

FINE ARTS PROJECTS AND INDEMNIFICATION FOR SPECIAL EXHIBITS

304A.1 through 304A.7 Repealed by 86 Acts, ch 1245, § 1340. See § 303.86 et seq.

304A.8 Definitions.

When used in this division:

1. "*State building*" means any permanent structure, wholly or partially enclosed, which is intended to provide offices, laboratories, workshops, courtrooms, hearing and meeting rooms, storage space and other facilities for carrying on the functions of a state agency, including the board of regents; or auditoriums, meeting rooms, classrooms and other educational facilities; eating or sleeping facilities, medical or dental facilities, libraries and museums which are intended for the use or accommodation of the general public or state employees; together with all grounds and appurtenant structures and facilities; provided, however, it shall not mean maintenance sheds, separate garages, cellhouses or other secure sleeping facilities for prisoners, or buildings used solely as storage or warehouse facilities.

2. "*Fine arts*" means sculpture, fountains, bas-reliefs, mosaics, frescoes, wall hangings, crafts, photography, pictures or other enhancements to be integrated into the total environment of the building or complex of buildings. "*Fine arts*" does not include the incidental ornamental detail of functional structural elements, or hardware and other accessories.

3. "*Principal user*" means the designated person or entity having principal administrative responsibility for the actual utilization of a proposed state building.

[C79, 81, § 304A.8]

86 Acts, ch 1245, § 1333

304A.9 Consultation.

Whenever a state building is to be constructed, the contracting officer or principal user shall, at the time of engaging or directing an architect to prepare plans and specifications for the building, contact the arts division of the department of cultural affairs, which shall have authority to ensure that the fine arts elements will be integrated within, on, or about the total environment of such construction. Notwithstanding this section and sections 304A.11 and 304A.12, if the state building is under the control of the state board of regents the work on the fine arts element shall be administered by the state board of regents in consultation with the arts division.

[C79, 81, § 304A.9]

86 Acts, ch 1245, § 1334

304A.10 Cost of fine arts percentage.

The total estimated cost of the fine arts elements included in a plan and specifications for a state building or group of state buildings in accordance with the purposes of this division shall in no case be less than one-half of one percent of the total estimated cost of such building or group of buildings. This percentage allocation shall not be diminished by professional fees. By September 1 annually, the contracting officer or principal user shall submit to the department of cultural affairs the total amount of state financial assistance expended in accordance with this section during the previous fiscal year. If deemed in the best interests of the citizens, funds allocated for the acquisition of fine arts may be accumulated over more than one appropriation or fiscal period or combined to complete significant projects, however, this sentence does not authorize interproject

transfers. The total estimated cost of the fine arts elements included in a plan and specifications for a state building or group of state buildings in accordance with this section shall be included by the department of cultural affairs in calculating the amount of state financial assistance for the arts for purposes of national ranking surveys. By January 1 annually, the department of cultural affairs shall submit a summary of the total amount of state financial assistance expended in accordance with this section and for which state buildings the assistance was expended.

[C79, 81, § 304A.10]

86 Acts, ch 1245, § 1335; 98 Acts, ch 1215, § 55

304A.11 Cooperating parties.

The arts division shall administer, in consultation with the contracting officer, the principal user and the building architect, all matters relating to the selection of the fine arts elements to be included or purchased for a state building as authorized by section 304A.10.

[C79, 81, § 304A.11]

86 Acts, ch 1245, § 1336

304A.12 Separate contract.

Contracts for the fine arts elements shall be executed within the limits of the actual costs as determined by section 304A.10. Funds shall be transferred to the arts division for administration of the program. All expenses related to the acquisition of the fine arts elements shall be contracted for separately by the arts division with the funds allocated for these purposes.

[C79, 81, § 304A.12]

86 Acts, ch 1245, § 1337

304A.13 Competition of artists.

Selection of fine arts works may be made by public competition of artists. Preference shall be given to the selection of works produced, created or otherwise made by living or deceased Iowa artists. Competitive bidding shall be used where applicable.

[C79, 81, § 304A.13]

304A.14 Title in state.

Title to all works of art acquired rests with the principal user or contracting agency in the name of the state. The principal user or contracting agency and the arts division upon agreement may loan works of art between state-owned buildings whenever in their judgment the loan will be to the benefit of the citizens of this state. However, all such works shall be returned to the principal user or the contracting agency at its request.

[C79, 81, § 304A.14]

86 Acts, ch 1245, § 1338

304A.15 to 304A.20 Reserved.

304A.21 Definitions.

When used in this division, unless the context otherwise requires:

1. "*Administrator*" means the administrator of the arts division of the department of cultural affairs.
2. "*Council*" means the Iowa state arts council.
3. "*Department*" means the department of administrative services.
4. "*Indemnity agreement*" means an agreement authorized by section 304A.22.
5. "*Nonprofit organization*" means a corporation organized under chapter 504, Code 1989, or current chapter 504 or which holds a permit or certificate under chapter 504, Code 1989, or current chapter 504 to do business or conduct affairs in this state.

84 Acts, ch 1073, § 2; 89 Acts, ch 76, §6; 2003 Acts, ch 108, §52; 2003 Acts, ch 145, §286; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, § 394

304A.22 Agreements to indemnify against loss of or damage to special exhibit items.

1. The administrator, after receiving the advice and recommendations of the council, may make agreements on behalf of the state to indemnify against loss of or damage to eligible special exhibit items of public educational, cultural, artistic, historical or scientific significance borrowed by nonprofit organizations or governmental entities as provided in this division.
2. The administrator, after consultation with the council, shall adopt rules for the administration of this division.

84 Acts, ch 1073, § 3; 87 Acts, ch 204, §1

304A.23 Items eligible for indemnity agreements.

1. Except as provided in subsection 2, the following items are eligible for inclusion in an indemnity agreement if they are of public educational, cultural, artistic, historical or scientific significance and constitute a portion of a special exhibition having an estimated aggregate fair market value of at least two hundred fifty thousand dollars:

- a. Works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts.
- b. Manuscripts, rare documents, books and other printed or published material.
- c. Photographs, motion pictures, video tapes and audio tapes.
- d. Other artifacts.

2. Items which are eligible for a federal indemnity agreement under the Arts and Artifacts Indemnity Act, 20 U.S.C. sec. 971 to 977, and regulations under that Act, are not eligible for inclusion in a state indemnity agreement.

84 Acts, ch 1073, § 4

304A.24 Applications.

A nonprofit organization or governmental entity desiring to obtain an indemnification agreement for special exhibit items it proposes to borrow may submit an application to the administrator. The application shall:

1. Describe each item to be covered by the indemnity agreement, including the estimated value of the item.
2. Show evidence that the items are eligible under section 304A.23.
3. Set forth policies, procedures, techniques and methods with respect to preparations for and the conduct of the exhibition, including arrangements for transportation of the items.

84 Acts, ch 1073, § 5; 87 Acts, ch 204, §2

304A.25 Review and determination as to qualification for indemnity coverage.

1. Every application received by the administrator shall be submitted to the department of administrative services which shall review the application and determine whether the applicant qualifies for indemnity coverage under this division. The criteria for qualification shall be prescribed by rule of the department of administrative services and shall include but are not limited to:

- a. Physical security of the applicant's exhibition facilities and of the means of transportation of the items.
- b. Experience and qualifications of the applicant's director, curator, registrar, or other staff.
- c. Eligibility of the applicant's exhibition facilities for commercial insurance coverage of art objects and artifacts exhibited there.
- d. Availability of proper equipment to protect art objects and artifacts from damage from extremes of temperature or humidity or exposure to glare, dust, or corrosion.

2. The department may consult with experts as necessary to carry out its duties under this section.

3. If the department of administrative services is not staffed for risk management, the department shall utilize the services of a consultant in carrying out the department's duties under this chapter.

84 Acts, ch 1073, § 6; 89 Acts, ch 76, §7; 2003 Acts, ch 145, §286

304A.26 Review and determination as to eligibility and estimated value of items.

1. If the department of administrative services determines that the applicant qualifies for indemnity coverage, the administrator shall review and determine the validity of other portions of the application, including the eligibility of items for which coverage by an indemnity agreement is sought and the estimated value of those items.

2. The administrator may order an appraisal of the items by an independent appraiser at the expense of the applicant.

3. The council shall designate a committee of experts to advise the administrator in determining the eligibility and estimated value of the items. The administrator shall not approve an estimated value without the approval of the committee.

84 Acts, ch 1073, § 7; 2003 Acts, ch 145, §286

304A.27 Approval terms.

If the administrator determines that the application meets all requirements for approval, the administrator shall approve the application and on behalf of the state enter into an indemnity agreement with the lender and the applicant whereby the state becomes liable to indemnify against loss of or damage to the items specified in the agreement. The agreement shall cover the specified items from the time they leave the premises of the lender, or other place designated in writing by the lender, until the time the items are returned to the premises of the lender or other designated place.

84 Acts, ch 1073, § 8

304A.28 Limitations.

1. Coverage under this division shall extend only to loss or damage in excess of the first two thousand dollars in connection with a single exhibition.

2. Indemnity agreements entered into by the administrator for a single exhibition or for any single location shall not exceed a total coverage for loss or damage of five million dollars, and all indemnity agreements entered into by the administrator shall not exceed an aggregate coverage for loss or damage of ten million dollars at any one time. The agreements, together with the claims paid to date, shall not exceed ten million dollars at any one time.

84 Acts, ch 1073, § 9; 87 Acts, ch 204, §3; 90 Acts, ch 1072, § 1

304A.29 Claims.

1. Claims for losses covered by indemnity agreements under this division shall be submitted to the department of administrative services which shall review the claims. If the department determines that the loss is covered by the agreement, the department shall certify the validity of the claim, authorize payment of the amount of loss, less any deductible portion, to the lender, and issue a warrant for payment of the claim from the state general fund out of any funds not otherwise appropriated.

2. The department shall prescribe rules providing for prompt adjustment of valid claims. The rules shall include provisions for the employment of consultants and for the arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of covered items.

84 Acts, ch 1073, § 10; 89 Acts, ch 76, §8; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §34

304A.30 Annual report.

The administrator shall report annually to the legislature concerning:

1. Claims, if any, actually paid pursuant to this division, during the preceding fiscal year.

2. Claims pending as of the close of the preceding fiscal year.

3. The aggregate face value of indemnity agreements entered into which are outstanding at the close of the preceding fiscal year.

84 Acts, ch 1073, § 11