

ALASKA COURT SYSTEM
OFFICE OF THE ADMINISTRATIVE DIRECTOR
ADMINISTRATIVE BULLETIN NO. # 76

TO: ALL HOLDERS OF ADMINISTRATIVE BULLETIN SETS:

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All Judges	Central Services Manager
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SUBJECT: Art Works in Public Buildings Guidelines

This bulletin is promulgated to adopt guidelines for the acquisition of works of art to be displayed in court facilities. The guidelines were developed pursuant to the supreme court's authority under AS 22.05.025.

The purpose of these policies and procedures is to establish a process for the selection, acquisition, and care of works of art through the expenditure of funds and through guidelines consistent with the goals of the legislature as expressed through AS 35.27 (Art Works in Public Buildings and Facilities) and other statutes and regulations applicable to state public works projects.

The official copy of these guidelines will be maintained permanently in the office of the administrative director and will be updated only through amendments from the administrative director.

Dated: December 13, 2005



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Administrative Director

Alaska Court System

ART WORKS IN PUBLIC BUILDINGS GUIDELINES

ADMINISTRATIVE BULLETIN # 76

**December 15, 1994
Updated November 30, 2005**

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I. STATEMENT OF PURPOSE

The Alaska Court System recognizes its responsibility to foster culture and the arts and the necessity for the viable development of its artists and craftsmen. The purpose of these policies and procedures is to establish a process for the selection, acquisition, and care of works of art through the expenditure of funds and through guidelines consistent with the goals of the legislature as expressed AS 35.27 and other statutes and regulations applicable to state public works projects.

II. INTENT OF THE PUBLIC ART PROGRAM

The intent of the Art Works in Public Buildings Program is to enhance the aesthetic environment by including works of art in construction projects. The goal of the Public Art Program is to acquire a collection of works of art of redeeming quality that enhance the quality of the court system's public spaces.

This goal shall be realized through:

- A. The commission of artists and works of art of the highest quality that contribute to a sense of court system identity, and speak to the community;
- B. The encouragement of artistic endeavors;
- C. The expansion of citizens' experience with visual art;
- D. The incorporation of art that encourages public interaction with and enjoyment of public spaces.
- E. The commission of a range of art reflective of the overall diversity of current works in the field of visual art:
- F. The commission of art varying in style, scale, medium, form and intent, representative of the local, regional, national and international arts communities:
- G. The encouragement of artists to reach creative solutions to the aesthetic opportunities they have been invited to solve;
- H. The distribution of commissions among artists;
- I. The geographic distribution of art; and
- J. The integration of artists and their work into the process of creating public spaces for the citizens of Alaska.
- K. The integration of artworks into the building design to enhance the aesthetic quality of the overall design.

III. NATURE OF THE PUBLIC ART COLLECTION

General considerations on the nature of the public art collection shall include the following principles:

- A. The function of the public art collection should be to enhance the natural and built environment of Alaska and the quality of life of its citizens through the development of a collection of museum-quality works of art placed in public spaces. The collection should function as a public awareness tool.
- B. The public art collection should represent the nature of the collector, the court system.

IV. DEFINITION OF TERMS

Acquisition: The inclusion of an artwork in a permanent art collection whether through a commission, purchase, gift, or other means

Architect: The principal designer for which an artwork is to be procured.

Artist: A person who practices in the visual arts as a professional. Indications of a person's status as a professional artist include, but are not limited to, income realized from the sale of artwork, frequent or consistent art exhibitions, placement of artwork in public institutions or museums, receipt of awards and honors, and training in the arts.

Artwork: A tangible creation by an artist. All forms of original creations of visual art, including but not limited to the following: sculptures--in the round, bas relief, high relief, mobile, fountain, kinetic electronic, in any material or combination of materials; painting--all media, including portable and permanently affixed works, such as murals; graphic arts--print making and drawing; mosaics; photography; crafts--in clay, fiber and textiles, wood, metal, plastics and other materials; calligraphy; mixed media--any combination of forms or media, including collage.

Contract: A binding legal document by which parties agree to perform certain services under specified terms and conditions with clearly understood obligations.

Construction Project: Any capital improvement project paid for wholly or in part by the court to build, rebuild or improve any court or office building.

De-acquisition: The indefinite removal of an artwork from permanent display whether it is disposed of or not.

Incorporated Artwork: Artwork that is integrated into the design plan of a construction project.

Percent for Art: A term which has come to mean a method of financing public art programs by a law requiring that a percentage of capital project budgets be appropriated for artworks and/or the services of artists as design consultants.

Project Designer: The architect, engineer, designer or other consultant selected to design the construction project, including all members of the business or firm. A project designer cannot qualify as an "artist".

Project Manager: The person designated by ACS to provide staff support in preparation of the request for proposal and advertising and execution of the contract.

Public Art: Visual art in a public place; art permanently installed in a public place, usually as a result of a law such as AS 35.27.

Public Places: All privately or publicly owned spaces, indoor or outdoors, which are generally accessible to the public.

V. COMPOSITION AND FUNCTION OF ART SELECTION COMMITTEE

In order to acquire art under these guidelines, the Chief Justice or his or her designee shall appoint members to an Art Selection Committee. A less formal committee structure may be utilized when the chief justice determines that a full committee is not warranted under the circumstances.

A. Committee members should have:

- Knowledge of art and familiarity with local, regional and national artists;
- Ability to assess the design and problem-solving abilities of an artist;
- Knowledge of and interest in architecture;
- Sensitivity to the unique qualities inherent in public art;
- Ability to work creatively and cooperatively,

Members shall serve as volunteers, without compensation.

B. Composition of Art Selection Committee

It is recommended that each committee be:

- A body of qualified individuals.
- A body of vision and energy.
- Balanced in professional and community activities.
- Balanced ethnically and in gender
- Statesmanlike in the face of criticism.

VI. ACQUISITION OF WORKS OF PUBLIC ART

A. Criteria for Selecting Works of Art

Criteria to be used when evaluating artwork for acquisition shall include, but not be limited to the following:

1. **Quality.** The consideration of highest priority is the inherent quality of the work itself.
2. **Placement.** Each work shall be placed in a publicly accessible location and shall be visible to both users of and visitors to the site.
3. **Elements of Design.** Selection of art should proceed with an awareness and sensitivity to some of the special functions of public art such as its ability to add interest and meaning to an architectural environment.
4. **Style and Nature.** Works of art which are compatible in scale, material, form, and content with their surroundings and which form an overall relationship with the site may be considered. Particular attention shall be given to the social context of the work and the manner in which people may respond to and interact with it.
5. **Media.** All forms of visual art may be considered. Works should be installed with the intention of permanence, meaning for the life of the building (40 years).
6. **Permanence.** Due consideration shall be given to structural and surface soundness; inherent resistance to theft, vandalism and weathering; and the potential of excessive maintenance or repair costs.
7. **Public Liability.** Each work of art shall be examined for unsafe conditions or factors that may bear upon public liability.
8. **Diversity.** The overall program shall strive for diversity in style, scale, media and artists. There shall be encouragement of exploratory types of work as well as established art forms.
9. **Technical Feasibility.** Each work shall be examined for its feasibility and convincing evidence of the artist's ability to successfully complete the work as proposed.
10. **Duplication.** To assure that the artwork will not be duplicated, the artist will be asked to warrant that the work is unique and an edition of one unless stated to the contrary in the contract.
11. **Equal Opportunity.** The Public Art Program is clearly committed to equal opportunity in the purchase and commission of artworks from women and the ethnic groups that are significantly represented in the local population.

Each committee member shall be provided with the following checklist for the selection of art:

1. **Physical Attributes**

- a. Safety
- b. Maintenance
- c. Fireproof, waterproof
- d. Durability--ability to withstand the elements (such as extreme temperatures, high winds, and low humidity levels inside and out)
- e. Ability to withstand vandalism and theft

2. **Technical Considerations**

- a. Artist's background and ability to carry out the proposed work
- b. Lighting requirements
- c. Complexities of installation.

3. **Aesthetic Considerations**

- a. Scale
- b. Color
- c. Look
- d. Feel
- e. Message

AND

- a. Relationship to the site
- b. Relationship to the building
- c. Relationship to the city
- d. Artist's previous work

B. Procedure for Selecting Works of Art

The procurement requirements of Title 36 do not apply to the purchase of objects of art (AS 36.30.850).

Any or all of these options are available to the committee.

- 1. **Purchase Existing Artwork.** The committee may, without or after soliciting and evaluating artists' proposals, select existing artwork for the project. In such cases, the project manager shall arrange for procurement, delivery and installation. Purchase shall not be made prior to award of a construction contract for the facility.
- 2. **Advertise for Artists' Proposals.** Project manager prepares an advertisement for artists' proposals. The advertisement, incorporating the architect's criteria and the desires of the committee, must include the following:

- a. Instructions for submittal (formal content, time, date, and place) and an explanation of the selection process to be used (e.g., design construction).
- b. Identification of the project, generally desired form of artwork, architectural and engineering constraints, the extent of engineering support (e.g., structural analysis of a sculpture) which the artist may be required to obtain, and insurance coverages which will be required.
- c. Any information and/or assistance to be furnished by others and by whom.
- d. Maximum amount of funding for artwork with a statement that actual price to be paid the artist(s) shall be negotiated.
- e. Information for obtaining a copy of the agreement to be used.
- f. Ads may be limited to posting on ACS website or sent to a pre-selected group (see item 4 below).

Following review and evaluation of artists' proposals the committee may:

- a. select existing artwork;
- b. select artist(s) from artist's proposals submitted; or
- c. conduct a Design Competition among several designated artists based on their conceptual design submitted with proposals.

3. Conduct a Design Competition.

The committee may invite a limited number of artists to present a detailed written proposal accompanied by sketches, plan and/or model for the selected site(s) .the project manager shall contract with each designated artist. A design fee equal to 5% of the total commission value will be paid to each artist that is invited to enter. The committee shall establish the requirements and procedures for the Design Competition.

4. Select artist after viewing representative works in ASCA or other artist database.

C. Exemptions

Plans and specifications for the original construction, remodeling or renovation of buildings, and facilities resulting in proposed capital expenditures less than the sum of \$250,000.00 are exempt from the acquisition procedures established in subsection V.B. of these guidelines.

VII. ARTIST SELECTION

A. POLICY STATEMENT

An art selection committee shall be given as much latitude as possible not only in selecting the artist(s) for the project but also in refining the definition of the site and the parameters of the artist's contribution to the project.

B. ELIGIBILITY OF ARTISTS

1. Alaska Artists: Preference will be given to artists currently residing in the State of Alaska at the time of review by the art selection committee for the project.
2. Artists from Other Areas: Certain artists from other areas may, because of their unique talents or style, be the logical choice of an art selection committee.

C. PROCEDURES FOR ARTIST SELECTION

In its selection of an artist, a committee shall consider, among other things, the following:

1. The quality of the artist's work
2. Appropriateness of size, medium and form of the artwork to the site in which it shall be placed.

The process for selecting an artist:

1. A committee shall review resumes, work product and other pertinent information that artists have placed on file with the Alaska State Council on the Arts, or a member may ask artists to submit resumes, work product or other pertinent information directly to the committee.
2. Each member shall review educational materials as the committee may require.
3. Only committee members may vote for the selection of an artist or artwork, and each member shall have one vote.
4. A committee may meet to discuss and review the qualifications of artists or to select an artist only if a quorum is present. A majority of the authorized members of the committee shall constitute a quorum. An affirmative vote by a majority of the authorized members shall carry a motion.
5. A committee may reject all candidates and renew the selection process by choosing a different approved procurement method.

VIII. CONTRACTING WITH ARTISTS

A. POLICY STATEMENT

After completion of the art selection process, the court system shall contract with the artist.

The following warranties shall be assured by artists contracted by the court system:

1. The art is unique and original and does not infringe upon any copyright.
2. The art or original multiple has not been accepted for sale elsewhere.
3. The execution and fabrication of the art will be performed in a professional manner.
4. The art as fabricated and installed by the artist will be free of defects in material and craftsmanship, including any defects or qualities which cause or accelerate deterioration.

B. ARTISTS' RIGHTS

After final acceptance of the work of art by the Alaska Court System, the following artists' rights shall be guaranteed:

1. Maintenance of public artworks shall be the responsibility of the Alaska Court System, not the artist, and the court system shall make reasonable efforts to maintain the artwork in good repair.
2. The artist will be consulted, if reasonably possible, should the court system need to alter or modify the work of art. If a work, nevertheless, has been significantly altered, the artist shall have the right to disclaim authorship.
3. Copyright of public artworks shall belong to the creator(s), but the Alaska Court System must be granted in the contract the right to make two-dimensional reproductions for non-commercial purposes.

C. RESPONSIBILITIES

1. Artist Responsibilities
 - a. Within the terms of the contract, the artist shall guarantee the work of art against all defects of material and workmanship for a period of one year following installation.
 - b. Within the terms of the contract, the artist shall provide the Alaska Court System with drawings of the installation and with detailed instructions regarding routine maintenance of the artwork

- c. The artist shall provide the Alaska Court System with a current address so that prior to any repair and restoration of the artwork which may become necessary during the life of the artist, the Alaska Court System shall, to the extent practicable, first consult the artist. To the extent practicable, the artist shall be given the opportunity to accomplish such repairs at a reasonable fee.

D. PROCEDURES FOR CONTRACTING WITH ARTISTS

1. **Payment.** A method and schedule of payment to the artist shall be provided by contractual agreement with the court system. The court system will make interim payments to the artist to assist the artist with financing the fabrication and installation of the work. Individual payments may be contingent upon a certificate of insurance, and/or review and approval of progress and completion. Final payment is made only after review and acceptance of the work by the court system.
2. **Ownership.** All artwork acquired pursuant to these guidelines shall be the sole property of the Alaska Court System.
3. **Copyright.** Copyright in the artwork, including the design, shall be owned by the artist subject to the following restrictions:
 - a. Should it be determined necessary to relocate the artwork in an alternate location, the court system may select the location consistent with the terms of section IX of these guidelines. The court system may display the artwork in any place and manner so long as the integrity of the work is not violated.
 - b. The artist will not copy or reproduce the work unless it is an original multiple. The artist shall agree not to recreate for another person or organization any drawings, models or the completed artwork created by him/her pursuant to the contract with the court system.
 - c. The court system and the artist may photograph the artwork for documentary or archival purposes, and for informational publications, but not for profit.
 - d. The artist shall be entitled to retain and utilize copies of the drawings and models, including photographs of the work, for his/her own exhibitions. The artist shall further be entitled to reproduce such drawings, models and photographs for use in his/her portfolio and in books and publications about his/her work, and to exercise all other reproduction rights provided under the U.S. copyright laws, except as otherwise restricted by the contract.
4. **Liability.** If the artist uses subcontractors or other trades to aid in the execution of the contract, the artist shall be responsible for the payment of such work done by these subcontractors and shall secure evidence of payment by waiver of lien by these subcontractors.

5. **Insurance.** The artist shall not commence work until all required insurance has been obtained and such insurance has been approved by the court system. Failure to furnish satisfactory evidence of insurance or lapse of coverage is grounds for termination of the contract.
6. **Termination.** The artist's services may be terminated:
 - a. By mutual consent of the parties
 - b. For the convenience of the court system, provided that the court system notifies the artist in writing of its intent to terminate at least 30 days prior to the effective date of termination.
 - c. For cause, by either party where the other party fails in any material way to perform its obligations under the contract. Termination for cause is subject to the condition that the terminating party notifies the other party of the intent to terminate, stating with reasonable specificity the grounds therefore, and the other party fails to cure the default within 30 days of receiving the notice.
7. **Installation.** The administration, the user department and the artist shall coordinate installation of the artwork at the site. Installation expenses shall be paid from the funds allocated to the acquisition of the artwork.
8. **Repair and Restoration.** The court system shall make reasonable efforts to maintain the artwork in good repair at all times after final acceptance.

E. ACCEPTANCE AND DOCUMENTATION

1. The committee shall view the completed artwork(s) installed within the building or facility and provide written recommendation to the project manager. The Alaska Court System owns all artwork after installation and final acceptance of the building or facility.
2. For the documentation of the Percentage for Public Art Program the artist will furnish the Alaska Court System with the following photographs of the completed work as installed;
 - a. Two 35 mm color slides of good quality;
 - b. Two 8" x 10" black and white glossy photographs; and
 - c. A full written description of each piece.

IX. RELOCATION, REMOVAL OR DE-ACQUISITION OF WORKS OF PUBLIC ART

A. POLICY STATEMENT

Public artworks generally enter the public environment through a careful process. They are created by artists specifically for the public context.

In all circumstances, the Alaska Court System should seek to insure the ongoing presence and integrity of the work at the site for which it is created, in accordance with the artist's intention. The primary concern should be to assure continuing access to the work by the public.

Consideration of, relocation, removal or de-acquisition should involve the same degree of careful review as a decision to acquire a work of art; informed by professional judgment the interests of the public and, when appropriate, consultation with the artist.

B. PROCEDURES

1. **Conditions.** A work of art may be considered for relocation, removal or de-acquisition for one or more of the following reasons:
 - a. The work of art has received documented and consistent adverse public reaction from a measurable large number of individuals and/or organizations over a period of years.
 - b. Relocation, removal or de-acquisition has been requested by the court where the work is displayed.
 - c. The site has become inappropriate; for example, it is no longer publicly accessible, or the physical setting is to be destroyed or significantly altered.
 - d. The work possesses faults of design or workmanship
 - e. The work causes excessive or unreasonable maintenance.
 - f. The work is damaged irreparably, or to an extent where repair is unreasonable or impractical.
 - g. The work represents a physical threat to public safety.
2. **Process.** The recommendation to relocate, remove or de-acquisition a work of art shall be made by the facilities manager and shall require a majority vote of the supreme court.
3. **Courses of Action.** The supreme court may decide any of the following courses of action as a result of the recommendation by the facilities manager. The court shall not be limited to these courses of action but may suggest alternatives appropriate to meet a particular set of circumstances.
 - a. Relocate the work of art. This method shall be given the highest priority.
 - b. Remove the work from display and put it in storage.
 - c. Sell or exchange the work of art.

- 1) Offer the artist first opportunity to buy back the work of art at the current appraised value or at a price to be negotiated
 - 2) Obtain professional appraisal and advertise sale at auction.
 - 3) Seek competitive bids.
 - 4) Dispose using state surplus property procedures.
4. **Proceeds.** All proceeds from the sale of a public artwork shall be deposited into a trust account to be used for maintenance and repair of works of art in the Alaska Court System collections.