

Washington State Arts Commission – Art in Public Places Program
Chapter 30-40 Washington Administrative Code (WAC)

WAC

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WAC 30-40-010 Purpose. The purpose of this chapter is to provide artists, state agencies, universities, colleges and community colleges, common schools, and the public with rules that apply to the art in public places program.

[Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-010, filed 5/7/87.]

WAC 30-40-020 Authority. The Washington state arts commission is authorized by RCW 43.46.040 to adopt rules and is authorized under RCW 43.46.090 to administer the art in public places program. Under this authority, the commission develops, inventories, maintains and presents to the public the state art collection. The specific statutes these rules are intended to implement are: RCW 43.46.090, 43.46.095, 43.17.200, 43.17.205, 43.17.210, 43.19.455, 28A.335.210, 28B.10.025, and 28B.10.027.

[Statutory Authority: RCW 43.46.040. 95-15-040, § 30-40-020, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-020, filed 5/7/87.]

WAC 30-40-040 Program purpose and goals. (1) The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of its artists and craftsmen.

(2) The legislature declares it to be a priority of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be placed in public buildings or on public lands.

(3) To provide high quality works of art in public places in the state of Washington.

[Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-040, filed 5/7/87.]

WAC 30-40-050 Fiscal procedures/eligibility. (1) Construction eligibility. Funding for works of art are generated through the capital budget under the following statutes:

(a) RCW 43.17.200 (state agencies) - applies to construction of any new building and/or additions to an existing building (structure). Excluded are highway construction sheds, warehouses or other buildings of a temporary nature.

(b) RCW 28A.335.210 (common schools) - applies to construction of any new building and/or additions to an existing building (structure). Excluded are sheds, warehouses, or other buildings of a temporary nature.

(c) RCW 28B.10.027 (universities, colleges and community colleges) - applies to construction of any new building and/or additions to an existing building (structure). Renovation and remodel work exceeding two hundred thousand dollars are included. Excluded are sheds, warehouses and other buildings of a temporary nature.

(2) Calculation of funds. The amount to be made available for works of art is to be calculated as follows:

(a) (RCW 43.17.200 and 28B.10.027) For each eligible appropriation, the one-half of one percent formula is to be applied to architecture and engineering fees, total building cost and equipment costs.

(b) (RCW 28A.335.210) For each eligible appropriation, the one-half of one percent formula is to be applied to the total moneys appropriated for state assistance to school districts.

(3) Determination of funds. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, shall determine the funds to be made available for art under RCW 43.17.210, 43.19.455, 28A.335.210, and 28B.10.025.

(4) Supplementing funds for art. The one-half of one percent expenditure is a required minimum for works of art. State agencies, universities, colleges and community colleges, and common schools may designate more than this amount in planning for a project. Other private and public funding sources may provide supplemental grants and matching funds.

(5) Transfer of funds. The commission maintains the fiscal system for all one-half of one percent funds for art. After project funds for art have been determined, the commission requests transfer of the funds for art to the commission. The transaction is made through an appropriate billing from the commission to the agency, and the agency transfers the funds to the commission.

The funds are transferable to the commission at the time the law providing for the appropriation becomes effective. In the case of projects governed by the sale of bonds, the funds for art shall be eligible for transfer thirty days after the sale of the bond(s).

(6) Reappropriation of funds. Upon timely notification by the commission, the agency shall request reappropriation of the unspent funds for art in the coming biennium.

(7) Use of funds for art. The one-half of one percent funds for art may be used for expenses incurred in the design, fabrication and installation of works of art, artists' expenses and the commission's administrative expenses.

Funds for art may not be used for administrative expenses of the agency or architect; expenses of the agency as agreed upon for the preparation and installation of the work, dedication, and insurance, or for the maintenance of the works of art.

(8) Determination of projects and sites. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, shall determine the projects and sites to be designated for works of art under RCW 43.17.210, 43.19.455, 28A.335.210, and 28B.10.025.

(9) Contracting and expenditure.

(a) The commission is responsible for contracting and expending the one-half of one percent funds for art.

(b) The artists enter into a contract with the commission to create a new work or transfer title of an existing work according to the terms of the contract.

(c) The agency will comply with the terms of the interagency agreement as negotiated with the commission.

(10) Waiver of funds. School districts under the superintendent of public instruction may elect to waive their use of art funds. Waiver of funds for art will not cause loss of or otherwise endanger state construction funds. These funds shall be applied to works of art according to RCW 28A.335.210 at the discretion of the commission.

[Statutory Authority: RCW 43.46.040, 95-15-040, § 30-40-050, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-050, filed 5/7/87.]

WAC 30-40-060 Maintenance/deaccessioning. (1) Maintenance responsibilities. The agency is responsible for all routine maintenance operations required on a periodic basis as specified by the artist in his/her maintenance specifications report. The commission is responsible as funded for any extraordinary repair or unscheduled maintenance required to restore a structurally or aesthetically diminished artwork to its original intent and function.

(2) Deaccessioning. Works of art will be removed and disposed of according to the process established in the commission's deaccession policy from the state art collection if it has been determined by the commission that the work:

- (a) Has been lost or stolen;
- (b) Presents a safety hazard in its present condition; or that
- (c) The restoration of the work's structural or aesthetic integrity is:
 - (i) Technically unfeasible;
 - (ii) Disproportionate to the value of the work.

(d) The environment/architectural support (on which a site-specific work depends) is to be destroyed or modified as to distort the artist's initial intent.

[Statutory Authority: RCW 43.46.040, 95-15-040, § 30-40-060, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-060, filed 5/7/87.]

WAC 30-40-070 Program procedures. (1) Placement of works of art/projects and sites. Artwork may be placed on public lands; integral to or attached to a public building or structure; detached within or outside a public building or structure; part of a portable exhibition or collection; part of a temporary exhibition; or loaned or exhibited in other public facilities. Funds are designated for projects and sites as follows:

(a) State agencies - funds may be used within the jurisdiction of the agency or on any public land, building or structure, including new and existing buildings, park lands, and structures which may include bridges and waterways.

(b) Common schools - funds may be used within the jurisdiction of the school district or at any common school facility within the state. Funds under this section may not be designated to projects and sites outside of the common schools system.

(c) Universities, colleges and community colleges - funds may be used within the jurisdiction of the university, college or community college which generated the funds for art, and with the permission of the board of regents or trustees, designated to other projects and sites at other institutions of higher education. Funds under this section may not be designated to projects and sites at other state agencies or within the common school system.

(d) Any temporary relocation of an artwork initiated by the agency must be registered with the commission. Placement of works of art outside the agency must be processed through the loan procedures of the commission.

(2) Project specifications. The commission works with the agency project committee to develop the project specifications considering the available budget, sites and project approach.

The commission will determine whether a project is to be a commission or purchase of art. Design fees will be paid according to the commission's fee structure for design proposals and may vary according to the number of artist finalists and scope of design work as agreed upon by the commission, artist(s) and agency.

(3) Method of selection of artists. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and

community colleges, is responsible for the selection of artists and determines the method of selection which may be:

(a) Open competition - participation is open to any qualified professional artist.

(b) Limited competition - the art selection panel and members of the agency and the commission will recommend a list of artists who will be invited to submit.

(c) Direct selection - the artist will be recommended as the artist(s) by the art selection panel.

(d) Artist resource bank - the agency project committee will select the artist or works of art from a resource bank of available artists and works of art screened by art selection panels and approved by the commission. The artist is responsible for submitting slides, materials, and/or proposals in accordance with specifications set forth by the commission.

(4) Selection criteria. The highest priority is given to quality, the artistic merit of the artist and proposed artwork, and evidence of the artist's ability to execute the work. Consideration will also be given to the structural and aesthetic integrity of any existing or proposed work.

In order to achieve a diverse state art collection, which represents the varied means of contemporary art-making processes, priority consideration may be given to artists who are not currently under contract, have not recently had work purchased or commissioned, or who are not represented in the state art collection.

(a) Special considerations for selection of projects under the superintendent of public instruction - the school district board of directors may appoint a representative to the agency project committee in order to participate in the selection of artists through the commission's artist resource bank selection process.

(5) Reviewing of design, execution, placement and acceptance. The commission, in consultation with the director of general administration and/or the directors of state agencies, the superintendent of public instruction, and school district boards of directors, and the boards of regents or trustees of universities, colleges and community colleges, is responsible for reviewing the design, execution, placement and acceptance of the works of art under the art in public places program.

(6) Artist responsibilities. The artists enter into a contract with the commission to create a new work of art or transfer title of an existing work according to the terms of the contract.

[Statutory Authority: RCW 43.46.040, 95-15-040, § 30-40-070, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-070, filed 5/7/87.]

WAC 30-40-080 Rejection of art. (1) Selections by school districts. The school district board of directors and the superintendent of public instruction may reject the results of the selection process or reject the placement of a work of art if the work is portable. Works that are integrated into the structure of the building, commissioned for a specific site where the aesthetic integrity of the work is dependent upon the site and/or works that physically cannot be moved without incurring a large expense are not considered portable. The determination as to whether a work of art is portable or not shall be made by the commission in consultation with the school district and artist. If the selection process or a work of art is rejected, the unspent art funds are subsequently not available to the school district for uses other than art. The funds for art and/or works of art may be used in other school districts at the discretion of the commission in consultation with the office of the superintendent of public instruction.

(2) Selections by state agencies and universities, colleges and community colleges. The agency may request the commission to reconsider the selection of an artist or work of art based on the original project proposal. On receipt of such a request, the commission will review the project and may meet with the artist, agency representative, member(s) of the art selection panel and commission staff. These participants may elect to reschedule the unspent project, request an

alternative design from the artist, or reassign project funds to another artist, or the selected work to an alternative site.

[Statutory Authority: RCW 43.46.040, 95-15-040, § 30-40-080, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-080, filed 5/7/87.]

WAC 30-40-090 Evaluation methods. The commission may review the art in public places program through reports of the state agencies, common schools, universities, colleges and community colleges on a form provided by the commission, reports submitted by artists and program staff, and by periodic reviews by the commission's visual arts committee.

[Statutory Authority: RCW 43.46.040, 95-15-040, § 30-40-090, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-40-090, filed 5/7/87.]

Chapter 30-02 WAC DEFINITIONS

WAC

30-02-010 Definitions

WAC 30-02-010 Definitions. The following definitions shall apply throughout this title:

(1) "Agency" means the agency with one-half of one percent of its capital construction appropriations designated for the acquisition of works of art under RCW 43.17.200, 43.19.455, 28A.335.210, and 28B.10.025, as follows:

(a) RCW 43.17.200 designates all state agencies, departments, boards, councils, commissions, and quasi-public corporations.

(b) RCW 43.19.455 designates all state agencies under the department of general administration.

(c) RCW 28A.335.210 designates "common schools" (public schools) recognized by the state of Washington.

(d) RCW 28B.10.025 designates the University of Washington, Washington State University, regional universities, The Evergreen State College and community college districts.

(2) "Agency project committee" means an advisory committee that works with the commission to develop a designated art project. The agency project committee shall be appointed at the commission's request by the administration of the agency receiving the project and may consist of members representing: Agency administration, artists or art professionals, community members, and building users. Committee nominations should strive to be balanced by gender, ethnically diverse, and represent the constituencies of the agency. The commission may recommend representatives to the agency project committee.

(3) "Appeal" means any request by an applicant to the commission for reconsideration of a previous decision on a program application.

(4) "Applicant" means a legally incorporated organization, unit of government, or individual.

(5) "Art scholar" means a folklorist, art historian, aesthetician, art critic, or other scholar of the arts recognized as a professional by peers in the field.

(6) "Art selection panel" means a body appointed by the commission to review, recommend, and select artists for projects according to project specifications. Panels will vary in size and be comprised of artists and/or art professionals. Panel nominations should strive to be balanced by gender, ethnically diverse, and represent the variety of contemporary artistic production.

(7) The "artists resource bank" means a file of artists' slides and materials maintained by the commission. Artists included in the artists resource bank are selected by art selection panels through competitions and considered for project selection by agency project committees.

(8) "Award" means the financial assistance committed through a contract or paid to an eligible applicant.

(9) "Chairperson" means that person elected pursuant to RCW 43.46.040.

- (10) "Commission" means the Washington state arts commission.
- (11) "Commissioners" mean the members of the commission who are appointed pursuant to RCW 43.46.015.
- (12) "Committee chairpersons" mean those persons appointed by the chairperson of the commission as described in WAC 30-01-050(3).
- (13) "Committees" mean those subgroups of the commission appointed by the chairperson as described in WAC 30-01-050(5).
- (14) "Complimentary tickets" are any free admissions provided by arts organizations to commissioners or staff for evaluation purposes.
- (15) "Deaccessioning" means the removal of a work of art from the state art collection by the commission.
- (16) "Evaluators" are individuals requested to make recommendations regarding programs, selections, and issues before the commission based on their expertise, training, or experience in a given field.
- (17) "Executive director" means that person employed pursuant to RCW 43.46.045 to carry out the functions of that chapter.
- (18) "Financial assistance" means money provided to applicants from federal, state, or private funds of the commission.
- (19) "Fiscal year" means the period beginning July 1 and ending June 30 of the following year.
- (20) "Folk artist" means those most valuable and most authentic practitioners of the folk and traditional arts that have been brought up within a traditional community, learning the repertoire from their own seniors and absorbing the style as they live the life that the style and the repertoire represent.
- (21) "Grant" means award or financial assistance.
- (22) "Grantee" means an institution, organization, arts group, or individual receiving a grant.
- (23) "Literary arts" shall include poetry, fiction, and literary or arts criticism.
- (24) "Local arts commission" means a governmental agency created to represent, serve, and promote interdisciplinary arts, artists, and arts organizations within its legal jurisdiction.
- (25) "Local arts council" means a private, nonprofit organization, designated under Section 501(c)(3) as a tax-exempt organization by the Internal Revenue Service, created to represent, serve and promote multidisciplinary arts, artists, and arts organizations within its community jurisdiction.
- (26) "Maintenance" means the ongoing upkeep required for artworks to retain their structural and aesthetic integrity.
- (27) "Matching component" means an amount of money or the value of materials or services provided by the applicant.
- (28) A "Native American" is a person of recognized North American Indian descent through tribal affiliation or general tribal community recognition.
- (29) "Nonprofit" means incorporation under the nonprofit laws of the state of Washington or another state, and determination by the Internal Revenue Service (IRS) that the incorporated entity is exempt from taxation under Section 501(c)(3) of the IRS code.
- (30) "Panels" mean those individuals from which the commission, as a part of its regular practice, may seek advice in order to provide a comprehensive professional perspective in the decision-making process, and may include commissioners.
- (31) "Performing arts" mean the broad disciplines of music, dance, and drama and the various forms of expression and performances associated within them.
- (32) "Postmark" means the date affixed to letters, parcels or packages by the United States Postal Service (USPS), either through the USPS postmark stamp or USPS meter tape.
- (33) "Professional artist" means a person generally recognized by critics and peers as a

professional producing high quality work on a regular basis. Other indicators of professionalism include frequent or consistent exhibitions, performances, readings, publications, purchases by museums, commissions, honors and awards, and art training. Students enrolled in an ongoing formal art education program and avocational practitioners are not considered professional. Hereinafter, professional artist will be referred to as "artist."

(34) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(35) "Special populations" mean public or nonprofit institutions serving prison programs, incarcerated youth programs, and programs serving the mentally or physically disabled, and youth-at-risk.

(36) "Sponsor" means any Washington state public school, school district, educational service district, private nonparochial school, college or university, or any cultural or community organization including local arts councils and commissions, retirement centers, libraries, hospitals, correctional centers, and other facilities for special populations.

(37) "Staff" means those persons employed by the executive director pursuant to RCW 43.46.045.

(38) The "state art collection" means all works of art and select design models commissioned or purchased under RCW 43.17.200, 28A.58.055, 28A.335.210, 43.46.090, and 43.19.455. Individual works are held in trust under the terms of an interagency agreement by agencies working in partnership with the commission. Development, administration, and management of the overall collection, including maintenance if funded, deaccessioning and loan policies, archival recordkeeping and documentation, shall be carried out by the commission.

(39) "Support" means financial, technical, or information assistance provided by the commission and the staff to individuals or organizations.

(40) "Technical assistance" means the transmittal of information, skills, and/or resources that help to improve the ability of an institution, organization, arts group, or individual to accomplish its purpose.

(41) "Three-dimensional visual arts" shall include relief and sculpture in the round and three-dimensional crafts.

(42) "Traditional artist" means those most valuable and most authentic practitioners of the folk and traditional arts that have been brought up within a traditional community, learning the repertoire from their own seniors and absorbing the style as they live the life that the style and the repertoire represent.

(43) "Two-dimensional visual arts" shall include painting, drawing, print-making, photography, multimedia, and two-dimensional crafts.

(44) "Washington state arts commission" means the commission established pursuant to RCW 43.46.015.

(45) "Writing" means handwriting, typewriting, printing, photostating, and every other means of recording, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

[Statutory Authority: RCW 43.46.040, 95-15-040, § 30-02-010, filed 7/12/95, effective 8/12/95.]