

GSA ORDER

Subject: General Services Administration Acquisition Manual; GSAM Case 2020
G518, Art in Architecture Requirements

1. Purpose. This General Services Administration (GSA) order revises the General Services Administration Acquisition Manual (GSAM) to incorporate guidance on the acquisition of artists services and their publicly scaled and permanently installed artworks that preserve our collective national memory under GSAM Subpart 536.70 *Art in Architecture*.
2. Background. For the past forty years, GSA's Art in Architecture (AIA) Program has promoted the integration of art and architecture in our Federal buildings and courthouses. The large scale depicts our nation's diverse history.

In 1962, a report on the subject of Federal office space was issued that has become known as the *Guiding Principles for Federal Architecture*, a pronouncement on how the Government should further the interests and aspirations of the American people in its public buildings. The report emphasized that the design of new buildings should provide visual testimony to the dignity, enterprise, vigor, and stability of the American Government. The report also stated that where appropriate, fine art should be incorporated in the designs of Federal buildings, with emphasis on the work of living American artists.

In 1963, GSA established the AIA program. Nearly sixty years later, these directives still shape and form our mission in the Public Buildings Service.

On July 3, 2020, Executive Order (E.O.) 13934, Building and Rebuilding Monuments to American Heroes, was issued. Section 4(d) of E.O. 13934 directed the GSA Administrator to revise and implement GSA AIA policies and procedures to prioritize the commissioning of artwork that portrays historically significant Americans or events of American historical significance, or that illustrate the ideals upon which our nation was founded. Further, works of art should be prioritized giving public-facing monuments of former Presidents of the United States (U.S.) and to individuals and events relating to the discovery of America, founding of the U.S., and the abolition of slavery. Such works of art should be designed to be appreciated by the general public and by those who use and interact with federal buildings. When an artwork commissioned by GSA is meant to depict a historically significant American, the artwork shall be a lifelike or realistic representation of that person, not an abstract or modernist representation.

GSA is amending the GSAM to include language covering AIA contracts, to implement E.O. 13934, to maintain consistency with other parts of the GSAM and to clarify, update and incorporate existing guidance previously implemented through internal PBS policies.

3. Effective date. December 30, 2020.
4. Explanation of changes. This amendment adds a new Subpart 536.70 *Art in Architecture* to the GSAM. For full text changes of the amendment see Attachment A, GSAM Text Line-In/Line-Out.

This amendment adds non-regulatory language to the following GSAM sections summarized below:

GSAM 505.2 Synopses of Proposed Contract Actions

- 505.202 – removes the exception to provide notice of proposed contract actions for AIA procurements.

GSAM 536.70 Art in Architecture

Section 536.7001 General

- 536.7001-1 – clarifies the applicability of the AIA policies in relation to other parts of the GSAM.
- 536.7001-2 – identifies past and present authorities for operating the AIA program.
- 536.7001-3 – prescribes methods of contracting required for AIA, including negotiated, fixed price contracts, flexibility for advisory multi-step and phased evaluation processes, and recognition of the GSA National Artists Registry for conducting market research.

Section 536.7002 Policy

- 536.7002-1 – outlines the acquisition planning process for AIA contracts.
- 536.7002-2 – outlines steps to publicizing AIA procurements in the governmentwide point of entry, including timelines for publication, and minimum synopsis content requirements.
- 536.7002-3 – clarifies the procedures outlined in this subpart satisfy competition requirements.
- 536.7002-4 – prescribes procedures for AIA contracts, including alignment with architect-engineering design phase services for the project, requirements for artists to submit a technical and a price proposal, minimum statement of work content requirements, and approval requirements for contract administration issues.

Section 536.7003 Selection of artists for art in architecture contracts

- 536.7003-1 – establishes the evaluation factors to follow for an AIA procurement.
- 536.7003-2 – prescribes the structure of AIA evaluation boards, including a description of member qualifications, and member responsibilities.
- 536.7003-3 – outlines the functions of AIA evaluation boards, including evaluating and rating the qualifications of each artist being considered following the established evaluation criteria, and maintaining the integrity of the evaluation process.
- 536.7003-4 – establishes the Chief Architect as the selection authority, and allows for re-delegation.

- 536.7003-5 – establishes guidelines for the evaluation process, including use of advisory multi-step or phased evaluations, or a competitive range.
 - 536.7003-6 – outlines the requirements to provide notification of AIA awards, including publication in the governmentwide point of entry, and communication to unsuccessful artists.
5. Cancellations. This order cancels GSA Acquisition Letter V-10-01 and its Supplement 1.
 6. Point of Contact. Any questions regarding this order should be directed to Johnnie McDowell, General Services Acquisition Policy Division, at gsarpolicy@gsa.gov.

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Senior Procurement Executive
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Attachment A

GSAM Case 2020-G518 “Art in Architecture Requirements”

GSAM Text, Line-In/Line-Out

GSAM Baseline: Change 120 effective 12/29/2020

- Additions to baseline are indicated by **[bold text in brackets]**
- Deletions to baseline made by final rule are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding and following sections
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a subsection

Part 505- Publicizing Contract Actions

Subpart 505.2 Synopses of Proposed Contract Actions

505.202 Exceptions

The Administrator has determined under section 18(c)(3) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 416 (c)(3)) and Section 8(g)(3) of the Small Business Act, as amended (15 U.S.C. 644(g)(3)) that:

~~(a) S~~ **[s]**ynopsizing in FedBizOpps is not always appropriate for acquisitions of real property appraisal services. The contracting officer must publicize such contract actions following the procedures in 505.203.

~~(b) It is not appropriate or reasonable to publish an advance notice of acquisitions of works of art, including the design, execution and installation of the artwork, under the Art in Architecture Program.~~

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Part 536- Construction and Architect-Engineer Contracts

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Subpart 536.70 - [RESERVED] [Art in Architecture]

[536.7000 Scope of subpart.

GSA’s Art in Architecture (AiA) Program is responsible for the overseeing and commissioning of artists to create artworks when designing new Federal

buildings and when making substantial repairs and alterations to existing Federal buildings, as appropriate. This subpart prescribes acquisition policies, standards, and procedures for commissioning art for GSA's AiA Program.

536.7001 General.

536.7001-1 Applicability.

(a) Art in architecture contracts are subject to the requirements in other parts of the GSAM, which shall be followed when applicable.

(b) When a requirement for art in architecture contracts in this subpart is inconsistent with a requirement in another part of the GSAM, this subpart 536.70 shall take precedence.

536.7001-2 Authority.

(a) In May 1962, the *Guiding Principles for Federal Architecture* report emphasized that the design of new buildings should provide visual testimony to the dignity, enterprise, vigor, and stability of the American Government. The report also stated that where appropriate, fine art should be incorporated in the designs of Federal buildings, with emphasis on the work of living American artists.

(b) In January 1963, GSA established the AiA Program.

(c) In November 2005, 41 CFR Part 102-77 Art-In-Architecture was published requiring Federal agencies to 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.

(c) In July 2020, Section 4(d) of E.O. 13934, *Building and Rebuilding Monuments to American Heroes*, directed agencies to prioritize the commission of works of art that portray historically significant Americans or events of American historical significance or illustrate the ideals upon which our nation was founded.

536.7001-3 Methods of contracting.

(a) Contracting officers shall acquire art in architecture services by negotiation, and select sources in accordance with 536.7003.

(b) To the extent practicable, contracting officers should consider the GSA National Artists Registry to conduct market research but may use alternative sources or a combination of these methods.

(c) The advisory multi-step process described in FAR 15.202 may be adapted for use with acquisitions under this subpart. In an advisory process, potential offerors submit information pre-solicitation that allows the Government to advise them about their potential to be viable competitors. No respondent is precluded from competing under an advisory process, but it may and often does result in a more focused and effective competition with long-shot respondents opting out.

(d) A phased evaluation may be adapted for use with acquisitions under this subpart. In a phased evaluation, many offers are evaluated in the first phase under first round evaluation criteria. Fewer offers are considered in one or more subsequent phases on additional pre-specified evaluation criteria. While an initial phase evaluation decision is not a competitive range decision, it does eliminate proposals from the competition, so a pre-award notice to unsuccessful offerors is required. If a proposal is determined to be technically unacceptable, price does not need to be considered. Price must be considered for phases where an offer is eliminated from competition based on a tradeoff approach and prior to award.

(e) All art in architecture contracts shall be fixed-priced contracts only, Final concept design and fabrication shall be fixed price. Unless otherwise justified in writing, all installation of artwork shall be fixed price.

(f) Artwork may be fabricated and installed through the construction contract for the project if the construction contractor will contribute significantly to the successful completion of the artwork.

(g) The total price of the artwork must be consistent with the *GSA Art in Architecture (AiA) Policies and Procedures Guide* at <https://gsa.gov/artinarchitecture>.

536.7002 Policy.

GSA contracting activities shall use the policies and guidelines unique to the acquisition of artwork as prescribed in this subpart in conjunction with the *GSA Art in Architecture (AiA) Policies and Procedures Guide* at <https://gsa.gov/artinarchitecture>. If there is a conflict between the *GSA Art in Architecture (AiA) Policies and Procedures Guide* and this subpart, this subpart shall govern.

536.7002-1 Acquisition planning.

(a) The contracting office shall receive a comprehensive project plan which addresses all aspects of project management and acquisition for the associated federal building construction or modernization project before proceeding with an art in architecture procurement. The fine arts officer will ensure all planning documents reference appropriate funding, goals, and milestones for the project.

(b) The Art in Architecture & Fine Arts Division, in collaboration with the PBS Office Acquisition Management, may provide prototypical language to include in art in architecture solicitations.

(c) An Art in Architecture Panel, as outlined in the *GSA Art in Architecture (AiA) Policies and Procedures* at <https://gsa.gov/artinarchitecture>, will be instrumental in the acquisition planning process and will be responsible for:

(1) Reviewing artist applications and recommending artists for inclusion in the GSA National Artist Registry.

(2) Conducting an inaugural meeting for a project.

(3) Determining the subject of the artwork for a project in accordance with Executive Order 13934.

(4) Recommending a group of artists from the Registry for GSA to specifically solicit for a project (in addition to the general solicitation posted in the GPE).

(5) Reviewing and providing critiques, for both artistic merit and long-term maintainability, of an artist's preliminary design concept and final design concept for a project.

536.7002-2 Public announcement.

(a) *Governmentwide point of entry.* The contracting officer shall make the art in architecture synopsis and solicitation available through the Government Point of Entry (GPE) at <https://beta.sam.gov> or successor system.

(b) *Timeline for posting synopsis.* Except as provided in FAR 6.3, the synopsis shall be published at least 15 days before issuance of a solicitation, if the proposed contract action is expected to exceed the simplified acquisition threshold.

(c) *Synopsis content.* The art in architecture synopsis shall include at a minimum:

(1) General description of the project and purpose of the art in architecture acquisition;

(2) Statement that:

(i) Priority should be given to public-facing monuments to former Presidents of the United States and to individuals and events relating to the discovery of America, the founding of the United States, and the abolition of slavery;

(ii) Works of art should be designed to be appreciated by the general public and by those who use and interact with Federal buildings; and

(iii) When a statue or work of art commissioned is meant to depict a historically significant American, the statue or work of art shall be a lifelike or realistic representation of that person, not an abstract or modernist representation;

(3) Magnitude of the project (i.e., construction price range, see FAR 36.204 and 536.204), and the limitations of art in architecture funding (e.g., 0.5 percent of the project total);

(4) Invitation for potential offerors to join the GSA National Artists Registry, providing information to allow GSA to advise artists about their potential to be viable competitors;

(5) Description of the phased evaluation or other evaluation method. All procurements using a phased evaluation must provide clear detail of the evaluation factors which are relevant for each phase and must include pricing;

(6) Technical criteria to be used to evaluate artists for the acquisition;

(7) Request for a price proposal; and

(8) Submission deadline(s) to submit information for consideration.

(d) *Synopsis approval process.* Prior to publication of the art in architecture synopsis, the contracting officer shall coordinate with the project manager and fine arts officer for approval.

(e) *Timeline for posting solicitation.* Except as provided in FAR 6.3, the contracting officer shall allow at least a 30-day response time for receipt of proposals from the date of issuance of a solicitation, if the proposed contract action is expected to exceed the simplified acquisition threshold.

536.7002-3 Competition.

Acquisition of art in architecture services in accordance with the procedures in this subpart will constitute a competitive procedure under FAR Part 6.

536.7002-4 Procedures.

(a) Sources for art in architecture contracts shall be selected in accordance with the procedures in this subpart rather than the solicitation or source selection procedures prescribed in FAR parts 13, 14, and 15.

(b) The solicitation for art in architecture services should be issued only after the architect-engineer services or design-build construction solicitation for the project has been published so that both contract awards can be aligned and the artist and architect-engineer contractor can collaborate during the design phase of the project.

(c) The solicitation must require submission of a technical proposal, which addresses the selection criteria in 536.7003-1(a), and a price proposal, which addresses the line items or options in 536.7001-3(e). Artists on the GSA National Artists Registry may use their registry submission (i.e., GSA Form 7437) as part of their technical proposal.

(d) The statement of work for art in architecture contracts should:

(1) Require the artist to collaborate with the architect-engineer or design-build contractor 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;

(2) Task the artist to review the building design documents to ensure that art is an integral component of the building project;

(3) Clarify that no discussions between artists and other contractors, client agencies, or community representatives shall be considered as a change to the contract unless incorporated by the contracting officer through a modification;

(4) Require a preliminary concept design which complies with the *GSA Art in Architecture (AiA) Policies and Procedures Guide* at <https://gsa.gov/artinarchitecture> and includes drawings, models, photographs, or digital renderings and animations, as applicable;

(5) Require a final concept design which complies with the *GSA Art in Architecture (AiA) Policies and Procedures Guide* at <https://gsa.gov/artinarchitecture>;

(6) Require site visit(s), if warranted; and

(7) Require the artist to provide professional photographic documentation of the fully completed and installed artwork; information on the artwork's meaning, defining characteristics, fabrication, materials, and installation; and any special maintenance instructions for the artwork.

(8) Stipulate that the artist's final concept design, and fully completed and installed artwork will become the property of GSA.

(e) Art in architecture contract submissions (e.g., preliminary and final concept design) must be reviewed and approved by the contracting officer, in collaboration with the project manager and fine arts officer.

(f) Legal concurrence and head of contracting activity written approval must be provided to terminate, delay or stay an art in architecture contract for any reason; this includes a determination not to exercise a fabrication or installation option.

(g) The fully completed and installed artwork will be accessioned into the GSA Fine Arts Collection.

536.7003 Selection of artists for art in architecture contracts.

536.7003-1 Selection criteria.

(a) GSA will evaluate each potential contractor in terms of its:

(1) Experience - the scale, range, and complexity, including the media, materials, content, style, budget, and market value of the artist's work;

(2) Past Performance - previous work on contracts with Government agencies and private industry in terms of cost control, quality of work, and compliance with performance schedules;

(3) Capacity - the ability to accomplish the work in the required time;

(4) Overall Approach - brief written statement of an overall approach to the project, including extent to which the approach is consistent with the standards publicly announced under 536.7002-2(c)(2); and

(5) Total Evaluated Price - for the design, development, fabrication and installation of the artwork.

(b) The combined weight of the technical evaluation factors shall be compared with price, e.g. significantly more important than price, approximately equal to price, significantly less important than price.

(c) The specific standards for each selection criterion may be tailored to suit the unique conditions of a particular project.

(d) The selection authority must approve the relative weights and standards established for the selection criteria before the selection process commences.

536.7003-2 Evaluation board.

(a) Art in architecture evaluation board members should collectively have distinct expertise relevant to the project, including knowledge of artwork and its long term care, the architect-engineer design philosophy for the project, the

programmatic and functional needs of the Federal client, and the character of the community in which the project is located.

(b) Evaluation boards shall not exceed five (5) voting members.

(c) A maximum of one (1) representative of the client organization(s), at the client's option, may participate as a voting member in the activities of the evaluation board.

(d) Evaluation boards shall not exceed two (2) non-voting advisors. The non-voting advisors may include the same individuals from the Art in Architecture Panel.

(e) Consistent with FAR 7.503(c)(12)(ii), private practitioners (e.g., GSA National Register of Peer Professionals, regional art professionals, community representatives) may participate as non-voting advisors in the activities of the evaluation board.

(f) Other than the individuals appointed under paragraphs (a) through (e), there must be no other advisors or participants in the official activities of the board.

(g) The selection authority officially appoints the evaluation board members.

(h) Each board member must sign a "Conflict of Interest Acknowledgement and Nondisclosure Agreement" (Figure 515.3-1) before the activities of the board commence. No person may serve as a board member if that person or any member of that person's family has any direct financial or employment interest in any of the artists being evaluated. The board member is responsible for identifying any possible conflict of interest once the competing artists have been identified. If a conflict of interest is identified, the contracting officer shall determine whether to disqualify that member from the board.

536.7003-3 Evaluation board functions.

(a) The evaluation board performs the functions described in 536.7003.

(b) Proposals shall be protected in accordance with FAR 3.104.

(c) The contracting officer may determine when and whether to share pricing proposals with the board.

(d) Evaluation boards recommend, in order of preference, the most highly rated proposal(s) for the specific project to the selection authority. At the request of the contracting officer, the board may provide a recommendation for trade off decisions.

(1) Each board member is responsible individually for evaluating and rating the qualifications of each artist being considered following the established evaluation criteria.

(2) The Chairperson of the board shall maintain the integrity of the evaluation process and ensure that the final selection report is prepared and submitted to the selection authority.

536.7003-4 Selection authority.

(a) The Chief Architect of GSA is delegated as the selection authority for art in architecture procurements. This authority may be re-delegated in accordance with service-level policy to appropriate officials.

(b) The selection authority reviews the recommendations from the evaluation board which lists in order of preference the most highly rated proposal(s). If the board has not considered price in its recommendations, the selection authority shall consider price as well as the board recommendation. If the selection authority does not concur with the recommendation from the evaluation board, the selection authority must provide for the contracting officer a written explanation of the reason.

(c) If the selection authority does not select a proposal that is consistent with the standards set forth under 536.7002-2(c)(2), the selection authority shall submit a report to the GSA Administrator explaining the reason for the selection despite its noncompliance with these standards.

536.7003-5 Evaluation process.

(a) As part of proactive market research, the evaluation board, in collaboration with the contracting officer, may review the existing GSA National Artists Registry to identify qualified sources to solicit for the art in architecture acquisition.

(b) Proposals received by the solicitation deadline must be evaluated against the evaluation criteria in 536.7003-1(a).

(c) Based on the ratings of each submission against the evaluation criteria, the contracting officer may follow an advisory multi-step or a phased evaluation, or establish a competitive range composed of the most highly rated proposals.

(1) Oral presentations, similar to interviews, by the highest rated artists may be conducted by the government to compliment the written information or streamline the selection process (see FAR 15.102).

(2) If an offeror is eliminated from further consideration for award, written notice of this decision shall be provided in a timely manner (see FAR 15.503).

536.7003-6 Notification of award.

(a) The contracting officer shall post timely notice of the award through the GPE.

(b) Pursuant to FAR 15.503, the contracting officer shall provide notification to unsuccessful artist(s) within 3 days after contract award or any time an offer is eliminated from the competition with the reason(s) the artist's proposal was not accepted and, for notifications after contract award, an explanation of the final artist selection.]

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