

1 July 13, 1994
2 CRD

INTRODUCED BY: LOUISE MILLER
PROPOSED NO: 94 - 503

3
4 MOTION NO. 9383

5 A MOTION approving guidelines governing the Cultural
6 Facilities Program.

7 WHEREAS, King County Code 4.42.100 establishes a Cultural Facilities
8 Program to provide hotel/motel tax funds for the "purchase, design, construction
9 and remodeling of performing arts, visual arts, heritage and cultural facilities, and
10 for the purchase of fixed assets that will benefit art, heritage and cultural
11 organizations," and

12 WHEREAS, King County Code 4.42.100 requires the executive to propose to
13 the council guidelines containing criteria and procedures for allocating Cultural
14 Facilities Program funds; and

15 WHEREAS, the King County arts commission and the King County landmarks
16 and heritage commission have reviewed the guidelines and recommend only one
17 revision to ensure that the application process remains competitive and inclusive of
18 worthy, high quality projects;

19 NOW, THEREFORE BE IT MOVED by the Council of King County:

20 The attached 1995 guidelines for the Cultural Facilities Program, funded by
21 hotel/motel tax revenues, are hereby approved.

22 PASSED by a vote of 11 to 0 this 26th day of September 19 94.

23
24 KING COUNTY COUNCIL
25 KING COUNTY, WASHINGTON

26 Kent Pullen
27 Chair

28
29 ATTEST:

30 Jane Masno
31 Deputy Clerk of the Council

32 Attachment:

33 A. Cultural Facilities Program Guidelines

Cultural Facilities (and Fixed Assets) Program

Purpose and Scope of Program

The Cultural Facilities Program provides funds for the purchase, design, construction and remodeling of performing arts, visual arts, heritage and cultural facilities, and the purchase of fixed assets to benefit art, heritage and cultural organizations.

The purpose of the Cultural Facilities Program is to enhance arts and historic programming or opportunities through the funding of facilities and fixed assets. The King County Arts Commission and the King County Landmarks and Heritage Commission will strive to equitably distribute Cultural Facilities Program funds both throughout the county and by organization size, based on need.

Wherever possible, the King County Arts Commission and the King County Landmarks and Heritage Commission will maximize the resources available for the construction of facilities and the purchase of fixed assets. To that end, funds may be used by the County to bear costs associated with issuing bonds for capital projects, to develop additional financing through leveraging, provide multi-year funding commitments or other methods of financing, as appropriate. The County will issue bonds for projects funded by the Cultural Facilities Program when feasible and prudent. Due to costs associated with the issuance of bonds, the Cultural Resources Division may not issue bonds annually. Grantees awarded significant contributions from this fund should be prepared to arrange interim financing to meet cash flow needs until funds become available

from King County. The Arts Commission anticipates considering projects of a size to warrant bond funding in calendar year 1995 and again in 2003, depending upon the growth of the fund. For more information concerning bonding intervals, contact Cultural Facilities Program staff.

Project applications will be considered on an annual basis. However, arts organizations receiving funding through the Cultural Facilities Program (excluding Emergency/Urgent Need awards) may not apply again until the third grant round after the award has been made an award through the Cultural Facilities Program within the last three years will be given a lower priority.

In addition to the purposes listed above, funds may also be used for:

1. Architectural, design and construction documents, for applicants which have completed, or are near completion of, capital fundraising campaigns
2. Preservation and restoration of cultural facilities, which may include cultural facilities that are designated landmarks
3. Compliance with Section 504 of the Federal Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act (for program access projects, refer to Cultural Enhancement and Opportunity Grant programs)
4. Consideration of special requests submitted at any time during the year by organizations that demonstrate a bonafide emergency or urgent need (see Definitions below). Such requests must meet the same criteria as those submitted on an

annual basis. (Urgent need/emergency project requests are submitted to the Cultural Resources Division by the first Tuesday of the month for consideration the following month by either King County Arts Commission or King County Landmarks and Heritage Commission; recommendations for allocation of funds are subject to approval by the King County Council. Applicants should expect a 2-5 month timeline, from initial submittal of request by applicant to either commission to final approval by Council.

Application Limitations

1. Applicants for construction or renovation funds must expect to begin construction within 24 months of application.
2. Capital funds cannot be used for general facility maintenance or to make routine repairs, to purchase consumable items, or to cover operating expenses, salaries or programs.
3. Applicants may not apply to other King County Arts Commission or King County Landmarks and Heritage Commission funding programs for the same project.
4. In general, King County Arts Commission will consider a maximum funding limit of 20% of total project expenses (exclud-

ing in-kind) for facilities applications.

Definitions

For the purposes of Cultural Resources Division funding programs, arts and heritage are defined as follows:

- **Arts disciplines** include, but are not limited to, dance, drama/theater, music, visual arts, literary arts, media arts, performing arts, interdisciplinary arts, traditional and folk arts and ethnic arts.
- **Heritage disciplines** are defined as those relating to history, ethnic history and heritage, traditional cultures, folklore, archaeology and historic preservation. Heritage projects shall focus on identification, collection, evaluation, preservation, restoration, exhibition and interpretation of heritage resources.

Cultural organizations are those entities which provide programming or services in the arts or heritage disciplines listed above.

Cultural Facilities include buildings and structures which are used primarily for the performance, exhibition or benefit of arts and heritage activities, including but not limited to, performing arts, visual arts, heritage and cultural endeavors.

Fixed Assets are tangible objects such as machinery or equipment intended to be held for ten years or more.

Urgent Need/Emergencies are defined as one or a combination of the following:

- A pressing situation that would cause an organization in the very near term to suffer severe economic consequences due to conditions outside of its control
- A threat to the safety of patrons or staff
- A catastrophic event or natural disaster
- An imminent threat of loss or destruction of an historic property or resource

A Long-term Plan is the artistic, programmatic, administrative and fiscal goals an organization expects to achieve in the next three to five years and the specific actions that will be taken to achieve them.

Eligibility

Eligible applicants for this program include King County-based:

1. Performing arts organizations
2. Visual arts organizations
3. Heritage organizations
4. Cultural organizations
5. Public agencies other than schools or school districts

In addition, applicants must be financially stable and have at least the following:

1. Legally constituted and working board of directors
2. Record of artistic, heritage or cultural accomplishments
3. At least a two-year operating history
4. Demonstrated ability to maintain net current liabilities at less than

thirty percent of general operating expenses

5. Demonstrated ability to sustain operational capacity beyond the completion of the facility or the purchase of fixed asset(s)
6. Financial statements prepared by an independent Certified Public Accountant (see item #14 in Application Content listed below for more detailed information on requirements)
7. Evidence of long-term planning for the organization, its programming or content and facility operations (not required for fixed assets applications under \$25,000)

Application Content

1. Applications must describe the intended use of the grant funds
2. Applications must be responsive to the purposes and scope stated in these guidelines
3. Facility applications should in most cases request only partial funding. In general, Arts Commission will consider a maximum funding limit of 20% of the total project expenses (not including in-kind)
4. Fixed asset(s) applications may request full funding
5. Project budgets should reflect, as much as possible, a true assessment of 1) expected project costs and 2) the potential for fundraising from other sources
6. Applicants must estimate their cash flow needs. The approved funding distribution

schedule may not meet the schedule requested by the applicant

7. Application or receipt of funds for urgent need/emergency projects will not preclude the applicant from applying during the regular grant process
8. Applications for architectural, design or construction documents must submit applicable feasibility studies and detailed documentation supporting that the applicant has completed, or is near completion, of its capital fundraising campaign
9. Applicants must submit all applicable studies pertaining to the proposed project, i.e. feasibility, marketing, etc.
10. Applicants must demonstrate the life expectancy of the proposed project and document their plans to ensure use for the purpose intended for a minimum of 10 years
11. Applicants must demonstrate how proposed project will benefit the general public
12. Applications for facilities that will be used by more than one organization must indicate the owner and primary tenant of the facility or proposed facility, and the collaborating organization(s), along with clearly delineated areas of responsibility. In the case of collaborating partners, King County funds will be obligated to the applicant that carries the contract for the design, purchase, construction or renovation of the facility
13. If a fixed asset is to be housed in a facility which is not owned or leased by the applicant, the applicant must provide an agreement between the applicant and the owner of the facility which governs the use

and maintenance of the fixed asset within the facility. If the owner of fixed assets purchased through this program dissolves its operations or relocates outside of King County during the useful life of the purchase (no less than 10 years), the fixed assets must be transferred to a non-profit arts, heritage or cultural organization of its choosing located within King County to fulfill the intent of the purchase

14. Applicants must provide financial statements for their most recently completed fiscal year which are compiled, reviewed or audited by a Certified Public Accountant independent of the organization. This report must include the following minimum requirements, completed in standard format:
 - a. Accountant's report
 - b. Balance sheet
 - c. Statement of operations (profit and loss statement)
 - d. Statement of cash flows
 - e. Footnote disclosures

The County reserves the right to require an audit of any organization at any time during the application process.

Application Review Criteria

The Arts Commission and Landmarks and Heritage Commission will ensure geographic distribution of cultural facilities and fixed assets throughout King County over the life of the fund. In addition, the commissions shall ensure accessibility of funding to cultural organizations of all sizes and disciplines.

Proposals shall be ranked using the following broad criteria: quality, feasibility and population served. Listed beneath each criterion are examples of information that will inform the review:

Quality:

- Quality of existing content or programming, and proposed programming (extent to which the applicant fulfills its mission)
- Quality and feasibility of the facility concept and design vis a vis its intended use (may include assessment of architectural feasibility and other preliminary design studies; budget, etc.)
- Impact of the proposed fixed asset(s) on programming or service

Feasibility:

- Financial stability of the applicant
- Ability of the applicant to complete the design, purchase or construction with partial County funding. Assessment will include the stability and competence of staff working on the proposed project
- Demonstrated ability of the applicant to maintain financial stability and use fully the facility or fixed asset for its intended use (stability, diversity and experience of the board, etc.)
- Ability to leverage hotel/motel funds into additional private or public support for the project (organization's capital fundraising plan, etc.)
- Extent of community support which may include, but is not limited to, community involvement, endorsements, in-kind or financial support by the the community, jurisdiction or governing board

Populations Served:

- Impact of the project on the community, county or region including number served and projected to be served ("community" may include, but is not limited to, a geographic, cultural or artistic community)
- Geographic location and need
- Access for underserved populations

Heritage applicants should address criteria detailed above, however, **priority** will be given to:

- Projects that make a significant contribution to the preservation, conservation or interpretation of the heritage resources of King County
- Protection and preservation of endangered historic resources
- Interpretation and exhibition of resources which represent neglected aspects of King County heritage such as those defined by theme, ethnicity or geography
- Increasing public accessibility to historic resources

Application Review Process

Administrative Review: Staff of the Arts Commission and Landmarks and Heritage Commission will review all grant applications for completeness, category appropriateness and financial viability. Additional information may be requested of the applicant during this stage.

Arts Commission: The Arts Commission will assess the quality and viability of facilities and fixed assets projects through an independent panel review and commission

assessment. Panels will be appointed by the Arts Commission and will represent various fields including architecture, financial management, fundraising, administration of cultural programs and will include artists, and members of the community at large. Panelists shall represent the geographic and cultural diversity of the County. The panel as a whole shall prioritize projects from high to low within each broad criteria, applying the policies of the Arts Commission and County Council established for the Cultural Facilities Program. After evaluating applications based on these criteria, the panel shall consider geographic location and size of organization in order to achieve equitable distribution of funds over the life of the program. The deciding factor between two or more applications of equal merit in terms of quality, feasibility and populations served will be geographic location and/or size of organization.

The Arts Commission shall review and confirm that recommendations meet established policies and overall funding strategy and shall forward its approved recommendations to the County Executive and County Council for action.

Landmarks and Heritage Commission: The Landmarks and Heritage Commission will assess the viability of facilities and fixed assets projects through the use of technical review panels. The technical review panels will consist of experts appointed by the Landmarks and Heritage Commission with expertise related to the projects to be evaluated (including architectural, engineering, construction, general management and/or financial management). The Landmarks and Heritage Commission will determine its funding

recommendations based on the established criteria, technical review panel analysis and on the extent to which the project meets the funding priorities established by the Commission, as noted above. Final recommendations shall take into account geographic location and size of organization in order to achieve equitable distribution of funds over the life of the program. The deciding factor between two or more applications of equal merit in terms of quality, feasibility, populations served and Commission priorities will be geographic location and/or size of organization.

The Landmarks and Heritage Commission shall forward its recommendations to the County Executive and County Council for action.

Contracts

After funding recommendations have been approved, Cultural Resources Division staff will prepare contracts including a scope of services (which, in some cases, may vary somewhat from the project application). These contracts will govern project evaluation and the payment of funds.

Evaluation

Arts, heritage and cultural organizations receiving funding must provide access to the project during all phases of development for evaluators, who may be commissioners, staff or on-site reviewers. Funded projects will receive separate, self-

evaluation forms with their contracts, which must be submitted along with final reports and actual budgets prior to final payment.

Legal and Contractual Requirements

Organizations receiving funds must comply with all legal requirements stated below and are subject to King County ordinances governing contract compliance as well as contract performance standards.

Acknowledgement: Organizations receiving funding through the Cultural Facilities Program must acknowledge the source of support through permanent signage visible to the public. Organizations and individuals who do NOT acknowledge such support will have funding withheld.

Public Benefit: Funded projects must provide quantifiable benefit to the general public. State law and King County Code authorize the purchase of arts services, but not the donation of money to organizations, no matter how beneficial their programs or projects may be. Therefore, **recipients of Cultural Facilities Program funds must agree to do something they would not ordinarily do in exchange for receiving public funds.** Examples include: free or pay-as-you-can programming, performances or exhibitions; distribution of free tickets to public school children or the economically disadvantaged; free or public access to spaces not regularly scheduled for use by the organization; educational and community outreach programs; or other means of public benefit *not*

currently provided by the organization.

Public benefit requirements will be included as part of the "Scope of Services" in the contract between the County and the organization. For facilities and fixed assets projects, the public benefit obligations shall be binding for the duration of the useful life of the facility or fixed asset. The organization will be required to document public benefit for facilities and fixed assets on an annual basis.

Insurance: Individuals and organizations receiving funding from the Cultural Resources Division will be required to demonstrate insurance coverage, particularly in the area of liability (general, automobile and/or employee). Types and levels of insurance coverage will be stipulated in the contract between the County and the individual or organization.

Legal Requirements: Contractors receiving funds for services must comply with federal laws governing Fair Labor Standards, Title VI of the Civil Rights Act of 1964 and the Civil Rights Act of 1991, Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA) of 1990 (see *Access* below), and any other applicable federal, state and local laws. Questions regarding these compliance requirements may be addressed to the Cultural Resources Division staff responsible for the Cultural Facilities Program at 296-7580 V/TDD.

Applicants for facilities and fixed assets projects should be aware that certain King County compliance requirements, such as Minority and Women's Business Enterprises

(Chapter 4.18), may have a significant impact on their proposed budget. Recipients are required to submit an analysis of the funded project to determine the availability of minority and women-owned businesses to complete the work. Recipients may be required to purchase through a state certified MWB if the price is within 5% of the lowest bid price. Applicants should build a 5% contingency into their proposal to allow for this preference purchase. Questions regarding these compliance requirements may be addressed to the Cultural Resources Division staff responsible for the Cultural Facilities Program at 296-7580 V/TDD. Listings of Minority and Women's Business Enterprises may be obtained from the King County Office of Civil Rights and Compliance at 296-7592 voice; 296-7596 V/TDD.

Access: Under King County law, all recipients of county funds must comply with Section 504 concerning access: "No otherwise qualified individuals with disabilities...shall, solely by reason of his/her disability, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity..." This covers access to and participation in programs and employment, as well as elimination of physical barriers. Further, the ADA law "prohibits discrimination on the basis of disability...in places of public accommodation, (and) requires that all new places of public accommodation...be designed and constructed so as to be readily accessible and usable by persons with disabilities..."

In other words, some portion of the overall program, when viewed in its entirety, must be accessible to persons with disabilities. Examples

of accessibility may include: sign language interpreted performances for deaf or hearing impaired persons; audio description services or programs in Braille for visually impaired persons; or scheduling events in locations accessible to physically handicapped persons. If the program is currently inaccessible, a corrective action plan must be developed to bring the program into compliance. Contractors may in some cases, based on budget, amount of funding received and other considerations, apply for an "undue hardship" waiver.

Questions regarding access may be addressed to the program coordinator responsible for arts and heritage facilities projects at 296-7580 V/TDD. Other questions regarding compliance issues and access may be addressed to the King County Office of Civil Rights and Compliance, King County Courthouse, E-224, Seattle, WA 98104, phone 296-7592/296-7596 V/TDD.

Appeal Process

Applicants may appeal the allocation decisions of the commissions in all program areas. The process is as follows:

1. Appeals must be based solely on the information included in the original application
2. Appeals must be sent in writing to the Cultural Resources Division Manager within 14 days of notification of Arts or Landmarks and Heritage Commission action
3. The manager shall consult the appropriate committee chairper-

son in accepting or rejecting the appeal. The manager shall notify the applicant of her/his decision in writing

4. A rejection by the manager is final and ends the appeal request
5. If the manager accepts the appeal request, the applicant will be asked to make a presentation to the appropriate commission committee as expeditiously as possible
6. The committee will recommend acceptance or rejection of the appeal to the commission and recommend modifications to grant awards as required
7. The manager will notify the applicant in writing of the committee's recommendation and the date and time at which the commission will consider the appeal
8. The commission will consider the recommendations of the committee at its next regular meeting, and authorize staff to forward funding recommendations to the County Executive and County Council for final approval where appropriate