

# Commissioning Public Art in Massachusetts

In the United States, it's standard practice to use Requests for Proposals and Requests for Quotes to commission public art. However, in Massachusetts, there are very specific legal processes under 30B procurement law for municipalities who want to use RFQs and RFPs. But the Metropolitan Area Planning Council (MAPC) has worked collaboratively with the Massachusetts Office of the Inspector General (OIG) to set a new process.

## Grant agreements: An alternative way to commission public art in Massachusetts

A grant agreement is defined in M.G.L. chapter 30B, section 2 as "an agreement between a governmental body and an individual or non-profit entity the purpose of which is to carry out a **public purpose of support or stimulation** instead of procuring supplies or services for the benefit or use of the governmental body." MAPC and OIG have determined that public art is a public purpose as described above and can be commissioned using the following process:

- **Release Call for Artists**  
Hold public forum to discuss the Call for Artists. Publish questions and responses afterwards.
- **Select a group of finalist artists from the applications based on Call for Artist Specifications**  
You may choose to compensate selected artists to develop their concepts. **Less than \$10,000 may be allocated through grant agreements for this purpose.**
- **Solicit public feedback to inform final art selection**  
The selected artist or artist group enters into a grant agreement that includes plans for the final artistic concept.

Municipalities in the MAPC region may seek MAPC's services to facilitate their Calls for Art/Artists.

## RFQs/RFPs: The traditional way to acquire goods and services in Massachusetts

(The Massachusetts Uniform Procurement Statute M.G.L c. 30B identifies the traditional process that municipalities must follow to acquire goods and services):

- **Project cost: <\$10,000**  
Use sound business practice.
- **Project cost: \$10,000 to \$49,999**  
Solicit quotes and award contract to the responsible person at the lowest quotation.
- **Project cost: \$50,000 +**  
Solicit competitive sealed bids (awarded based on price); or  
Solicit competitive sealed proposals through RFP process and consider comparative criteria in addition to price.  
Award contract to bid that meets above requirements.

This process is not well suited to commissioning public art. Instead, MAPC and OIG have worked together to determine that public art can be commissioned via grant agreement.

# Installing Public Art in Massachusetts

## How do you install public art?

Municipalities may use existing M.G.L. c30 section 39M compliant contracts to facilitate the installation of public art. If no such contract is available, municipalities must secure construction services worth more than \$10,000 through a competitive process.

- Reserve part of your project budget for installation, concept development, and other project costs (such as permitting fees and police details).
- Identify the project site and determine that it meets ADA access requirements, has appropriate utility hookups, and does not interfere with transit or environmental limitations.
- Work collaboratively with your Department of Public Works (DPW) to make a plan for installation before you release a call for artists.
- In your grant agreement, clarify municipal responsibilities and artist responsibilities.
- Require your chosen artist to provide specifications for installation, estimate installation costs, identify expertise needed for installation, and list maintenance requirements.
- Secure staff or contractor to install the artwork. (Remember: DPW may have the capacity to install art using existing staff). Facilitate communication between the installer, DPW, and artist.

Due to procurement law in Massachusetts, municipalities cannot let public artists manage their own installation process. Contracts for the installation of public art that requires construction, reconstruction, alteration, or repair of any public work, or purchase of materials, must adhere to the requirements of M.G.L. c30, section 39M.

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