



September 20, 2018

MEMORANDUM FOR DIRECTORS, GSA PERSONAL PROPERTY ZONES  
DIRECTORS, STATE AGENCIES FOR SURPLUS PROPERTY

FROM: SUSANNE COMBS  
DIRECTOR, OFFICE OF PERSONAL PROPERTY  
MANAGEMENT

SUBJECT: Updated Eligibility Guidance for Museums

The purpose of this memorandum is to supplement the Interim Guidance communicated on February 9, 2017, with respect to the planned language revision of Federal Management Regulation (FMR) Part 102-37 for the definition of a “museum” as promulgated by the Federal Assets Sale and Transfer Act of 2016 (Public Law 114-287). The interim guidance entitled “Federal Surplus Personal Property Donation Program - Eligibility of Public Museums” issued by the General Services Administration’s (GSA’s) Office of Governmentwide Policy on February 9, 2017, advised that the updated definition of a museum would no longer include a requirement on the number of hours that the museum must be open (*i.e.*, 1,000 hours annually), but only include a provision that the “nonprofit educational or public health institution or organization, at a minimum, accedes to any request submitted for access during business hours.” Those hours are interpreted to be approximately 9am to 4pm, with some reasonable variation from these hours to be considered on a case-by-case basis (*e.g.*, museum’s location being in a commercial sector with unique business hours).

In light of this new guidance, GSA will implement the following procedures to validate a program applicant is a museum:

1. Evaluate the applicant in accordance with the guidelines outlined in GSA’s Donation Handbook, (Attachment 1 - section 907, pages 136-136.2); and
2. Review the Museum Access Agreement signed by the museum’s chief executive (Attachment 2). The Museum Access Agreement must be included in all new museum eligibility files and will be required at the time of all eligibility file updates of museum donees previously determined eligible under the older definition.

If you have any questions regarding this updated eligibility guidance for museums, please contact Cynthia Gardiner, Director, Utilization and Donation Program, at 703-605-2758.

2 Attachments

MUSEUMS ATTENDED BY THE PUBLIC907 - Guidelines for Making Eligibility Determinations

Definition and clarification of terms. Only institutions that meet all the elements of the basic definition for a museum can be considered for eligibility. Under this definition, as set forth in FPMR 101-44.207(a)(16), a museum is a "public or private nonprofit institution which is organized on a permanent basis essentially for educational or esthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis either free or at a nominal charge." When considering the eligibility of an institution as a museum, the following expansion of key words used in the definition will apply:

a. Public. The institution is supported in whole or in part with public funds. Any museum established as a part of, and operated by a State or local government agency would be eligible to participate in the donation program as a part of the State or local government's eligibility as a public agency. Eligibility for these museums would be established with the State agency in the same manner as for any other public agency program.

b. Nonprofit. The museum has documentary evidence of its tax-exempt status under section 501 of the Internal Revenue Code of 1954.

c. Organized. The institution is a duly constituted body with expressed responsibilities. It has an organizing document (articles of incorporation or other written instrument by which it was created) affirming its legal existence and the purpose(s) for which it was formed.

d. Permanent. The institution is expected to continue in perpetuity.

e. Essentially for educational or esthetic purposes. The institution is organized and operated primarily for educational or esthetic purposes. It seeks to further public understanding and appreciation of science, history, art or culture by knowledgeable use of its objects.

f. Professional staff. An institution uses a professional staff if it employs full-time at least one qualified staff member, whether paid or unpaid, who devotes his or her time primarily to the acquisition, care, or public exhibition of objects owned or used by the museum. For the purposes of this definition, a qualified professional is one who, by virtue of education, training, or experience is capable of making museological decisions consonant with the experience of his or her peers. No minimum qualifications are prescribed.

g. Owns or uses tangible objects. The tangible objects, animate and inanimate, forming the museum's collection may either be owned by the institution or on loan to it. The objects, moreover, should reflect the museum's stated purpose(s) and have intrinsic value to science, history, art or culture.

h. Cares for these objects. The keeping of adequate records pertaining to ownership, identification and location of the museum's holdings and the application of current professionally accepted methods to their security and to the minimization of damage and deterioration.

i. Exhibits them to the public on a regular basis. The museum must be open to the public-at-large and have regular and predictable hours which constitute substantially more than a token opening, so that access is reasonably convenient to the public. An institution does not exhibit objects to the public for purposes of this definition if the display or use of the objects is only incidental to the primary function of the institution; e.g., an institution which is engaged primarily in the sale of antiques, objets d'art, or other artifacts and which incidentally provides displays to the public. That an institution lacks its own facilities for exhibits is not disqualifying of it exhibits objects through such means as educational programs or traveling exhibits.

j. Free or at a nominal charge. The museum either charges a small admission fee or it is open to the public free of charge.

Documentation needed to establish eligibility. In order to properly evaluate the eligibility of its museum applicants, State agencies should obtain documentation such as the following and any other relevant information which may be of value in making a determination. This is in accordance with FPMR 101-44.207(f)(1)(iii) which requires that sufficient details and specifics about an applicant's program and facilities be made available so that the State agency can determine the program eligibility qualifications of the applicant. The following should be of assistance in making this determination:

a. A detailed narrative description of the applicant's program, services, or activities. The following information should be included in the narrative:

(1) The size (in square feet) and a description of its physical facilities;

(2) The types of objects exhibited;

(3) Schedule in which the facility is open to the public without prearrangement;

(4) Amount of admission fees, if any (If the fee seems to be excessive, the museum should be asked to submit a statement explaining how the charges are determined, and whether the charges are based on providing its services to the public at the lowest feasible cost);

(5) Means used to advertise the museum for public patronage;

(6) Community and population served by the applicant; and

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(7) Membership in, affiliation with, or other recognition by a local, State, regional or national museum organization. (This is only to evidence that the institution is operating as a museum. The FPMR imposes no requirement of accreditation or approval on museums.)

b. A roster of the institution's full-time staff members with their professional qualifications (training and experience), titles or positions, and general duties.

c. A photostatic copy of a ruling or determination letter from the Internal Revenue Service recognizing that the applicant is exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954.

d. A copy of the institution's charter, bylaws, or other governing instrument.

e. A copy of the applicant's current year budget and identification of amounts and sources from which funds are received.

f. A copy of any brochures, newsletters, catalogs, written advertisements, etc., describing the museum's programs and services.

**MUSEUM ACCESS AGREEMENT**

As part of the Federal Surplus Personal Property Donation Program eligibility requirements for "museums," pursuant to Section 23 of Public Law 114-287 and Federal Management Regulation (FMR) Part 102-37, I agree that from an operational standpoint toward fulfilling our museum's mission and function for the general public that

\_\_\_\_\_ will:  
(Print Name of Museum)

*Accede to any request submitted for access during typical "business" hours, interpreted here to be approximately 9:00am to 4:00pm, Monday through Friday, although a reasonable variation from these hours may be considered due to individual circumstances (e.g., location of museum requiring strict business hours that deviate from the aforementioned time parameter).*

\_\_\_\_\_  
(Print Name of Chief Museum Official) (Title)

\_\_\_\_\_  
(Signature) (Date)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(Museum Address)

\_\_\_\_\_  
(City, State) (Zip)