

AbaF

Commissions

An artist can be invited to tender for a commission, submit an expression of interest for a commission, or be commissioned directly by an art institution or other organisation to create a specific artwork.

When entering into a commissioned project it is important to:

- Have a written brief which is understood by both parties
- Ensure the role of the artist is clearly defined and outlined
- Ensure the nature of the work to be created is clearly defined and outlined
- Ensure the timeline is clear
- Have a clear budget and schedule of payments
- Have a contract signed by both parties.

The Process

For publicly-funded projects the following process normally takes place:

- A commission brief is developed and this can involve consultation with the local community. The brief may require a response to a particular theme or concept.
- The project is advertised inviting artists to submit an expression of interest in response to the brief.
- A shortlist is drawn up from the submissions. The selected artists are invited to submit a detailed response to the brief, for which a design fee is paid.
- The detailed response may also include an interview. The artist is selected on the basis of the detailed submission.

The brief should include the following:

- The location of the successful artwork
- The size of the artwork
- Theme or concept for the artwork
- Materials
- Total budget for the project
- Proposed timeline
- Selection process
- Submission requirements.

Writing a commission proposal

When submitting a commission proposal it is important that you meet the submission requirements. The requirements for each expression of interest/proposal may differ, but they usually include the following:

- A proposal about the work you wish to submit
- A photo, drawing or computer generated image of the work
- Photographs, slides or a CD of recent works
- A current artist's C.V.
- A completed application form.

If you are selected to make a detailed submission for a commissioned artwork such as a marquette for a sculpture, it is important to consider whether you can meet the deadlines prescribed by the commissioning agent. Should you be selected to create the final artwork, it may be necessary, for

example, to re-negotiate timelines to allow for the fabrication of the sculpture. In some cases, the commissioning agent will be flexible about deadlines.

The contract

Once selected to proceed with a commission it is important that a contract is negotiated and signed. A contract is the means by which the parties confirm their mutual responsibilities and promise to fulfil them. For a commissioned artwork the contract should provide for staged payments. These can include part payment on signing of the contract (for the purchase of materials), part payment during the execution of the work, and final payment on completion/installation of the artwork.

If an artist is represented by a commercial gallery, then a commission may be payable to the artist's gallery. This fee should be included in the budget for the project as a percentage of the artist's fee.

Important things to remember

- If you are represented by a commercial gallery, you need to be clear about the commission amount the gallery will expect from the project.
- What in-kind services will the commissioning organisation be providing? For instance, if the commissioner is a local government, will the engineering department provide engineering plans for the installation of the sculpture?
- Who is providing public liability coverage whilst the work is produced, installed and displayed?
- How long will the work be on display?
- Are the materials used to create the work suitable for the location/display life of the work?
- Who will be responsible for any repairs or ongoing maintenance of the artwork? If it is the artist, will they be paid for such work? If it is the commissioning organisation, will they consult with the artist prior to repair or maintenance work?
- What agreement is in place regarding the work's relocation?
- Who will ascertain whether the work has been installed safely, and if it is safe to be in the public domain? How will this be documented?
- Will you be employed by the commissioning organisation and, if so, can the organisation retain the copyright for the artwork?
- Who will be responsible for transporting the work to its location?
- Has a mediation or dispute resolution process been outlined in the contract?

Resources:

National Association for the Visual Arts (NAVA)

NAVA's Code of Practice for the Australian Visual Arts Craft Sector has a detailed chapter on commissioning.

Level 1

43-51 Cowper Wharf Road
Woollomooloo NSW 2001

T: 02 9368 1900

F: 02 9368 6909

E: nava@visualarts.net.au

W: www.visualarts.net.au

The Arts Law Centre of Australia

The Arts Law Centre of Australia produces a number of documents in relation to commissioned artwork. These include:

- Design and Commission Agreement
- Public Art: Design and Commission Agreement
- Issues in Public Art

The Gunnery

43-51 Cowper Wharf Road
Woollomooloo NSW 2001

T: 02 9356 2566 or 1800 221 457

F: 02 9358 6475

E: artslaw@artslaw.com.au

W: www.artslaw.com.au

References and further reading:

- Arts Law Centre of Australia, *Design and Commission Agreement*, Arts Law Centre of Australia, Woolloomooloo, 2006.
- Arts Law Centre of Australia, *Public Art: Design and Commission Agreement*, Arts Law Centre of Australia, Woolloomooloo, 2006.
- Arts Law Centre of Australia, *Issues in Public Art*, Arts Law Centre of Australia, Woolloomooloo, 1998
- Beal, Elizabeth 'Public art guidelines for artists and commissions', *ART+Law*, July, 2001.
- *Code of Practice for Australian commercial galleries and the artists they represent*, Australia Council for the Arts, ACGA & NAVA, October 2003.
- NAVA, "Commissioning: Public Art Commissioning and Special Purpose Commissioning", *The Code of Practice for the Australian Visual Arts Craft Sector*, (2nd edition), NAVA, Sydney, 2004.
- Stokes, James "A guide to commissions", *Earning a living in the visual arts and crafts*, (3rd edition), Hale & Iremonger, Sydney, 1997.

Reproducing this Fact Sheet

You may download and print one copy of this Fact Sheet from our website for your individual use. This Fact Sheet should not be reproduced in multiple copies for use in any educational or training programs without the prior written permission of AbaF.

© Australia Business Arts Foundation, January 2007

Find out more at www.abaf.org.au