

Federal Management Regulation

§ 102-78.5

§ 102-77.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including the GSA/Public Buildings Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services.

§ 102-77.10 What basic Art-in-architecture policy governs Federal agencies?

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. The selected fine arts, including painting, sculpture, and artistic work in other media, must reflect the national cultural heritage and emphasize the work of living American artists.

§ 102-77.15 Who funds the Art-in-architecture efforts?

To the extent not prohibited by law, Federal agencies must fund the Art-in-architecture efforts by allocating a portion of the estimated cost of constructing or purchasing new Federal buildings, or of completing major repairs and alterations of existing buildings. Funding for qualifying projects, including new construction, building purchases, other building acquisition, or prospectus-level repair and alteration projects, must be in a range determined by the Administrator of General Services.

§ 102-77.20 Who should Federal agencies collaborate with when commissioning and selecting art for Federal buildings?

To the maximum extent practicable, Federal agencies should seek the support and involvement of local citizens in selecting appropriate artwork. Federal agencies should collaborate with the artist and community to produce works of art that reflect the cultural, intellectual, and historic interests and values of a community. In addition, Federal agencies should work collaboratively with the architect of the building, art professionals, when commissioning and selecting art for Federal buildings. Federal agencies should

commission artwork that is diverse in style and media.

§ 102-77.25 Do Federal agencies have responsibilities to provide national visibility for Art-in-architecture?

Yes, Federal agencies should provide Art-in-architecture that receives appropriate national and local visibility to facilitate participation by a large and diverse group of artists representing a wide variety of types of artwork.

PART 102-78—HISTORIC PRESERVATION

Sec.

- 102-78.5 What is the scope of this part?
- 102-78.10 What basic historic preservation policy governs Federal agencies?
- 102-78.15 What are historic properties?
- 102-78.20 Are Federal agencies required to identify historic properties?
- 102-78.25 What is an undertaking?
- 102-78.30 What are consulting parties?
- 102-78.35 Are Federal agencies required to involve consulting parties in their historic preservation activities?
- 102-78.40 What responsibilities do Federal agencies have when an undertaking adversely affects a historic or cultural property?
- 102-78.45 What are Federal agencies' responsibilities concerning nomination of properties to the National Register?
- 102-78.50 What historic preservation services must Federal agencies provide?
- 102-78.55 For which properties must Federal agencies assume historic preservation responsibilities?
- 102-78.60 What are Federal agencies' historic preservation responsibilities when acquiring leased space?
- 102-78.65 What are Federal agencies' historic preservation responsibilities when disposing of real property under their control?
- 102-78.70 What are an agency's historic preservation responsibilities when disposing of another Federal agency's real property?

AUTHORITY: 16 U.S.C. 470 h-2; 40 U.S.C. 486(c) and 490(a).

SOURCE: 66 FR 5359, Jan. 18, 2001, unless otherwise noted.

§ 102-78.5 What is the scope of this part?

The real property policies contained in this part apply to Federal agencies, including the GSA/Public Buildings

§ 102-78.10

Service (PBS), operating under, or subject to, the authorities of the Administrator of General Services. The policies in this part are in furtherance of GSA's preservation program under section 110 of the National Historic Preservation Act (16 U.S.C. 470) and apply to properties under the jurisdiction or control of the Administrator and to any Federal agencies operating, maintaining or protecting such properties under a delegation of authority from the Administrator.

§ 102-78.10 What basic historic preservation policy governs Federal agencies?

To protect, enhance and preserve historic and cultural property under their control, Federal agencies must consider the effects of their undertakings on historic and cultural properties and give the Advisory Council on Historic Preservation (Advisory Council), the State Historic Preservation Officer (SHPO), and other consulting parties a reasonable opportunity to comment regarding the proposed undertakings.

§ 102-78.15 What are historic properties?

Historic properties are those that are included in, or eligible for inclusion in, the National Register of Historic Places (National Register) as more specifically defined at 36 CFR 800.16.

§ 102-78.20 Are Federal agencies required to identify historic properties?

Yes, Federal agencies must identify all National Register or National Register-eligible historic properties under their control. In addition, Federal agencies must apply National Register Criteria (36 CFR part 63) to properties that have not been previously evaluated for National Register eligibility and that may be affected by the undertakings of Federally sponsored activities.

§ 102-78.25 What is an undertaking?

The term undertaking means a project, activity, or program under the direct or indirect jurisdiction of a Federal agency, including those:

(a) Carried out by or on behalf of the agency;

41 CFR Ch. 102 (7-1-02 Edition)

(b) Carried out with Federal financial assistance;

(c) Requiring a Federal permit, license, or approval; and

(d) Subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

§ 102-78.30 What are consulting parties?

As more particularly described in 36 CFR 800.2(c), consulting parties are those parties having consultative roles in the Section 106 process (*i.e.*, Section 106 of the National Historic Preservation Act) that requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings. Specifically, consulting parties include the State Historic Preservation Officer; Tribal Historic Preservation Officer; Indian tribes and Native Hawaiian organizations; Representatives of local governments; Applicants for Federal assistance, permits, licenses and other approvals; and other individuals and organizations with a demonstrated interest in the undertaking.

§ 102-78.35 Are Federal agencies required to involve consulting parties in their historic preservation activities?

Yes, Federal agencies must solicit information from consulting parties to carry out their responsibilities under historic and cultural preservation laws and regulations. Federal agencies must invite the participation of consulting parties through their normal public notification processes.

§ 102-78.40 What responsibilities do Federal agencies have when an undertaking adversely affects a historic or cultural property?

Federal agencies must not perform an undertaking that could alter, destroy, or modify an historic or cultural property until they have consulted with the SHPO and the Advisory Council. Federal agencies must minimize all adverse impacts of their undertakings on historic or cultural properties to the extent that is feasible and prudent.