

Public Art FAQ

Program Guidelines for City Project Managers

Introduction

Denver's Public Art Program was established in 1988 by Executive Order No. 92 under Mayor Federico Peña. The purpose of the Order was to "...establish policies and procedures for the funding and implementation of a public art program for the City and County of Denver. The intent of the program was to *"...expand the opportunities for Denver residents to experience art in public places, thereby creating more visually pleasing and human environments."* The Order directed that 1% of the construction budget of any capital improvement project over \$1 million undertaken by the City be set aside for the inclusion of art in the design and construction of new projects and encouraged the participation of private dollars to enhance this public commitment.

Revised language for the Public Art Program was brought before City Council and became law in 1991. The Denver Public Art Ordinance can be referenced as Denver Revised Municipal Code [DRMC] 20-85.

Arts & Venues Denver oversees the Public Art Program and guides its activities. The following guidelines are intended to clarify public art procedures and answer questions Capital Improvement Project Managers and other City employees might have about our program.

If additional questions arise, please contact Michael Chavez, Public Art Program Manager at 720-865-4308 or michael.chavez@denvergov.org.

FAQ

"How do I determine whether my project qualifies for the Public Art Program?"

In accordance with D.R.M.C. 20-85 *et seq.*, the Public Art Program shall apply to all City Capital Improvement Projects whose budgeted cost of **construction and design** for a single project or for the total of such multiphase projects is equal to or greater than one million dollars (\$1,000,000.00).

To calculate whether a project qualifies for inclusion in the Public Art Program project include:

- all costs allocated for **design services** (including engineering, architecture, geotechnical assessments, surveying and on-site observation)
- **design contingency** in the budget
- all costs allocated for **construction services** (including preconstruction services, construction management services, construction supervision and administration) all hard costs of construction [materials, labor, equipment and subcontractor costs, etc.] and materials testing, inspection and commissioning)
- **construction contingency** in the budget

All funding sources (CIP, bonds, grants, donations, etc) must be included in the calculation of the total project cost. Additionally, if a project is phased, all phases of the project must be included. This applies even if no single phase of the project is greater than one million dollars. The calculation is based on the entire project not an individual phase.

The total calculation, shall, at minimum, include the maximum contract amount of any design services agreement executed in furtherance of the project, the lump sum maximum contract amount of guaranteed maximum price (“GMP”) of any construction of design/build services contract executed in furtherance of the project plus all design and construction contingencies that are not allocated at the time of contracting.

If the total of these combined costs is equal to or greater than one million dollars (\$1,000,000.00), the project manager must create a separate line item (see section below) designated for Public Art in their budget and notify Budget Management and the Public Art Program that the project qualifies for art.

Property acquisition costs, project management fees and furniture, fixtures and equipment costs, unless included in the construction contract, should not be included in the calculation to determine whether a projects meets the \$1 million threshold set forth in DRMC 20-85 *et seq.*

“What types of projects qualify for the Public Art Program?” (Inclusions & Exclusions)

The Public Art ordinance states that the Public Art Program must be applied to any project which meets the threshold criteria described above **and also** involves improvements to or new construction of a “building or structure, road, streetscape, pedestrian mall or plaza or park” or any other project which includes “finished space for human occupancy” and will be “available for public view.” (see generally DRMC 20-86 (b))

The Program shall not be applied to temporary improvements, ordinary repair and maintenance projects, mechanical and electrical projects, and other projects not available to public view and for human occupancy. Ultimately, if a question remains as to the applicability of the project for the Public Art Program, the project must be reviewed on a case-by-case basis by Arts & Venues Denver and the City Attorneys’ Office. Please contact Public Art Manager, Michael Chavez, if you have any questions: 720-865-4308 or michael.chavez@denvergov.org.

“I am not sure my project qualifies for Public Art—who makes the final determination?”

If you have questions about whether a specific project qualifies for Public Art, please [contact the Public Art Manager, Michael Chavez](#). Projects will be reviewed on a case-by-case basis to determine whether it will trigger a public art commission.

“My project qualifies for the Public Art Program, now how do I determine the Public Art budget?”

Once a new project has been determined to qualify for the Public Art Program, project managers must set aside a one percent of the total budgeted **construction** cost of the capital improvement project to be designated for the planning, design and construction of Public Art and for the repair of Public Art. The “one percent” calculation is based on:

- all costs allocated for **construction services** (including preconstruction services, construction management services, construction supervision and administration, all hard costs of construction [materials, labor, equipment and subcontractor costs, etc.] and materials testing, inspection and commissioning)
- **construction contingency** in the budget

Again, all funding sources (CIP, bonds, grants, donations, etc) must be included in the calculation of the total project cost. If the project is phased, all phases of the project must be included in the calculation of the total construction cost.

It is recommended that this percent allocation should occur as soon as the capital improvement budget is established, to ensure that artists and artwork can be coordinated into the design and construction process. Allocation should occur no later than the time of construction contracting and probably should occur earlier to take advantage of that coordination.

If a project “materially” increases in scope, leading to an increase in the total construction budget, it is recommended that the one-percent funding to the Public Art program increase proportionally. Such a situation could be seen as analogous to a “multi-phased” project as described above.

“How do I set aside funds for the Public Art Program?”

At the time a capital improvement project’s budget is appropriated, a project number is assigned. The budget for the public art for that project will be placed under the same project number but with an “A” at the end to identify the monies as the art budget. The fund and org numbers will remain the same for the capital improvement project and the art. This fund/org/project number sequence will insure that the total costs of the capital improvement project are kept together. Below is an example of a capital improvement project budget and its art budget.

<u>Project Name</u>	<u>Fund</u>	<u>Org</u>	<u>Project Number</u>
16 th Street Ped Bridge Over I-25	31020	5011102	PA01800_022
16 th Street Ped Bridge Over I-25 Art	31020	5011102	PA01800_022 A

The agency with the capital improvement project should submit an expenditure budget plan moving the art budget out of the capital improvement project and into the project art project. Budget and Management will approve these expenditure budget plans and will be responsible for setting up the new art project number in PeopleSoft.

“When do I set aside funds for the Public Art Program?”

While the Public Art Ordinance does not specify when funds should be set aside for Public Art, it is recommended that this percent allocation should occur as soon as the capital improvement budget is established, to ensure that artists and artwork can be coordinated into the design and construction process. Allocation should occur no later than the time of construction contracting and probably should occur earlier to take advantage of that coordination.

What happens if a project budget is increased/expanded?

It is the policy and practice of DOCA to apply the Public Art Program in a fair and consistent manner. If a project “materially” increases in scope, leading to an increase in the total construction budget, to ensure consistent applicability, the one-percent funding to the Public Art program should be increased proportionally. Such a situation would be analogous to a “multi-phased” project as described above.

In extraordinary circumstances, however, project budgets may be significantly increased during the design and/or construction phases to address unforeseen problems or claims that could not have been reasonably covered by project contingencies. In this case, the spirit and intent of the Public Art Ordinance may be best served by not increasing the Public Art budget accordingly.

If a question remains as to the applicability or the amount of the project budget for the Public Art Program based on an increase or expansion of a project budget, the project must be reviewed on a case-by-case basis by the Denver Office of Cultural Affairs and the City Attorneys’ Office. Please contact Public Art Manager, Michael Chavez, if you have any questions: 720-865-4308 or michael.chavez@denvergov.org.

Is there a time limit to report a new Public Art project to DOCA/BMO?

Again, while the Public Art Ordinance does not specify when funds should be set aside and/or spent for Public Art, it is recommended that this percent allocation should occur as soon as the capital improvement budget is established, to ensure that artists and artwork can be coordinated into the design and construction process and possibly save money in the process.

Is there a time limit for spending the Public Art funds?

The Public Art Process and installation of artwork can begin at any time following the allocation of funds for the project. There is no time limit for spending these funds.

Can the Public Art funding be waived in special circumstances?

By ordinance, if a CIP qualifies for inclusion in the Public Art Program, those funds can not be waived for any reason.

