

**§ 401.6**

**36 CFR Ch. IV (7-1-08 Edition)**

**§ 401.6 Approval by National Commission of Fine Arts.**

A design for a memorial to be constructed at the expense of the United States Government must be approved by the National Commission of Fine Arts before the Commission can accept it.

**§ 401.7 Cooperation with other than Government entities.**

The Commission has the discretion to cooperate with citizens of the United States, States, municipalities, or associations desiring to build war memorials outside the United States.

**§ 401.8 Requirement for Commission approval.**

No administrative agency of the United States Government may give assistance to build a memorial unless the plan for the memorial has been approved by the Commission. In deciding whether to approve a memorial request the Commission will apply the criteria set forth in § 401.9.

**§ 401.9 Evaluation criteria.**

Commission consideration of a request to approve a memorial will include, but not be limited to, evaluation of following criteria:

| Criteria  | Discussion  |
|---|---|
| (a) How long has it been since the events to be honored took place?   | Requests made during or immediately after an event are not generally subject to approval. The Commission will not approve a memorial until at least 10 years after the officially designated end of the event. It should be noted that this is the same period of time made applicable to the establishment of memorials in the District of Columbia and its environs by the Commemorative Works Act. |
| (b) How will the perpetual maintenance of the memorial be funded?   | Available adequate funding or other specific arrangements addressing perpetual care are a prerequisite to any approval.   |
| (c) Has the host nation consented?  | Host nation approval is required.   |
| (d) Is an overseas site appropriate for the proposed permanent memorial?  | In many circumstances a memorial located within the United States will be more appropriate.   |
| (e) Is the proposed memorial intended to honor an individual or small unit?   | Memorials to elements smaller than a division or comparable unit or to an individual will not be approved unless the services of such unit or individual clearly were of such distinguished character as to warrant a separate memorial.  |
| (f) Is the memorial historically accurate?  | Representations should be supported by objective authorities.   |
| (g) Is the proposed memorial intended to honor an organizational element of the American Armed Forces rather than soldiers from a geographical area of the United States? | As a general rule, memorials should be erected to organizations rather than to troops from a particular locality of the United States.  |
| (h) Does the contribution of the element to be honored warrant a separate memorial?   | The commemoration should normally be through a memorial that would have the affect of honoring all of the American Armed Forces personnel who participated rather than a select segment of the organizational participants.   |

**§ 401.10 Monument Trust Fund Program.**

Pursuant to the provisions of 36 U.S.C. 2106(d), the Commission operates a Monument Trust Fund Program (MTFP) in countries where there is a Commission presence. Under the MTFP, the Commission may assume both the sponsor's legal interests in the monument and responsibility for its maintenance. To be accepted in the Monument Trust Fund Program, an organization must develop an acceptable maintenance plan and transfer sufficient monies to the Commission to fully fund the maintenance plan for at least 30 years. The Commission will put this money into a trust fund of United States Treasury instruments

that earn interest. Prior to acceptance into the MTFP, the sponsor must perform any deferred maintenance necessary to bring the monument up to a mutually agreeable standard. At that time, the Commission may assume the sponsoring organization's interest in the property and responsibility for all maintenance and other decisions concerning the monument. Once accepted into the program, the Commission will provide for all necessary maintenance of the monument and charge the cost to the trust fund. The sponsoring organization or others interested in the monument may add to the trust fund at any time to insure that adequate funds remain available. The Commission will maintain the monument