

ADMINISTRATIVE PROCEDURES



Procedure Number: 3-16

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Revision Date: 05/18/2009


County Administrator

SUBJECT: **IMPLEMENTATION OF THE PIMA COUNTY PUBLIC ART PROGRAM**

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

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 for execution of 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 cumulative planning, design, and construction costs of a project. The Board of Supervisors will make appropriations for public art on a project-by-project basis. Eligible projects are limited to those projects in an adopted annual budget. Annually, ten percent of the public art set aside will be allocated to fund art programs associated with youth development and juvenile delinquency programs; these funds will be allocated by processes maintained by the Community Resources department. The Pima County Public Arts Program will permit consolidation of small project-by-project public arts allocations.

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 or other substantial construction-related activities are included

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.

2. Capital improvement projects where construction does not result in facilities that have high visibility or impact (such as underground facilities, facilities in areas of the County that are remote, or facilities in which public access is prohibited or controlled).
3. Projects for which the Board of Supervisors determines the diversion of 1 percent of planning, design and construction costs would significantly compromise the operational integrity of the facility.
4. Projects associated with Cultural Resources/Historic Preservation and Neighborhood Reinvestment.
5. Projects associated with Wastewater Management and Solid Waste Management capital improvements, for which the 1 percent set aside will be allocated to fund environmental enhancement.

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 about 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. If the contributing jurisdiction, however, declines, for whatever reason, to participate in the acquisition of public art, Pima County will reduce the 1 percent set-aside accordingly.

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

IV. PROGRAM RESPONSIBILITIES**A. Pima County Board of Supervisors**

The Pima County Board of Supervisors will:

1. Appoint one (1) voting member to the Tucson Pima Art Council Board of Directors.
2. Each Board member designates one (1) member to the Public Art and Community Design Committee of the Tucson Pima Arts Council.
3. Review projects to include public art when they review capital improvement budgets.
4. 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.
5. Contract with the Tucson Pima Arts Council for operation and implementation of the Pima County Public Art Program.
6. Each Supervisor will select at least one (1) of two community representatives on public art selection panels.

B. County Administrator

The County Administrator or designee will:

1. Provide the Public Art Coordinator 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 Public Art Coordinator to cover administrative costs as described at Section IX.
5. Prepare and submit to the Board for its approval an annual contract with the Tucson Pima Arts Council for operation and implementation of the Public Art Program.
6. Review recommendations on selection of public art and artists of Tucson Pima Arts Council.

C. Pima County Departments

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

1. Coordinate with the Public Art Coordinator on the implementation of public art projects.
2. Involve the Public Art Coordinator and artists early in design of capital improvement projects regarding public art, to the extent practicable.
3. Solicit comments from the community within which a 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 Coordinator's comments on access issues about public art projects.
5. Submit a request to the Public Art Coordinator to initiate the public art process, including guidelines for the "call to artists."
6. Notify the County Administrator on the results of public art selection processes and prepare a report on the selected artists and artworks to be forwarded to the Board of Supervisors for their information.
7. Prepare contracts for artists in conformance with the Pima County Procurement Code.

D. Tucson Pima Arts Council

The Tucson Pima Arts Council 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 Coordinator who will be responsible for day-to-day administrative responsibilities of the TPAC contract for the Public Art Program.
3. Contract with Pima County for implementation of the Public Art Program.
4. Review and approve recommendations from the Public Art and Community Design Committee for artists and art work for the Public Art Program.

E. Public Art and Community Design Committee

1. Appoint one (1) arts professional and two (2) artists to public art selection juries for each public art project.
2. Review and approve recommendations from public art selection juries and forward recommendations to TPAC Board of Directors and County Administrator.

F. Public Art Coordinator

The Public Art Coordinator will coordinate day-to-day administrative duties of TPAC regarding the Public Art Program and will:

1. Create a database/file 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 Public Art Coordinator 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 TPAC Board of Directors for review and approval.
9. Forward the TPAC Board of Directors' recommendations to 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. Prepare and submit annual progress reports on the Public Art Program to the County Administrator.
13. 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, 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 planning, design and 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 on appropriateness of:
 - a. Content,
 - b. Design and materials,
 - b. Safety,
 - c. Compliance with Americans with Disabilities Act access,
 - d. Operations and maintenance cost.
4. To the extent practicable, the implementing department will gather public comments on these guidelines.
5. The implementing department will also gather comments on access issues from the Pima County Americans with Disabilities Act Coordinator.
6. At its discretion, the department may request assistance from the Public Art Coordinator in development of these guidelines.
7. The implementing department will forward these guidelines to the Public Art Coordinator 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 Public Art Coordinator will maintain and update registries of qualified artists and organizations. Any qualified artists or organization may request inclusion in these registries 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.

C. Call to Artists

1. When the implementing department so requests, the Public Art Coordinator 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 Public Art Coordinator will distribute the “call to artists” as widely as possible. At a minimum, the Public Art Coordinator will publish the “call to artists” at least once in a publication of general circulation and mail it to a registry of qualified professional artists and organizations.

D. Public Art Selection Juries

1. The Public Art Coordinator 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 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 Public Art Coordinator will make this appointment with input from the Public Art and Community Design Committee.
 - b. One designee appointed by the implementing department funding the project;
 - c. Two artists appointed by the Public Art Coordinator with input from the Public Art and Community Design Committee;
 - d. Two 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 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 Public Art Coordinator will publicly notice meetings of public art selection juries and schedule them to be convenient for the public.

2. The Public Art Coordinator 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 Public Art Coordinator will brief the jury on the guidelines developed by the implementing department for the work of public art.
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 submissions by artists and organizations and will select no more than three finalists. At this meeting, the public art selection jury will select finalists based upon presentations of prior artwork and ideas for the advertised project.
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 an artwork is requested, finalists will also submit a 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;
 - 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. 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 Public Art Coordinator 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 Coordinator for a review as for full accessibility.
10. Upon approval by the Risk Manager and ADA Coordinator, the Public Art Coordinator will submit the recommended artwork 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 Council Board of Directors, the Public Art Coordinator 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 this Administrative Procedure. This report 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 Tucson Pima Arts Council. 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 Council, the County Administrator will direct the implementing department to prepare the required contract and copy the Public Art Coordinator 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 Council'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 Public Art Coordinator 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 on the basis of 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. 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. The Public Art Coordinator 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 Public Art Coordinator and designee of the implementing department will coordinate on-site activity concerning artwork installation.

VII. GIFTS AND DONATIONS

- A. The Public Art and Community Design Committee will review and comment on artwork proposed for donation to the County. Areas of review will include conservation/preservation expenses, placement of the artwork, and appropriateness of the artwork. The Public Art and Community Design Committee will ask the County Risk Manager to conduct a safety and liability review of proposed donations.
- B. Based upon the comments of the Public Art and Community Design Committee and the Risk Manager, the County Administrator will decide whether to recommend acceptance of the artwork.
- C. For artwork that is to be commissioned without County funds and outside the capital improvement budget with the intent of donating the artwork to the County, County employees may only be involved in the commissioning if they follow the art selection procedures of the Public Art Program.

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.

- B. The Public Art and Community Design Committee and the Public Art Coordinator will periodically survey the condition of Pima County public art. The Committee will report the condition of each piece of public art to the County Administrator and make prioritized recommendations for restoration and preservation if necessary.
- 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 Public Art Coordinator 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 Public Art Coordinator before undertaking emergency conservation, preservation and maintenance activities. The County will act without such consultation when public safety requires such action.

IX. ADMINISTRATIVE COSTS THAT MAY BE PAID TO TUCSON PIMA ARTS COUNCIL

- A. The Tucson Pima Arts Council 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 Tucson Pima Arts Council 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 Tucson Pima Arts Council 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 Tucson Pima Arts Council for administrative costs not to exceed 10% of the approved budget for that project. Implementing departments will approve agreements for services for allowable administrative costs before the Tucson Pima Arts Council incurs such costs.

REFERENCES

Pima County Code, Title 11, Procurement
Board of Supervisors Policy D 29.4
Procurement Procedures, Contracts for Services