

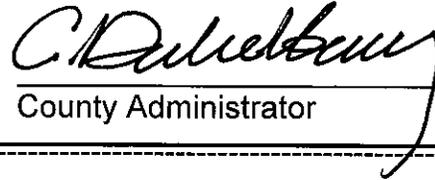
# ADMINISTRATIVE PROCEDURES



Procedure Number: 3-16

Effective Date: 1/31/2002

Revision Date: 1/01/2019

  
County Administrator

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**SUBJECT: Implementation of the Pima County Public Art Program**

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**DEPARTMENT RESPONSIBLE: The Office of the County Administrator**

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## I. STATEMENT OF PURPOSE

The purpose of this Administrative Procedure is to establish the procedures for carrying out the Pima County Public Art Program and to assign responsibilities to execute these procedures.

## II. ELIGIBLE WORKS OF ART/ARTISTS AND ORGANIZATIONS

### A. Eligible Works of Public Art

For the purposes of the Pima County Public Art Program, eligible works of art will mean:

1. Any tangible work of visual art, including but not limited to, a drawing, painting, mural, fresco, sculpture, mosaic, photograph, works of calligraphy, works of graphic art (including an etching), works in clay, textile, fabric, glass and like materials, or mixed media (including a collage, assemblage, or any combination of the above art media), stained glass, relief or freestanding sculptures, fountains, arches, mobiles, and environments.
2. Works of art installed in public spaces with public visibility and impact.
3. Permanent structures that retain their value for the useful life of the capital improvement to which they are associated or the term of bonds used to fund them.

Eligible works of art will not include objects that are:

1. Massed-produced of standard design (such as playground equipment or fountains),
2. Reproductions of works of art, performing or literary arts (such as dance, voice, music or poetry),
3. Landscaping or signage unless designed by an artist.

Public art will be installed only on publicly owned property. Eligible works of public art may be an integral part of a structure, attached to a structure or detached from the structure within or outside it. Public art may be located on publicly owned property where there are no structures.

**B. Artists Eligible for Participation in the Public Art Program**

All professional artists are eligible to participate in the Public Art Program. Professional artists may include, but not be limited to:

1. Individuals who are engaged full-time or part-time in the production of eligible works of art,
2. Teachers of art,
3. Emerging professional artists,
4. Participants in community programs headed by professional artists that use the arts to foster youth development and juvenile delinquency prevention. Artists may participate on their own or in collaboration with other artists or may supervise the work of non-artists.

**III. FUNDS FOR THE ACQUISITION OF PUBLIC ART**

**A. 1 Percent Appropriation for Public Art**

Funds for public art become available only pursuant to an annual appropriation in an adopted capital improvement budget. In appropriating funds for public art, the Board will budget 1 percent of the construction costs of a capital project. The Board of Supervisors will make appropriations for public art on a project-by-project basis. Exceedance of the 1 percent appropriation is acceptable if approved by the County Administrator and Board of Supervisors. Eligible projects are limited to those projects in an adopted annual budget. The Pima County Public Arts Program will permit consolidation of several small public arts project allocations. These include

projects with low or no visibility, remote locations or projects with inadequate budgets to secure a public artist may be consolidated for art at high-visibility locations. The County will set-up pooled public art accounts by department to accommodate these small allocations and combine them to allow reasonable funds to procure artists services.

B. Exemptions from the 1 Percent Appropriation for Public Art

Only the Board of Supervisors has the authority to exempt projects from the requirements of the Public Art Program. At its own discretion, the Board may exempt a project or choose to raise or lower the set-aside from 1 percent.

Grounds for exempting a capital improvement project from the requirements of the Public Art Program or lowering the set-aside from 1 percent might include, but not be limited to, the following:

1. No construction-related activities are included in the capital improvement project, such as projects that involve only land acquisition, planning and design, or build-out and remodeling of existing facilities, including replacement equipment installations and tenant improvements.
2. Projects associated with Cultural Resources/Historic Preservation.

Projects that meet the above criteria do not need to Board of Supervisor approval to waive the art allocation.

The Board of Supervisors has sole discretion to raise the public art set-aside for a capital improvement project above 1 percent, for reasons including but not limited to a determination that raising the 1 percent set aside would commensurately enhance the artistic integrity and value of public artwork, in response to strong community support to do so, or where public access or view is high or unique. The County Administrator will advise the Board of Supervisors on whether raising the 1 percent set-aside would adversely affect functionality of the capital improvement project.

C. Capital Improvement Projects with Multiple Sources of Funds

Capital improvement projects are often financed from multiple sources of funds, often provided by other units of government. Each funding source will contribute to public art in proportion to their individual contributions to the overall project, except in cases where the funding source specifically excludes the use of their funds for public art. In these case, and whenever possible, funding for public art will be allocated from the project funding source(s) under County control.

D. Calculation of 1 Percent Appropriation for Public Art Based Upon Construction Costs

Pima County will base calculation of the 1 percent set-aside for public art upon the actual cost of construction of participating capital improvement projects. All costs associated with administration, land acquisition, planning, design, and utility relocation are excluded from calculation of the 1 percent set-aside.

E. Funding for Public Art Maintenance

All County departments that have public art at any property under its Jurisdiction shall be responsible for the repair and maintenance of the public art. Each year, those departments shall include in their annual operating budget requests for an appropriate allocation of funds to repair and maintain the public art.

**IV. PROGRAM RESPONSIBILITIES**

A. Pima County Board of Supervisors

The Pima County Board of Supervisors will:

1. Each Board member designates one (1) member to the Public Art and Community Design Committee of the Arts Foundation for Tucson and Southern Arizona.
2. Review projects to include public art when they review capital improvement budgets.
3. Appropriate revenues for expenditures on itemized public art projects in the adopted capital improvement budget for the fiscal year within which the public art project will be created.
4. Contract with the Arts Foundation for Tucson and Southern Arizona for operation and implementation of the Pima County Public Art Program.
5. Each Supervisor will select at least one (1) of three (3) community representatives on public art selection panels for projects occurring within the respective District.

B. County Administrator

The County Administrator or designee will:

1. Provide the Foundation's Public Art Manager with annual updates of the proposed and adopted five-year Capital Improvement Plan of Pima County. Itemize specific public art projects in the recommended capital improvement budget for the fiscal year within which the public art project will be started.
2. Receive comments from the Risk Management Department on public safety issues relating to proposed public art projects.
3. Designate one (1) member of the Public Art and Community Design Committee.
4. Review and approve itemized budgets submitted by the Foundation's Public Art Manager to cover administrative costs as described at Section IX.
5. Prepare and submit to the Board for its approval a bi-annual contract with the Arts Foundation for Tucson and Southern Arizona for operation and implementation of the Public Art Program.
6. Review recommendations on selection of public art and artists by the Arts Foundation for Tucson and Southern Arizona (Foundation).

C. Pima County Departments

Pima County departments responsible for implementing budgeted capital improvement projects will:

1. Coordinate with the Foundation's Public Art Manager on the implementation of public art projects.
2. Involve the Foundation's Public Art Manager and artists early in design of capital improvement projects regarding public art, to the extent practicable.
3. Solicit comments from the community where the capital improvement project designated for public art is located, from departmental advisory committees, or from the public using the facility on their desires for public art.
4. Solicit the County's Americans with Disabilities Act Manager's comments on access issues about public art projects.
5. Submit a request to the Foundation's Public Art Manager to initiate the public art process, including guidelines for the "call to artists."
6. Prepare contracts for artists in conformance with the Pima County Procurement Code.

7. Departments are required to annually set aside designated funds for the maintenance of existing art previously funded by their capital program.
8. Departments without adequate resources to implement the Public Art Program may request assistance from the Project Management Office. Request for assistance does not alleviate department's responsibilities to fund the art or provide future maintenance on the public art.

D. Arts Foundation for Tucson and Southern Arizona

The Arts Foundation for Tucson and Southern Arizona will:

1. Appoint seven (7) members to the Public Art and Community Design Committee who typify the community, to include minorities and women.
2. Hire a Public Art Manager who will be responsible for day-to-day administrative responsibilities of the Pima County contract for the Public Art Program.
3. Contract with Pima County for implementation of the Public Art Program.
4. Review and provide concurrence with the Public Art and Community Design Committee selection process outcome.

E. Public Art and Community Design Committee

1. Appoint one (1) arts professional and one (1) artist to public art selection juries for each public art project.
2. Review and approve recommendations from public art selection juries and forward recommendations to Foundation's Public Art Manager.

F. Foundation Public Art Manager

The Foundation's Public Art Manager will coordinate day-to-day administrative duties of Foundation regarding the Public Art Program and will:

1. Create a database/file (Artist Roster) of information on artists and organizations that are eligible for commissions to create works of public art.

2. Develop a database/file of information about arts professionals and artists qualified to serve on public art selection juries.
3. Prepare the "call to artists" in consultation with the implementing department.
4. At least one month before scheduled meeting of a public art selection jury, issue the "call to artists." The Foundation's Public Art Manager will distribute the Call to Artists by direct mail and/or listservs to eligible artists and organizations.
5. Convene public art selection juries and preside at all meetings of public art selection juries.
6. Ensure that public art selection juries meet at times that are convenient for the public to attend and strive to achieve the widest possible notification of public art selection jury meetings.
7. Forward recommendations of public art selection juries to the Public Art and Community Design Committee for its review and approval.
8. Forward Public Art and Community Design Committee recommendations to the Foundation Board of Directors for review and approval.
9. Forward the Foundation Board of Directors' recommendations to appropriate County Supervisor and, once approved, the County Administrator.
10. Prepare budgets for allowable administrative costs as described at Section IX and submit budgets to the implementing department for review and approval. Monitor all public art projects to certify progress and conformance with the approved project scope, budget, and contractual responsibilities.
11. Recommend payments to the artist(s) as scheduled in contracts.
12. Inspect all public art projects during production.
13. Submit a regular report on the Public Art Program including the condition of the Pima County art collection to the County Administrator. The report should be completed no less frequently than every five (5)-years. These services are funded separately from the each project.
14. Perform other duties as required to coordinate the Public Art Program effectively.

**V. SELECTION OF ARTISTS AND ARTWORKS**

Pursuant to Pima County Procurement Code, Section 11.12.030 – Professional Services, the County Administrator developed and approved this contractor selection process for the selection of artists and artworks.

**A. Initiation of Public Art Projects**

1. The five-year capital improvement plan of the County will list all capital improvement projects and include a tentative allocation of 1 percent of construction costs for public art. Capital improvement plans are not budget documents and do not represent appropriation of funds for any purpose.
2. Unless the Board of Supervisors grants an exemption, initiation of the public art process begins in the implementing department, with initiation of planning or design, whether done by County staff or through selection of a project architect or engineer.
3. The implementing department will develop guidelines for each public art project, including:
  - a. The nature of the built improvement (for consideration of opportunities and constraints),
  - b. Design and materials,
  - b. Safety,
  - c. Compliance with Americans with Disabilities Act access, and
  - d. Operations and maintenance cost.
4. The implementing department will also gather comments on access issues from the Pima County Americans with Disabilities Act Coordinator.
5. At its discretion, the department may request assistance from the Foundation's Public Art Manager in the development of these guidelines.
6. The implementing department will forward these guidelines to the Foundation's Public Art Manager with a request that a "call to artists"

be developed according to guidelines proposed by the department.

B. General Provisions Regarding Selection of Artists and Artworks

1. The County will select artists or organizations through an open and competitive process in which any professional artist is eligible to enter.
2. The Foundation's Public Art Manager will maintain and update lists of qualified artists and art organizations (Artists Roster). Any qualified artists or organization may request inclusion in these lists and all such registries will be public documents open for inspection to anyone requesting to do so.
3. Selection of artists and artworks will be based upon criteria of artistic quality and responsiveness to guidelines submitted by the implementing department and the goals expressed by the public art selection jury members.
4. In limited instances, the County Administrator may approve the direct selection of a professional artist if that artist possesses particular expertise or experience deemed relevant or otherwise appropriate for a particular project. In this circumstance, the artist shall be required to submit application materials demonstrating qualifications for the commission.

C. Call to Artists

1. When the implementing department so requests, the Foundation's Public Art Manager will draft a "call to artists" for the review and concurrence of the implementing department.
2. The "call to artists" will include a description of the capital improvement project to which a work of public art will be associated and the guidelines submitted by the implementing department.
3. The Foundation's Public Art Manager will distribute the "call to artists" as widely as possible. At a minimum, the Foundation's Public Art Manager will publish the "call to artists" at least once on the Arts Foundation for Tucson and Southern Arizona's website, and provide notice of the call to artists through Foundation's e-newsletter.

D. Public Art Selection Juries

1. The Foundation's Public Art Manager will convene a new public art selection jury for each budgeted public art project.

2. Each public art selection jury will consist of seven members, which will include:
  - A. One (1) arts professional who does not earn his/her living as an artist, but is knowledgeable about the discipline under review. Such persons may include, but not be limited to, art critics, collectors, educators, trustees or others with an aesthetic knowledge about the particular discipline. The Foundation's Public Art Manager will make this appointment with input from the Public Art and Community Design Committee.
  - B. One (1) designee appointed by the implementing department funding the project;
  - C. One (1) artists appointed by the Foundation's Public Art Manager with input from the Public Art and Community Design Committee;
  - D. Three (3) community representatives at least one (1) of which will be selected by the Board member within whose district the public art project will be located;
  - E. One (1) person who is the project or design principal.

E. Selection Procedures

1. While not subject to the Open Meetings Law, public art selection jury deliberations will be open to the public. The Foundation's Public Art Manager will publicly notice meetings of public art selection juries and schedule them to be convenient for the public.
2. The Foundation's Public Art Manager will provide instructions to the public art selection jury about their duties and responsibilities under the Public Art Program and the Pima County Procurement Code. Furthermore, the Foundation's Public Art Manager will brief the jury on the guidelines developed by the implementing department for the work of public art.

The Foundation's Public Art Manager will solicit input from panel members on their goals for the artwork.
3. The public art selection jury will hold at least two meetings, advertised and open to the public, for their deliberations.
4. At the first meeting, the public art selection jury will review

qualifications of artists and organizations and will select up to three (3) finalists. At this meeting, the public art selection jury will select finalists based on qualifications and prior artwork.

5. The public art selection jury may, where appropriate, ask finalists selected by the jury to submit specific artwork proposals for the juried competition.
6. When a preliminary proposal is requested, finalists will also submit a preliminary project budget. Project costs may include, but not be limited, to the following:
  - a. The artist's fee;
  - b. Labor of assistants, materials, and contracted services required for production and installation;
  - c. Permit fees, as required;
  - d. Business, insurance, and legal costs directly related to the project;
  - e. Dealer's fees, if any;
  - f. Communication, mailing, and other indirect costs;
  - g. Transportation and travel expenses, if any;
  - h. Site preparation;
  - i. Installation of the completed artwork; and
  - j. Any applicable taxes
7. Finalists will make presentations at the second meeting of the public art selection jury. This meeting will be open to the public and the public may ask questions of the finalists and provide comments directly to the public art selection jury.
8. The public art selection jury will decide the winning artists at this second meeting or, if necessary, a subsequent meeting open to the public. The jury will decide by public vote, with each juror casting one vote. A simple majority of four (4) will be necessary to carry the recommendation of the public art selection jury. In the case of a tie, the artist including a youth component in the art development process

will be given preference. The public art selection jury will have the option of making no selection. In this event, the public art selection jury may ask that the finalists submit and present new proposals or refer the process to the Board of Supervisors. The Board may exempt the project from public art or initiate a new selection process.

9. The Foundation's Public Art Manager will prepare a report that describes the artist or artwork recommended and documents that the selection process met the requirements of Board of Supervisors Policy C 3.3 and Administrative Procedure 3-16.
10. The Foundation's Public Art Manager will submit the report with recommended artist to the Public Art and Community Design Committee and, if approved, to the Arts Council Board of Directors for formal vote.
11. If approved by the Arts Foundation Board of Directors, the report with recommended artist shall first be transmitted to the appropriate Supervisor who, following his or her review, shall, if in concurrence, confirm by signing the concurrence request. If not in concurrence, the Supervisor shall communicate his or her objections to the process and selected artist to the Arts Foundation for Tucson and Southern Arizona. After concurrence by the Supervisor has been obtained, the signed concurrence request and report documenting the selection process shall be transmitted to the County Administrator.
12. If in concurrence with the recommendation of the Arts Foundation for Tucson and Southern Arizona, the County Administrator will direct the implementing department to prepare the required contract and copy the Foundation's Public Art Manager of his/her decision. If further concerns arise after the Board member has concurred with the recommended art or artist selection, the County Administrator will transmit the Arts Foundation's recommendation to the respective Board of Supervisors member for a final decision on the selection.

**VI. PREPARING AND ADMINISTERING A COUNTY CONTRACT WITH THE ARTIST OR ORGANIZATION**

- A. Pima County will commission and purchase all works of public art through a contract executed with the artist or organization.
- B. The implementing County department, with the assistance of the Foundation's Public Art Manager if requested, will prepare contracts for works of public art.
- C. Contracts will be in the format of the standard County contract for

professional services and will include the following:

1. A schedule for creation of the artwork,
  2. A payment schedule,
  3. Responsibilities for site preparation and installation of the artwork,
  4. Terms and condition of ownership of the artwork by Pima County,
  5. Restrictions, if any, on reproduction of the artwork,
  6. Insurance coverage the County requires.
- D. The County will process contracts in accordance with Board of Supervisors Policy D.29.4 and Procurement Procedures, Contracts for Services.
- E. If the artist has been selected based on qualifications or has presented a preliminary concept or preliminary design, the Public Art Jury will be convened as many times as necessary throughout the design phase of the project specifically to:
1. Provide input and review the completed design.
  2. Recommend any changes to the design based on their expertise and the response to community input.
  3. Recommend that the artist proceed to production when satisfied that all design issues have been resolved.
- F. Once the design specifications are complete, the Foundation's Public Art Manager will submit the recommended public artwork to the County's Risk Manager for review of the project from a public safety standpoint and to the County Americans with Disabilities Act Manager for a review as for full accessibility.
- G. The Foundation's Public Art Manager and designee of the implementing department will be responsible for inspecting the art project at required intervals to certify progress and recommend payments pursuant to the schedule in the contract. The Foundation's Public Art Manager and designee of the implementing department will coordinate on-site activity concerning artwork installation.

**VII. GIFTS AND DONATIONS**

- A. On receipt of a request to donate art, the Project Management Office will review and provide an assessment of conservation/preservation implications, placement of the artwork, and appropriateness of the artwork. The Project Management Office will ask the County Risk Manager to conduct a safety and liability review of the proposed donation.
- B. Once received, the comments will be provided to the County Administrator. Based upon the comments of the Project Management Office and the Risk Manager, the County Administrator will decide whether to recommend acceptance of the artwork.
- C. Pima County will allocate up to \$10,000 per year towards the installation of donated art. These funds will come the pooled art fund account. If there are no art donations, these funds will remain in the account.
- D. All donated art must be located on publicly owned property.
- E. The artist agrees to voluntarily waive all rights to the attribution and integrity of the donated art, including any claims that arise under the Visual Artists Rights Act.
- F. All art that is proposed for temporary installations must follow the guidance for Temporary Art Installation found on the Project Management Website.

**VIII. CONSERVATION AND PRESERVATION OF PUBLIC ART**

- A. Pima County will be responsible for conservation and maintenance of public art owned by the County and purchased through the Public Art Program. Each Department will provide funding as necessary to repair and maintain any art acquired or installed as part of prior capital projects.
- B. The Foundation's Public Art Manager will survey the condition of Pima County public art no less often than every five years and report the condition of each piece of public art to the County Administrator and make prioritized recommendations for restoration and preservation where needed. The Project Management Office is responsible to procure these services. These services are not funded from the 1% for Public Art funds.
- C. If a work of art needs repairs, the County will give the artist the opportunity to make the repairs at a reasonable cost. If the County and artist cannot agree, the County may make other arrangements to repair the artwork.
- D. The County will consult with the Foundation's Public Art Manager before

undertaking non-emergency conservation, preservation or maintenance activities, but retains sole discretion to undertake such activities.

- E. To the extent practicable, the County will consult the Foundation's Public Art Manager before undertaking emergency conservation, preservation and maintenance activities. The County will act without such consultation when public safety requires such action.
- F. The Department originating the art request will provide the funding necessary to keep the artwork in reasonable condition. Artwork that has deteriorated beyond repair and has been in-place for more than 10 years may be removed with the permission of the County Administrator or Board of Supervisors. The artist will be contacted, if available, to assist with the removal of the piece.

**IX. ADMINISTRATIVE COSTS THAT MAY BE PAID TO ARTS FOUNDATION FOR TUCSON AND SOUTHERN ARIZONA**

- A. The Arts Foundation for Tucson and Southern Arizona may recover certain administrative costs incurred in the performance of its responsibilities under the Public Art Program.
- B. Eligible administrative costs will include, but not be limited to costs related to provision of those services identified in Section IV. F.
- C. Eligible expenses will include salaries and benefits of staff members of the Arts Foundation for Tucson and Southern Arizona assigned to the Public Art Program, overhead charges and costs of publication and advertisement, postage, rental of meeting facilities, supplies, and other incidental costs.
- D. The Arts Foundation for Tucson and Southern Arizona may incur only those administrative costs directly related to execution of the selection process for each particular public art project.
- E. The County will reimburse the Arts Foundation for Tucson and Southern Arizona for administrative costs not to exceed 10 percent (10%) of the approved budget for that art project. Implementing departments will approve agreements for services for allowable administrative costs before the Arts Foundation for Tucson and Southern Arizona incurs such costs.

**X. Acquisition of Art Not Related to the Capital improvement Program**

- A. Pima County Departments may include additional funding in their annual capital budgets for the purchase of art related to ongoing programs or

mission.

- B. Departments electing to procure or acquire art outside of their capital program and greater than \$100,000 must follow Administrative Procedure 3-16 and Procurement Code D29.6 and get prior approval from the County Administrator and the Board of Supervisors for the acquisition.
- C. Departments electing to procure or acquire art outside their capital program and less than \$100,000 would follow the same process as above, but the contract may be approved by the Procurement Director.

**XI. REFERENCES**

Pima County Code, Title 11, Procurement

Board of Supervisors Policy C 3.3

Board of Supervisors Policy D 29.4

Board of Supervisors Policy D 32.9

Procurement Procedures, Contracts for Services

Project Management Office Website

- Public Art Contract Process
- Waiver of Property Rights
- Temporary Art Installation Guidance