction, such as the use of indirect or angled light, help use light in an efficient manner.
- c) Filter sources of ultraviolet (UV) light with UV filters – Apply UV filters over windows or replace glazing with UV filtered glazing. Place UV filters over fluorescent light tubes.
- d) Use light sources with a low component of UV, such as incandescent lamps.
- e) Avoid infrared light from direct sunlight.
- f) Rotate light-sensitive collections. For example, a museum might exhibit very light-sensitive materials, such as textiles and works of art on paper, for only two months per year.

⁷Caring for Your Collections, National Committee to Save Cultural Collections (Harry N. Abrams, Inc., NY, 1992), 20-21.

2. Temperature

The main concern with temperature is rapid fluctuation. While extreme heat and extreme cold can be very damaging to an artwork, rapid fluctuation in temperature causes materials to expand and contract, and different materials expand and contract at different rates, compounding possible damage.

The average ideal temperature for artwork is 70°F, but more important than the ideal is to limit fluctuation to no more than +/- 5° within a 24-hour period.

To mitigate temperature problems:

- a) Understand the HVAC system. Keep doors between zones closed.
- b) Keep exterior doors closed.
- c) If the HVAC system goes down, then keep the doors closed as long as possible to retain the conditioned air.
- d) Do not place art near HVAC vents or intakes.

NOTE: Temperature directly affects relative humidity. Relative humidity measurements indicate the percentage of water vapor in the air based on what the air at that temperature could hold (100 percent). A decrease in temperature causes an increase in relative humidity.

3. Relative Humidity (RH)

Relative humidity is based upon the percentage of water vapor in the air, compared to what the air can hold at 100 percent (full saturation) at a given temperature. A decrease in temperature causes an increase in relative humidity. "It is difficult to provide one rule about a safe and appropriate level of RH that holds true for a wide variety of climatic regions or for collections made up of a variety of materials."⁸

Rather than a specific rule, the following guidelines should be followed:

- a) Keep within an **RH range of 30 to 70 percent**. In a hot and dry geographic region, it makes sense to maintain a range that errs on the low side (20 to 40 percent), while in semitropical climates a range of 55 to 75 percent may be practical.
- b) Minimize fluctuations in relative humidity. If they are unavoidable, gradual RH changes are better than severe fluctuations.

4. Air Pollution

Air pollution comes from contaminants produced inside and outside, and includes both particulate pollutants (e.g., dirt, dust, soot, ash, fibers, and molds) and

⁸ Ibid., 24.

gaseous pollutants (e.g., sulphur dioxide, hydrogen sulphide, formaldehyde, and ozone). Steps can be taken to reduce the problem of air pollutants, including:

- a) Regular vacuuming to control indoor-generated dust from fibrous materials such as carpeting and clothing
- b) Restricting or filtering outdoor air to minimize dust from outdoors
- c) Not placing artwork near a kitchen or HVAC ductwork
- d) Keeping artwork away from tobacco smoke

5. Pest Control

Many art objects are constructed of organic materials that are attractive food or nesting sources for a wide variety of pests. A preventive pest management program must:

- a) Monitor for the presence of pests and identify those that are discovered
- b) Determine pests' means of entry and close off points of access typically used by pests to infiltrate the building, such as windows, doors, and drains

If fumigation or extermination is required, then a conservator must be consulted to ensure that the extermination method itself will not damage the artwork.⁹

⁹ Ibid, 29.

APPENDIX E. Conservation Guidelines and Qualifications for Fine Arts Conservators

What Is Conservation?

The American Institute for the Conservation of Historic and Artistic Works ¹⁰(AIC) offers the following definitions of conservation terminology:

Conservation – The profession devoted to the preservation of cultural property for the future. Conservation activities include examination, documentation, treatment, and preventive care, supported by research and education.

Cultural property – Objects, collections, specimens, structures, or sites identified as having artistic, historic, scientific, religious, or social significance.

Preservation – The protection of cultural property through activities that minimize chemical and physical deterioration and damage and that prevent the loss of informational content. The primary goal of preservation is to prolong the existence of cultural property.

Restoration – Treatment procedures intended to return cultural property to a known or assumed state, often through the addition of non-original material.

Stabilization – Treatment procedures intended to maintain the integrity of cultural property and to minimize deterioration.

Qualifications for Fine Arts Conservators

Fine arts conservators in a specific area of expertise must have a master's degree or graduate certificate from an accredited arts school, college, university, or program in conservation, and have a minimum of five years of specialized experience in the field of art conservation. Additionally, the conservator must be a Professional Associate or Fellow of the American Institute for the Conservation of Historic and Artistic Works (AIC). The AIC defines these categories of membership as follows:

Professional Associate: Professional Associates (PAs) are conservators, conservation scientists, educators, or others professionally involved in conservation who, through training, knowledge, and experience, have shown a commitment to the purposes for which AIC was established. The PA category was established in 1980. A candidate for professional associate status must have earned an undergraduate university degree (or the international equivalent) and completed at least two years of basic training

¹⁰<http://www.conservation-us.org/home>

and three years of experience in his/her special field beyond the training period (third/fourth-year degree program internships are considered training). Applicants without an undergraduate degree may still apply, but first must request a waiver from the Membership Committee. Candidates must agree in writing to abide by the *Code of Ethics and Guidelines for Practice*.

Fellow – In addition to the qualifications required for election to PA membership, a candidate for fellow status must have a minimum of 10 years of experience after conservation training and two years prior membership as a professional associate. Moreover, evidence must be submitted of sustained high-quality professional skills and of ethical behavior. Applicants for Fellow status must also demonstrate that they have participated in an exchange of ideas regarding methods.

APPENDIX F. Legal Title to Artwork Produced Under the WPA

LEGAL TITLE TO ART WORK PRODUCED UNDER THE WORKS PROGRESS ADMINISTRATION

I. Background

The Department of the Treasury began Federal art patronage in 1933. The programs operated under different branches of the Department of the Treasury. In 1940, all Treasury Programs were transferred to the Federal Works Agency.

The Works Progress Administration began the Federal Art Project in 1935. In 1939, it was renamed the Works Projects Administration Art Program and was also transferred to the Federal Works Agency.

The General Services Administration (“GSA”) became the custodian of works of art produced under the Works Projects Administration (“WPA”) and other programs in 1949. The Federal Property and Administrative Services Act of 1949 created the GSA and all functions of the Federal Works Agency were transferred to the GSA.

II. General Concepts of Federal Property Ownership

The authority for the Federal Government to own, use and dispose of property is found in the Constitution at Article 4, Section 3, Clause 2. The courts have interpreted this clause to mean that only Congress has the power to procure, use or dispose of property, real or personal, for the benefit of the Federal Government and the public. Allegheny County, PA v. United States, 322 U.S. 174 (1944). Authority to exercise these powers can be given to the executive branch (Federal agencies) by laws enacted by Congress, but such laws will be strictly construed. Id. Therefore, Federal property can only be disposed by an act of Congress, either by general enabling legislation (such as GSA’s authority under the Federal Property and Administrative Services Act of 1949) or by specific legislation.

Based on the above, the courts have held that the Federal Government cannot abandon property. United States v. Steinmetz, 763 F. Supp. 1293 (D.N.J. 1991), aff’d, 973 F.2d 212 (3rd Cir. 1992). “It is well settled that title to property of the United States cannot be divested by negligence, delay, laches, mistake, or unauthorized actions by subordinate officials.” Id. Furthermore, inactivity, neglect or unauthorized intentional conduct on the part of government officials will not divest the United States of ownership interest in property. Kern Copters, Inc. v. Allied Helicopter Serv., Inc., 277 F.2d 308 (9th Cir. 1960); United States v. City of Columbus, 180 F. Supp. 775 (S.D. Ohio 1959).

Congress may attach reasonable conditions to the disposal of property. Tennessee Valley Authority v. Lenoir City, Tenn., 72 F. Supp. 457 (E.D. Tenn. 1947). If the purchaser/recipient does not want to take the property subject to these conditions, they may decline to proceed with the transaction. However, if the transaction is completed, the purchaser/recipient must comply with the conditions. Id.

The ownership interest held by the United States in any work produced under the Works Progress Administration or its predecessors, still remains vested in the United States, unless it can be shown to have been conveyed in a manner authorized by Congress.

III. Title to WPA Art Work

Work commissioned under the WPA was either loaned or allocated to federal, state and local governmental entities and tax supported organizations, or non - profit organizations. During the operation of the WPA art program, it was clearly stated that the Federal Government would hold full legal title to art work on long term loan and title remains in the government today. However, legal title to art work distributed under the allocation procedure was not clearly established while the WPA art program was ongoing.

To establish the status of ownership with regard to works allocated, GSA relied on the legal precedent discussed above, and on the regulations of the WPA as established in The Operation of Specific Professional and Service Projects, Operating Procedure No. G - 5, section 32, January 10, 1940 ("Operating Procedure"), and the Public Works of Art Program Bulletin issued by the Assistant Secretary of the Treasury on March 26, 1934, titled "Legal Title to Works Produced under the Public Works of Art Project" ("Bulletin").

The relevant portions of the Operating Procedure with regard to allocations are as follows:

1. Section 32, Part A, 1st paragraph: "For the purposes of this section the word 'allocated' shall mean the transfer of title."
2. Section 32, Part C, 3rd paragraph: "If an agency or institution which has received a work of art on allocation or loan desires to be released from the responsibility of custody of the work, the official representative of the agency or institution shall communicate with the Director of the WPA Art Program, Washington, D.C."
3. Request for Allocation Form, end of page: "It is understood that custody of the work listed above will not be transferred and that the work will be exhibited for public use as indicated. Institutions desiring to be released of any work shall communicate with the Director of the Work Projects Administration - Art Program, Federal Works Agency, Washington, D.C."
4. Receipt for Allocation of Works of Art: "It is understood and agreed that the allocation of these works is subject to the regulations of the WPA Art Program and is for the purpose which we have indicated on REQUEST FOR ALLOCATION, executed by us."

The relevant portions of the Bulletin with regard to allocations are as follows:

1. Paragraph 1: "All works of art executed with the intent that they should occupy a particular place in some public building are to be treated as a part of that building."
2. Paragraph 3: "All works of art produced by the project which are movable and not executed to occupy some particular location are the property of the Federal Government and will be in the custody for the Federal Government of the various Regional and Sub - Regional Committees and the Central Office in Washington."¹¹

In the first section of the Operating Procedure quoted above, it states that allocated means the transfer of title. On the portion of the Request for Allocation form, quoted in paragraph 3 above, it states

¹¹ The Bulletin only applies to works produced under the Department of Treasury's Public Works of Art Project (PWAP), which later became a part of the Federal Works Agency.

that custody of the work would not be transferred. Statements such as these, read separately and out of context from the Operating Procedure, have caused much confusion both within the government and among institutions. However, if these statements are read in the context of the entire Operating Procedure, a pattern emerges evidencing the intent of the original program.

The first section quoted indicates that some form of title was meant to be transferred in an allocation. However, Part C of the Operating Procedure, quoted above in paragraph 2, shows that the WPA intended to maintain some level of control over the works of art by providing a means of recovery if the custodian agency or institution no longer desired to be responsible for the work of art. This intent is reflected again in the Receipt for Allocated Works of Art form, quoted in paragraph 4 above.

Another example of the WPA's intent to keep some level of control over the works of art in the government can be seen in Part A, second paragraph of the Operating Procedure.¹² There it states that nonprofit institutions could receive works under the loan program, but only tax supported entities could receive the works by allocation.

It appears to be the intent of the Operating Procedure, and it is the position of GSA, that allocated works of art were transfers of restricted title. The receiving agency or institution received legal title to the works of art limited by the purpose stated in the allocation forms and by the regulations. For example, if a WPA work was allocated to be displayed in a public building by a state agency, and the state agency could no longer display the work, the legal rights to the work retained by the Federal Government would come into play. The state agency could not sell the work for profit, but must return it to the Federal government. However, if the state agency would like to store the work, then display it again in the future, it can do so without triggering the reversionary rights of the Federal government.

GSA applies this position to all movable works of art, including murals that are painted on canvas attached to the wall. If the art work is an integral part of the structure (murals, bas-reliefs and architectural ornamentation) and the structure is still owned by the original recipient of WPA art work, that institution is under an obligation to notify GSA if it no longer desires custody of the work. However, if the structure has been sold to a third party, the art work conveys with the structure and the Federal Government can no longer assert reversionary ownership rights in the work.¹³ GSA does request that any institution that has acquired a structure that contains WPA art work that is an integral part of the structure, and is preparing to destroy that art work, contact the GSA Fine Arts Program which may choose to preserve the work.

IV. Impact on Custodians of WPA Art Work

¹² This section is not quoted above, but a copy of the Operating Procedure is attached.

¹³ Other laws may apply to WPA works of art even though the Federal Government no longer retains an ownership interest. For example, the National Historic Preservation Act of 1966 (NHPA), 16 U.S.C. §470, *et seq.*, may apply to the structure if the structure is 50 years old or older. NHPA protects the original fabric of the building. Individual states also have laws that protect historical property.

This position has no immediate impact on custodians of WPA art work. The GSA is attempting to catalog all works of art created under the WPA that are located in non - Federal repositories, but has no intention of reclaiming any of these works unless requested to do so by the custodial agency or institution.

If you have questions regarding this issue, please contact:

Richard Butterworth
Office of General Counsel, Real Property Division
U.S. General Services Administration
1800 F Street, N.W.
Washington, DC 20405
email: Richard.butterworth@gsa.gov

APPENDIX G. Fine Arts Collection and Copyright Law

U.S. copyright law protects the rights of the creators of “original works of authorship fixed in any tangible medium of expression, now known or later developed.”¹⁴ The author or creator is defined by the Supreme Court as “the person who translates an idea into a fixed, tangible expression.”¹⁵

However, copyright and ownership are separate interests. While GSA owns a work of art, it does not necessarily mean that it is the owner of the copyright. There are a number of rights associated with copyright law. The two rights that are most relevant to the Fine Arts Collection are the right to reproduce and the right to distribute copies of the work of art.

Federal Employees

Federal copyright law is codified in Title 17 of the United States Code and stipulates that “copyright protection under this title is not available for any work of the United States Government.”¹⁶ A work of the United States Government is “prepared by an officer or employee of the United States Government as part of the person’s official duties.” Consequently, when a Federal Government employee produces works of art as a part of his or her scope of work—as was the case with some of the artists employed by the New Deal Federal art projects—the works of art are not protected by copyright law.

This law affects the reproducibility of works of art in GSA’s Fine Arts Collection in that the works created under the Public Works of Art Project (PWAP), the Treasury Relief Art Project (TRAP), and the Works Progress Administration’s Federal Art Project (WPA/FAP) are not protected by copyright law. Under these programs, the artists were **employed** by the Federal Government to create art as part of their scope of work. Therefore, these works of art can be reproduced and the copies may be distributed without concern for copyright infringement. While these works of art are not protected by copyright, GSA requires that the works of art be credited with the following credit line: Courtesy of the Fine Arts Collection, U.S. General Services Administration.

Contract Employees

The question of copyright ownership becomes more complex when the Federal Government commissions artists to create works of art. For example, the Treasury Department’s Section of Painting and Sculpture (later renamed the Section of Fine Arts) contracted artists during the 1930s and early 1940s, and GSA’s Art in Architecture Program continues to contract artists to create site-specific works of art. In either case, these artists are not considered employees of the Federal Government and are not necessarily prohibited from retaining a copyright interest

¹⁴ Copyright Act of 1976, 17 U.S.C. 102(a).

¹⁵ Community for Creative Non-Violence v. Reid, 490 U.S. 730, 737 (1989).

¹⁶ Copyright Act of 1976, 17 U.S.C. 105.

in the work of art. In order to definitively determine the owner of copyright, the contract must be reviewed or legal counsel sought. Ideally, the issue of copyright is clearly agreed to by the parties in the artist's contract.

The following chart is provided to assist with the determination of copyright status. Further information on the basics and duration of copyright protection is available online at: www.copyright.gov.

FEDERAL ART PROGRAM	ART PROTECTED BY COPYRIGHT?	EXPLANATION
Public Works of Art Project (1933–1934)	No	The artists were Federal employees; therefore, the works they produced became part of the public domain and are reproducible.
The Section of Painting and Sculpture The Section of Fine Arts (1934–1943)	Most likely no, but must be determined on a case-by-case basis	The artists were contracted to complete works of art for the Federal Government; therefore, the determination of copyright would depend on the terms of the contract. In many cases, the Federal Government stated in the artist’s contract that the full-size cartoon, the completed mural, and “all the rights of the Artist therein, shall become the property of the United States....” ¹⁷
Treasury Relief Art Project (1935–1939)	No	The artists were Federal employees; therefore, the works they produced became part of the public domain and are reproducible.
Federal Arts Project/ Works Progress Administration (1935–1942)	No	The artists were Federal employees; therefore, the works they produced became part of the public domain and are reproducible.
Art in Architecture Program (1963–present)	Yes	Most contracts state that the artist retains copyright. In order to definitively determine the owner of copyright, the contract must be referenced or legal counsel must be consulted.

¹⁷ Form 8651-a, Public Buildings Administration, Federal Works Agency contract, 1941.

APPENDIX H. Emergencies and Emergency Planning

An emergency is a sudden, usually unexpected event that does, or could do, harm to people, resources, property, or the environment. Emergencies can range from localized events that affect a single office in a building, to human, natural, or technological events that damage or threaten local, regional, or national operations. The emergency could cause the temporary evacuation of personnel or the permanent displacement of personnel and equipment from the old site to a new operating location.¹⁸

Emergencies may be caused by natural disasters, accidents, or human activity, including:¹⁹

- Fire
- Flood
- Storms (including hurricanes, snow, and tornados)
- Earthquakes (and mudslides)
- Volcanoes (including lava flow)
- Medical incidents caused by accidents, health hazards
- Utility failure (electric, fuel, water)
- Hazardous materials (air pollution, chemical spills, radiological materials)
- Structural collapse
- Transportation accidents
- Civil unrest
- Vandalism
- Terrorism
- Warfare

Objectives of Emergency Planning

The primary objectives of emergency planning are to:

- Identify, anticipate, and avoid preventable emergencies
- Mitigate damage when an emergency occurs so that disaster is avoided
- or minimized
- Recover from disasters as quickly and professionally as possible so that
- No human life is lost and minimal collection damage and loss occurs²⁰

It is important to anticipate and identify special circumstances, situations, or geographic areas that create potential hazards such as earthquakes, floods, annual parades, etc., and provide protective measures or training.

Protecting Artworks From Disasters

¹⁸ General Services Administration Continuity of Operations Planning, 1.8e. p.4.

¹⁹ National Park Service, Museum Handbook, Part I, Chapter 10, 4-35.

²⁰ Ibid., 1.

Protective measures fall into the following four categories:

- Mitigating measures
- Preparedness measures
- Response measures
- Recovery measures

Before

Mitigating measures seek to eliminate the hazards that threaten the collection or to reduce the effect those hazards would have if they ever are manifested. Mitigation necessarily takes place in advance of something happening.

Preparedness measures are put in place so that responsible personnel can act appropriately during an emergency, particularly if a disaster is imminent and they might be able to avert it or minimize consequent damage.

Preparedness includes staff training and the development of call-up lists, resource lists, and stockpiles of supplies and equipment. Some preparedness measures must be put in place before anything happens, while others come into play only as an emergency develops.

During

Response measures are taken when a disaster strikes without warning, when mitigating and preparedness measures have failed to prevent a disaster, or when measures have been taken but damage has occurred anyway. The purpose of response measures is to prevent further damage to artworks, and to stabilize artworks that have been damaged so they do not deteriorate further before they can receive attention from professional conservators. Response measures attempt to retain or to reestablish control over the situation.

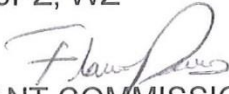
After

Recovery measures occur after an event has happened. They are designed to enable the return to normality in an orderly, phased, reasoned, and methodical fashion. Recovery measures begin when the disaster situation has stabilized and professionals have evaluated the damage and suggested further, long-term actions. Recovery can be a long process, taking years in some cases. Recovery measures solidify control over the situation.



JAN 31 2013

MEMORANDUM TO REAL PROPERTY UTILIZATION AND DISPOSAL REGIONAL DIRECTORS – 1PZ, 4PZ, 7PZ, 9PZ, WZ

FROM: FLAVIO PERES 
DEPUTY ASSISTANT COMMISSIONER
OFFICE OF REAL PROPERTY UTILIZATION AND DISPOSAL (PTZ)

SUBJECT: Internal Guidance on Fine Arts

The Office of Real Property Utilization and Disposal Environmental Team developed the enclosed Internal Guidance on Fine Arts for regional Project Managers. This guidance replaces the 2002 Fine Arts Fact Sheet with more detailed information on addressing fine arts located both in Public Buildings Service (PBS) properties and those reported excess by other landholding agencies. It also describes the coordination needed with the PBS Regional Fine Arts Officer in either case.

Please distribute the enclosed guidance to regional Project Managers and Appraisers. This guidance will also be posted in RediForce as well as the Office of General Counsel's Environmental Law intranet website (<http://ogc.elaw.gsa.gov/rc>). Please contact Richard Butterworth (richard.butterworth@gsa.gov) in the Office of General Counsel at (202) 501-4436 with any questions regarding fine arts and real property disposal.

Enclosure: Internal Guidance on Fine Arts

Fine Arts

This Internal Guidance provides GSA Real Property Utilization and Disposal Project Managers with specific guidance on addressing fine arts in real property disposal.

What is GSA's Fine Arts Collection?

GSA's Fine Arts Collection comprises permanently installed and moveable mural paintings as well as sculptural, architectural, and environmental works of art found in Federal buildings and courthouses across the United States. The Fine Arts Collection has acquired artwork through a variety of ways, including (1) creation under various New Deal era programs between 1933 to 1943, (2) specific commissioning through the GSA Art in Architecture Program, and (3) acquisition of buildings containing artwork for GSA's building portfolio.

What artwork is not included in GSA's Fine Arts Collection?

The Fine Arts Collection excludes the following:

- Decorative arts, such as furniture and light fixtures (unless commissioned through the Art in Architecture Division);
- Architectural ornamentation, such as historic mosaic flooring, stenciled borders, ceiling medallions, coffered ceilings, cast eagles, and ornamental molding (unless commissioned through the Art in Architecture Division);
- Commemorative works of art, such as busts and portraits;
- Artwork purchased for office space, such as reproduction prints and posters; and
- Artwork that gives the appearance of personal, commercial, or political endorsement.

Which office manages GSA's Fine Arts Program?

The Art in Architecture and Fine Arts Division in the Office of the Chief Architect manages the portfolio of fine art assets under GSA's stewardship. The Art in Architecture and Fine Arts Division makes decisions on the final disposition of any fine arts in excess GSA buildings on a case-by-case basis.

For such artwork, the overarching goals are to protect the artwork in the best way possible and to ensure it remains accessible to the public.

What statutes affect the disposal of real property containing artwork from GSA's Fine Arts Collection?

Specific statutes affect the disposal of real property containing artwork. These include the following:

The **Copyright Act of 1976** (17 U.S.C. 102(a)) provides protection to authors of "original works of authorship." Such works include literary, dramatic, musical, artistic, and certain other intellectual works.

The **Visual Artists Rights Act of 1990** (17 U.S.C. 106) provides specific moral rights to artists creating works of visual art after 1991. It prevents (1) any modifications to an artist's work that would be prejudicial to their reputation and (2) the destruction of their work if it is of recognized stature. These rights are vested with the artists throughout their entire lifetime and may prohibit removal, modification, or destruction of artwork.

Section 106 of the **National Historic Preservation Act of 1966**, as amended (16 U.S.C. 470) requires federal agencies to consider the effects of their undertakings on historic resources. It prescribes a consultation process with the State or Tribal Historic Preservation Office to mitigate an undertaking's potential for adverse effects on historic resources.

What are the Landholding Agency's (LHA's) responsibilities when reporting real property with fine arts excess to GSA?

The LHA is responsible for identifying whether the property contains any fine arts (e.g., murals, paintings, sculptures, or decorative architectural features) in Question 10 of the *Excess Real Property Checklist*. If the excess property contains any fine arts, the LHA should include a complete listing of each piece of artwork, describe its location, and provide all available supporting documentation.

The LHA may also need to coordinate completion of this information with that agency's Federal Preservation Officer. If the subject property containing fine arts is a GSA property, the Regional Fine Arts Officer (RFAO) should provide any additional information specific to the artwork.

What is the responsibility of the GSA Office of Real Property Utilization and Disposal when receiving a Report of Excess for a GSA property containing Fine Arts?

The Real Property Utilization and Disposal Project Manager should contact the GSA RFAO for any excess GSA real property containing fine arts. The RFAO will assist with determining whether the artwork is part of GSA's Fine Arts Collection.

If the artwork is part of the Fine Arts Collection, the RFAO, in conjunction with the Art in Architecture and Fine Arts Division, will determine how the artwork should be handled.

The Art in Architecture and Fine Arts Division has three options for handling artwork in excess GSA real property. They are as follows:

- **Remain *in situ*** – The artwork remains in its current location and in the collection. Agreements to protect the work(s) are put in place with the new owner/occupant. These agreements may either take the form of (1) protective covenants inserted in the transfer documentation, where limited title to the artwork is transferred to the new

owner or (2) through loan agreements between the GSA Art in Architecture and Fine Arts Division and the new owner. Under a loan agreement, GSA retains full title to the artwork.

If the art work will remain *in situ* in surplus real property, the RFAO will work with the Project Manager to ensure specific covenants to protect the artwork are included in the Invitation for Bid (IFB) or Assignment Letter and recorded in the deed.

- **Relocate the Artwork** –The GSA Art in Architecture and Fine Arts Division removes the artwork from the building or relocates it to another GSA Federal building. Artwork relocation may occur if future plans for the building are not conducive to retaining the artwork or if the new owner/occupant is unwilling or unable to protect the artwork and make it publically available.
- **Deaccession** – The artwork is formally removed from the Fine Arts Collection. A decision to remove a work of art from the Fine Arts Collection indicates that GSA has no intention of exercising any claim on the work in the future. Deaccession usually involves transfer of the artwork's full title.

What is GSA's responsibility regarding fine arts when a GSA property will be sold under the Relocation Authority and the GSA mission will be relocated to a new facility?

The RFAO, along with the Art in Architecture and Fine Arts Division, is responsible for the relocation of any artwork that does not remain *in situ*. If the artwork will remain *in situ*, and is therefore included in the transfer of the property, the Project Manager will include the art-specific preservation covenants and/or loan agreement in the IFB and deed. If the artwork is deaccessioned, the artwork may be sold with the property.

If it is determined that the artwork will be removed or relocated to another GSA building, the RFAO will estimate the costs associated

with the disposition of the artwork. The costs for contractual services conducted for an art appraisal or condition assessment, as well as the relocation of the artwork itself, may qualify as a covered relocation expenses under the Relocation Authority.

What is GSA's responsibility for real property containing fine arts reported excess by other agencies than GSA?

If a LHA other than GSA reports property excess that contains fine arts, the Project Manager should take the following steps:

1. Contact the applicable GSA RFAO to determine if that art was completed under a New Deal or Works Progress Administration (WPA) program. The RFAO will consult the Art in Architecture and Fine Arts Division to make a determination about the origin of the artwork. If it is a New Deal or WPA artwork, or a work of art that meets GSA's scope of collection, the RFAO, in conjunction with the Art in Architecture and Fine Arts Division, will determine how the artwork should be handled. The artwork will either remain in situ or will be relocated.
2. If the specific artwork is not a New Deal or WPA art, determine with the RFAO if GSA wishes to acquire the art.
3. If the artwork constitutes related real property being conveyed with the property, define protective measures on the artwork, as applicable, with the LHA and the RFAO.

What information should be included in the transaction documentation if fine arts are conveyed with the property?

GSA includes in the IFB, Offer to Purchase (Assignment Letter if applicable), or deed, all the information available on the fine arts including the following, if applicable and as coordinated with the Art in Architecture and Fine Arts Division:

- Artwork information – artist, title, artwork date, dimensions, material, and location within the building;

- Description of the disposition of the artwork;
- Requirements that ensure the artwork will be made available for public viewing;
- Requirement to display an interpretive plaque with the artwork (the plaque is provided by GSA's Art in Architecture and Fine Arts Division);
- Specific preservation covenants that protect the fine arts; and
- The terms of any reversionary ownership rights, as determined by the Art in Architecture and Fine Arts Division.

Where can I find additional information on Fine Arts?

- GSA's Regional Fine Arts Officers: http://pbsportal.pbs.gsa.gov:7777/portal/page_pageid=83,13975441&dad=portal&schema=PORTAL
- GSA's Fine Arts Policies and Procedures: <http://www.gsa.gov/finearts>
- GSA Fact Sheet: Legal Title to Art Work Produced under the 1930s and 1940s New Deal Administration: http://www.gsa.gov/graphics/pbs/legal_fact_sheet_final_I.pdf



"Peace and Vigilance with Eagle"
by Daniel Chester French,
located in the Old St. Louis Post Office