

## **ALLOCATION FOR ART FOR PUBLIC FACILITIES PROGRAM WORKING DRAFT**

The following is a copy of the working draft of a provincial program for the purchase and/or commissioning of works of art and craft for new provincial buildings and renovations, prepared by the NB Arts Board's Art in Public Buildings Committee.

Areas to clarify include:

1. Departmental responsibility for administration of the program. Supply and Services and Tourism, Recreation and Heritage.
2. Responsibilities of the NB Arts Board as a consultative body regarding the program.
3. Definition of eligible artists by REGION. Perhaps preference should be given for all or some portion of awards according to some order at the discretion of the selection committee. Possibly:
  - A. Local artists
  - B. Provincial
  - C. Artist's in provinces that have reciprocal percentage for the arts programs.
  - D. Atlantic Provinces
  - E. Canada
  - F. Other

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### **1. Title**

This program shall be known and cited as "Allocation for Art for Public Facilities Program".

### **2. Declaration of Intent and Purpose**

The Province of New Brunswick has a responsibility for expanding public experience of art, in recognizing the necessity of fostering culture and the arts and in developing artists and craftsmen. Art creates a more human environment: one of distinction, enjoyment and pride for all citizens. The Province recognizes that public art also is a resource which stimulates the vitality and the economy of the Province's communities and which provides opportunities for artists and other skilled workers to practice their crafts. It is a matter of public policy that a portion of each capital construction appropriation be allocated for the acquisition of works or art to be placed in public places constructed.

### **3. Allocation for Art**

- a. A Provincial building of Provincial facility constructed, remodeled, or renovated after January 1, 1991, shall include works of art for public display.
- b. All Provincial agencies or departments shall expend, as a nondeductible item, out of any monies appropriated for original construction, remodeling, or renovation of

any Provincial facility an amount of at least 1% for the purpose of including works of art in said facility.

- c. Where construction, remodeling or renovation of a Provincial facility is budgeted at under \$250,00, funds appropriated under this program for art for that public facility may be transferred to the Art for Public Facilities Fund for expenditure as recommended by the New Brunswick Arts Board in other Provincial facilities.
- d. Nothing in this program shall prohibit additional expenditures for art beyond the amounts provided by specific appropriation.

#### **4. Establishment of a Fund**

A separate account shall be established within the Provincial Treasury to be known and maintained as the Art for Public Facilities Fund. The fund shall be used for acquisition for art as provided in this program and for expenses incurred in the administration of this program. The fund may derive income from:

- a. Appropriations made as provided in this program.
- b. Grants, from governmental or other sources.
- c. Gifts, if the terms of the gift are consistent with the purposes of this program and other lawful requirements.
- d. Other appropriations made by the Legislature.

#### **5. Administration of the Allocation for Art for Public Facilities Program**

- a. The joint committee of Supply and Services and Dept. of Tourism Arts Branch personnel shall be responsible for administration of this program. It shall have the power and authority to contract with artists in such manner as is in conformity with this program and it shall have authority to make expenditures from the Art for Public Facilities Fund, from the funds available in said Fund. It shall select and appoint each panel provided by this program and shall have authority to make expenditures for expenses of said panel as provided in this program.
- b. Dept. of Supply and Services shall keep an inventory of the works of art acquired under this program. It shall also periodically review and examine such artwork, reporting to the Legislature when restoring, repairing or replacing any work of art is necessary and how that should be accomplished. Any costs in this connection will be subject to additional appropriations by the Legislature and shall not be charged against the art for Public Facilities Fund except where a specific appropriation is made to said Fund for any given restoration, repair or replacement. The costs of administering the program, other than immediately aforementioned, shall be provided by the Legislature in its annual appropriation to the Dept. of Supply and Services.
- c. Annually, the Dept. of Supply and Services shall report to the Legislature all activity under this program.

#### **6. Selection of Works or Art and Artists**

- a. Artists and their works of art to be acquired under this program shall be selected by a panel specifically chosen for each project, pursuant to the procedures established by the Dept. of Tourism, Recreation and Heritage in consultation with New Brunswick Arts Board. Each panel shall contain at least a representative of the architect, a representative of the user, a representative of the community, and a professional artist.

- b. The acquisition of art under this program shall be exempt from any and all Provincial bidding requirements. Panel members shall not be paid except for reimbursement for necessary costs, in-province travel expenses and an honorarium. Panel members and members of their families shall not be considered in the selection of an artist. Cooperation with other local and national art agencies is recommended.

## **7. Definitions**

ART, ARTWORK, or WORKS OF ART are defined to include, but are not limited to: frescoes, mosaics, sculpture, drawing, painting, photography, calligraphy, graphic art, stained glass, wall hangings, tapestries, fountains, ornamental gateways, architectural embellishments, crafts, or any work of mixed media, by a professional artist, artisan or craftsman.

CAPITAL CONSTRUCTION and CONSTRUCTION COST shall be synonymous and shall mean cost expended for the actual construction of a given provincial building or facility, exclusive of the costs for remodeling, reconstruction or renovation.

PROVINCIAL BUILDING, PUBLIC BUILDING, PROVINCIAL FACILITY, PUBLIC FACILITY shall be synonymous and include, but not be limited to, any permanent structure together with all grounds and appurtenant structures which are intended to act as offices, laboratories, workshops, courtrooms, hearing or meeting rooms, classrooms or other educational facilities, eating, sleeping, medical, dental, library or museum space for use by the general public. This definition does not include: public highways, bridges, sewers, fishponds, fish hatcheries, service facilities at state parks and highway rest areas, or separate buildings not part of a larger construction project, which are intended solely as storage, warehouse, or maintenance and repair facilities.

ARTIST is defined to include, but is not limited to, any practitioner generally recognized by his peers or by critics as a professional who produces works of art or craft. This definition does not include the architect of the subject public under construction or any member of that architect's firm.

ARCHITECT means any person or firm retained to design, or prepare plans or specifications for any part of the public construction project, including, but not limited to, landscape, interior, electrical, plumbing, heating, utility, engineering, or fixture design.

PROVINCIAL AGENCY OR DEPARTMENT means the agency of Provincial Government of which funds have been appropriated or allocated by the Legislature for the construction, remodeling, reconstruction or renovation of any public building or other public facility.

CONSTRUCTION is defined to include, but is not limited to, original construction, remodeling or renovation.

ACQUISITION includes acquisition by purchase, lease, or commission.

USER means the designated person, agency, department, or entity having principal administrative responsibility for the actual utilization of a proposed provincial facility.

REPRESENTATIVE OF THE COMMUNITY means is a person, or representative of a group or groups, which would be reasonably expected to utilize the building or facility.

## **8. Artist's Rights**

- a. The Province shall receive the rights to sole ownership and public display of all art acquired under this program, subject to the following intangible rights retained by the artist:
  - 1) the right to claim authorship of the work of art;
  - 2) the right to reproduce such work of art, including all rights to which the work of art may be subject under copyright laws, including but not limited to derivative and publishing rights but excluding right to public display. Such rights may be limited by written contract.
  - 3) If provided by written contract, the right to receive a specified percentage of the proceeds if the work of art is subsequently sold by the Province to a third party other than as part of the sale of the building in which the work of art is located.
  - 4) If agreed between the Province and the artist, the artist may extend to his heirs, assignees, or personal representatives any of the above rights until the end of the 20<sup>th</sup> year following the death of such artist.
- b. The artist shall retain as absolute the following rights:
  - 1) the right to have the artist's name associated with the work;
  - 2) the right to prevent degradation, mutilation, or aesthetic ruining of the work.
- c. Prior to the execution of a contract for artwork to be acquired pursuant to this program, the artist shall be informed in writing of the rights specified in subsections a. and b.

## **9. Other Works of Art**

Nothing in this program shall be construed as precluding the placement or purchase of other works of art. Nor shall anything in this Act be construed as precluding the use of ornamental detailing, or other architectural, functional or structural garnishing in constructing public buildings or facilities. Works of art acquired pursuant to this program are to be in addition to such embellishments.

Prepared by the New Brunswick Arts Board's Art in Public Buildings Committee  
October 1990