

# Percent for Art Program Guidelines

## Introduction

The information contained in these *Guidelines* is for the use of the Ohio Arts Council in administering its business, and for persons who wish to understand the Council's services and programs. The information in the Percent for Art *Guidelines* is not a set of rules that is intended to be, or can be, legally binding upon the Council, nor does it create any rights for people or organizations dealing with the Council. The Percent for Art *Guidelines* contain general statements that the Council intends to follow so far as it is practical to do so; the Ohio Arts Council makes all determinations as to what information should be in the Percent for Art *Guidelines* and how they are to be administered and used. The Council may expand, abolish or suspend any part of the *Guidelines* where it finds that will advance the business of the Council.

## What the Program Supports

Ohio's Percent for Art Legislation became effective July 1, 1990. The law provides funds for the acquisition, commissioning, and installation of works of art for new or renovated public buildings with appropriations of more than \$4 million of state money per House Bill. (In these Guidelines, public buildings are referred to as "buildings".) For these projects the law provides that one percent of the total appropriation will be allocated for the acquisition, commissioning, and installation of artwork. Please refer to the complete text of the Percent for Art Legislation for more information.

## Eligible Projects

The director of the state Office of Budget and Management, in consultation with the Ohio Arts Council, will make project eligibility determinations when a capital improvements bill is signed. A procedure for reconsideration of project eligibility is available for Contracting Agencies and is fully explained in [Appendix B](#) of the Percent for Art Legislation .

## Ineligible Projects

Based on exemptions in the law, some projects may be ineligible for the Percent for Art Program (see [Appendix A](#), Division (D) of Section 3379.10 of Am. Sub. S.B. 336.)

Reasons for exemption include:

- works of art would be out of place in or on the building

- there will be little opportunity for public appreciation of works of art in or on the building
- some features or characteristics inherent in the architectural design of the building should apply toward the one-percent requirement
- the public building is or will be amply supplied with works of art even without work purchased through the Percent for Art Program.

## **Exempt Projects**

Funds spent on construction or renovation of the following are exempt from the program (see [Appendix A](#), Division (B)(3)(a)-(d) of Section Am. Sub. S.B. 336.):

- parking lots, sidewalks, maintenance sheds, bridges, tunnels, sewers, trails, fish ponds and fishways, warehouses, unless such structures are adjuncts of the principal element of the project;
- buildings of a temporary nature;
- highway construction;
- "renovation" does not include a project of which the principal purpose is the rehabilitation of plumbing, heating, ventilating, air conditioning or electrical systems;
- projects to correct deficiencies or violations of a building or housing code enacted by law.

## **How the Program Operates**

### **The Ohio Arts Council's Role**

The Ohio Arts Council administers the Ohio Percent for Art Program acting as the liaison between artists and contracting agencies for each site. The Ohio Arts Council is responsible for providing contracts for all commissions or acquisitions including issuing payments to artists. The Ohio Arts Council Board is responsible for making all final decisions regarding the selection of artists and artwork.

The Percent for Art program staff are employees of the Ohio Arts Council and their responsibilities include:

- coordinating the program, promoting it to the field, providing leadership and assistance to artists and contracting agencies;
- maintaining the Ohio Online Visual Artist Registry and mailing lists, and initiating the artist selection process;

- drafting, approving and holding contracts for all Percent for Art projects, maintaining project budgets, recording administrative costs, and documenting and maintaining files for each project;
- serving on the Percent for Art Advisory Selection Committee as non-voting members;
- contacting artists regarding their selection as semi-finalist or finalist status.

## **The Contracting Agency's Role**

The contracting agency is the government entity which received the Percent for Art appropriation and that will receive the artwork (see [Appendix A](#), Section 3379.10 of Am. Sub. S.B. 336.) The contracting agency coordinates all elements of their project including planning, formation of the Percent for Art Advisory Selection Committee and implementation of commissions. It is the contracting agency's responsibility to:

- Prepare in writing details of the proposed project including budget, site, timeline, and architect. If those details are not known at time of notification by the Ohio Arts Council, the contracting agency should inform the Ohio Arts Council of the date when those details will become available.
- Keep the Advisory Selection Committee apprised of the progress of each project.
- Appoint a Percent for Art Advisory Selection Committee including an individual who will record meeting minutes.
- Appoint an individual to facilitate contract processing and fiscal procedures.
- Coordinate any public relations, marketing, and dedication of the art work.
- Assume any dedication, marketing, and public relations expenses.
- Develop a plan and a budget for maintenance of the completed piece in consultation with the Ohio Arts Council and the artist.
- Implement maintenance plan.

## **Artist Eligibility**

The Ohio Percent for Art Program is open to artist's nationwide, but it is the determination of the Percent for Art Advisory Selection Committee, in consultation with the Ohio Arts Council, whether a project will be open to artists nationwide or Ohio only. Artists currently enrolled in degree granting programs are not eligible to apply to the program. Employees of a Contracting Agency involved in the Percent for Art Program are ineligible to apply for that agency's Percent for Art project(s).

Though "Buy Ohio" provisions do not directly apply to the Percent for Art program, the Ohio Arts Council maintains lists of artists in Ohio and Border States and makes every effort to keep these artists informed about commission opportunities. Additionally the Ohio Arts

Council maintains a strong, active program meant to establish and promote communication and education about the Percent for Art Program in communities of tradition, social, economic, and ethnic diversity.

## **Percent for Art Advisory Selection Committee**

The Percent for Art Advisory Selection Committee consists of the committee established by the Contracting Agency and up to two, optional, Core Group members. Core Group members consist of individuals appointed by the Ohio Arts Council Board to serve as members of a site's Advisory Selection Committee. Core Group individuals are chosen by the Ohio Arts Council Board from the following categories: museum or gallery directors or curators, art historians, art critics, art collectors, artists, art educators, community arts directors, public art consultants or administrators, architects, landscape architects, or designers.

A Contracting Agency may select up to two Core Group individuals to serve on the Percent for Art Advisory Selection Committee for their project. Core Group members lend expertise in the art selection process including appropriate site location for artwork and artist selection. For each project, the Core Group will be joined by the committee established by the Contracting Agency consisting of:

- the project architect
- when the Contracting Agency is not a university or college, at least two and no more than three voting members appointed by the Contracting Agency;
- for universities and colleges, at least four and no more than five voting members appointed by the Contracting Agency.

It is permissible for a Contracting Agency to **not** appoint Core Group members to the Art Advisory Selection Committee if there is expertise within the Contracting Agency that will fulfill the roles that Core Group members would provide. The determination that no Core Group members need be appointed will be made in consultation with the Ohio Arts Council Percent for Art program staff.

The Advisory Selection Committee's role is to:

- establish a working timeline for each project;
- determine the appropriate type of artwork for the site;
- determine the method of selecting artists for each project;
- serve as the jury for selecting the project artists;
- identify additional outside jurors when needed.

The Ohio Arts Council urges the Percent for Art Advisory Selection Committee to be sensitive to the immediate community. Ideally, the ideas of the community will be carried to the committee through the appointments made by the contracting agency. At all times, artwork will be selected on the basis of artistic integrity, overall quality, and appropriateness for the site.

The Ohio Arts Council staff shall consult with the CEO of the contracting agency or his designee before making any decisions regarding artists and activities.

All selections of artists and artworks are coordinated by the Ohio Arts Council Percent for Art Program staff in cooperation with the Percent for Art Advisory Selection Committee, and must be ratified by the Ohio Arts Council Board.

## **Selection Process**

Artists interested in participating in the Percent for Art Program may be selected through one of three processes: open competition, juried invitational, or selection by curator. The process to be used will be determined by the Percent for Art Advisory Selection Committee, in consultation with the Ohio Arts Council Percent for Art Program staff, taking in consideration the nature of each project, its budget, and construction schedule.

### ***Open Competition (RFQ)***

In this process artists are solicited by emailed announcements and published advertisements to compete for a commission. Artists submit digital images of past work and credentials to be reviewed by the Percent for Art Advisory Selection Committee and/or a panel of jurors.

### ***Juried Invitational***

Recommendations of artists whose work might be appropriate for a particular commission are solicited from members of the Contracting Agency's Percent for Art Advisory Committee with additional suggestions from curators, public art program administrators and other arts professionals. The recommended artists are asked to submit digital images and credentials for review by the Percent for Art Advisory Selection Committee and/or a panel of jurors.

### ***Selection by Curator***

A qualified curator is appointed by the Percent for Art Advisory Selection Committee to determine which artists should be recommended for the project.

### ***Ohio Online Visual Artist Registry***

Occasionally an Advisory Selection Committee may choose to review digital images of artists from the Ohio Online Visual Artist Registry when it is selecting project artists. The Ohio Online Visual Artist registry is maintained by the Ohio Arts Council in

partnership with the Columbus Metropolitan Library. Artists may become part of the registry by applying online at [www.ohionlinearts.org](http://www.ohionlinearts.org).

## **Types of Works That Can Be Commissioned**

### ***Design Collaborations***

These are projects in which artists work directly in consultation with architects, landscape architects, other designers, and engineers. The artist is able to work with other team members to influence decisions about the ornamental, structural, and material aspects of the building. The collaboration could involve the entire building or selected features.

### ***Site-Integrated Works***

These are projects in which the artist works with the architect from the conceptual or early stages of the building design to create a site-specific work that is integrated with the structure of the building.

### ***Construction Complete Artworks***

Some projects might not call for commissioned works. There are times when it is more appropriate for the site to acquire works created independently of the Percent for Art Program or are pre-existing works of art. The Percent for Art Advisory Committee purchases the pre-existing work with the Percent for Art funds.

### ***Site Specific Work after Construction***

This is work that may be site-specific but is placed on a site after the construction or renovation has been completed.

## **Artist Responsibilities**

### **Semi-Finalist Artists**

As part of the selection process, artists chosen as semi-finalists for Percent for Art commissions will be required to submit a written proposal and project budget in addition to working drawings, schematics, computer renderings, or maquette. Often the selection process will include on-site interviews of the semi-finalists by the Percent for Art Advisory Selection Committee and Ohio Percent for Art Program staff.

### **Finalist Artists**

The selected finalist artist(s) enters into a contract for the completion of the work with the Ohio Arts Council and the Contracting Agency. Selected artists will be independent contractors with the Percent for Art Program; they should not represent themselves in any

other manner. Selected artists are not considered employees of the Ohio Arts Council or the State of Ohio. The artist is responsible for the following:

- scheduling on-site activities
- communication with all parties involved
- labor
- materials
- equipment
- supplies
- miscellaneous incidentals
- storage when necessary
- shipping and installation of works
- detailed maintenance plan for the work

## **Insurance**

All state buildings have individual insurance terms. Insurance may vary from site to site. Insurance terms will be written into each contract in consultation with facility planners at the sites.

## **Budgets and Contracts**

Generally the budget for any project is one percent of the eligible capital appropriation. The exact amount will vary depending on the allocations made in the capital budget. In addition to the cost of the artwork, expenses of the artist selection process must come from the Percent for Art allocation.

### **Artist Selection Expenses may include:**

- travel for Percent for Art Advisory Selection Committee members (excluding staff members of the contracting agency) for selection meetings in accordance with state travel reimbursement;
- designer fees and printing costs for a prospectus if one is requested by the Percent for Art Advisory Selection Committee;
- postage and delivery costs for the prospectus;
- jurors fees if outside jurors are requested by the Percent for Art Advisory Selection Committee.
- Proposal or design fees to semi-finalist artists

**Final Commission amount expenses include:**

- artists' fees;
- artists' direct and indirect costs, including labor or assistants' fees (prevailing wage rate as it applies), studio costs, rent, utilities, cost of materials, insurance, and depreciation on equipment;
- artists' travel to and from the site;
- shipping and crating;
- engineering costs;
- pre-installation and site preparation costs;
- installation costs;
- designer and/or landscape architect's fees for landscape materials (if integral to the artwork);
- electrical or water components integral to the artwork;
- identification signage and plaques;
- travel costs associated with dedication if required.

**Expenses for which Percent for Art funds may not be used:**

- reproductions of original works of art by mechanical or other means;
- directional or other functional elements such as signage, graphics, maps;
- exhibition or educational programs;
- decorative, ornamental or functional elements designed by the building architect or consultants engaged by the architect, including elements normally considered to be related to landscape architecture, such as plant materials, patios, benches, pools, fixtures, planters;
- electrical, water or mechanical service for activation of the artwork.

**Contracts**

The Ohio Arts Council and the Contracting Agency will enter into a contract for the administration of the selection process. This contract will give the Ohio Arts Council the authority to invoice for all expenses it deems appropriate for the selection process (see above section.) Upon selection of the final artist(s) the Ohio Arts Council, the Contracting Agency and the commissioned artist will execute a contract in which all issues of the final commission, such as insurance, maintenance, etc., are described in detail.

## The Process, Step By Step

1. The capital improvements bill (House Bill) is signed by the governor.
2. The director of the state Office of Budget and Management, in consultation with the Ohio Arts Council, determines which new construction and renovation projects are exempt from the program or funded at an amount less than the one-percent allocation. Fully funded Percent for Art projects are approved by the Office of Budget and Management director. The Ohio Arts Council staff is notified of eligible projects by the Office of Budget and Management.
3. The contracting agencies and the Department of Administrative Services begin the process for the selection of architects and plans for new construction and renovations.
4. The Ohio Arts Council staff contacts the contracting agency to schedule an initial meeting with a representative of the Contracting Agency's Facilities Planning Office. At this meeting the contracting agency is asked to appoint representatives to the Percent for Art Advisory Selection Committee which includes members of the Core Group as appropriate.
5. At the first meeting of the Percent for Art Advisory Selection Committee they:
  - determine the nature of the project for the site;
  - determine the process and a timeline for choosing the artist or design team;
  - establish a timeline for the project in accordance with the Contracting Agency's planning and construction schedule;
  - discuss the budget for the project keeping in mind that the selection process will be directly affected by the size of the available budget.
6. The Percent for Art program staff works with the contracting agency to coordinate notification of artists, press releases and advertising, if applicable.
7. There are a number of subsequent meetings. Agendas for these meetings may include:
  - A review of all artists' materials including digital images, resumes, and catalogs received in response to a commission announcement.
  - Semi-finalists may meet with the Percent for Art Advisory Committee and the project architect for information about the project and site.
  - Semi-finalists are interviewed separately by the Percent for Art Advisory Selection Committee. Specific site proposals and maquettes are reviewed. After the interviews are over, the Advisory Selection Committee selects a finalist.

In reviewing the proposals, considerations include:

- overall quality of the work;
- integration of the work in the overall design of the new construction or renovation;
- important thematic considerations related to building's purpose and/or users;
- choice of materials or medium. It is important to ensure that appropriate materials are used in public works with regard to size, weight, height considerations or restrictions;
- longevity of the piece with regards to maintenance costs/issues.

Previous meeting minutes and artists' maquettes should be made available to the general public. All proposal materials submitted by semi-finalist artists become the property of the Contracting Agency.

## **Definitions**

For the purposes of the Ohio Percent for Art Program, the following definitions and descriptions are used:

### ***Professional Artist***

A professional artist is a person who devotes a major portion of his or her time to practicing, performing or teaching the arts. For the purpose of these guidelines, that includes but is not limited to, visual artists, designers, and architects.

### ***Outside Jurors***

Outside jurors are arts professionals who may be called on to assist in the artist selection process in the case of open competitions or juried invitational. They may be brought into the process because expertise is needed in specific areas or because broader or more objective perspectives on the projects are needed. Outside jurors are not limited to Ohio residents.

### ***Project Architect***

A project architect is an individual architect or a representative of the firm designing the new construction or renovation of a state building. The architect always is a voting member of the Percent for Art Advisory Selection Committee. If the architect elects not to be a member of the committee, the contracting agency will keep the architect apprised of the committee's work, and the architect will be consulted about any technical concerns. In cases where the proposed project involves artist/designer collaboration and the architect elects not to be part of the Percent for Art Advisory Selection Committee, the architect will be asked to send a representative to Percent for Art Advisory Selection Committee meetings.

***Works of Art***

All forms of original creations of visual art, including, but not limited to, paintings in all mediums, either portable such as canvas or paper, or permanently affixed such as murals; sculpture including bas-relief, high relief, sculpture in the round, mobiles, fountains, kinetic sculpture, electronic sculpture, sound sculpture and environmental sculpture; landscape architecture; prints; calligraphy; works in clay; drawings; stained glass; mosaics; photographs; textiles and other works in fiber; works in wood, metal, plastics and other materials or combinations of materials; and mixed media works (see [Appendix A](#), Division (B)(3) of Section 3379.10 of Am. Sub. S.B. 336.)

***Building***

Any public building, facility, structure, or park built or renovated by the State of Ohio using state funds, including state-owned land or space surrounding or integral to the building, facility, structure, or park. (see [Appendix A](#), Division (B)(3) of Section 3379.10 of Am. Sub. S.B. 336.)

***Contracting Agency***

The contracting agency is the state agency or department of a state university that will be receiving artwork through the Percent for Art Program. It is the responsibility of the facility planner at each contracting agency to act as liaison for the administration of the project (see [Appendix A](#), Section 3379.10 of Am. Sub. S.B. 336.)