

3-2013

# Federally funded art in the United States: Government actions in response to controversy

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Federally Funded Art in the United States: Government Actions in Response to

Controversy

by

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Thesis

Submitted to the Department of Communication, Media, and Theatre Arts

Eastern Michigan University

in partial fulfillment of the requirements

for the degree of

MASTER OF ARTS

in

Art Administration

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March 2013

Ypsilanti, Michigan

## **Abstract**

This study documents controversies that have arisen from federally funded art programs and organizations and explores the actions taken by the government and changes made to public policy in the wake of said controversies. These actions include (1) requiring matching funding from other entities, (2) reorganization of programs, changing names of programs, and/or the elimination of programs, (3) oaths/pledges from artists/arts organizations, (4) the denial of funding, (5) the delegation of responsibility/requiring advising panels, and (6) the change or destruction of art. This paper focuses on two federal agencies: the Federal One Program of the Works Progress Administration (1935-1943) and the National Endowment for the Arts (1965- present). Another example is presented from the General Service Administration's (GSA) Art-in-Architecture program. The intention of this study is to present federal art funding advocates and policy-makers with information that is useful in the formulation and administration of policy.

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## **Introduction**

It was not until the mid-1930s that the United States government developed an agency responsible solely for the funding of art. The Federal Project No.1 (better known as Federal One) of the Works Progress Administration (WPA) provided this funding from 1935 – 1943. The Federal Project No.1 was divided into several divisions: Federal Art Project (FAP), Federal Writers' Project (FWP), Federal Theatre Project (FTP), Federal Music Project (FMP), and Historical Records Survey (HRS, originally part of the FWP).

The projects of Federal One focused on supplying artists, art teachers, and art administration professionals with jobs. By the beginning of the 1940s, the WPA's programs were winding down as focus shifted from jobs to war efforts. It was not until the mid-sixties that a new federal art agency to support the arts was created. The National Endowment for the Arts (NEA) aimed to create a cultural identity for America, to preserve the arts, and to expand creativity in the arts. While other federal agencies have established projects that resulted in the creation of art, the WPA and the NEA are the most noteworthy. Surprising similarities can be found between the two federal agencies and their programs/grants. Although they were created for different reasons, the WPA and NEA endured controversies throughout their existence and experienced similar government actions in response to these controversies. These actions include (1) requiring matching funding from other entities, (2) reorganization of programs, changing names of programs, and/or the elimination of programs, (3) oaths/pledges from artists/arts organizations, (4) the denial of funding, (5) the delegation of responsibility/requiring advising panels, and (6) the change or destruction of art.

These actions will be illustrated through specific case studies. While the focus of this paper is on the actions taken by the government in the wake of controversy, we will also briefly examine (in some cases) the reaction of the artists/arts organizations to these actions.

To begin, a brief history of the WPA/ Federal One and the NEA will be presented. By establishing the histories of these federal funding agencies, art advocates and policy-makers will understand the long and often complex past of these agencies and will be able to make more informed decisions when presenting an argument or policy for the arts. Then case studies (in chronological order) will be given that demonstrate one or more of the above-mentioned actions. Finally, a review of the actions and how they relate to the case studies will be shown.

### **A Brief History Of:**

#### *The Works Progress Administration / Federal One*

To combat the Great Depression, the Emergency Relief Appropriation Act of 1935 created the Works Progress Administration on May 6, 1935. The national director was Harry Hopkins; Hopkins was a close friend of President Roosevelt and a critical part of the development of Federal One. As a national work program, the Works Progress Administration's goal was "to put the unemployed back to work in jobs which would serve the public good and conserve the skills and self-esteem of workers throughout the U.S."<sup>1</sup> The WPA was appropriated \$4,880,000,000 for its programs and projects. About eighty-five percent of the funds went to the wages and salaries of the workers. The WPA

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<sup>1</sup> Adams, "New Deal Cultural Programs"

consisted of a variety of programs that helped construct buildings and highways, eliminated slums, reforested areas, and even rehabilitated rural communities.<sup>2</sup>

As part of the WPA's programming, Federal One was created. Federal One aimed to provide artists with jobs during the hard economic times. Through the Federal One program, administrators and government officials hoped to create a sense of American art and culture. While artists were not told exactly what to create, the outcomes of their work established an aesthetic that was unique to American Art. Art would be for the mainstream public and not just the culturally elite. The five divisions each had a national and a state director to oversee the projects.

The Federal Art Project (FAP) consisted of a variety of components including an arts service division, an art teaching division, an easel painting division, a graphic arts division, the Index of American Design Project, a mural project, a photography project, a poster division, a scenic design division, a sculpture division, and a stained glass division. The Federal Music Project consisted of performing ensembles, documenting and recording expeditions, and classes. The ensembles of the FMP included chamber groups, chord units, concert groups, dance bands, military bands, opera units, orchestra groups, and theatre orchestras. The Federal Theatre Project (FTP) employed actors and actresses as well as those who worked behind the scenes (stagehands, technicians, and other theatre crew workers) and musicians. The FTP gave more than 1,000 performances monthly. The Federal Writers Project (FWP) produced the American Guide Series; there was a guide

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<sup>2</sup> "The WPA in Indiana," Indiana University.

for every state<sup>3</sup> and many major cities. The Federal Writers Project also produced archives of oral histories and folklore, life histories, and slave narratives. They composed studies in American Indian cultures, architecture, and science. FWP employees also contributed a significant amount of “research, editing, and text for other government agencies.”<sup>4</sup> The Historical Records Survey (HRS) employed workers to survey and archive historical records in the United States.

For all the benefits and grand outcomes of the Federal One programs (and other New Deal programs), the projects were also criticized. Some artists and government officials were concerned that with government funded art, censorship would be a problem. By the 1940s there was a general concern over the use of government funds for the arts, and some demanded that all programs should focus on war efforts. The president of the New York Board of Trade John A. Sellers stated, “The time has come when Government [sic] expenditures must be directed primarily to national defense. There is not sufficient wealth in the world to adequately arm the United States and at the same time carry on the ordinary peacetime pursuits. The defense programs should be paid for in part out of the savings in nonessential WPA activities.”<sup>5</sup> Indeed, many of the Federal One programs shifted their focus to war aid, although they were not creating weaponry. The Federal Art Program created posters and the Federal Writer’s Program created brochures in relation to the war efforts.

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<sup>3</sup> The state of California was divided into two guides: North and South California.

<sup>4</sup> Kennedy, *When Art Worked*, 210.

<sup>5</sup> William H. Stringer, “Mural dispute stirs demand WPA work only on defense.”

There were also concerns of Communist or Nazi ties within some of the Federal One divisions. Chairman Die organized the House Committee to Investigate Un-American Activities to explore these alleged political ties. The Reorganization Act of 1939 was a result of this committee. With the Act came several changes to the programs, and the Federal Theatre Project was eliminated. By 1943, the remaining Federal One programs were dissolved. There was not another federal agency that provided funding to the arts until the National Endowment for the Arts was established in 1965.

### *The National Endowment for the Arts*

On September 29, 1965, the National Endowment for the Arts (NEA) was created under the National Foundation on the Arts and the Humanities Act<sup>6</sup> signed by President Lyndon B. Johnson. Unlike Federal One and other New Deal programs, the NEA was not created to provide jobs. Although the Federal One programs and the NEA differ, they do share similar goals; for example, they both attempt to provide exposure to the arts and culture through interaction with the mass public, educate about the arts and cultures, and create a sense of place through the arts. When created, the NEA focused mainly on supporting and cultivating the arts. According to the *National Endowment for the Arts: A History*, the “NEA was established to nurture American creativity, to elevate the nation’s culture, and to sustain and preserve the country’s many artistic traditions.”<sup>7</sup> The NEA received two and a half million dollars from the federal government in its first appropriation.

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<sup>6</sup> The National Endowment for the Humanities was also created under this Act.

<sup>7</sup> Bauerlien, *National Endowment for the Arts: A History*, 1.

Early NEA fellowship grants were given for dance, literature, and the visual arts.<sup>8</sup> The Endowment used an advisory panel in their grant reviewing process. Early on the NEA provided grants to organizations as well as individuals. In addition to supporting dance, literature, and the visual arts, the National Endowment for the Arts also supported film and television and created the American Film Institute (AFI). The NEA also gave educational grants, which helped to fund research and provide training and classes.

In 1968 a Congressional review of the National Endowment for the Arts programs sparked criticism. Some members of Congress debated whether the government should play a role in supporting the arts and if so, how should they be involved? Many worried that the government's role may lead to censorship. Others worried that censorship (or rather a lack of funding) would befall traditional artists. Some members of Congress worried that a lack of funding would affect traditional artists negatively, because of funding more avant-garde art forms. In 1968, an amendment was passed by the House of Representatives which tried to put an end to grants for individual artists. However, the Senate rejected this amendment. Although the debate over individual grants would continue, for the time being, individual artists would continue to receive grants.

In 1995 the NEA came under a serious threat of elimination due to legislation introduced by Representatives William Goodling (R-PA) and Randy "Duke" Cunningham (R-CA). The House rejected the bill. Similar bills soon followed yet also failed to pass. Due to budget cuts (from \$162 million to \$99 million) the NEA's staff was cut in half in 1996, and several changes were made to the Endowment's structure. Due to

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<sup>8</sup> Early grants were also given for architecture, design, and planning.

a Congressional mandate, all individual artist grants were eliminated in 1996; since then there have not been any federally funded individual artist grant programs. In 1997 the NEA once again faced multiple proposals that attempted to eliminate the organization completely. Legislation threatened to leave the NEA without funding for the fiscal year 1998. In the end, however, a budget of \$98 million was allotted to the NEA.

### **Case Studies**

#### *Ethiopia*

One of the earliest examples of controversy can be found in the Federal Theatre Project. This case study exemplifies the changes in priorities from artistic to mainstream popular standards and the destruction/change of art. On January 24, 1936, a press showing<sup>9</sup> of the play *Ethiopia* (slated to be the first FTP production in New York) was performed at the Biltmore Theatre by the Living Newspapers unit.<sup>10</sup> The Newspaper Guild of New York co-sponsored the Living Newspapers' productions. Among the press was the Assistant Federal Administrator of the WPA, Jacob Baker; Baker was "accidentally"<sup>11</sup> in attendance. In *Ethiopia* foreign dignitaries Haile Selassie, Mussolini, Pierre Laval, Sir Samuel Hoare, and others were portrayed. It was because of this portrayal that Baker called for changes to be made to the production relating to Baker's "fear of international complications."<sup>12</sup> Elmer Rice, Regional Director of the FTP and Pulitzer Prize Winner for Drama (1929), felt that Baker's concerns were a cover-up "to

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<sup>9</sup> The performance was a rehearsal done with costumes but no scenery. *Ethiopia* was the first part of the play.

<sup>10</sup> New York's FTP was divided into five units: the Living Newspapers, the Popular Price Theatre, the Experimental Theatre, the Negro Theatre, and the Tryout Theatre.

<sup>11</sup> "WPA to Give Play on Farm Problem," *New York Times*, Jan 28 1936.

<sup>12</sup> "Politics Charged to the WPA by Rice," *New York Times*, Jan 25 1936.

conceal the real issue”<sup>13</sup>; Rice felt that the “real issue” was governmental censorship and the suppression of the freedom of creative expression. Elmer Rice went on to say that Baker did not call for changes to be made until after Rice had briefed him on other production themes. These themes included a play about unemployment and the issues of relief and another play concerning “conditions in the Southern States.”<sup>14</sup> Elmer Rice declared that the FTP was being censored and therefore resigned from his position as Regional Director of the FTP in protest. Morris Watson, the production’s manager/producer, stated that he intended to continue the production as it had been planned and would stay with the production (at least through the second show). He continued on to say that “If, then, [after the second show] any government official decides that truthful representations of news events is [sic] embarrassing, I shall have to follow Elmer Rice in what I consider his splendid stand against censorship.”<sup>15</sup> In the aftermath of the *Ethiopia* controversy, the new acting regional director of the FTP Philip W. Barber and the National Director of the FTP Hallie Flanagan maintained that Baker was only concerned with the “impersonation of heads of foreign governments in shows financed by federal funds” and that “no instructions [had] been issued...concerning the impersonation of the President and other officials of this [the United States] government.”<sup>16</sup> The executive secretary of the Writers Union, Ivan Black, sent a telegram to Harry Hopkins asking that Hopkins “rescind [the] un-American order stopping *The Living Newspaper* production of ‘Ethiopia’” and to support “Elmer Rice’s stand for

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<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid..

<sup>16</sup> “WPA to Give Play on Farm Problem.” *New York Times*, Jan 28 1936.

constitutional guarantees embodied in the Bill of Rights.”<sup>17</sup> Ultimately, *Ethiopia* was replaced with *Triple-A Plowed Under*<sup>18</sup>, a play concerning the hardships of the dust bowl farmers and the Agricultural Adjustment Act.

*Floyd Bennett Airport mural*

The length of this next example illustrates its complexity and importance. It deals with several of the actions including oaths/pledges from artists/arts organizations, the delegation of responsibility through advisory panels, and the destruction of art. On July 8, 1940, three of the four murals that had been installed<sup>19</sup> at the administration building at the Floyd Bennett Airport in Brooklyn were removed and destroyed by burning. The murals were part of the Federal Art Project and were created by artist August Henkel. The reason for the removal of the murals was twofold: 1) Henkel never signed the required loyalty oath (which was put into effect after he had already begun the mural) and 2) there were several images in the murals that were considered to be Communist propaganda. The loyalty oath was part of the Relief Bill of 1940. By signing the affidavit, WPA employees declared that they were neither Communist nor Nazi. Henkel was a self-proclaimed Communist. In 1934 he was arrested and found guilty of distributing Communist literature; however, his sentence was suspended upon his promise to not distribute any more Communist materials. In 1935 Henkel ran as the Communist candidate for Congress (for the First District of Queens). In 1936 and 1937 he was the Communist candidate for the Fifth Assembly District of Queens. He withdrew his 1937

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<sup>17</sup> Ibid.

<sup>18</sup> This play came under criticism as well but was allowed to be performed.

<sup>19</sup> These murals had not yet been permanently adhered to the walls.

nomination in order to support the American Labor Party candidate. Because he refused to sign the loyalty oath, Henkel was dismissed from the WPA. Although admittedly a Communist, Henkel insisted that the murals did not contain Communist propaganda.

The painting of the mural began in 1937. Each mural was six feet by thirty feet. Among the alleged Communist images were a portrait resembling Joseph Stalin, a red star on a United States Navy hanger, a Soviet polar plane, a shield with an image resembling a swastika, and President Roosevelt in a warlike setting before a microphone. Henkel said the image alleged to be Joseph Stalin was based on a photo given to him by the Aeronautical Chamber of Commerce of Franz Reichelt.<sup>20</sup> Henkel explained the Soviet polar plane was actually a Vultee, which is an American-made plane. The mural that included President Roosevelt also included aircraft carriers, student pilots, anti-aircraft guns, “an ancient warrior facing a modern mechanized soldier with German helmet, gas mask and flame thrower,” mass debris and column ruins, a child being rescued by a man, Red Cross nurses, and a Madonna and Child.<sup>21</sup> Of the mural including President Roosevelt, Henkel said that it was meant to symbolize “President Roosevelt as a champion of the forces of democracy against the aggressors.” WPA officials felt that the subject matter of that particular mural was “out of place at a field devoted to civil aviation.”<sup>22</sup> Other offensive or questionable images included portraits of radical aviator Jimmy Collins and of Joseph Rosmarin, once an aviator for the Spanish Loyalists. Henkel explained his inclusion of the portraits stating that “Collins was a Navy test pilot who

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<sup>20</sup> Franz Reichelt was a pioneer of parachuting. He accidentally died by jumping from the Eiffel Tower while testing a design in 1912.

<sup>21</sup> “‘Red’ airfield murals torn down” *New York Times*, 9 July 1940.

<sup>22</sup> *Ibid.*

died testing a Navy bomber and Rosmarin is now a pilot at Bennett Field and [is] generally respected.”<sup>23</sup> Henkel also stated that Rosmarin was “willing to pose”<sup>24</sup> for the mural. According to the *New York Times*<sup>25</sup>, Henkel had an explanation for all images considered to be Communist except for one. He believes that the “red star” painted on the U.S. Navy hanger was a mistake made by an assistant. He suggested that perhaps an assistant painted it red instead of white.<sup>26</sup> The one mural that remained intact at the Floyd Bennett Airport “was an allegorical presentation of flying and was found to be without propaganda taint.”<sup>27</sup>

Several associations made complaints about the murals’ content, including the Women’s International Aeronautic Association, the Flatbush Chamber of Commerce, and the Floyd Bennett Post of the American Legion. Upon these complaints Lieut. Col. Brehon B. Somervell (a local WPA administrator), Dock Commissioner John McKenzie, and Mrs. Audrey McMahon (New York State Director of the Federal Arts Project) investigated these complaints by examining the content of the murals. Colonel Somervell issued the orders to have three of the murals removed by workmen. The murals were then “torn down, rolled up into bundles and taken to WPA headquarters...[in] Manhattan.”<sup>28</sup>

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<sup>23</sup> “Painter of Murals to Sue Somervell,” *New York Times*, 10 July 1940.

<sup>24</sup> William H. Stringer, “Mural dispute stirs demand WPA work only on defense,” *The Christian Science Monitor*, 1940.

<sup>25</sup> “Painter of Murals to Sue Somervell,” *New York Times*, 10 July 1940.

<sup>26</sup> William H. Stringer, “Mural dispute stirs demand WPA work only on defense,” *The Christian Science Monitor*, 1940.

<sup>27</sup> “‘Red’ airfield murals torn down” *New York Times*, 9 July 1940.

<sup>28</sup> *Ibid.*

According to Henkel, his sketches had been approved by “the proper authorities and the work was under constant supervision.”<sup>29</sup> Colonel Somervell explained that while members of the Municipal Art Commission had “examined and approved [the murals] some time ago,”<sup>30</sup> he suspected that Henkel made changes “after he had learned that he was to be discharged from the WPA for refusing to sign the affidavit...”<sup>31</sup> While Henkel received the blame for the alleged Communist propaganda within the mural, he was not the only artist working on the murals. Artist Eugene Chodorow, as well as assistants, also worked on the murals. Colonel Somervell exonerated Eugene Chodorow of any responsibility for the Communist propaganda. Colonel Somervell, however, did investigate to determine if “any higher-ups had been guilty of negligence in allowing the murals to be hung.”<sup>32</sup>

After the murals had been removed, Henkel announced his intent to sue Colonel Somervell for defamation of character. Henkel asked for \$100,000 in damages. He believed that Colonel Somervell was “raising a ‘red scare’ in order to attack the WPA art project and undermine public confidence in it.”<sup>33</sup> He even equated the burning of the murals to the Nazis burning books. The United American Artists<sup>34</sup> (local 60) also thought that the removal of the murals was an attempt to destroy the integrity of the art project, stating that it was “part of a smearing campaign of falsehood and innuendo being

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<sup>29</sup> “Painter of Murals to Sue Somervell,” *New York Times*, 10 July 1940.

<sup>30</sup> While the murals had been approved they had yet to be formally accepted through the Municipal Art Commission.

<sup>31</sup> “Painter of Murals to Sue Somervell,” *New York Times*, 10 July 1940.

<sup>32</sup> William H. Stringer, “Mural dispute stirs demand WPA work only on defense,” *The Christian Science Monitor*, 1940.

<sup>33</sup> “Painter of Murals to Sue Somervell,” *New York Times*, 10 July 1940.

<sup>34</sup> The United American Artists was an affiliate of the Congress of Industrial Organizations.

developed for the purpose of wrecking the art project.”<sup>35</sup> The executive secretary of the union<sup>36</sup>, Rita Murphy, stated that the accusations were “sheer fabrication.”<sup>37</sup> The American Artists Congress called the removal of the murals “fuehere-like”<sup>38</sup> and stated that it showed “contempt for culture and freedom of expression.” With their statement the American Artists Congress also called for the dismissal of Colonel Somervell.

The controversy over the Floyd Bennett airport mural led to a larger debate over the type of projects the WPA funded. Some felt that the WPA should focus only on defense projects. As stated earlier, President of the New York Board of Trade John A. Sellers felt that the Federal One projects were nonessential. WPA officials replied that the skills of those employed under the Federal One programs are “not along mechanical lines and therefore would not fit into the industrial defense mobilization.”<sup>39</sup> One of the benefits of the WPA was its Federal One programs, which specifically gave artists employment in their field. By the 1940s, however, many of the Federal One projects shifted their focus to war efforts by creating pamphlets, manuals, and poster art in support of the war.

#### *Reorganization Act of 1939*

The Reorganization Act of 1939 illustrates requiring matching funding from other entities and the reorganization of programs/changing names of programs, and/or the elimination of programs. Representative Martian Die, Jr. (D-TX) suspected Communists

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<sup>35</sup> “Red' airfield murals torn down” *New York Times*, 9 July 1940.

<sup>36</sup> From the article “Painter of Murals to Sue Somervell” it is unclear exactly which union Rita Murphy is executive secretary of. There is no mention of a union before her quote; the paragraph merely starts with her name, title, and then her quote. The article goes on to quote the American Artists Congress.

<sup>37</sup> “Painter of Murals to Sue Somervell,” *New York Times*, 10 July 1940.

<sup>38</sup> *Ibid.*

<sup>39</sup> William H. Stringer, “Mural dispute stirs demand WPA work only on defense,” *The Christian Science Monitor*, 1940.

or Nazis within the Federal Art Project, Federal Writers Project, and the Federal Theatre Project. Because of these suspensions, controversy arose and the House Un-American Activities Committee (HUAC) was established. The HUAC held hearings and as a result of these hearings, the Reorganization Act of 1939 was created.

With the Reorganization Act of 1939, many structural changes were made to Federal One and the WPA. The Works *Progress* Administration was renamed the Works *Project* Administration. The act required the Federal One divisions to secure 25% of local funding<sup>40</sup> before federal funding was released.<sup>41</sup> The Federal Theatre Project was dissolved in 1939 through the Act and because of the FTP's controversies; Representative Die suspected Communist activities within the FTP. The Federal Music Project was now called the WPA Music Program. The Federal Writers Project lost its federal funding but continued on with only state sponsorship. By the end of these programs, the majority of the projects focused on war efforts. By 1943, the Federal Art Project, the Federal Writers Project, the WPA Music Program and the Historic Records Survey were all dissolved.

#### *1969 and 1970 American Literary Anthology*

In this example, one can see how controversy over the worth/content of an artwork<sup>42</sup> can lead to a loss of funding. One of the earliest NEA grant controversies was over the 1969 issue of American Literary Anthology, which had awarded \$750 to all the authors included in the Anthology. The issue contained a one word "concrete poem" by

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<sup>40</sup> The projects were given two months to secure this funding.

<sup>41</sup> Bing, "A Brief Overview of the WPA."

<sup>42</sup> The poem described in this example is a literary work, yet more suitably called an artwork due to its visual presence.

minimalist poet Aram Saroyan; the poem read “light.”<sup>43</sup> The poem is meant to be seen rather than read aloud. Saroyan explains, “Part of the aim [of the poem] seems to have been to make this ineffable (light) into a thing, as it were -- to change it from a verb (the agency of illumination) to a noun that yet radiates as light does. The double ghgh seems to work in that way.”<sup>44</sup> Some members of Congress (as well as some member of the public) felt that a one-word “misspelled” poem was not worthy of funding. Funding for the 1969 issue was not revoked despite the controversy. However, the last straw came the following year. The 1970 issue of the American Literary Anthology contained an “obscene” work by poet and singer Ed Sanders. After enduring controversy over Saroyan’s poem in the 1969 issue and Sanders’s poem the following year, the NEA withdrew their support of the 1970 issue of the American Literary Anthology.

*Tilted Arc by Richard Serra*

Yet another complex example involving several of the actions is that of Richard Serra’s public art sculpture *Tilted Arc*. This example demonstrates delegation of responsibility through advisory panels and the destruction of art. In 1979 the General Service Administration (GSA) appointed the NEA to select an advisory panel.<sup>45</sup> This panel was responsible for choosing an artwork as part of the GSA’s Art-in-Architecture program. Artist Richard Serra was selected and his design approved. In July 1981 *Tilted Arc* was installed in the plaza in front of the Jacob K. Javits federal office building. The sculpture was 120 feet long, 12 feet high, and 2 ½ inches wide. It was made of cor-ten

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<sup>43</sup> This poem had been previously published in the Chicago Review.

<sup>44</sup> “Poetry of Light by Aram Saroyan,” The Lancaster Literary Guild.

<sup>45</sup> The panel consisted of Patricia Fuller, Joseph Colt, Suzanne Delehanty, Ira Licht, and Robert Pincus-Witten.

steel and weighted 72 tons. Serra was paid \$175,000 and claimed he did not profit from creating the artwork because of the building and installation costs. The director of the Art-in-Architecture program supported his claim.

Numerous complaints about the artwork were received by the GSA. Many who worked in the Javits building (or those close by) felt inconvenienced by the sculpture's positioning and had to walk around it to enter the building. The architect of the Javits Building, Alfred Easton Poor, argued that the artwork "obstructed the view from one building to another" and also that his "firm, which designed the building, was not consulted."<sup>46</sup> In 1984 William Diamond, regional administrator of the GSA, gathered nearly 4,000 signatures petitioning the removal of *Tilted Arc*. Those for the removal of *Tilted Arc* argued that "...official reasonability for the public's aesthetic and nonaesthetic welfare was being violated by the permanent presence of a disliked work...[and] that public art must not offend the public that pays for it and that to retain a work against the public's wishes would interfere with the public's freedom of expression...[and] that the GSA owned the work and this gave them the right to remove it."<sup>47</sup> According to Serra, he had an oral agreement "that the work would be permanently installed at the site for which it was designed"<sup>48</sup> and thus the removal of said work would have been a breach of contract. Because the artwork was site-specific, the removal of the work thus destroys the piece; without the specific location the work would have no meaning.

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<sup>46</sup> "Richard Serra: The Case of Tilted Arc," University of Arizona.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

In March 1985, William Diamond called a three-day public hearing to consider the removal of the work. Judge Edward D. Re presided over a panel<sup>49</sup> of five. During the hearing over 180 people testified; of those, over 120 supported keeping the work as is. In the end, however, the panel voted 4 to 1 in favor of the removal of *Tilted Arc*. In May 1985 Dwight Ink, acting administrator of the GSA, made the final decision to remove the work. Serra then sued Diamond and Ink for the violation of his contract. In August 1987 Judge Milton Pollack<sup>50</sup> dismissed Serra's case. While the work was not physically destroyed, it has been in storage since its removal.

*AVA-7 exhibition featuring Andres Serrano*

While controversies continued throughout the years over the content of NEA art funding by the NEA, none were as notorious as two 1988 exhibitions including works by photographers Andres Serrano and Robert Mapplethorpe. Both of these exhibitions show the use of oaths/pledges from artists/arts organizations and the delegation of responsibility through advisory panels.<sup>51</sup>

In September 1987 the NEA awarded the Southeastern Center for Contemporary Art (SECCA) a \$75,000 grant, which helped support their program Awards in the Visual Arts (AVA). The Equitable Foundation and the Rockefeller Foundation matched the NEA grant. SECCA selected ten artists for their 7<sup>th</sup> annual showcase; the NEA was not involved in their selection. In May 1988 the traveling exhibition, known as the AVA-7, opened at the Los Angeles County Museum of Art. The AVA-7 contained a highly

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<sup>49</sup> The panel consisted of William Diamond, Michael Findlay, Thomas Lewin, Paul Chistolini, and Gerald Turetsky.

<sup>50</sup> Judge Milton Pollack presided over the US district court in Manhattan.

<sup>51</sup> An "arms length" approach.

controversial work by photographer Andres Serrano entitled *Piss Christ*. The work featured a crucifix in glass through a yellowish glow; the medium in which the crucifix was suspended was urine. Senator Alphonse D'Amato called the work a “deplorable, despicable display of vulgarity.”<sup>52</sup> Amidst the *Piss Christ* controversy the NEA was between chairmen. In an attempt to soften the controversy, the acting chairman Hugh Southern released a statement on April 25, 1989, stating, “The National Endowment for the Arts supports the right of the grantee organizations to select, on artistic criteria, their artist-recipients and present their work, even though sometimes the work may be deemed controversial and offensive to some individuals.”<sup>53</sup> In response to Serrano’s artwork a group of twenty-seven Senators, headed by Senators Alfonse D’Amato (R-NY) and Jesse Helms (R-NC), sent a letter to the NEA insisting that the agency stop funding “sacrilegious art.”<sup>54</sup> Southern then responded to the Senators by stating that he too found the work to be offensive but reminded them that SECCA was responsible for selecting the artists, not the NEA. On May 31, 1989, Senator Slade Gorton (R-WA) demanded that the Endowment “cut off funds to SECCA for five years.”<sup>55</sup> While this demand was not considered, funding for SECCA was threatened and will be discussed more in the section *The “Obscenity Clause” and Artist Reactions*.

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<sup>52</sup> Michael Wingfield Walker, “Artistic Freedom v. Censorship: The Aftermath of the NEA’s New Funding Restrictions,” 942.

<sup>53</sup> Bauerlien, *National Endowment for the Arts: A History*, 91.

<sup>54</sup> Michael Wingfield Walker, “Artistic Freedom v. Censorship: The Aftermath of the NEA’s New Funding Restrictions,” 942.

<sup>55</sup> Bauerlien, *National Endowment for the Arts: A History*, 93.

*The Perfect Moment retrospective of Robert Mapplethorpe*

In July 1988 a \$30,000 grant was awarded to the University of Pennsylvania's Institute of Contemporary Art (ICA) for a retrospective of photographer Robert Mapplethorpe's works. The exhibition was entitled *The Perfect Moment* and opened in December 1988. The exhibition contained a still life series, nudes, and portraits. Some of these images were graphically sexual and included "bondage and homosexuality."<sup>56</sup> In June 1989 Washington DC's Corcoran Gallery of Art cancelled their part of the touring exhibition. The Washington Project for the Arts did not cancel the exhibition and showcased the works from July through August.

*The "Obscenity Pledge," the "Decency Pledge," and Artist Reactions*

During the Mapplethorpe controversy, some members of Congress started to debate the H.R. 2788 bill, which was responsible for NEA funding. An amendment to the bill (created by Representative Charles Stenholm [D-TX]) aimed to reduce the amount of funding to the Arts Endowment. The proposal was to cut \$45,000 from the Endowment's funding, a number which represented the Endowment's contribution to the SECCA (\$30,000) and the ICA (\$15,000). The bill was passed by the House. Senator Jesse Helms (R-NC) added a stipulation to the bill stating that the NEA could not allocate funds for works that were deemed "obscene or indecent."<sup>57</sup> Helms proposed that NEA funds could not be used to "promote, disseminate, or provide- (1) obscene or indecent materials, including but not limited to depictions of sadomasochism, homo-eroticism, the

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<sup>56</sup> Michael Wingfield Walker, "Artistic Freedom v. Censorship: The Aftermath of the NEA's New Funding Restrictions," 942.

<sup>57</sup> Helms' definition was based on the language used by the Supreme Court in *Miller v. California*.

exploitation of children, or individuals engaged in sex acts; or (2) materials which denigrate the objects of beliefs of the adherents of a particular religion or non-religion; or (3) material which denigrates, debases, or reviles a person, group, or class of citizens on the basis of race, creed, sex, handicap, age or national origin.”<sup>58</sup> The Senate passed the “Helms Amendment,” but the House of Representatives rejected it.

Some senators felt this proposal was too extensive; Senator John Danforth (R-MO) argued that under such restrictions “classics such as *Tom Sawyer* and *Huckleberry Finn* could not have received federal support.”<sup>59</sup> On October 23, 1989, Congress passed a less severe version of the amendment, which “prohibited the use of federal funds to promote material which in the judgment of the NEA could be considered obscene.”<sup>60</sup> The “Helms Amendment,” or as it is better known the “obscenity pledge,” would be added to all the NEA grants’ terms and conditions. The obscenity pledge now declared works to be obscene if they included “...depictions of sadomasochism, homoeroticism, the sexual exploitation of children, or individuals engaged in sex acts which, when taken as a whole, do not have serious literary, artistic, political, or scientific value.”<sup>61</sup> The obscenity pledge marked the first time in United States history that Congress established “restrictions on the content of government sponsored art.”<sup>62</sup> Through this bill, the Senate would also create an “independent commission to review the Arts Endowment’s grant-making

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<sup>58</sup> Michael Wingfield Walker, “Artistic Freedom v. Censorship: The Aftermath of the NEA’s New Funding Restrictions,” 943.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

operation.”<sup>63</sup> In the end, the \$45,000 cut was not part of the bill, the SECCA and ICA were not banned, and the Endowment’s funding remained the same.

The amendments to the H.R. 2788 bill in the late 1980s, especially the obscenity pledge, caused some to question whether the National Endowment for the Arts was censoring the arts. Indeed some artists and organizations did not agree with the new terms and conditions of the grants. Joseph Papp, a New York theatre director, turned down two grants worth a total of \$323,000.<sup>64</sup> Papp stated, “I cannot in all good conscience accept any money from the NEA as long as the Helms-inspired amendment on obscenity is part of our agreement.”<sup>65</sup> Conductor Leonard Bernstein refused the National Medal of Arts Award because John Frohnmeyer, Director of the NEA, cancelled a \$10,000 grant to Artists Space, a New York gallery. Artists Space presented “Witnesses: Against our Vanishing” and it was the catalogue for the presentation that Frohnmeyer disapproved of. Bernstein stated that “a catalogue is not...a work of art” and that Frohnmeyer’s decision was “political rather than artistic in nature.”<sup>66</sup> Later, Frohnmeyer restored the grant<sup>67</sup> but stipulated that the funds could not be used in the creation of the catalogue.

The Bella Lewitzky Dance Foundation was awarded a grant but the company manager refused to sign and agree to the new terms and conditions. The NEA’s General Counsel, Julianne Ross Davis, explained to the foundation that “none of the terms of the

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<sup>63</sup> Bauerlien, *National Endowment for the Arts: A History*, 94.

<sup>64</sup> One of these grants was for the New York Shakespeare Festival and worth \$50,000.

<sup>65</sup> John Houchin, *Censorship of the America Theatre in the Twentieth Century*, 242.

<sup>66</sup> Jody Lynn Olsen Agraz, “The National Endowment for the Art’s Decency Standard and Freedom of Expression: Examining the Indecency Policy-Making System,” 199.

<sup>67</sup> The grant was reinstated after Frohnmeyer consulted with the National Council on the Arts and NEA advisors.

grant [were] optional.”<sup>68</sup> The foundation then sued in *Bella Lewitsky Dance Foundation v. Frohnmayer*<sup>69</sup> declaring that the “pledge was unconstitutional.” In this case, the ruling was in favor of the Bella Lewitsky Dance Foundation. The court found the obscenity pledge to be an “unconstitutional condition [placed] upon an artist’s freedom to exercise fundamental rights.”<sup>70</sup> A deciding factor in the case was that the definition of obscenity was totally at the discretion of the NEA, and its restrictions were vague. Like the Bella Lewitsky Dance Foundation, the New School for Social Research<sup>71</sup> refused a grant which would have remodeled a courtyard and sued in *New School v. Frohnmayer*. Eventually the NEA agreed to allow the New School to obtain the funds without having to sign the obscenity pledge. Because of this, in February 1991 the New School dropped the lawsuit. The “obscenity pledge” sparked many artists and art directors to refuse to serve on the NEA panel.<sup>72</sup>

On October 11, 1990, the Williams-Coleman Amendment<sup>73</sup>, or “decency clause,” was added to the bill. Artworks funded under the decency clause needed to “incorporate general standards of decency and respect for the diverse beliefs and values of the American public.”<sup>74</sup> Under the decency clause, grant recipients were required to file a report stating that their work(s) met the new standards. The decency clause also stated

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<sup>68</sup> Michael Wingfield Walker, “Artistic Freedom v. Censorship: The Aftermath of the NEA’s New Funding Restrictions,” 946.

<sup>69</sup> Frohnmayer refers to John Frohnmeyer, the new director of the NEA at that time.

<sup>70</sup> Michael Wingfield Walker, “Artistic Freedom v. Censorship: The Aftermath of the NEA’s New Funding Restrictions,” 948.

<sup>71</sup> The New School for Social Research is an arts institution and has campuses in New York and California.

<sup>72</sup> In 1992, the Visual Arts panel resigned in protest thus there were no fellowship grants awarded for sculpture.

<sup>73</sup> This amendment was proposed by Representatives Pat Williams (D- MT) and Ronald D. Coleman (D-TX).

<sup>74</sup> Michael Wingfield Walker, “Artistic Freedom v. Censorship: The Aftermath of the NEA’s New Funding Restrictions,” 951.

that if a candidate did not meet this or other requirements the NEA “could suspend grant payments, and could even require artists to pay back money previously disbursed.”<sup>75</sup> On November 5, 1990, the Williams-Coleman Amendment was signed into law.

### *The “NEA Four”*

In the case of the “NEA Four,” the following actions can be identified: oaths/pledges from artists/arts organizations and the denial of funding. In May 1990 the National Council on the Arts decided to defer a group of grants that were to be awarded to performance artists based on the decency clause. There were 18 grants in total that were deferred for four months. Eventually 14 of the 18 grants were awarded. The four grants that were not reinstated were to be awarded to Karen Finley, John Fleck, Holly Hughes, and Tim Miller; these performance artists became known as the “NEA Four.” John Frohnmeyer, Director of the NEA, decided to revoke their awards.<sup>76</sup> Finley’s performance included pouring chocolate sauce on her body while naked. Fleck’s performance simulated masturbation. Hughes and Miller’s performance works dealt with homosexuality. The denial of these grants sparked a public debate over the NEA’s approval process. Because of this, in August 1990 the National Council on the Arts changed its meeting policy; the grant review meetings would now be open to the public. The NEA Four, along with the National Association of Artists’ Organizations (NAAO), filed a lawsuit against the NEA calling a clause defining the content of art unconstitutional. In 1993, the court ruled the decency clause to be void due to its vagueness, stating that it “creates a trap for the unwary applicant [who may] offend

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<sup>75</sup> Ibid.

<sup>76</sup> John Houchin, *Censorship of the America Theatre in the Twentieth Century*, 242.

someone's subjective understanding of the standard."<sup>77</sup> U.S. Supreme Court Justice John M. Harlan elaborated, stating that "one [person's] vulgarity is another's lyric."<sup>78</sup> The court furthermore ruled that the decency clause did not set any guidelines for administering the subjective standard. Once again<sup>79</sup>, a court ruled that the clause violated the First Amendment because it was too broad. As a result of this and other controversies, the NEA decided to quit funding individual artists in 1996.

Many of the case studies presented have shown multiple actions taken in response to a controversy. The six government actions will now be discussed in more detail in relation to these examples. By presenting the case studies and actions, art funding advocates and policy-makers will be able to better understand what has worked in the past and what has not; therefore, they can be more successful in their advocacy work and policy writing.

### **Actions**

*(1) Requiring Matching Funding from Other Entities and the*

*(2) Reorganization of programs/changing names of programs, and/or the elimination of programs, and/or the Elimination of Programs*

Requiring matching funding from other entities and the reorganization of programs, changing names of programs, and/or the elimination of programs are both general actions that have been taken by both Federal One and the NEA. A specific example can be found in the WPA's Reorganization Act of 1939. The Act changed the

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<sup>77</sup> Raleigh Douglas Herbert, "National Endowment for the Arts- The Federal Government's Funding of the Arts and the Decency Clause."

<sup>78</sup> Ibid.

<sup>79</sup> As seen previously in *Bella Lewitsky Dance Foundation v. Frohnmayer*.

names of several of the Federal One programs, eliminated the Federal Theatre Project, and required all remaining programs to acquire 25% matching funding from the States in order to receive federal funding. Likewise, some of the NEA funding programs require matching funding. In 1996 the NEA eliminated its grants for individual artists.

### *(3) Oaths/Pledges from Artists/Arts Organizations*

During trying economic times, the United States had enough worries. Then, with the threat of another war, many feared Communists and Nazis within the states. Because of this, the Relief Bill of 1940 required participants to sign a loyalty oath declaring that they were neither Communist nor Nazi. The NEA has similarly required either the above mentioned “obscenity pledge” or “decency pledge.” These pledges came not from fear of political ties but rather relate to action number 6; the NEA did not want to provide funding for art that the mainstream public deemed undesirable.

### *(4) The Denial of Funding*

The “light” poem controversy raised the question of the worth of content that was funded. The next year, NEA withdrew their funding from the 1970 issue of the American Literary Anthology because of an “obscene” work by Ed Sanders. Because of the decency pledge, the NEA decided to revoke the grants awarded to the “NEA Four.”

### *(5) The Delegation of Responsibility through Advisory Panels*

The NEA has a history of requiring advisory panels for grants since their inception. Sometimes the NEA itself carries out this process, but other times arts organizations that receive grant funding are required to make up their own advisory panels and select artists for funding. This is known as an “arms length” approach. Even

though this approach attempts to distance the grant giver from the grantee, often the NEA still receives blame for the types of art works that are funded. This was the case with the AVA-7 exhibition featuring Andres Serrano and the Robert Mapplethorpe retrospective *The Perfect Moment*.

#### (6) *The Change or Destruction of Art*

As mentioned above, the play *Ethiopia* never had a chance to be performed (other than the press preview show). Three of the four mural panels at the Floyd Bennett Airport were torn down and destroyed. The destruction of art is not always a physical act. Richard Serra's *Titled Arc*, while not physically destroyed, lost its meaning and purpose once it was removed from its site-specific location.

### **Conclusion**

The programs of Federal One aimed to provide artists with jobs and endured controversies along the way. Whether these controversies were over the content of an artwork or alleged political ties, Communist or Nazi propaganda was the main reason for government action/reaction. Today Communist or Nazi propaganda is less of a threat; this threat has been replaced, however, with "obscenity." When controversies arose over the content of artworks funded by the NEA, it was generally because the work was deemed obscene. In response to these controversies, the government took actions which attempted to satisfy the mainstream popular standards rather than artistic standards. The government in general feels that federally funded artworks should be what the public finds worthy of funding, enhances the cultural identity of American Art, and are all around enjoyable works. At the same time, however, the government has been accused of

censorship by taking into account the public's needs over that of the artists' freedom of expression.

The case studies have demonstrated that the government uses one or more of the actions described as a reaction to controversy. Government sponsorship of the arts has always raised the concern of censorship. Censorship may be the denial of funding (based on content), requiring oaths or pledges, and the removal or destruction of artworks. In some cases, government censorship of art can be argued. In general these cases result from the government acting on behalf of what they feel is in the interest of the general public.

There are numerous other examples of U.S. art funding controversy, but they do not necessarily lead to actions or policy changes. Rather the ongoing occurrence of these controversies ultimately leads to these changes. Yet when amendments have been added to try to avoid these controversies, artists and arts organizations cry "censorship." How can arts advocates bridge the gap between these groups and their opposing goals? There will always be artwork that someone will find offensive, and there will always be artists fighting for their right for the creative freedom of expression. Therefore, these types of controversies are sure to occur in the future.

By knowing the history of art funding, the controversies that have occurred, and the actions taken by the government in response to said controversies, art funding advocates and policy-makers can make better informed decisions when presenting an art funding idea or when trying to influence public policy. For example, it has been proven that many grants require an advisory panel; therefore, policy-makers and advocates may

want to include such a panel in their original proposals. Obtaining multiple funding sources has also been demonstrated as a benefit when seeking a grant. Establishing a partnership with an organization or individuals who are recognized as having American values (like those of the mainstream public) is also an effective way to increase the likelihood of a grant approval. The information in this paper may also help prepare arts organizations and government agencies for reactions to funded artworks. Again, by having knowledge of past funding, problems that have arisen, and the steps that have been taken in attempts to avoid said problems in the future, arts advocates and policy-makers will be better prepared and able to present successful proposals for arts funding.

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