

VERMONT ART IN STATE BUILDINGS PROGRAM

GUIDELINES AND POLICIES:

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Vermont Art in State Buildings Guidelines

I. PURPOSES AND GOALS

The Vermont Art in State Buildings Act (No. 267 of 1988) was passed by the State Legislature, with strong support from Vermont artists and communities, in recognition of the needs to encourage the work of Vermont artists, to enhance and preserve our cultural environment, and to provide artistic enrichment for Vermont citizens and visitors. The intent of the program is to improve the character and quality of state buildings in order to create an environment of distinction, enjoyment, and pride for all citizens, and to encourage the donation of works of art to the state for its permanent collection or for exhibition in state buildings or facilities.

II. OVERVIEW OF THE PROGRAM

The Art in State Buildings Act requires that 1% of the budget of certain capital construction projects be transferred to an Art Acquisition Fund for the purpose of providing works of art in public buildings and facilities. **There is a \$50,000 annual limit on the total allocation for art acquisition.** Art Selection Panels made up of agency and community representatives and visual arts experts select artworks. The Vermont Arts Council is responsible for administration of the program and oversees art selection and installation. The Council works closely with the Department of Buildings and General Services and user agencies at all levels of the process. The program especially emphasizes the education and participation of the communities and agencies that will live and work with the selected art every day.

III. ADMINISTRATION

A. Advisory Committee

The Art in State Buildings Advisory Committee was created by the legislature to oversee administration of the program and the Art Acquisition Fund. Members of the committee are the Commissioner of the Department of Buildings and General Services, the Executive Director of the Vermont Arts Council, the chairs of the Senate and House Institutions Committees, and the chair of the Vermont Board of Architects, or their designees and the Curator of State Buildings. It has the authority to oversee the administration of this chapter, establish program guidelines, establish guidelines for the composition of the Art Selection Panels, approve eligible projects recommended by the Commissioner of Buildings and General Services and the Vermont Arts Council, and make final approval of selected artworks. The Advisory Committee is the final authority on all matters regarding the Art in State Buildings program.

B. Vermont Arts Council

The Vermont Arts Council is responsible for the day-to-day administration of the program. The Council shall:

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- 1) appoint members of Art Selection Panels for each project;
- 2) establish contract procedures for contracting with artists for works of art and with architects for services related to the planning for the commissioning or acquisition of art.
- 3) arrange for contracts with artists on the advice of the Art Selection Panel and approval from the Advisory Committee;
- 4) order payments from the art acquisition fund for such works of art;
- 5) in cooperation with the Art Selection Panel, review the design, placement, and final installation of works of art;
- 6) assist occupant and contracting agencies in locating insurance when it deems such insurance is necessary for the protection of the works of art, which are purchased;
- 7) work closely with the occupant agency(ies), the Art Selection Panel, and local community to provide information and education about art to be installed.

C. Department Buildings and General Services

The Department of Buildings and General Services is responsible for notifying project architects and occupant agencies of the Art in State Buildings program requirements and for coordinating with the Council the transfer of monies to the Art Acquisition Fund. In addition the Commissioner shall:

- 1) advise the Council on the administration of this chapter;
- 2) approve up to two project sites per year for consideration under this chapter for the installation in state buildings or facilities;
- 3) establish procedures for accepting the donation of artwork to the state for installation in state buildings or facilities;
- 4) establish procedures for communicating with artists interested in donating artwork to the state under the provisions of this chapter;
- 5) review the final installation and placement of artwork;
- 6) assist occupants and contracting agencies in locating liability insurance for artwork when necessary;
- 7) have final authority on questions regarding preparation of the building to receive works of art.

D. Occupant Agencies

Occupant agencies are those state agencies or branches of state government that will occupy or manage the building or structure in which the art will be located.

Occupant agencies must appoint a representative to serve on the Art Selection Panel. Insurance, maintenance, and security arrangements are also responsibilities of the occupant agency or the agency which assumes those responsibilities for the building or structure in which the artwork is located. The Council will assist the contracting agency or responsible agency with acquiring insurance or planning for long-term maintenance and security if necessary.

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IV. DETERMINATION OF ELIGIBLE PROJECTS

- A. Before the beginning of each fiscal year the Council and the Commissioner of Buildings and General Services determine which capital construction projects will be included in the Art in State Buildings Program. This recommendation is brought before the Advisory Committee for final approval.
- B. "Public buildings or public facilities" is defined by the act as any state building, facility, permanent structure, or appurtenant structure thereof, wholly or partially enclosed, owned or leased by state government, the University of Vermont, or Vermont State Colleges. Buildings and structures exempted from the Art in State buildings program include:
- (1) highways
 - (2) airport runways and taxiways
 - (3) hangars
 - (4) railroad tracks, sidings, and yards
 - (5) garages
 - (6) sheds
 - (7) warehouses
 - (8) heating plants
 - (9) sewers
 - (10) parking lots and parking garages
 - (11) bridges
 - (12) highway garages
 - (13) correctional facilities
 - (14) storage buildings
 - (15) temporary buildings
 - (16) locally owned structures, including schools
- C. Only those projects with a total cost of more than \$1,000,000 are eligible for the Art in State Buildings program.
- D. No more than \$50,000 may be transferred to the Art Acquisition Fund from any one year's capital budget. The Council and the Department of State Buildings will recommend to the Advisory Committee projects to be included under the provisions of the program, using the following criteria:
- (1) State funding: 75% of total project costs, minimum
 - (2) Public accessibility
 - (3) Community or occupant agency interest
 - (4) Potential for artistic innovation
 - (5) **Regional** distribution of AiSB funds **over the life span of the program.**
 - (6) Coordination with local or regional arts planning
 - (7) Public use and visitation.

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- E To the extent possible, funds not to exceed the \$50,000 annual limit, may be transferred to the Art Acquisition Fund from the project's first appropriation for construction, renovation or addition. For phased projects, the Advisory Committee shall determine whether funds should be transferred to the Art Acquisition Fund for later expenditure.

If the Advisory Committee feels that a building or project will be infrequently visited by the public, but is otherwise a suitable candidate for the program, it may recommend that the funds be reallocated to another project.

- G. When the Advisory Committee has approved participating projects, contracting agencies are notified by the Department of Buildings and General Services and the Council.

V. BUDGET ADMINISTRATION

After the Advisory Committee has approved program projects, the Council and the Department of Buildings and General Services determine the exact amount to be transferred to the Art Acquisition Fund. Of project costs (\$50,000) transferred, \$5000 is transferred directly to the Council for administration. Interagency agreements detailing fund transfers and project responsibilities are signed by the Council and Department of Buildings and General Services for each Art in State Buildings project.

- A. Monies from the Art Acquisition Fund are allocated to each project in amounts equal to the amount contributed. The Art Selection Panel for each project will determine the allocation of each project budget. Project budgets must cover the following costs:
- (1) Artists' fees for professional design as well as fees for production of artwork and any necessary consultation. This includes:
 - (a) Materials, including frames, mats, or pedestals necessary for proper presentation of the artwork.
 - (b) The labor of the artists' assistants and all materials required for production of the artwork and preparation of the artwork for installation.
 - (c) The studio and operating costs of the artist, including rent, utilities, insurance, and communications.
 - (d) Any necessary travel costs for the artists to visit and research sites.
 - (e) Transportation of artworks to installation sites.

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- (f) Photographic documentation of installed works of art required by the program.
 - (g) Additional liability insurance during the installation of the artwork as approved by the Vermont Arts Council
- (2) Honoraria for design proposals.
- B. Funds transferred to the Art Acquisition Fund for the Art in State Buildings program may not be used for the following:
- (1) Necessary site preparation such as wall or ground preparation to receive the works of art, including standard lighting and structural footings.
 - (2) Any decorative or landscape elements peripheral to the artworks themselves and any services such as water, electricity, or lighting that are needed to activate the artwork.
 - (3) Reproductions of original works of art. Included, however, may be limited editions, controlled by the artist, of original prints, cast sculpture, photographs, etc.
 - (4) "Art objects" which are **mass produced or of a standard design**, such as playground sculpture or fountains.
 - (5) Directional or other strictly functional elements such as supergraphics, signage, color coding, maps, etc. that do not contain elements of artistic design or quality.
- (6) Those items which are "required" to fulfill the basic purpose of the occupant agency. Examples would be works of art in the collection of a state or university museum collection. Certain "required" items may prove to be ideal for application of artistic elements or design. The determination of proposal eligibility shall be made in accordance with recommendations from the Art Selection Panel and the Advisory Committee.
- C. Administrative costs borne by the Council include:
- (1) Educational activities associated with the project.
 - (2) Any costs associated with publicizing the project or inviting artists to compete or submit proposals, including printing, postage, and mailing.
 - (3) Honoraria for members of the Art Selection Panel at a rate determined by the Council.

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- (4) Professional staff and support services provided by the Council to administer the Art in State Buildings Program.

D. Art Acquisition Funds are expended by the Department of Buildings and General Services upon order of the Council.

VI. UNIVERSITY OF VERMONT AND VERMONT STATE COLLEGES

The University of Vermont and Vermont State Colleges may determine their own art selection procedures within the context of the Art in State Buildings Program Guidelines and Policies. If the institution wishes to administer its own selection process, the allocated funding in the art acquisition fund for the project will be transferred directly to the institution. This will include the appropriate amount of administrative funds for the project. The institution must obtain Advisory Committee approval on the art selection process and on the artwork selected.

The institution may also opt to participate and have the Council administer the program as with any other agency.

VII. Arts Directory

The Vermont Arts Council's Artist Directory as well as its juried Artist Register will serve as the base of information from which potential artists will be notified of competitions. Any open competition applications, requests for proposals, or direct commissions must include provisions for artists not already members to join the Artist Directory.

VIII. SELECTION OF ARTWORKS

A. Art Selection Panels

Art Selection Panels are appointed for each project; the Vermont Arts Council provides staff and support services to the panels. The Council may choose to appoint a single panel for more than one project closely related in program or construction, i.e. highway rest area facilities. Art selection should occur as early as possible in the construction calendar, during the schematic and design development phases.

- (1) The members of Art Selection Panels include:
 - (a) An appointee of each occupant agency.
 - (b) A member of the community in which the artwork is located, or a tenant of the building in which the artwork is located, appointed by the Council.

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- (c) One or more professionals in the fields of art, art history, art criticism, or public art appointed by the Vermont Arts Council.
 - (d) The project architect or representative.
 - (e) The project engineer from the Department of Buildings and General Services.
 - (f) A non-voting staff member of the Vermont Arts Council, who serves as meeting chairperson and keeps records of all meetings and decisions.
- (2) For each project, the Art Selection Panel determines:
 - (a) Any goals or selection criteria specific to the project.
 - (b) Location and media of any proposed artwork(s).
 - (c) The distribution of artwork and approved funds.
 - (d) Public information, education and participation opportunities.
 - (3) Art Selection Panels determine the artwork selected for each project, subject to final endorsement by the Advisory Committee. If the Advisory Committee disapproves a work of art, the Art Selection Panel is requested to provide another recommendation.

B. Review of Artists

Consideration of artists is by review of work and/or review of proposals.

- (1) Review of Work. Slides are viewed by the Art Selection Panel. Specific proposals for the site are not requested, but the Selection Panel may propose artists for commission or request for proposals.
- (2) Review of Proposals. Artists submit proposals for the site to the Art Selection Panel.

C. Methods of Selection

Art is selected through direct acquisition, invitation, or open competition.

- (1) Direct Acquisition. The Art Selection Panel recommends acquisition of an existing artwork based on the review of work. Direct acquisition is recommended for projects with a budget of \$5,000 or less.

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- (2) Invitation. The Art Selection Panel chooses a limited number of artists based on review of work. The selected artists are invited to prepare specific proposals for the project, and are paid according to the scope of the work. The Art Selection Panel then reviews the proposals and selects the acquisition. Invitation is recommended for projects with a budget over \$5,000 but less than \$15,000.
- (3) Open Competition. The Art Selection Panel reviews proposals submitted by artists in response to project advertisements, and either a) recommends a limited number of artists who are paid to develop more detailed proposals or b) selects an artist or artists for commission. Open Competition is recommended for projects with a budget over \$15,000.

D Selection Criteria

- (1) Art Selection Panels will use the following criteria in selecting works of art:
 - (a) Artistic quality;
 - (b) Appropriateness to the project site;
 - (c) Durability of design and materials;
 - (d) Minimum maintenance requirements and maximum resistance to vandalism;
 - (e) Ability to meet the goals of the project
- (2) When selecting artists for commission or proposals, the following criteria will apply:
 - (a) Artistic quality as demonstrated by previous work;
 - (b) Special skills or training pertinent to the project;
 - (c) Vermont residency;
 - (d) Expressed interest or experience in community outreach and education;
 - (e) Ability and interest in meeting the goals of the project.
- (3) Art Selection Panels may determine additional criteria and goals for specific projects.
- (4) A work of art is defined as an original creation of visual art in sculpture, paintings, graphic arts, mosaics, photography, crafts, calligraphy, mixed media, media installations, or any other creation that the Advisory Committee deems a visual art.
- (5) The Art in State Buildings Act charges panels with giving priority in acquisitions and commissions to Vermont artists, though situations may arise in which it is appropriate to acquire the work of New England artists.

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(E) Conflict of Interest

All Art Selection Panelists shall disclose all potential conflicts of interest and shall disqualify themselves if such conflicts violate state law, or generally recognized standards for juried competitions.

- (1) Art Selection panelists must not have direct or indirect interest, financial or otherwise, or engage in any business or transaction, or incur any obligation of any nature that conflicts with the selection of artists and artwork for the designated Art in State Buildings project.
- (2) Artists under consideration shall not be affiliated with Art Selection panelists, with the occupant agency, with the architectural or design firm involved in the project, or with Council or Department of Buildings and General Services staff members or with Arts Council Trustees. Affiliation which constitutes conflict of interest shall include but not be limited to:
 - (a) Any employee, employer, agent or dealer relationship that has occurred within one year prior to or one year after the art selection process;
 - (b) A relationship by blood, marriage, business, partnership or collaboration where there is a strong public perception that participation by the artist would have undue influence on the objectivity of the Art Selection Panel;
 - (c) Any other relationship that may compromise the objectivity of members of Art Selection Panels.

IX. IMPLEMENTATION

Following Advisory Committee approval of an acquisition, Vermont Arts Council staff prepares and negotiates the contract for purchase or commission of the art. Contracts will follow the general form and substance of the model Art in State Buildings contract developed by the Council and the Department of Buildings and General Services. Artists enter into contract with the Council. Liaison between the artist or provider of work and the Department of Buildings and General Services is provided by Council staff. Dedication of each work is coordinated with the Department of Buildings and General Services as appropriate, with consideration given to all interested parties, e.g. the artist(s), the Art Selection Panel, occupant agencies, etc.

X. PUBLIC INFORMATION AND INVOLVEMENT

A. Open Meetings

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- (1) Meetings of Art Selection Panels and the Art in State Buildings Advisory Committee will be open to the public and announced as prescribed by law (1 V.S.A. Sec. 310 et.seq.).
- (2) Art Selection Panels or the Advisory Committee may enter into executive session, by a vote of two-thirds of those members present, in order to discuss possible awarding of any contract, including the selection or recommendation of any artist or work of art, or any other matter permitted by law (1 V.S.A. Sec.313(a)(1)).

B. Public Involvement

Art Selection Panels are charged with identifying opportunities for education and involvement of those communities and agencies where selected artworks will be installed. Examples of public involvement include, but are not limited to:

- (1) A public display of competition entries.
- (2) A lecture or public program by the artist commissioned to provide a work of art.
- (3) Solicitation of community input and comments prior to the selection of an artist or work of art. As State Buildings do not always possess one specific 'user' or function, input from the entire building must be gathered. This may be done by notifying each department of this art component and inviting them to participate in the process by offering suggestions to their agency representative(s). Each agency representative shall be responsible for notifying the agency or building occupants of the opportunity for input.
- (4) A public program facilitated by the artist which involves the community in design, manufacture, or installation of an artwork.

XI. OWNERSHIP

- A. The State of Vermont shall be the sole owner of all works of art in state buildings acquired through the Art Acquisition Fund and the Art in State Buildings program. Title shall vest in the State upon completion of installation and final acceptance of the work of art.
- B. Artists will retain the following rights:
 - (1) right to claim authorship of the work of art;
 - (2) right to reproduce the work of art, including all rights secured to the artist under Federal copyright laws;

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- (3) right of first refusal to do all repair and conservation work on their art object, in accordance with accepted principles of professional conservation;
- (4) right of first refusal to purchase the work of art if the state deems it necessary to sell the object;
- (5) right to deny authorship and any other association with the work if conservation or repair work is done without permission by someone other than the artist, or if the work is substantially altered or mutilated.

XII. GIFTS

- A. Gifts of works of art or additional funds may be offered to the Art in State Buildings Program. Under such circumstances, the Advisory Committee reserves the right to appoint an Art Selection Panel to determine whether or not the gift should be accepted and an appropriate location for the artwork.
- B. The panel will review the proposed gift according to the following criteria:
 - (1) artistic quality of the work;
 - (2) maintenance requirements;
 - (3) conformance to structural fabrication standards and appropriate codes;
 - (4) donor conditions;
 - (5) availability of an appropriate site;
 - (6) interest and response of the site agency or community.
- C. The panel will make a recommendation to the Advisory Committee who will make the final decision to accept or decline the proposed gift.
- D. Proposed gifts to the Art in State Buildings program shall be considered as gifts to the State of Vermont. The Joint Fiscal Committee of the General Assembly will be notified of all gifts of funds or works of art with a value of less than \$1,000. Proposed gifts with a value of more than \$1,000 must be approved by the Joint Fiscal Committee.
- E. This procedure shall apply only to those gifts offered to supplement projects of the Art in State Buildings program. State agencies shall remain free to acquire or accept works of art independently of the Art in State Buildings program.
- F. Monetary gifts made to a specific project will be considered supplementary and will not cause that project's budget to be reduced accordingly.

XIII. CONSERVATION AND COLLECTION MANAGEMENT

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The occupant agency or the agency which assumes those responsibilities for the building or structure shall provide ongoing maintenance, security and insurance and shall notify the Council and artist of any risk or damage to the work of art or any proposal to move it or remove it from public view. Contracts with artists will stipulate the length of time for which artist's are liable for repair (typically one year), and allow artists first right of refusal on repair contracts within a fair market remuneration. Artists are required to provide the Council photographic documentation of completed works and care instructions appropriate for routine maintenance by the occupant agency.

XIV. RELOCATION, REPLACEMENT, AND DEACCESSIONING

A. Objectives

- (1) To establish an orderly process for reviewing the status of art acquired through this program.
- (2) To establish a procedure for removal, replacement, or relocation of works of art.

B. Policy Statement

The Art in State Buildings program is designed to bring art into public spaces through a careful process informed by the best available professional judgement and advice from the agencies and communities who will live with the art on a day to day basis. Artworks created through the program are made by artists specifically for the public context.

Agencies should seek to insure the ongoing presence and integrity of works of art at the sites for which they were created, in accordance with the artist's intention. The primary concern should be to assure continuing access to the works by the public.

Deaccessioning of public artworks should be undertaken cautiously, to avoid potential fluctuations in taste and the immediate pressures of public controversy. A work should not be removed from public view simply because it is controversial or unpopular.

Consideration of removal of a work of art should involve the same degree of careful consideration as the decision to acquire it; informed by professional judgement and the interests of the public, and proceeding according to carefully developed procedures.

C. Evaluation

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Evaluations of the condition of works of art in the State Buildings collection will be periodically undertaken by the Curator of State Buildings in consultation with the Vermont Arts Council.

D. Conditions for Considering Relocation Replacement, or Deaccession

A work of art may be considered for relocation, replacement, or deaccession if one or more of the following conditions apply:

- (1) The condition or security of the artwork cannot be reasonably guaranteed.
- (2) The artwork requires excessive maintenance or has faults of design or workmanship beyond practical repair or remedy.
- (3) The artwork has been damaged and repair is impractical or unfeasible.
- (4) The artwork endangers public safety.
- (5) No suitable site is available, or significant changes in the use character, or design of the site have occurred which affect the integrity of the artwork.
- (6) Significant documented adverse reaction has continued unabated over a period of at least five years.
- (7) The artwork is determined by the Curator of State Buildings in consultation with the Council, to be of a clearly inferior quality, is shown to be unauthentic, or is no longer appropriate to the project site.
- (8) Removal is requested by the artist.

E. Review Process

- (1) If the Vermont Arts Council in consultation with the Curator of State Buildings should determine that any of the above conditions applies to a work of art within the Art in State Buildings collection the Council will undertake a preliminary review including the following:
 - (a) Review of the artist's contract and other agreements which may pertain.
 - (b) Discussion with the artist of the concern prompting review.
 - (c) Opinions of more than one independent professional qualified to recommend possible solutions (art conservators, artists, engineers, art historians, architects, safety experts, etc.).
 - (d) Review of written correspondence, press, and other public debate.

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- (2) The Council may hold an open public hearing requesting public comment on the circumstances prompting review. Deaccession, replacement or destruction of an artwork may not take place unless an open public hearing has been held.
- (3) The Council will report to the Advisory Committee the findings of its review and recommend procedures to redress the situation prompting review.
- (4) The Advisory Committee will make every effort to redress the situation without requiring relocation, replacement or removal of the artwork. If all other avenues have been exhausted, the Committee will consider, in order of priority, the following:
 - (a) Relocation. If the work was created for a specific site, relocation to a new site should be consistent with the artist's intention. Consent and assistance of the artist(s) is valuable in this process.
 - (b) Replacement or modification. The Advisory Committee may recommend that the work of art be replaced by a more appropriate work by the original artist(s) or modified by the original artist(s). If this is not possible, replacement of the work of art may be undertaken by other artists as described in section VIII.
 - (c) Deaccessioning of the work by sale, extended loan, trade or gift. Three independent professional appraisals of the fair market value of the work will be obtained to inform further decisions at this point.
 - i. The artist will be given first option on purchase.
 - ii. Sale may be through auction, gallery resale, or direct bidding by individuals.
 - iii. Trade may be through artist, gallery, museum, or other institutions.
 - iv. Proceeds from sales will be deposited in the Art Acquisition Fund to provide another work of art of equal value for the same building, structure, or agency.
 - (d) Destruction of the work, if no other reasonable solution is possible.

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5. Any decisions or actions relevant to the above sections XIV D & E must be undertaken with careful consideration and a two-thirds majority vote of the Advisory Committee.

6) All costs for administration of the process indicated in section XIV D & E and the cost of relocation, replacement, or deaccession shall be not be borne by the annual Art in State Buildings Program allocation.

XV. PROGRAM EVALUATION

The Vermont Arts Council will regularly request artists, agencies, and communities participating in the Art in State Buildings program to evaluate the function and procedures of the program. At appropriate intervals the Council in consultation with the Curator of State Buildings will undertake the evaluation of the program. The Council will recommend program changes or improvements to the Art in State Buildings Advisory Committee.

Updated and Approved
Vermont Art in State Buildings Advisory Committee
June 10, 1999