

ART IN PUBLIC PLACES (APP) PROCEDURES

SUMMARY

The Art in Public Places (APP) program is a requirement for all capital projects of Miami-Dade County and each municipality in Miami-Dade County that develop new government buildings that shelter people in a wholly or partially enclosed manner and serve a public purpose. New government buildings include newly constructed structures built by and/or for the County or a municipality, prefabricated structures procured for public use, and existing buildings that are converted to a new use. The County Code requires that 1½% of the capital cost of new government buildings be dedicated to public art projects through the APP program. This procedure explains:

- how to work with the Department of Cultural Affairs to implement the APP requirement;
- the processes to follow for repairing, restoring and inventorying public art works;
- procedures for municipalities to comply with the APP requirement;
- procedures for private sector capital development on land owned by local government or on private property with the building owned by local government;
- procedures for accessioning and deaccessioning artworks in the Public Art Collection; and
- “Frequently Asked Questions” that are based on policies established by the Department of Cultural Affairs and a series of opinions issued by the Office of the County Attorney to help clarify the requirements of the APP program.

PROCEDURE

General Information for Implementing APP Projects

1. Contact the Department of Cultural Affairs to set up a meeting to confirm the eligibility of the capital project for the APP program and for the Department of Cultural Affairs to review a complete capital budget for the project and to confirm that an accurate calculation of the APP contribution has been made.
2. All capital costs are included in the calculation of the 1½% APP allocation, including but not limited to:
 - architectural and engineering fees;
 - specialty consulting fees;
 - capital project management fees (for County and/or contracted services)
 - construction costs (including all systems and features that make a facility functional);
 - site work;
 - allowance accounts (e.g., permitting, surveying, inspections); and
 - contingency allowance(s).

The only exclusions are land acquisition and subsequent changes to the construction contract through change orders that do not involve a major change in the project's scope.
3. Departments convey funds to APP from the moment the department receives spending authority for the capital project, upon award of design contract and/or construction contract.

APP will work with department to determine the best approach and timing for the conveyance of the funds to the Department of Cultural Affairs.

4. APP funds are used by the Department of Cultural Affairs for commissioning works of art, APP program administrative costs, and repair and restoration expenses.
5. Municipal, state, federal, private and other non-County funds for a capital project are subject to the 1½% public art requirement.
6. APP may use funds generated from a construction project for acquisition of art works for other government facilities throughout the County. Every effort is made to use funds generated by a department's project within that department.
7. Projects done through development agreements (i.e., the County contracts with another party to develop a building that the County will own now or in the future) are subject to the APP requirement.
 - All solicitations for and resulting development agreements must include the following language provided by APP regarding the requirement to transfer public art funds to Art in Public Places:

Art in Public Places. This Project is subject to the Art in Public Places ("APP") provisions in Section 2.11.15 of the Miami-Dade County Code and Administrative Order 3-11, as managed by the Miami-Dade County Department of Cultural Affairs ("Department of Cultural Affairs") pursuant to Procedure 358 in the Miami-Dade County Procedures Manual ("Procedures Manual"). The Developer shall transmit 1.5% of the Project costs for all development on County land (as outlined in the Procedures Manual) to the Department of Cultural Affairs for the implementation of the APP program. The Developer is required to work collaboratively with the Department of Cultural Affairs on the implementation of the APP program pursuant to the requirements of said program. The referenced documents can be accessed at:

<https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances>
<http://www.miamidade.gov/ao/home.asp?Process=alphalist>
<http://intra.miamidade.gov/managementandbudget/library/procedures/358.pdf>

Tools for Departments to Implement APP

1. A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project (see sample "APP Capital Budget Allocation Worksheet" at <http://www.miamidadepublicart.org/#tools>; this form also is available from APP staff).
2. The following language must be included by departments in all RFQs and RFPs for capital projects requesting design, construction, public-private development, and or project management services:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp>).

3. All agreements between successful bidders and County departments for design, construction, and or land-lease development services shall include APP's approved language for **"Basic Project Coordination with APP Requirements"** under "General Conditions Section 01042 - Art in Public Places Coordination." This language shall apply to all County contracts with design firms, construction companies, design-build firms, and development agreements on County-owned land. For a sample of this language, please refer to <http://www.miamidadepublicart.org/#tools>.

County departments are encouraged to contact APP to receive the most up to date version of APP applicable coordination language for inclusion in their project's agreement.

4. Examples of prior APP projects, the list of members of the APP Trust and other APP background information can be found at www.miamidadepublicart.org.

The APP Artists Selection Process

1. APP works collaboratively with departments on developing the artists' selection process:
 - To identify opportunities for public art in a project (with departments' project managers, planners and architects);
 - To understand the unique features of the department's capital project (e.g., community impact, timetable requirements, etc.); and
 - To draft the "Call to Artists" (i.e., the APP request for artists' qualifications and/or proposals).
2. An APP Professional Advisory Committee (PAC) is convened to review artists' submissions and to make art commissioning recommendations to the APP Trust. PAC members are arts and design professionals appointed by the APP Trust.
 - Departments attend and participate in the PAC selection process (especially, project managers/architects/engineers and representatives from the specific users of the building).
 - Community representatives can participate at the departments' and APP's discretion.
 - The size and scope of the project help determine the opportunities identified for public art and the number of artists that may be selected to work on a project.
3. The PAC's recommendations of artists are approved and finalized by the Art in Public Places Trust (a 15-member board appointed by the Board of County Commissioners).
4. APP staff manages the work of the selected artists and closely coordinates this work with departments' project managers, architects/engineers/specialty consultants and contractors.

Keys to Successful APP Projects

1. Calculation of APP project funds must be done by using the APP Capital Budget Allocation Worksheet in consultation and concurrence with APP staff and based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards.
2. It is essential to contact APP as soon as capital project planning begins so that the timetable for the artists' selection process can be coordinated with the overall project's early design work.

3. Departments' full involvement with APP in identifying opportunities for art works, participating in the selection process and developing the art projects helps ensure that departments' needs can be addressed.
4. Departments must include APP requirements and APP-authorized contractual language in all capital projects agreements and contracts.
5. Representatives from departments must be identified for clear, consistent and regular communication and coordination with APP staff for each stage of the work - planning, A&E selection, design, construction, and commissioning; these representatives must have direct access to decision-making authority for APP issues.
6. Departments must keep APP fully informed of capital project developments and especially of changes in order to avoid additional APP costs (e.g., redesign of art works, artists' delay claims, storage costs for art works, etc.); costs associated with failure to communicate with APP are the responsibility of the department.
7. The APP project manager must be included on the department's project management team, the artist(s) on the A&E team and the artist's fabricator/installer on the contractor's team; this is essential to ensure that departments' capital projects and the development of art works remain interlocked (e.g., planning, design and construction of the building is coordinated closely with the development and installation of the art work).

Repair and Restoration

1. Art in Public Places will dedicate 15% of all new public art allocations to a repair and restoration fund that will be utilized for specialized tasks required to restore and/or repair works of art in its collection (i.e., these funds are allocated from within the 1½% of APP funds generated by the capital project). These funds will be replenished on an ongoing basis with proceeds from new commissions.
2. Regular maintenance requirements of the commissioned artwork and the costs of regular maintenance are discussed and coordinated with the department in advance of the project completion to ensure the long-term care of the work and are the responsibility of the department.
3. Contact APP before undertaking maintenance and/or repair of any art work. Works of art may require specialized treatment for upkeep and qualified professionals for maintenance or repair.
4. When a work of art is designed as an integrated part of a building, it simply may require that the department conduct standard cleaning procedures. For example, an artist-designed terrazzo floor typically requires the same kind of maintenance as a regular terrazzo floor and the department is responsible for doing the day-to-day maintenance. Please call APP if there is any question about the care of a department's integrated art work.
5. Art works fabricated from special materials may require specialized maintenance treatment. For example, a bronze or stone work of art must be cleaned and treated with a specific maintenance product of a certain brand. Please call APP for guidance regarding the maintenance of art works made of special materials.
6. It is the departments' responsibility to train cleaning crews regarding the treatment of public art works to ensure proper care; APP is available to provide guidance for this training.
7. It is the departments' responsibility to inform tenants and lessees of their facilities about the care and requirements of public art works and to include provisions in tenant and lease agreements that make tenants and lessees responsible for the cost of repairing damages to public art works that are the result of negligence by the tenant or lessee.

Repair

1. Never attempt to repair an art work.
2. Contact APP immediately to report any damage to an art work and an APP staff member will be responsible for assessing the damage and determining the repair procedures. Please contact David Martinez-Delgado, Department of Cultural Affairs, for assistance (305-375-1067; david.martinez-delgado@miamidade.gov).

Inventory: Departments' Responsibilities

1. Departments are responsible for conducting an annual inventory of their public art works and for reporting the results to APP.
2. Departments must appoint an APP liaison responsible for the annual inventory and annually inform APP regarding contact information for this individual.
3. Departments cannot move or relocate works of art; APP must be contacted if a department wants to move or relocate a work of art.
5. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Inventory: APP's Responsibilities

1. APP annually will provide departments with a list of the art works and locations of the works in the departments to initiate the annual inventory.
2. APP will provide departments with contact information for its Collections Manager who is responsible for the inventory results.
3. APP will respond to departments' requests to move or relocate art works.

Information for Municipalities to Implement APP Projects

1. Municipal governments are required to implement the APP provision set forth in the County Code.
2. Municipalities have the option of enacting their own art in public places programs and administering their own public art projects or working collaboratively with Miami-Dade Art in Public Places for APP to administer, manage and implement their public art projects.
3. If the municipality chooses to implement its own public art projects, the city is responsible for enacting its own art in public places ordinance which adheres to the minimum standards set forth in Section 2-11.15 of the Code of Miami-Dade County ("Code"). APP is available to provide guidance to municipalities in regard to enacting their own ordinances and establishing their programs. The following highlights requirements and guidance for municipal art in public places programs:
 - 1½% of the total capital cost of new government buildings must be allocated for the commission or purchase of artworks as defined in the Code and these procedures;
 - a competitive, quality-based artist selection process must take place and a selection committee with knowledge and expertise in the visual arts must select the art work;
 - APP funds must be used solely for commissioning works of public art and a professional artist must be contracted with to implement the public art project;
 - a percentage of the APP funds may be set aside for program administrative costs and repair and restoration expenses for the public art project. It is recommended that up to 15% of the total public art allocation be set aside for costs associated with administering

- the project and up to 15% be set aside for costs associated with the future repair or restoration of the public art project;
- Miami-Dade County Department of Cultural Affairs and its APP staff are available to work with municipalities to assist them and confirm that they are meeting the APP program's requirements;
 - Municipalities must consult with Section 2-11.15 of the Code in regard to the minimum standards and notice required to enact and administer their own art in public places program;
 - for General Obligation Bond-funded (GOB) projects, APP funds must be spent within the project that generates the APP funds; and
 - if a municipality chooses to implement its own public art projects, but requires the technical assistance of Miami-Dade County APP, a negotiated administrative fee can be determined based upon the complexity and duration of the project.
4. If the municipality does not enact its own art in public places program and/or chooses to work collaboratively with Miami-Dade APP to implement the public art requirements, Miami-Dade APP will oversee and provide services, highlighted as follows:
- work collaboratively with the municipality and its project team to identify opportunities for public art in the facility;
 - draft and distribute Call to Artists;
 - administer artist selection process;
 - coordinate the submission of the recommended artist(s) to the Miami-Dade APP Trust;
 - provide contract language for municipality's architect and contractor contracts to ensure APP coordination;
 - provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning municipality and its project team;
 - manage contract negotiations and process payments with artist(s);
 - coordinate installation of art work(s) with the municipality's project managers, architects/engineers/specialty consultants and contractor;
 - if a municipality chooses to work collaboratively with Miami-Dade APP, not less than 15% of the total public art funds will be allocated to Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project - this administrative percentage may change in consultation with the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project;
 - should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project; and
 - if required by the municipality, the selected artist(s)/artwork(s), along with an alternate recommendation, will be presented to and reviewed by the municipality's governing body prior to the final approval of the Miami-Dade APP Trust.
5. Municipalities will own the resulting public art works and will be responsible for the maintenance, repair (as necessary), and inventorying of public art works. Municipalities can consult with Miami-Dade APP for technical assistance with these responsibilities.
6. County facilities located, or intended to be located, within the boundaries of a municipality are governed solely and exclusively by the Miami-Dade County Art in Public Places program.

Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government

1. Capital projects done through agreements with a private entity, including but not limited to leases or development agreements (i.e., the local government contracts with another party to develop a building that the local government will own now or in the future), are subject to the APP requirement if:
 - The project meets the eligibility criteria for the public art requirement (e.g., it is a building that shelters people in a wholly or partially enclosed manner); and
 - The project serves a public purpose whether operated by local government or on its behalf, by a private operator; and/or
 - The project relies on surrounding or adjacent local government buildings to function and is an integral component of the overall infrastructure of a public complex (e.g., a cargo facility at the airport);
 - The project advances a public policy objective (e.g., an office building or residential development that encourages public transit ridership); and/or
 - The project enhances a patron experience at a local government facility (e.g., a restaurant).

Capital projects that are done through agreements with a private entity, including but not limited to leases or development agreements, may not be eligible for the art in public places requirement if the project meets the following criteria:

 - The agreement between the local government and the private entity has a provision that allows the private entity the option to purchase the facility; and/or
 - The project has no public purpose and is not part of a complex of surrounding or adjacent local government buildings that function as a public complex and/or does not enhance a patron experience at a local government facility.
2. Capital projects that include complexes in which one or more of the buildings and/or a portion of a building meet the criteria for the APP requirement need to comply with the APP requirement for those eligible buildings and/or eligible portions of the building (e.g., a public parking garage built as a part of a private development complex that otherwise may not be subject to the APP requirement).
3. Determinations as to the applicability of the public art requirement are made by the Director of the Miami-Dade Department of Cultural Affairs, are based on the section 2-11.15 of the County Code, Administrative Order 3-11 and the Miami-Dade Procedures Manual (Procedure No. 358), and may be considered by the Review Committee as set forth in Administrative Order 3-11, prior to consideration of the Board of County Commissioners.
4. Private entities must work collaboratively with Miami-Dade APP to oversee the artist commissioning process to ensure the highest level of artistic quality and adherence to the program's requirements, as outlined in these procedures. APP will oversee and provide services, highlighted as follows:
 - work collaboratively with the private entity and its project team to identify opportunities for public art in the facility;
 - work with the private entity to calculate the APP project funds, using the APP Capital Budget Allocation Worksheet based on actual capital project contract awards including but not limited to A&E, consultants' and contractors' awards;
 - provide the private entity with a payment schedule for the conveyance of the APP project funds to the Department of Cultural Affairs;
 - draft and distribute the Call to Artists;

- administer the artist selection process;
- coordinate the submission of the recommended artist(s) for the review and approval of the Miami-Dade APP Trust;
- provide contract language for private entity's architect and contractor agreements to ensure APP coordination; and
- provide technical assistance to the selected artist(s) and serve as liaison between the artist(s) and commissioning private entity and its project team.

Once an artist is commissioned, the private entity may choose to oversee the implementation of approved public art projects or work collaboratively with Miami-Dade APP for it to oversee and provide services for the project's implementation. If APP administers the entire project, the private entity shall remit an amount not less than 15% of the total public art funds to the Miami-Dade Department of Cultural Affairs for costs associated with its administration of the public art project; this administrative percentage may change at the discretion of the Department of Cultural Affairs based on the complexity and duration of the administrative services required for the public art project. Should the entirety of the APP management services not be required, a negotiated administrative fee can be determined based upon the level of APP services required and the complexity and duration of the project. If APP oversees the implementation, APP's services are highlighted as follows:

- manage contract negotiations and process payments with artist(s);
 - coordinate the installation of art work(s) with the private entity's project managers, architects/engineers/specialty consultants and contractor; and
 - oversee the artist's work on design, fabrication, installation and commissioning of the art work(s).
6. The private entity must commit 15% of the total public art allocation for costs associated with the future repair and restoration of the public art project and remit the funds to the Miami-Dade County Department of Cultural Affairs for this purpose, no later than the art work's completion.
 7. Miami-Dade County will own the resulting public art work(s) and will be responsible for costs associated with the implementation of repairs (as necessary and as long as repairs are not the result of negligence on the part of the private entity, in which case the cost of repairs is the responsibility of the private entity), and inventorying of the public art work(s).
 8. Regular maintenance requirements of the commissioned art work(s) and their costs are the responsibility of the private entity. These needs will be discussed and coordinated with the private entity in advance of the project completion to ensure the long-term care of the work.
 9. Works of public art may not be moved without the review and approval of Art in Public Places. Site specific and/or integrated works of art (i.e., works of art that are incorporated as an integral part of a building or structure) may not be moved without the review and approval of the Art in Public Places Trust. When possible, the Art in Public Places Trust will seek the advice and/or involvement of the artist in regard to the advisability and feasibility of moving her/his work of art.

Accession Procedures

1. Accessioning is the formal acceptance of an artwork into the Miami-Dade County Art in Public Places Collection (Collection). Accessioning artwork into the Collection indicates the intent to apply professional standards of care, display, and maintenance over the life of the artwork, or until the artwork is no longer displayable and is deaccessioned from the Collection.
2. Artworks will be entered into the Collection inventory as soon as a commissioning or purchasing contract is executed and these inventory entries will be annotated as "works in progress" with periodic updates included as necessary to describe the status of completion

accurately. Artworks will be annotated as fully accessioned in the Collection inventory only upon completion of all facets of the commissioning or purchasing contract or of the required review process for gifts and other artworks. Conditions, restrictions, or limitations cannot be attached to the accessioning that would limit the use of the artwork.

3. The signed contract transferring title for the artwork and clearly defining the rights and responsibilities of all parties will accompany every acquisition.
4. Acquisitions result from:
 - Projects of the Miami-Dade County Art in Public Places Program pursuant to Section 2.11.15 of the Miami-Dade County Code;
 - Gifts with a fair market value greater than \$1,000, which will be reviewed and accessioned in accordance with the Miami-Dade County Administrative Order No. 1-3;
 - Gifts with a fair market value less than \$1,000 that are reviewed and accepted by the Art in Public Places Trust; or
 - Other artworks, including but not limited to work that are un-accessioned items found in the existing Public Art Collection or in the possession of Miami-Dade County government that are determined to have sufficient artistic merit and recommended for inclusion in the Miami-Dade County Public Art Collection. Factors considered in making this recommendation include: the quality of the work; the artist's intent for the work to be considered a stand-alone art work; the degree to which the design, materials and execution of the work constitutes a finished work of art; the suitability of the work to be placed on public display in furtherance of the mission of the APP program; and the commitment to exercising accountability and care for works of art created through the APP commissioning process and/or owned by the County. These artworks must be reviewed and accepted by the Art in Public Places Trust.
5. All acquisitions will be entered into the Collection inventory and added to the Internal Services Department (ISD) Capital Inventory Record.
6. Once the Art in Public Places program takes possession of an artwork, it should have the sole right to determine how and when that artwork is shown, safeguarded, or de-accessioned, subject to its professional practices and policies and in accordance with County policy.

Deaccession Procedures

1. The deaccessioning of artwork is the removal of an object from the Miami-Dade County Art in Public Places Collection. This includes the removal of the artwork from its public site, removal from the maintenance cycle, and moving of records, both hard copy and electronic, into a Deaccessioned Collection file and as required by Miami-Dade County Administrative Order No. 8-2, transferred into the archived portion of the ISD Capital Inventory Record. Deaccessioning will be considered only after a careful evaluation of the artwork within the context of the Collection as a whole and will be consistent with Miami-Dade County Administrative Order No. 8-2 – Care, Control and Disposal of County Property. Only the Miami-Dade County Art in Public Places Trust has the authority to deaccession artworks in the Art in Public Places Collection.
2. Once an artwork has been accessioned, it may not be deaccessioned on the basis of content.
3. An artwork may be considered for deaccession under the following conditions only:
 - The artwork cannot be located after reasonable and diligent searches. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for unlocated artwork(s) and an investigation report and recommendation must be submitted to ISD;

- The artwork has been damaged beyond repair, damaged to the extent that it no longer represents the artist's intent, or damaged to the extent that the expenses of restoration and repair are found to equal or exceed current market value of the artwork. As required by Miami-Dade County Administrative Order No. 8-2, a police report must be filed for damaged or destroyed artwork(s) and an investigation report and recommendation must be submitted to ISD;
 - The artwork is not, or is only rarely, on display due to lack of a suitable site;
 - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is structurally or otherwise altered and can no longer accommodate the artwork, is made publicly inaccessible as a result of new construction, demolition, or security enhancement, or has its surrounding environment altered in a way that significantly and adversely impacts the artwork;
 - For site-integrated or site-specific artworks, the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County;
 - The artwork was purchased as a semi-permanent acquisition and the County's predetermined period of obligation is terminated;
 - There is a documented history of incident(s) that shows the artwork is a threat to public safety;
 - The artist legally exercises the right of disassociation granted by the Visual Artists Rights Act of 1990, preventing the use of his or her name as the creator of the artwork;
 - The artwork requires excessive maintenance and/or the condition or security of the artwork cannot be reasonably guaranteed;
 - The artwork has been determined by the Art in Public Places Trust deaccession process to be of inferior quality relative to the quality of other works in the Collection or the County wishes to replace the artwork with a work of more significance by the same artist; and/or
 - At the time of accessioning, complete information on the provenance of the artwork was not available, or more information has since become available, indicating that the artwork should not be part of the Miami-Dade County Art in Public Places Collection.
4. Department of Cultural Affairs staff will prepare a written recommendation for deaccession of artworks from the Collection based on one or more of the conditions in Section 3 above for review and evaluation by the Miami-Dade County Art in Public Places Professional Advisory Committee (Professional Advisory Committee), and subsequent review, evaluation and action by the Art in Public Places Trust. The staff reserves the option of hiring a consultant for advice on specific elements of the artwork being considered through the deaccession process.
 5. Artists whose work is being considered for deaccession shall be notified by mail using the current address provided by the artist. Artists also shall be notified of the recommendation of the Professional Advisory Committee and of the Art in Public Places Trust meeting scheduled to consider this recommendation.
 6. All legal documents relating to the artwork, including but not limited to contracts with the artist and agreements related to a donation of the artwork as applicable, will be consulted as part of the deaccession process. When applicable and feasible, the donor of an artwork under consideration for deaccessioning will be notified.
 7. At a Professional Advisory Committee meeting, Miami-Dade County Department of Cultural Affairs staff will present reports on artworks to consider for deaccession that include:
 - Reasons for the suggested deaccession accompanied by such other documentation and information as may be relevant;
 - Acquisition method, cost, and estimated current market value;
 - Documentation of correspondence with the artist;

- Photo documentation of site conditions (if applicable);
 - In the case of damage, a report that includes the official police and investigation reports and recommendation, and documents the original cost of the artwork, estimated market value, and the estimated cost of repair; and/or
 - In the case of theft or loss, the official police and investigation report and recommendation, including when possible, a report prepared by the agency responsible for the site of the loss.
8. The Professional Advisory Committee will then make a recommendation to the Miami-Dade County Art in Public Places Trust, including actions regarding the disposition of the artwork pursuant to Section 9 below. If the Professional Advisory Committee recommends that an artwork be retained, an explanation stating the Committee's reasons and recommendations shall be set forth in the minutes of the Committee's meeting and shall be submitted to the Art in Public Places Trust. The Trust may decide to seek additional information.
9. The decision to deaccession artwork will result from a resolution requiring a majority vote by the Miami-Dade County Art in Public Places Trust. Upon this decision to deaccession artwork, the Trust will consider what action should be taken, with priority given to public benefit from the Collection. Every step will be taken to arrive at a mutual balance between observing the rights of the artist and public benefit. Actions will be consistent with Miami-Dade County Administrative Order No. 8-2 and may include:
- Trade through artist, gallery, museum, or other institutions for one or more other artwork(s) of comparable value by the same artist or to reduce the purchase price of a replacement artwork;
 - Long-term or permanent loan offered first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
 - Donation first to other governmental units and then, to eligible community based organizations, such as museums or educational/non-profit institutions, subject to being afforded equal participation opportunity to review and select the artwork(s);
 - Sale to interested potential bidders with "first offer" right to governmental units located within Miami-Dade County, in compliance with Administrative Order No. 8-2 governing surplus County property. Any pre-existing contractual agreements between the artist and the County regarding resale shall be honored, including but not limited to the original artist's having first right of refusal to purchase his or her artwork at its current market value;
 - In special situations, the Miami-Dade County Art in Public Places can negotiate the transfer of an artwork to another entity. For site-integrated or site-specific artworks, when the site for which the artwork was specifically created is sold or acquired by an entity other than Miami-Dade County, the ownership of the artwork can transfer to that entity. Artwork in the Public Art Collection should be in exhibitable condition and continue to reflect the artist's original intent. Should the artwork selected for transfer need to be repaired cleaned, or restored, the negotiated transfer will include conservation provisions and, unless negotiated otherwise, the receiving entity pays for the restoration. The receiving entity should have an art plan that defines their commitment to the artist and the continued care of the artwork; and/or
 - For artwork(s) not able to be disposed of by the methods outlined above, destruction or recycling of materials comprising the artwork, in accordance with Chapter 274 of the Florida Statutes, so that no piece is recognizable as part of that artwork.

10. In the event the artist disagrees with the decision of the Miami-Dade County Art in Public Places Trust, the artist may request reconsideration of the deaccession. This request must be filed in writing with the Miami-Dade County Department of Cultural Affairs within 30 days of the Trust's deaccession decision, and it must be based on information that was not considered during the Professional Advisory Committee's and the Art in Public Places Trust's meetings on the deaccession.
11. The Miami-Dade County Department of Cultural Affairs will work cooperatively with the Internal Services Department, Fixed Assets & Division Operations section of the County regarding the implementation of this policy for deaccessioned artworks and will notify ISD about all actions under formal consideration and taken by the Miami-Dade County Art in Public Places Trust affecting artwork(s) in the County's inventory.
12. A report will be sent to the County Mayor, Board of County Commissioners and ISD regarding the Miami-Dade County Art in Public Places Trust's action(s) regarding deaccessioned artworks.
13. The artwork, or its remains, shall be disposed of by the Miami-Dade County Art in Public Places staff, or its agents, upon deaccession action. It is the obligation of the Miami-Dade County Art in Public Places Program to ensure that all disposals with regard to the Collection be formally and publicly conducted and adequately documented in accordance with applicable provisions of the Florida Statutes and the Code of Miami-Dade County utilizing a variety of disposal methodologies.
14. A permanent record of the artwork's inclusion in the Miami-Dade County Art in Public Places Collection, and reasons for its removal, shall be maintained in a Deaccessioned Collection file, and will be kept as a separate section of the Miami-Dade County Art in Public Places Collection records. Miami-Dade County Department of Cultural Affairs staff will notify ISD Fixed Assets & Division Operations section of all deaccessioned artwork(s) so that the artwork(s) can be deleted from the Department's Capital Inventory Record.
15. No artworks shall be sold or traded to a member of a governing body or staff of Miami-Dade County government including the members of the Miami-Dade County Art in Public Places Trust and its Professional Advisory Committee, consistent with Miami-Dade County conflict of interest policies.
16. All proceeds from the sale of any artwork from the Miami-Dade County Art in Public Places Collection shall be deposited in the Art in Public Places Trust Fund. Funds from artwork sales may be used in any manner consistent with the enabling legislation of the Art in Public Places program and County policies regarding public artwork.

Frequently Asked Questions

1. Applicable Projects and Costs.
 - What if we are uncertain about whether the APP requirement applies to a project or components of a project?
 - Call APP staff if you have any questions about the APP requirements. In addition, the FAQs below may provide answers to your questions.
2. Contingency Allowances.
 - Are contingency allowances covered by the APP requirement, even if eventually they are not used or fully used for the project.
 - Yes. The APP allocation is calculated and transferred to APP upon the award of the contract.
3. Calculation of APP Amount.
 - How does a capital project accurately calculate the 1 ½% APP requirement amount?

- A completed APP Capital Project Budget Allocation Worksheet must be submitted by departments to the Department of Cultural Affairs as soon as a capital project budget is developed and prior to design contract and construction award. APP staff will confirm the accuracy of the calculation of the APP requirement for the project and the final Worksheet must be signed by the department and the Department of Cultural Affairs (see sample “APP Capital Budget Allocation Worksheet” at <http://www.miamidadepublicart.org/#tools>; this form also is available from APP staff).
4. Project Changes
 - Are the costs associated with significant changes in a project’s scope and budget subject to the APP requirement?
 - Yes. Typically, regular additive change orders are subject to the APP requirement as they are paid for from the project contingency allowance which is covered by the APP requirement. More significant scope additions which are accompanied by increases to the project’s capital budget are subject to the APP requirement.
 5. Inspector General.
 - In calculating the APP allocation, should the Inspector General cost be included in the base for the APP calculation?
 - Yes, the APP calculation is taken against the total contract amount.
 6. Capital Outlay Reserve Funds (CORF).
 - Are construction projects funded by the Capital Outlay Reserve Fund covered by the APP requirement?
 - Yes. The APP requirement applies to all County construction projects for new buildings.
 7. Funding Sources That Disallow Public Art.
 - Does the APP requirement apply to construction projects that are funded by grants or other sources which disallow public art?
 - If a grant or another funding source specifically prohibits the use of funds for compliance with the APP requirement, the department must use other funds to satisfy the APP requirement.
 8. General Obligation Bond (GOB) Projects.
 - Does the APP requirement apply to GOB projects?
 - Yes, the APP requirement applies to all County construction projects for new buildings. In addition, the APP requirement applies to GOB projects for new buildings done by municipal governments.
 9. Capital Work Done by the County.
 - Does the APP requirement apply to the cost of architectural and engineering services performed by County personnel and to the cost of in-house construction labor, materials, and/or machinery?
 - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project.
 10. Private Sector-Funded Projects.
 - Does the APP requirement apply to buildings financed and constructed on County property by private sector investors?
 - Yes. The APP requirement applies to the construction cost of new government buildings regardless of the source of funds for the project. Please see the section “Information for Private Sector Capital Development on Land Owned or Leased by Local Government or on Private Property with the Building Owned, Leased or Operated by Local Government.”

- What happens if the APP funds are not included in the development agreement with the private sector and/or are not collected by the department from the private sector?
 - The department will need to convey the funds for the APP requirement from another revenue source.
11. Conveyance of APP Funds.
- When are funds conveyed to APP? Whom do we contact for details about conveying funds?
 - Funds are conveyed to APP when the department receives spending authority for the capital project. For example, when an A&E contract is authorized, 1½% of the contract must be conveyed to APP. Please contact Patricia Romeu, Department of Cultural Affairs, for instructions to convey funds (305-375-5920; romeu@miamidade.gov).
12. Cancellation of Capital Projects
- Do APP costs incurred to date need to be covered by the department if the capital project is cancelled?
 - Yes.
13. Demolition.
- Does the APP requirement apply to demolition costs?
 - Yes, if demolition is part of a construction project that is covered by the APP requirements.
14. Building Additions.
- Are additions to an existing structure covered by the APP requirement?
 - Yes, additions are considered to be “new government buildings.”
15. Building Adaptations.
- Are existing buildings that are acquired and converted for a new governmental use covered by the APP requirement?
 - Yes, the acquisition cost of the building (excluding the estimated cost of the land) and the capital costs of the conversion of the building for a new governmental use are covered by the APP requirement.
16. Structures
- Does APP cover structures that are built by or for the County that serve the public (e.g., parks, playgrounds, bridges, pre-fabricated shells, utilities buildings, etc.)?
 - Yes, if the structure is intended to be used directly by the public.
17. Equipment.
- Are equipment costs subject to the APP requirement?
 - Yes. The APP requirement covers all systems and features that make a facility functional, even if the equipment is acquired through a separate contract.
18. Parking Garages.
- Does the APP requirement apply to a parking garage?
 - Yes.
19. Roadways, Sidewalks Parking and Site Improvements.
- Does the APP requirement apply to roadways, sidewalks, parking and site improvements?
 - Yes, if the roadways, sidewalks, parking (e.g., parking lots) and site improvements (e.g., site lighting, signage, etc.) are part of a construction project that is covered by the APP requirement.
20. Selection of Art Must Be by APP.
- Can a department satisfy the APP requirement by selecting and purchasing an artwork itself?

- No. Works of art must be selected in compliance with the process required by the APP program and overseen by the APP Trust and staff. Please see the section, "The APP Artists Selection Process" on page 2.

21. Adherence to the Art in Public Places Requirement.

- Can departments waive the APP requirement?
- No. Section 2-11.15 of the Miami-Dade County Code sets forth the requirements for the APP program and provides that only the Board of County Commissioners has the authority to waive the APP requirement. Administrative Order 3-11 prescribes a process involving a Review Committee which can be convened to conduct a hearing of a request for a waiver and states that the Review Committee will evaluate such requests as follows: "If the facility does not conform to the definition of 'new governmental building' a waiver will be recommended to the Board of County Commissioners. Only the BCC is authorized to grant waivers. Waivers must be secured prior to the award of the construction contract."

22. Required Art in Public Places Language

- Can departments change the required APP language that is provided in this Procedure?
- No, departments must use the following language in all solicitations for APP eligible capital projects:

This project is subject to the Miami-Dade County Art in Public Places requirements, pursuant to Section 2-11.15 of the Code of Miami-Dade County, managed by the Miami-Dade County Department of Cultural Affairs as detailed in Procedure 358 in the Miami-Dade County Procedures Manual (see <http://www.miamidadepublicart.org/#tools> or <http://intra.miamidade.gov/managementandbudget/procedures.asp>).

23. Unsuitable Locations.

- Does the APP requirement apply to a new building that may not provide a suitable location for a public artwork and may the APP funds be transferred for expenditure to another site?
- Yes. The APP requirement covers all new government buildings. There is no requirement in Section 2-11.15 of the Miami-Dade County Code that artworks be located at the site of the project that funded the artwork. APP will work with departments to identify suitable alternative locations.

24. Donations of Artwork.

- What is the process for departments to accept donations of art work(s)?
- The process for accepting gifts of art works is covered by Administrative Order No. 1-3. It requires that the APP Trust and its Professional Advisory Committee review and provide the department with a recommendation for all donations of artwork or commemorative and/or memorial structures of artistic merit, valued in excess of \$1,000. The donation of art work(s) does not satisfy the APP requirement for an eligible capital project.

CONTACT(S):

Department/Division

Department of Cultural Affairs

REFERENCE DOCUMENT(S):

Section 2-11.15 of the Miami-Dade County Code

Administrative Order 3-11, Art in Public Places Program Implementation and Fund Transfer Procedure

Administrative Order No. 8-2, Care, Control and Disposal of County Property

Administrative Orders No. 1-3, Gifts to the County

Copies of all County Attorney Opinions related to these procedures are maintained by the
Department of Cultural Affairs