

1900.2210 ADDITIONAL REQUIREMENTS AND PROCESSES FOR MINNESOTA PERCENT FOR ART IN PUBLIC PLACES PROGRAM.

Subpart 1. Definitions.

A. "Artist" means an individual, or a collaborating group of individuals, practicing in the visual arts.

B. "Commission" or "commission award" means the creation of a new work specific to a site.

C. "Custodial agency" means the agency that controls the building or site where the artwork will be installed and is responsible for stewardship of the artwork.

D. "Purchase award" means the direct purchase of an existing work of art.

E. "Registry" or "artist registry" means a nonjuried collection of images and information on visual artists interested in having their work purchased or commissioned for newly constructed or renovated state building sites across Minnesota.

F. "Site" or "project" means a state building, the construction of which is paid for wholly, or in part, by the state of Minnesota, and does not include construction funds primarily appropriated for the repair, replacement, or enhancement of the infrastructures (electrical, plumbing, heating and cooling, or structural) which are not regularly seen by the public.

G. "Site selection committee" means at least five, and no more than seven, individuals who will recommend artwork for a designated site. The board and the custodial agency shall determine whether a five- or seven-member committee is needed, based on the size of the budget and the scope of the project to be completed. The committee is chaired by a designee of the board who is a nonvoting member of the committee.

H. "Work of art" or "artwork" means original and unique creations in visual media:

(1) produced by or under the control of artists generally recognized by their peers and critics as professional artists; and

(2) chosen by site selection committees.

Subp. 2. Purpose of program. The purpose of the Minnesota percent for art in public places program is to make possible the acquisition of works of art to be exhibited in areas of a state building, as defined by Minnesota Statutes, section 16B.35, or its grounds, accessible on a regular basis to members of the public.

Subp. 3. Activities the program supports. The program may purchase or commission original works of art with up to one percent of the total construction budget of a state building with a construction or renovation budget of at least \$500,000. This

program shall enable artists to participate with client agencies and design professionals in the process of designing public spaces within and around state buildings; shall commission artists to create artworks to be integrated into the buildings and sites; or shall purchase existing artworks to be displayed throughout the buildings. In addition, the program shall manage and maintain an artist registry as a resource for selecting visual artists and artwork when new sites are identified for the program. The registry shall also be used by other nonstate organizations or individuals interested in locating artwork for commission or purchase. With authorization from the Department of Administration, the board may use up to ten percent of each site's percent for art in public places' appropriation for administrative costs.

Subp. 4. **Processes used to select artwork for site.** The board shall use a site selection committee process described in subpart 9 to select artwork for a site. In circumstances where the amount of available funds do not merit commissioning new work, the board may determine that a purchase award is appropriate.

Subp. 5. **Criteria for recommendations.** The four criteria used when reviewing artwork for purchase, or artists to commission, shall be in the two perspectives as described in items A and B.

A. Artistic quality, design, and permanence are the three primary criteria and equally important. Site selection committee members will examine slides of artists' previous work, and a professional resume when considering and assessing the artwork or artists.

- (1) Artistic quality shall be demonstrated by:
 - (a) work samples;
 - (b) adequate experience in production of public art; and
 - (c) evidence of ability to work within budget.
- (2) Design shall be demonstrated by:
 - (a) aesthetic compatibility with the architecture; and
 - (b) appropriate medium, given the function and use of the site.
- (3) Permanence shall be demonstrated by:
 - (a) use of durable materials; and
 - (b) good construction techniques.

B. The secondary criterion in order of importance shall be the acquisition of a variety of artwork appropriate to a public collection, which is demonstrated by:

- (1) artwork in different mediums and styles, and with a breadth of themes or subjects;

(2) artwork which recognizes and fosters diverse social, cultural, and historical values; and

(3) artwork which is memorable, thought-provoking, and enduring.

Subp. 6. **Site selection committees.** Site selection committees shall be organized in the same manner as advisory panels under part 1900.0410, subparts 2 to 6. Additional criteria to select the individuals who serve on a site selection committee are:

A. members must have familiarity with public art issues and acquisition procedures or experience with community-based visual arts projects;

B. two members (or three, if it is a seven person committee) shall represent the residents and users of the building, appointed by the custodial agency that has authority over the appropriation that includes funds for the project;

C. one member shall represent the architect for the building;

D. two members (or three, if it is a seven person committee) who have expertise as an artist, curator, critic, writer, museum director, arts educator or administrator, member of the Arts Board, architect, landscape architect, or other design professional shall be appointed by the board; and

E. each site selection committee must include a majority of Minnesota residents as voting members.

Subp. 7. **Residence exemption for artist registry.** An artist may submit materials for the artist registry. The artist need not be a Minnesota resident.

Subp. 8. **Waiting periods for subsequent awards.** An artist who has received purchase awards through the program totaling a minimum amount as determined by the board based upon available resources and published in the current program information in one fiscal year must wait one year from the contract execution date before being considered for other percent for art projects by the board.

An artist who has received commission awards totaling a minimum amount as determined by the board based upon available resources and published in the current program information in one fiscal year must wait three years from the contract execution date before the artist shall be considered for other projects.

During the waiting period, an artist may remain on file in the registry, but the artist's work will not be considered for projects by the board.

Subp. 9. **Processes to identify applicants for consideration.**

A. One of the two methods in subitems (1) and (2) is used by the site selection committee to acquire works of art:

(1) purchase of existing work; or

- (2) commission of new work especially for the site.

When new work is commissioned, the artist first presents a design proposal, including a budget and timeline, that must be reviewed and approved by the site selection committee.

B. The site selection committee may use a combination of competition types to assemble a pool of applicants for awards.

- (1) Open competitions shall be announced by the distribution of a request for qualifications or a request for proposals describing the project. Work samples from all eligible responsive applicants shall be shown to the site selection committee. This type of competition is most suitable for projects with large budgets and extended timelines.

- (2) Registry competitions shall use the artist registry to prescreen applicants who meet the specific criteria identified for the site by the site selection committee. The registry shall be used for all projects, often in combination with other types of competitions, but is particularly suitable for projects with limited budgets, short timelines, and if work is sought for a purchase award.

- (3) Invitational competitions shall use a list of artists developed by the board for the purpose of sending an invitation to apply for a specific site award. This type of competition is most suitable when artists are sought who have particular skills or abilities, or who work in specific mediums appropriate to the project, or for projects with an extended timeline.

- (4) For direct competitions, the site selection committee shall directly invite a limited list of artists developed by the board to apply, or the committee shall visit galleries, museums, or studios to select artwork. This type of competition is most suitable for projects with limited budgets, short timelines, or where work is sought for direct purchase.

The site selection committee's recommendations shall be given to the board, the Department of Administration, and other necessary state agencies for final approval. Upon approval, the board shall enter into a contract with the artist. The contract shall provide for the direct purchase of existing work or one or both of the following: the production of schematic design proposals for a commissioned work or the actual production of commissioned work.

Subp. 10. **Projects not eligible.** A proposal is not eligible for consideration for the percent for art program unless it meets the definition of a site or project in subpart 1.

In addition, a proposal is not eligible for funds if:

- A. the funds are to be used solely for the design or construction of elements of incidental or ornamental detail;

- B. the funds are to be used for payment of any architect's fees for participating on the site selection committee; or

C. the Department of Administration has determined it to be inappropriate.

Subp. 11. Responsibilities of Arts Board and custodial agency after acceptance of artwork.

A. The Arts Board staff shall monitor the condition of the artwork and shall provide oversight to ensure that routine and special routine maintenance of the artwork is being performed by the custodial agency.

B. If the board reasonably determines that the artwork presents imminent harm or hazard to the public, the board may authorize modifications of, including material changes, or removal of the artwork without prior approval of the artist.

C. Neither the board nor the custodial agency shall be required to contact the artist prior to routine or special routine maintenance, such as artist maintenance instructions.

D. Upon successful installation of the artwork, the custodial agency shall be responsible for:

- (1) protecting the artwork against loss, theft, vandalism, or other damage;
- (2) routine maintenance of the artwork; and
- (3) any conservation or restoration deemed necessary by the board.

Subp. 12. Rights of artist after acceptance of artwork.

A. Neither the board nor the custodial agency shall make changes that could reasonably be expected to affect the intended character or appearance of the artwork without written authorization from the artist.

B. In the event the board determines conservation and restoration of an artwork should be undertaken, the board shall notify the artist in writing of:

- (1) the nature of the material change;
- (2) the board's recommendations for the proposed means and methods for conservation and restoration; and
- (3) a timeline establishing the date by which the artist must respond in writing with any concerns regarding the proposed plan for conservation and restoration.

C. If a modification of the artwork occurs without the artist's permission and the artist gives written notice to the board requesting that the artist's name and the artwork be disassociated, the artwork will no longer be designated as the artwork of the artist.

D. In the event the board decides to no longer keep the artwork, the artist shall have the right of first refusal to purchase the artwork in its current condition at the greater of salvage cost or the cost to retrieve the artwork, provided it is not integrated in a larger piece or a structure, or it can be removed without destruction of the artwork.

E. If the artwork is created and physically constructed as part of a building, facility, or public site, the installation may subject the artwork to destruction, distortion, or other modification by reason of its removal from or significant changes to the location.

Statutory Authority: *MS s 129D.04*

History: *21 SR 5; 23 SR 1380; 41 SR 87*

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