

1 Mission

It is the mission of the Fine Arts Program to provide national leadership and policy direction for the portfolio of fine arts assets under GSA's stewardship [the Fine Arts Collection] to insure their location, preservation, accessibility, understanding, and appreciation, in order to insure superior workplaces for federal agencies and the public they serve. We are located in the Design Excellence & the Arts Division (PMB), Office of the Chief Architect.

Vision

By preserving the legacy of federal art and the built environment, the Fine Arts Program inspires a future of creative freedom and expression in our American democracy.

- The **Fine Arts Collection** includes commissioned civic works of art that enhance the architecture of federal buildings; portable works of art commissioned under the federal patronage of the New Deal; and Art in Architecture (AiA) maquettes (design models).
- The **Regional Fine Arts Officer (RFAO)** should be notified of any project that will impact artwork in the Fine Arts Collection, including Art in Architecture installations. See attached list for names, addresses, and telephone numbers of RFAOs.
- The **Fine Arts Program *Desk Guide*** contains policy and guidance for the acceptance and disposal of fine art. The Desk Guide also provides procedures for the inventory, inspection, conservation, and loan of artwork; for exhibition, interpretation and educational programs; for emergency planning; and for the removal, relocation and deaccessioning of artwork in the Fine Arts Collection. The *Desk Guide* should be consulted for acquisition and relocation of artwork. The *Desk Guide* is available on the Fine Arts WEB site at www.gsa.gov/finearts.

Legal Authorities & References

- Bulletin of March 26, 1934, "Legal Title to Works Produced under the Public Works of Art Project (PWAP)" [1933-1934] states:
 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 part of that building.
 2. The same rule applies to any piece of sculpture executed for the purpose of being definitely placed in any building or in a public park.
- Visual Artists Rights Act of 1990, Section 106A, U.S. Code Annotated, Title 17, Copyrights, PL101-650 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 artist throughout their entire lifetime, and may prohibit removal, modification, or destruction of artwork.
- Section 106 of the National Historic Preservation Act (16 U.S.C. 470) mandates that federal agencies identify historic properties that may be affected by their projects, take historic properties into account when planning an undertaking, and that they 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 should be initiated as early as possible.
- Federal Property Management Regulations (FPMR), 41 CFR 101, Sections 43, 44, 45, defines requirements for the Utilization, Donation, and Sale, Abandonment or Destruction of personal property.
- Federal Property and Administrative Services Act of 1949, Title II, Property Management, Section 203 defines requirements for the Disposal of Surplus Property.

Policy

Since the scope of the Fine Arts Collection includes artwork specifically commissioned to enhance the architecture of federal buildings, and since the current acquisition of artwork through the Art in

Architecture program includes community participation, it is the policy of the GSA to retain the original location of installed works of art.

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Steps to follow – Property Disposal

As outlined in the Fine Arts Program Desk Guide, the following procedures must be followed:

1. Notify the Fine Arts Program of buildings scheduled for excess or transfer that contain artwork as part of the building.
 - Artwork produced under the Public Works of Art Project (PWAP) is considered a part of the building and should transfer with the building.
 - Artwork protected by the Visual Artists Rights Act or Section 106 of the National Historic Preservation Act should not be removed and legal counsel should be sought.
 - If the building is able to provide public access, the artwork should be transferred to the new agency, government, or private entity and its preservation and public accessibility must be assured through protective covenants contained in the transfer documents.
 - If the building will not have future public access, or is to be altered in a manner that would harm the artwork, the artwork should remain the property of GSA who will find another suitable location for the artwork. Whenever possible, GSA will try to find a new location in the local area.
2. Include the following language in all excess or transfer documents:
 - identification of the artwork, including artist, title, date, dimensions, material, and location
 - disposition of the artwork
 - protective covenants stating that the artwork will be preserved in the future and made available for public viewing:
3. Insure that an interpretive plaque accompanies the artwork stating that the artwork was commissioned for the American people by the United States government. PMB will provide this plaque.
4. Send a copy of all excess or transfer documents to PMB for filing in the central archives.

Sample language is contained below:

ART WORK

9. On display in the lobby of the building is an original art work titled *Totem V*, a 16' high by 1'8" square, wood sculpture by George Morrison, which was commissioned by GSA and described as follows:

Identification Number: AA117

Title: *Totem V*

Type: wood sculpture

Size: 16' high by 1'8" square

10. The USDA Forest Service agrees to the following conditions regarding display and ultimate disposition of the above-referenced art work:

(a) *Protection & Maintenance*: The USDA Forest Service agrees to be responsible for the protection and maintenance of the sculpture.

(b) *Public Access*: The USDA Forest Service agrees to provide for public display of the sculpture.

(c) *Attribution*: The sculpture will be accompanied by an interpretive plaque provided by GSA identifying the artist and noting that it was commissioned for the people of the United States by the Federal government.

(d) *Disposition*: With respect to *Totem V* by George Morrison, if the USDA Forest Service conveys title to the Property to a non-Federal party, it shall first offer the sculpture to the GSA for disposition. If, after a period of 90 days, the GSA declines to take back the sculpture, then the USDA Forest Service may:

(1) require, as a condition of sale, that the new owner of the Property protect and maintain the sculpture to the same extent as provided in subparagraphs (a), (b), and (c) above, subject to reversionary rights in the GSA;

(2) retain the sculpture in a USDA Forest Service facility to the same extent as provided in subparagraphs (a), (b), and (c) above;

(3) convey the sculpture to a public museum or public art gallery with or without consideration on condition that if the sculpture ceases to be displayed or used for public purposes, the GSA may reclaim the sculpture; or

(4) if the above alternatives are unacceptable or impracticable, sell the sculpture and deposit the proceeds as miscellaneous receipts in the U.S. Treasury.

Relocation

Adverse public opinion does not justify the relocation or removal of artwork. However, the relocation of works of art may be necessitated due to property disposal, for example if the building were scheduled for excess and/or demolition and the artwork would be destroyed.

1. All requests for relocation must be made in writing to the Director, Design Excellence & the Arts. Requests should include the reason for relocating the work of art and a proposed schedule.
2. Every effort must be made to contact the artist and inform them of the situation. If possible, GSA will try to work with the artist to determine a suitable new location, or get their approval of a new location recommended by GSA. Approval should be in the form of a written letter.
3. A professional conservator must be consulted to insure the safety and protection of the artwork during relocation. See Chapter 6 of the Fine Arts Program Desk Guide.
4. For works of art that are covered by the Visual Artists Rights Act of 1990 (VARA) the artist must be contacted and written approval acquired. See Chapter 10 of the Fine Arts Program Desk Guide.

Further Information

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