

Content

Title :	Regulations Governing Arts and Cultural Procurements by Juridical Persons or Groups in Receipt of Government Grants <b>Ch</b>
Date :	2019.11.21
Legislative :	Promulgated November 21, 2019 by Ministry of Culture No. Mi Zi Di 10820456154
Content :	<p><b>Article 1</b></p> <p>This Regulation is promulgated in accordance with Paragraph 2 of Article 4 of the Government Procurement Act and Paragraph 2 of Article 26 of the Cultural Fundamental Act.</p> <p><b>Article 2</b></p> <p>Where juridical persons or groups are accepting funding for purchasing related to culture and the arts from government organizations, schools, or publicly run businesses (hereafter “organizations” ), the provisions of the Government Procurement Act shall not apply.</p> <p>Where the aforementioned funding accounts for over one-half of the total cost of procurement, and where the funding exceeds the threshold for publication stated in the Government Procurement Act, the funding agency shall provide supervision. The principles, scope, and supervision/management appertaining shall be ruled by these Regulations except where otherwise provided for in law.</p> <p>In conducting supervision and management of a juridical person or group engaged in procurement regarding culture and the arts, the funding agency shall act fairly and in the public interest, ensure cultural and artistic value, and spur the development of culture and the arts.</p> <p><b>Article 3</b></p> <p>“Funding recipient” as meant in these Guidelines refers to juridical persons or groups receiving awards, donations, or other payments coming out of the organization’ s budget.</p> <p><b>Article 4</b></p> <p>Juridical persons or groups that have received funding to engage in procurement related to culture and the arts are to abide by the funding goals and respect the rules and regulations of the granting organization.</p> <p><b>Article 5</b></p> <p>The funding organization shall name a responsible person or contact point to assist the receiving juridical person or group with funding use and management in procurement related to culture and the arts, and establish methods to ensure that funding goals are reached effectively.</p>

#### **Article 6**

Juridical persons or groups that have received funding to engage in purchasing related to culture and the arts shall state clearly in the purchasing agreement, and, where necessary, negotiate with suppliers over suppliers' rights and duties and the scope of procurement.

#### **Article 7**

Juridical persons or groups that have received funding to engage in purchasing related to culture and the arts shall, in special cases or where necessary, engage in the following inspections of suppliers and keep a written record of said inspections:

- Professional abilities concerning contract performance;
- Project execution and distribution methods;
- Professional personnel, expertise, accomplishments, and ability to ensure contract performance;
- Price;
- Other items deemed necessary.

#### **Article 8**

Juridical persons or groups that have received funding to engage in purchasing related to culture and the arts shall, based on the principle of respecting cultural and artistic professionalism and purchasing efficiency, draft and publicize procurement standards concerning the purchasing process, contract fulfillment management, conflicts of interest, and other related matters for the benefit of the funding agency conducting supervision.

#### **Article 9**

When juridical persons or groups have received funding to engage in purchasing related to culture and the arts, these groups' purchaser(s) and their spouse(s), relatives within two degrees of consanguinity, and cohabiting relatives shall exercise the principle of recusal and not act as responsible persons for suppliers in related purchasing.

To bolster the development of culture and the arts and the innovative use of related achievements, when engaging in fair competition or in the public interest, where the juridical person or group decides not to abide by the previous Paragraph's stipulation concerning recusal, that juridical person or group shall, after reporting to the funding organization, publicly disclose those persons who ought to abide by the principle of recusal and their relationship to the supplier, and the reason for not recusing.

Where otherwise stipulated in law, the provisions of the preceding two Paragraphs shall not apply.

#### **Article 10**

Juridical persons or groups receiving funding shall abide by the principle of transparency and openness, except where classified matters are involved or where the funding organization has granted approval. Juridical persons or groups shall, within 30 days of signing a purchase agreement, provide the following information concerning procurement related to culture and the

arts. The funding organization shall, within 30 days of receipt of this information, make it public in accordance with related regulations:

- Case name and content;
- Contracted price;
- Basic information concerning the vendor fulfilling the contract;
- Other information as determined by the funding organization.

#### **Article 11**

Juridical persons or groups that have received funding to engage in purchasing related to culture and the arts shall, when necessary, be subject to inspection by the funding organization. The funding organization shall determine the inspection procedure and standards based on key issues.

Where the funding organization requires, the juridical person or group shall provide information on procurement related to culture and the arts. The funding organization shall then inspect the quality, progress, and other matters related to the procurement.

The juridical person or group is duty-bound to provide the aforementioned information for inspection, and this shall be indicated in the funding contract or related regulations by the funding organization.

The funding organization may invite relevant organizations to appoint representatives or scholars and experts to conduct the inspection.

#### **Article 12**

Where the following occur regarding a juridical person or group that has received funding to engage in procurement related to culture and the arts, the funding organization shall, depending on the severity of the infraction, rescind, cancel, or penalize in part or in whole the funding award. Where funding has already been remitted, a written administrative penalty may be levied and a demand for repayment within a specified time given. Where funds are not remanded within the given time, the case may be transferred for administrative actions addressing:

- Funding goals as in Article 4 not being met, or where the funding organization has otherwise ruled;
- Recusal as addressed in Paragraph 1 and 2 of Article 9 not being abided by;
- Information not being provided as per Article 10;
- The provisions of the preceding article not being met, and where the funding recipient evades, obstructs, or refuses the inspection or review of the funding organization.

Funding-related regulations shall state clearly the reasons to be given for the cancellation or rescinding of funding as per the preceding Article.

#### **Article 13**

These Regulations shall be effective as of the date of their promulgation.