



## National Endowment for the Arts

# General Terms & Conditions

for

## Partnership Agreements

May 2015

### Grants & Contracts Office

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## Important Information Regarding Accepting a National Endowment for the Arts Award

### 1. Applicability

- 1.1 The *General Terms & Conditions for Partnership Agreements* (Partnership General Terms or Partnership GTCs) apply to grants (also referred to as awards), that the National Endowment for the Arts (Arts Endowment or NEA) issues to State Arts Agencies (SAAs) and Regional Arts Organizations (RAOs) to conduct activities under the State & Regional Partnership Program.
- 1.2 These Partnership GTCs implement Title 2 of the Code of Federal Regulations (2 CFR) *Subtitle A-Office of Management and Budget Guidance for Grants and Agreements Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance, or Part 200). The NEA has adopted the Uniform Guidance through regulation at 2 CFR 3255.1. The Uniform Guidance compiles and streamlines eight former OMB Circulars that governed Federal grants management.
- 1.3 The Partnership GTCs are also based on the NEA's legislation and established policies, along with other Federal statutes, regulations, and Executive Orders that apply to grants and cooperative agreements. Award recipients must be familiar with and comply with these requirements.

**NOTE:** Many citations for statutes and regulations are included in these Partnership GTCs. In most cases, more expansive information can be found at the citation location.

- 1.4 When applicable, Specific Terms & Conditions may be included with your award. Should there be inconsistency between requirements, the Specific Terms & Conditions supersede the Partnership GTCs.
- 1.5 If you are making awards using NEA or matching funds, you are considered a "pass-through entity" as defined by 2 CFR 200.74 and the awards you make using these funds are considered subawards. The particular requirements that apply to you in your role as a pass-through entity (e.g. a subgrantor) of Federal or matching funds, and the subrecipient entities who receive such awards, are noted throughout these Partnership GTCs and also defined in detail in Sections 23 and 24, and Appendix B.

**If you are using Federal funds – or funds allocated to meet the required cost share or match for the NEA award – for a subaward, you must inform subrecipients that they must comply with these mandates.**

- 1.6 For the purposes of these Partnership GTCs, the term "project" is intended to include activities carried out as part of the state or regional arts plan that was approved as part of your Partnership Agreement. These activities may include your own administration, programs and initiatives you manage (e.g. Poetry Out Loud, Arts Education, Folk and Traditional Arts activities, etc.), as well as any subgranting activity supported with Federal or matching funds.
- 1.7 We encourage you to report broadly in your Final Descriptive Report on all state or regional arts plan activity that took place during the period of performance for this Agreement, however, your payment requests and Federal Financial Report should reflect only the portion/elements of the plan that are allowable under these Partnership GTCs.

**You are responsible for ensuring that only allowable activities and costs, aligned with your Partnership Agreement Award and associated match, are reflected in your approved project budget and in financial reports for this award.**

## **2. Your Responsibilities**

In accepting an Arts Endowment award, your organization assumes legal, financial, administrative, and programmatic responsibility for administering the award in accordance with any provisions included in the award; the statutes, regulations, and Executive Orders governing Federal financial assistance awards; and these Partnership GTCs, all of which are hereby incorporated into your award by reference. While we may provide you with reminders regarding award requirements, the absence of receiving such notice does not relieve you of your responsibilities.

**Submission of a Request for Advance or Reimbursement (payment request) form constitutes your agreement to comply with all the terms and conditions of the award.**

Failure to comply with these requirements may result in suspension or termination of the award and our recovery of funds. In addition, the United States has the right to seek judicial enforcement of these obligations.

## **3. Acknowledgment of Arts Endowment Support and Disclaimer**

Acknowledgment of the National Endowment for the Arts must be prominently displayed in all materials and announcements related to Partnership Agreement activities for the duration of the period of performance for this award.

- 3.1** For print materials, a phrase acknowledging support from the National Endowment for the Arts is a basic requirement.

In addition, we encourage you to use the [NEA's current logo](#) whenever possible.

- 3.2** For radio or television broadcast, we require the following voice-over language: "This project is supported in part by an award from the National Endowment for the Arts. On the web at arts dot gov." For television broadcast, display of the Arts Endowment logo and web address is required.

- 3.3** We reserve the right to change the language of the required acknowledgement of Arts Endowment support, as well as the right to disallow the use of our logo and acknowledgement of our support.

- 3.4** For more guidance in planning your media campaign, please consult our "[Working with the Media Toolkit](#)" on our Web site.

- 3.5** For additional information about acknowledgement requirements for Partnership Agreement activities, including subawards made with Federal or matching funds, see item 23.14.

## **4. Resources**

Resources to manage your award can be found on our Web site at [www.arts.gov/manageaward](http://www.arts.gov/manageaward), including:

- 4.1 [How to Manage Your NEA Award Handbook](#), includes detailed information about requesting payment, reporting requirements, and how to request changes to your award. However, the Handbook is not a substitute for the Partnership GTCs. Links to the Handbook are also included in the appropriate GTC sections.
- 4.2 General information about your grant, such as when your final reports are due, whether we've received a payment request, and more, is available at [www.arts.gov/mygrant](http://www.arts.gov/mygrant).
- 4.3 Payment request and final report forms, along with step-by-step instructions, plus sample templates for documenting in-kind support and time and effort reporting.
- 4.4 Information specific to Partnership Agreements' application and award cycle, administrative tips, and crediting examples, among other items, can be found in the [State and Regional Program handbook](#).

## 5. Selected Definitions (2 CFR 200.0-99)

The Partnership GTCs use terminology consistent with the Uniform Guidance. Select items that may be new to you are summarized below; see 2 CFR 200.0-99 for additional detail.

Term	Citation	Definition
Authorizing Official		An authorizing official is a person with the recipient organization who has authority to legally and financially bind the organization.
Cognizant agency for indirect costs	200.18	The cognizant agency for indirect costs is usually the Federal agency that provides the most amount of funding on a regular basis to the recipient.
Contract	200.22	A legal instrument by which the recipient purchases goods or services under a Federal award.
Equipment	200.33	Tangible property having a useful life of more than one (1) year, and a per-unit cost equal to or greater than \$5,000. Generally, basic computer devices cost less than \$5,000 and are considered supplies (not equipment) for use and disposition purposes.
De minimis indirect cost rate	200.414	An indirect cost rate of 10% that non-Federal entities, which have never had a Federally-negotiated indirect cost rate agreement, can apply to their award project budget.
Federal Financial Accountability & Transparency Act (FFATA)		Legislation that requires the public reporting of all subawards made with \$25,000 or more in Federal funds as of October 1, 2010.
Federal share	200.43	The portion of award's costs, including administrative, programmatic, or subgrant costs that are paid by Federal funds.
Federal Subrecipient Reporting System (FSRS)		The website ( <a href="http://www.fsr.gov">www.fsr.gov</a> ) where subawards subject to FFATA requirements are reported.
Institutions of Higher Education (IHEs)	200.55	Public, private, and tribal colleges and universities, but excluding for-profit institutions.

<b>Term</b>	<b>Citation</b>	<b>Definition</b>
Modified Total Direct Cost (MTDC)	200.68	Used as a base for applying indirect costs through a Federally-negotiated indirect cost rate agreement, or the de minimis rate. "Modified" means excluding equipment, scholarships, participant support costs, and the portion of each subcontract in excess of \$25,000.
Non-Federal entity	200.69	Any entity that is not the Federal government that carries out a Federal award as a recipient or subrecipient.
Partnership Agreement (aka Partnership grant or award)	NEA Guidelines	Comprises the Federal (NEA) share and the required 1:1 match. The Agreement is intended to cover elements of the overall state or regional arts plan that address priorities identified by the state or region and the NEA. NOTE: It's possible that the Partnership Agreement may not include all activities conducted as part of a state or region's plan. See item 1.7.
Pass-through entity	200.74	A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program. NOTE: This includes all SAAs or RAOs who subgrant NEA or matching funds.
Participant support costs	200.75	Stipend, subsistence, travel allowances and registration fees for conferences or training projects. This does not include employees of the award recipient.
Period of performance	200.77	The start and end date of the award (formerly known as period of support). Only costs and activities incurred during this time period can be charged to the award. NOTE: for Partnership awards, the period of performance for the Federal award must be sufficient to include the period of performance of any subawards made with NEA or matching funds, including any necessary time extensions and required closeout activities.
Prime entity or prime recipient	FFATA OMB guidance (Aug. 27, 2010)	Non-Federal entities that receive a direct Federal award; may also serve as a pass-through entity. (These terms are not included in 2 CFR 200 but have been commonly used in relation to FFATA and FSRS.)
Recipient	200.86	The non-Federal entity that receives a Federal award directly from the Federal agency. In the context of the Partnership Agreement, the recipient is the SAA or RAO. (This is the same as the prime entity or prime recipient referred to in relation to FFATA and FSRS.)
Recipient cost share or match	NEA Guidelines, P.L. 108-108, Nov. 10, 2003 and P.L. 113-76 Jan. 17, 2014	Non-Federal funds that are used to support additional costs for the project. For NEA grants, this means matching the NEA award at a minimum of one-to-one. NOTE: Per NEA legislation, for SAAs, match must come from state government funds that are directly controlled and appropriated by the state and directly managed by the state agency. RAOs may use a variety of sources to meet the required match.
Research & Development (R&D)	200.87	R&D means all research activities, both basic and applied, and all development activities. "Research" is defined as a systematic study directed toward fuller scientific knowledge or

Term	Citation	Definition
		understanding of the subject studied. “Development” is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.
State or Regional Arts Plan	NEA Guidelines	An overall plan that reflects the SAA/RAO’s mission and goals, as well as action plans to implement arts-related programs and services during the fiscal year for which funds are requested.
Source documentation (Financial Management)	200.302(3)	Documentation that provides evidence that expenditures were incurred and paid during the approved period of performance. Documentation includes receipts, invoices, contracts, as well as copies of cancelled checks, transaction reports, bank statements, charge/debit card statements, and in-kind contribution reports.
Subaward	200.92	An award provided by a pass-through entity (e.g. the SAA or RAO) to a subrecipient to carry out a project or activity identified as part of the Federal award. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.
Subrecipient	200.93	A non-Federal entity that receives a subaward from a pass-through entity (the SAA or RAO) to carry out a project or activity identified with the Federal program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
Supplies	200.94	Tangible items costing less than \$5,000. Generally a basic computer device costs less than \$5,000 and is considered a supply for use and disposition purposes, regardless of the length of its useful life.
Unique Entity Identifier	2 CFR 25	Currently a Dun & Bradstreet number (DUNS) is used as the unique entity identifier for applying for, and obtaining, Federal funds.
Unrecovered indirect cost	200.306(c)	Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could be charged to the Federal award under the non-Federal entity's approved negotiated indirect cost rate.
Voluntary cost share	200.99	Cost sharing specifically pledged on a voluntary basis in the proposal's budget or the Federal award on the part of the non-Federal entity and that becomes a binding requirement of Federal award.

## 6. Required Registrations (2 CFR 25.200)

Organizations (including subrecipient organizations, per item 23.3) are required to have a unique entity identifier (currently a Dun & Bradstreet number, or DUNS) that reflects the organization's legal name and current, physical address. SAAs and RAOs (but not subrecipient organizations) must also maintain an active registration—based on the DUNS provided in the application—in the System for Award Management

(SAM.gov), from application submission through award closeout. (See the [Handbook](#) for more information about registering and renewing in SAM.)

**Per 23.3, you may only make subawards to entities who have a valid DUNS number; however, subrecipient organizations are not required to register in the System for Award Management (SAM) to receive a subaward.**

## **7. Conflicts of Interest (2 CFR 200.112, 200.318) and Criminal Disclosures (200.113)**

- 7.1** You must have written conflict of interest policies that ensure that all employees, board members, officers or agents engaged in the selection, award, and administration of grants or contracts, avoid conflicts as described in 2 CFR 200.318.
- 7.2** You must also notify us of any violations of Federal criminal law involving fraud, bribery, or gratuity violations that potentially affect the Federal award, as noted in 2 CFR 200.113. See 2 CFR 32.3254 for more information.

## **8. Statutory and National Policy Requirements (2 CFR 200.300)**

You are responsible for complying with all requirements of the Federal award, including those based on:

- 8.1** Arts Endowment Enabling Legislation. You are required to execute your project, (e.g., productions, workshops, programs, etc.) in accordance with the Arts Endowment's enabling legislation that requires "artistic excellence and artistic merit."
- 8.2** National policy requirements. You are required to adhere to all national policy requirements as outlined in **Appendix A**, including but not limited to those protecting public welfare, the environment, and prohibiting discrimination.

## **9. Financial Management (2 CFR 200.302) and Internal Controls**

- 9.1** Your financial management systems must meet standards described in sections 200.302(b)(1) through (b)(7), including:
  - 9.1.a** Accurate identification of Federal award data, financial results, and the ability to provide source documentation upon request.
  - 9.1.b** Written procedures for determining the allowability of costs and for managing payments.
- 9.2** You must establish and maintain effective internal control over your award that provides reasonable assurance that you are managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award. See recommended compliance documentation (2 CFR 200.303).



## **10. General Procurement Standards (2 CFR 200.317-.326)**

- 10.1** You must use your own documented procurement standards, which reflect applicable State and local laws and regulations, when procuring property and services under a Federal award.
- 10.1.a** You should have written procedures to ensure that contractors or recipients are not debarred or suspended prior to the payment or award of Federal funds (2 CFR 180 Subpart C).
- 10.1.b** In addition, your procurement contracts must contain provisions as described in [Appendix II](#) to Part 200—Contract Provisions for non-Federal Entity Contracts under Federal Awards.
- 10.2** You may be able to take advantage of the flexibilities found by using procedures for micropurchases (2 CFR 200.320(a)), which have a current threshold of \$3,000 or less, and small purchases (2 CFR 200.320(b)), which have a current threshold of \$150,000 or less (Simplified Acquisition Threshold).
- 10.3** We may ask to review your procurement policy, plans, and other documents such as requests for proposals and independent cost estimates (2 CFR 200.324).

## **11. Cash Management Standards (2 CFR 200.305)**

- 11.1** For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.
- 11.2** For RAOs, you must have written procedures to minimize the time elapsing between the receipt and the disbursement of award funds to avoid having excessive Federal funds on hand; requests for advance payment are limited to your immediate cash needs and are not to exceed anticipated expenditures for a 30-day period (200.305(b)(1)).
- 11.3** Payments may be withheld (200.305(6)) if:
- 11.3.a** You have failed to comply with the terms and conditions of the award, including any Federal statutes or regulations,
- 11.3.b** You are delinquent in a debt to the United States, or,
- 11.3.c** You are withholding payment to contractors to assure satisfactory completion of work on the award.

## **12. Cost Sharing or Matching Requirements (20 USC 954(e) and 2 CFR 200.306)**

- 12.1** Unless otherwise stated in your grant award document or cooperative agreement, Arts Endowment funds cannot exceed 50 percent of the total cost of the Arts Endowment-supported project (i.e., funds must be matched one-to-one, or "dollar for dollar"). This required cost share, or match, refers to the portion of project costs not paid by Federal funds.

Per the NEA's legislation, SAAs must match the Federal award with state government funds that are directly controlled and appropriated by the state and directly managed by the state agency. Note: all Partnership Agreement funds must be used to supplement and not supplant non-federal funds.

RAOs may use a variety of sources to meet the required match, including donations, non-Federal grants and other revenue.

Funding amounts are designated for program components (e.g. Poetry Out Loud, Arts in Underserved communities, or Regional Touring.) Designated funding must be used for these activities; however, you are not required to match individual component amounts.

**Costs supported by both the NEA funds and matching funds, including any voluntary cost share, must conform to all the requirements of the Federal award (2 CFR 200.306(b)). See item 13 for more detail.**

- 12.2** Use of In-kind (or Third-Party) Contributions (2 CFR 200.306(d-j)). If you include in-kind, third-party (i.e., not your own) contributions as part of your cost share or match, they must also be included as direct costs in your project budget so we can determine their allowability, and reflected as such in your accounting records. Volunteer and donated goods and services, property or space must be documented and their fair market value determined per the guidance.

**SAAs may not use in-kind contributions to meet the minimum matching requirements for the Partnership Agreement.**

- 12.3** Use of Unrecovered Indirect Costs for Cost Sharing or Matching (2 CFR 200.306(c)). Unrecovered indirect costs may be included as part of the match for an award if you have a current indirect (or Facilities & Administrative/F&A) cost rate with a Federal agency or an approved, statewide cost allocation plan.

- 12.4** Use of Program Income (2 CFR 200.307).

**12.4.a** Income earned during the period of performance that results from activities supported through an Arts Endowment award is considered to be program income. These earnings can include, but are not limited to, income from fees for services, admission fees, or the use or rental of property (space, equipment, etc.)

**12.4.b** Per 2 CFR 200.307(e)(3) and (f), the NEA allows program income to be used as part of the cost share or match for an award, for additional costs of the Arts Endowment-supported project, or for other eligible projects in the arts conducted by your organization.

**SAAs may not use program income to meet the minimum matching requirements for the Partnership Agreement.**

- 12.5** Ineligible Matching Resources. These items are not eligible to meet your cost share or matching requirement:

**12.5.a** Other Federal funds, including other NEA funds (2 CFR 200.306(b)(5)).

- 12.5.b** Resources that have been used to match another Arts Endowment award or other Federal program (2 CFR 200.306(b)(2)).
- 12.5.c** Contributions or gifts provided to your organization that are restricted and cannot be used to support the project.
- 12.5.d** Gifts (bequeathed or otherwise) which are not available to your organization during the award period of performance.

**SAAs may not use subrecipient matching funds to meet the minimum matching requirements for the Partnership Agreement.**

### **13. Cost Principles**

- 13.1** The allowability of costs for work performed under your NEA award, including costs incurred under subawards made with Federal or matching funds, is determined in accordance with the NEA Partnership program guidelines and GTCs and the [Uniform Guidance Subpart E—Cost Principles](#). All costs included in the approved project budget or reported on payment requests and financial reports for the award, whether supported with Federal or required matching funds or any voluntary cost share, must be:
  - 13.1.a** Necessary and reasonable for the performance of the Federal award
  - 13.1.b** Allocable and in conformance with these cost principles
  - 13.1.c** Consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the non-Federal entity
  - 13.1.d** Accorded consistent treatment as either a direct or indirect cost
  - 13.1.e** Determined in accordance with generally accepted accounting principles (GAAP)
  - 13.1.f** Not included as a cost or used to meet cost sharing or matching requirements of any other Federally-financed program
  - 13.1.g** Adequately documented

**Where the determination of cost allowability differs, the NEA guidelines and Partnership GTCs (and any Specific Terms & Conditions, as appropriate) take precedence over the Uniform Guidance.**

### **13.2 Selected costs and their allowability under Partnership Agreements.**

- 13.2.a** Costs associated with Foreign nationals and artists compensation, including traveling to or from foreign countries, when those expenditures are not in compliance with regulations issued by the [U.S. Treasury Department Office of Foreign Assets Control](#), are **unallowable**.

- 13.2.b** Visa costs that are paid to the U.S. Government (P.L. 109-54, Title III General Provisions, Sec. 406) are **unallowable**; however, the cost of preparing material (legal documentation, etc.) for submission is allowable.
- 13.2.c** Costs associated with subawards made to ineligible recipients are **unallowable**. See items 23.2 and 23.3 for more detail.
- 13.2.d** Funding cash reserve or endowment accounts or instruments is **unallowable**.
- 13.2.e** Construction and renovation-type projects—e.g., accessibility-related construction and renovation, substantial exhibition design, the installation of climate control systems for a museum, etc., are **allowable**. These projects that involve construction labor must comply with the provisions of the Davis-Bacon Act as outlined in Appendix A.
- 13.2.f** Support to individual artists **may be allowable** if the award funds programs and activities and is not a one-time monetary recognition award. Awards to individuals should include presentations, training, research, and/or creation of an artwork, with tangible outcomes required by the subaward. This is considered a stipend to the artist for the work undertaken and completed.
- i. Because neither the NEA Partnership Agreement funds nor the matching funds can support a fellowship solely as an honorific, costs for this type of award program must not be included in the Partnership Agreement budget.

**13.3** Updates and Clarifications of selected items of cost that have been clarified or updated in Part 200 include:

- 13.3.a** Conferences (2 CFR 200.432). Costs of conferences (including meetings, seminars, workshops or other events whose primary purpose is dissemination of technical information), are still **generally allowable**, however:
- i. Conference sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed in a manner that minimizes costs to the Federal award.
  - ii. Costs associated with activities that generally occur at a closing meal, or a reception at the end of the working day, are **unallowable**. These activities usually have alcohol associated with them and/or are of a social nature, which is prohibited under Federal awards (see also 13.3.b. Entertainment.)
- 13.3.b** Entertainment (2 CFR 200.438). Costs of entertainment, including amusement and social activities such as receptions, parties, galas, dinners, etc., and any associated costs including catering, alcohol, planning, staffing, supplies, etc. are **unallowable**. However:
- i. Specific costs that might otherwise be considered entertainment have a programmatic purpose **may be allowable** if authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

**13.3.c** Fundraising (2 CFR 200.442). Some fundraising costs that were previously unallowable may now be included. For example, a percentage of salary and fringe benefit costs (incurred within the

period of performance) for development or fundraising staff or contractors who raise funds to implement the NEA project is **allowable**. However:

- i. Salaries or contracts for general fundraising activities or events, including those for donors, or that benefit the organization as a whole, are **unallowable**.
- ii. Costs associated with fundraising activities such as galas, parties, or other events, where alcohol is available, are **unallowable** (see also 13.3.b Entertainment.)

**13.3.d** Home Office Workspace (2 CFR 200.465(c)(6)). The rental of any property owned by any individuals or entities affiliated with the award recipient for purposes such as the home office workspace is now **unallowable**.

**13.3.e** Indirect (Facilities & Administration or F&A) Costs (2 CFR 200.414). Indirect costs may be claimed based on:

- i. A current and appropriate indirect cost rate agreement negotiated with your Federal Cognizant Agency. (Note that research rates can only be used on NEA Art Works-Research awards.) Or,
- ii. A de minimis rate. Starting with FY15 awards, an organization that has never received a negotiated indirect cost rate may opt to charge a de minimis rate of 10% on modified total direct costs (2 CFR 200.414 (f)). To claim this, you must include it in your budget request, and it must be approved by us. States who wish to claim the de minimis rate must also not receive more than \$35 million in direct Federal funding during a fiscal year.
- iii. An official statewide cost allocation plan (2 CFR 200.416).

NOTE: You cannot claim both overhead or administrative costs and indirect costs.

More information about indirect costs for an NEA award can be found in the [How to Manage Your NEA Award Handbook](#).

**13.3.f** Goods for resale. Costs of goods for resale are **unallowable**. This includes the sale of concessions, promotional merchandise, or items purchased to sell, even if related to your programming. It also includes any associated staffing or facilities costs.

- i. Costs of items that are required to be produced as part of the approved project activity (e.g. publications, such as journals or exhibit catalogs, or recordings, such as orchestra concert CDs) and that are incurred during the period of performance are allowable.

## 14. Travel

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are on official business attributable to work under an award and in accordance with your entity's written travel reimbursement policies.

**14.1** Any airfare charged to the award, whether domestic or foreign, may not exceed the value of the basic least expensive unrestricted accommodations class offered by a commercial carrier (2 CFR 200.474(d)).

**14.2** Fly America Act (41 CFR 301-10.131 through .143)

**14.2.a** You are required to follow the provision of the Fly America Act. The regulations regarding the Fly America Act are available at 41 CFR 301-10.131 through .143. Any air travel paid in whole or in part with NEA funds must be on a U.S. flag air carrier or a foreign air carrier under an air transport agreement (code share agreement) with the United States when these services are available.

**14.2.b** For travel under an air transport agreement (code share agreement) the ticket, or documentation for an e-ticket, must identify the U.S. flag carrier's designator code and flight number, e.g. American Airlines (AA) 1606 operated by Air France.

**14.2.c** There are some exceptions to the Fly America Act, see 41 CFR 301-10.135 through 10.138. If you do use a foreign air carrier you must provide us with a certification, including a justification as to why your travel met one of the exceptions. We may request additional information if necessary.

**NOTE:** Lower cost, convenience, or traveler preferences are NOT acceptable reasons for using a foreign air carrier.

**14.3** Foreign Travel. Foreign travel is defined as any travel outside Canada, Mexico, the United States, and its territories and possessions. The Grants & Contracts Office must give written approval for all foreign travel not originally approved in your award before travel is undertaken.

**NOTE:** While travel requests to Mexico and Canada that are project related, allocable, and allowable do not require prior written approval from the Arts Endowment before being undertaken, the Fly America Act does apply.

## **15. Changes in Your Project: Amendments (2 CFR 200.308)**

**15.1** You are required to carry out a project consistent with the application or proposal approved for funding by the Arts Endowment. Amendment requests are considered on a case-by-case basis, and approval is not guaranteed. Until you receive written approval from the Grants & Contracts Office, you may only incur costs consistent with the terms and conditions of the award in effect at the time of your request.

Detailed information about how to request an amendment can be found in the [How to Manage Your NEA Award Handbook](#).

**15.1.a** We have the right to request additional information, such as an update on specific activities including a revised budget or an itemized list of actual expenditures, as needed.

**15.1.b** If your organization is undergoing an audit by the Arts Endowment's Inspector General's office, amendments of the award(s) in question will not be approved independent of the audit resolution process.

**15.2** The following types of amendments **must be requested** in writing:

**15.2.a** Period of performance changes. This may include a new start date (no earlier than the earliest allowable start date per the guidelines), as well as an end date extension. NOTE: NEA funds can only be used to support activities related to the approved state or regional arts plan of the fiscal

year for which your award has been made. Funds may not be rolled over for use in subsequent fiscal years' programs. Federal funds that are returned or refunded to you by a subrecipient may only be used for similar purposes within the original period of performance or under the original funding opportunity. Extensions will not be granted to allow for the re-allocation of unobligated or returned funds. (If your State legislation conflicts with these Partnership GTCs, please contact us as soon as possible.)

**15.2.b** Final report filing extension. This may include the Final Descriptive Report, Federal Financial Report, and/or a required work product.

**15.2.c** Project scope changes. These may include changes to the approved activities or focus of content, significant changes in targeted participants, and changes in the breadth or impact of. These also include changes in artists or key partners, if they were specifically identified as confirmed in the application.

**15.2.d** Budget Revisions.

- i. Budget changes due to a change in the scope of the Arts Endowment-supported project.
- ii. Adding permanent equipment.
- iii. Adding foreign travel.
- iv. Adding indirect/F&A costs allowable under a Federally-negotiated rate.

**15.3** The following changes do not require written approval from us:

**15.3.a** Changes in organizational management/project administration (unless specified in your award document).

**15.3.b** Changes in artists, participants, or project partners that were not identified specifically in the approved project. (This is common with festivals.)

**15.3.c** Addition or removal of auxiliary programming as long as it does not impact the overall project scope.

**15.3.d** Changes in project venues or touring locations, as long as all project locations are fully accessible in compliance with Section 504 and the ADA.

**15.3.e** Transfers among direct cost line items.

**15.3.f** Elimination or addition of an allowable project cost that does not affect the scope of the award.

**15.3.g** For RAOs, replacement of in-kind match with cash match or other changes in match sources, as long as they meet all other cost share requirements.

**You are not required to request approval for adjustments to the amount of voluntary cost share you ultimately choose to allocate to your Partnership Agreement so long as all of the activities and costs claimed are otherwise in compliance with these Partnership GTCs.**

## 16. Performance and Financial Reporting (2 CFR 200.327-328)

Your grant package includes a Reporting Requirements overview document, which outlines the reporting requirements for your award. More information can be found in the [How to Manage Your NEA Award Handbook](#). **Report forms and instructions are on our Website.**

- 16.1. Progress Report** (20 USC 954(j)). A progress report is required once the cumulative amount of funds requested exceeds two-thirds of the award amount. No NEA funds can be released until this report has been approved.
- 16.2 Specific Reporting Requirements** (2 CFR 200.207). We may require you to submit certain information before funds can be released (e.g., verification of compliance with NEPA/NHPA requirements, a signed contract, copyright release, an itemized list of actual expenditures to date, etc.) or at other times during the project. These Specific Terms will be included in your award package when applicable.
- 16.3 Final Reports** (2 CFR 200.343). To close out your award you must submit the following no later than 90 days after the period of performance end date:
- 16.3.a** A Final Descriptive Report (FDR) that provides us with information on the performance of your award activities and associated data,
- 16.3.b** A Federal Financial Report (FFR), and,
- 16.3.c** Any required work product(s) as identified in your Reporting Requirements overview document and/or your award notice.
- 16.4** Failure to submit the required final reports for any award(s) renders you ineligible to receive funding for five (5) years following the final report due date of the award(s) or until the delinquent final reports are submitted, whichever occurs first. Acceptability of final reports and/or regularly submitting reports after the final report deadline may also affect eligibility for new awards.
- 16.5** In addition, failure to submit required final reports within 210 days after the period of performance end date will result in the withdrawal of any funds remaining on that award and closeout of the award.

## 17. Property Standards: Use and Disposition

- 17.1** Property may include art work that you have been approved to commission, purchase, or fabricate under the NEA award. Unless otherwise specified, you will have title to this property, without further obligation to the Federal government, provided that it will be used for similar activities. One example of similar activity is selling the work to another museum or visual art center with the intention that it will be available to the public. It may not be de-accessioned to a private collector where it would no longer be on view to the public.
- 17.2 Equipment** (2 CFR 200.313) includes tangible, nonexpendable, personal property having a useful life of more than one (1) year that costs \$5,000 or more per unit that you have been approved to purchase under the NEA award. Unless otherwise specified, you will have title to equipment commissioned, purchased, or fabricated under the award, without further obligation to the Federal government, provided that it will be used for activities similar to those approved by us. Items of equipment with a



current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to the NEA (2 CFR 313(e)(1)).

**17.2.a** A state must use, manage, and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures (200.313(b)).

**17.2.b** You are encouraged, whenever possible, to purchase American-made equipment in accordance with the "Buy American Act" (41 USC 8301-8305).

**17.3** Supplies (2 CFR 200.314) include computing devices (2 CFR 200.453). If there is a residual inventory of unused supplies, including computing devices purchased for \$5,000 or less per unit, you may retain them without further obligation to the Federal government, provided that it will be used for activities similar to those approved by us.

**17.4** Intangible Property (2 CFR 200.315).

**17.4.a** You may copyright any material that is subject to copyright and was developed, or for which ownership was acquired, under the NEA award during the period of performance. For procedural information, contact the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov).

**17.4.b** We reserve a royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use work, as well as data, produced under a Federal award for Federal government purposes. We also have the right to authorize others to do the same (2 CFR 200.315 (d) and (e)).

**17.4.c** Library of Congress Cataloging in Publication Data. We strongly recommend that any publication that results from this award be cataloged by the Cataloging in Publication Program of the Library of Congress before final printing. This method of cataloging enables libraries to acquire and process books quickly. Publishers ineligible for this program may be eligible for the Library's Preassigned Control Number Program. Entering these titles in a national bibliographic database leads to greater dissemination of publications. For procedural information, contact the Library of Congress, <http://www.loc.gov/publish/cip/>.

## **18. Record Retention (2 CFR 200.333) and Access**

**18.1** Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final Federal Financial Report (FFR).

Exceptions include if litigation, claim, or audit is started before the expiration of the three-year period, or if we notify you in writing to extend the retention period.

**18.2** Standards for Documentation of Personnel Expenses (2 CFR 200.430(i)(1)). Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. The records must comply with your organization's internal controls and established accounting policies. Records must support these costs for both the Federal funds and cost share or matching requirements. We may require personnel activity reports or equivalent documentation if necessary (2 CFR 200.430(i)(8)).

**18.3** Records for equipment must be retained for three (3) years after final disposition (2 CFR 200.333(c)).

#### **18.4 Access to Federal award information.**

**18.4.a** During the period of performance and the subsequent retention period, the NEA's Inspector General, the Comptroller General of the United States, or any of our authorized representatives has the right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to your personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but last as long as records are retained (2 CFR 200.336).

**18.4.b** Federal award-related information should be collected and stored in open and machine-readable formats whenever practicable (2 CFR 200.335). In addition, restrictions on public access are generally limited to protected personally identifiable information (PII) and other FOIA and applicable exemptions (2 CFR 200.337).

### **19. Noncompliance**

**19.1 Remedies (2 CFR 200.338).** If you fail to comply with Federal statutes, regulations, or the terms and conditions of our award, we may impose additional conditions, as described in 2 CFR 200.207. If we determine that noncompliance cannot be remedied by imposing additional conditions, we may take one or more of the following actions, as appropriate in the circumstances:

**19.1.a** Temporarily withhold cash payments pending correction of the deficiency, or more severe enforcement action.

**19.1.b** Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

**19.1.c** Wholly or partly suspend or terminate the NEA award.

**19.1.d** Initiate suspension or debarment proceedings as authorized under 2 CFR 180 and our regulations at 2 CFR 32.3254.

**19.1.e** Withhold further NEA awards.

**19.1.f** Take other remedies that may be legally available.

**19.2 Termination (2 CFR 200.339).** There are circumstances under which we may determine that it is in the best interest of the government to terminate an award. Awards may be terminated in whole or in part:

**19.2.a** By us if you fail to comply with the terms and conditions of a Federal award;

**19.2.b** By us for cause;

**19.2.c** By us with your consent, in which case we will agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

**19.2.d** By you upon sending us written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if we determine that the reduced or modified portion of the award will not accomplish the purposes for which it was made, we may terminate the award in its entirety.

**19.3** We reserve the right to take additional actions such as requiring you to return a portion or all of the award funds, requesting that you remove acknowledgement of Arts Endowment support, recommending government-wide suspension, or taking other legally available remedies. You will be notified of such actions and be given an opportunity to provide information and come into compliance.

**19.4** Government-wide suspension and debarment will follow a process in conjunction with our Office of Inspector General (2 CFR 200.341).

## **20. Closeout, Adjustments, and Continuing Responsibilities (2 CFR 200.343-344)**

Upon receipt and approval of all final reports, the agency will close out your award. Any unused Federal funds shown on the final Federal Financial Report (usually in line 10.h) will be deobligated. We will also closeout a Federal award without final reports. See **16.4** and **16.5**. In either case, after 210 days from the period of performance end date, funds will no longer be available.

**20.1** If you need to return NEA funds that you are not using, or you are not going to draw down all of the NEA award funds, follow the instructions in the [How to Manage Your NEA Award Handbook](#).

**20.2** The closeout of a Federal award does not affect any of the following:

**20.2.a** Our right to disallow costs and recover funds on the basis of a later audit or other review within the record retention period.

**20.2.b** Your obligation to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

**20.2.c** Audit requirements if you must have a Single or Program-Specific Audit (see below).

**20.2.d** Records retention as required in 2 CFR 200.333.

## **21. Audit Requirements (2 CFR 200.501)**

The threshold for requiring a Single Audit or Program-specific audit is \$750,000 in yearly expenditures of Federal funds. This amount is the aggregate of funds from all Federal sources. The percentage of costs related to your NEA award that would be included in this audit may be allowable.

If you have questions about a Single Audit, contact the Office of Inspector General at [oig@arts.gov](mailto:oig@arts.gov) or (202) 682-5402.

## 22. Subgranting Federal or Matching Funds

An NEA subgrant is an award made by an NEA grantee (sometimes called the "prime" or "direct" recipient) using Federal and/or matching funds. A subgrant exists when funds are re-granted to an eligible non-Federal entity for activities conducted independently of the direct award recipient and for the benefit of the subrecipient's program objectives. A subgrant recipient is neither directly employed by nor affiliated with the direct award recipient. A subgrant relationship could exist even if you call the grant agreement a contract. If you are approved to make subawards as part of your Partnership award, you are considered a "pass-through" entity per the definition provided in Part 200, and you must also comply with the requirements for monitoring and management of all subrecipients who receive awards comprised of Federal and/or matching funds as described below.

All subawards must be made in accordance with the approved state or regional art plan, for funding opportunities planned under the fiscal year for which support has been awarded.

NOTE: If subawards are made for further subawarding activity, the subrecipient becomes a pass-through entity as defined by 2 CFR Part 200 and must comply with all of the provisions of items 23 and 24.

## 23. Requirements for Subawards made under a Partnership Agreement

Both the NEA's enabling legislation and the Uniform Administrative Requirements (2 CFR Part 200) include requirements for subawards that are made under a Federal award. You must abide by, or implement, all of the items below if you are making subawards with NEA or matching funds. Any subrecipients who make further subawards using NEA or matching funds must also comply with these requirements.

Suggestions for appropriate materials through which this information could be conveyed are provided below. It is especially important that certain items are included in your program guidelines (e.g. the announcement of a funding opportunity), so that potential applicants understand the requirements and are prepared to comply if they are selected for an award.

As a reminder: the NEA does not prescribe how Federal/matching funds must be allocated; you may choose to apply them to a small number of subawards or spread them in smaller amounts more widely. It is up to you to determine the method that allows for the fullest compliance with the requirements outlined below.

	<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location options</b>
<b>23.1</b>	<u>Review Criteria</u> . In accordance with the Arts Endowment's enabling legislation, you must include "artistic excellence and artistic merit" in the review criteria used to make the subgrant awards.	20 USC Sec. 951 et seq. (also found in the NEA Partnership Guidelines)	Guidelines (Funding announcements)  Panelist/staff review instructions
<b>23.2</b>	<u>Eligible Organizational Subrecipients</u> . Only 501(c)(3) nonprofit organizations, units of state or local government, institutions of higher education, or Federally-recognized Indian tribal governments are eligible to receive funds subgranted through an Arts Endowment award.	20 USC Sec. 954(f)	Guidelines (Funding announcements)

	<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location options</b>
<b>23.3</b>	Eligible Individual Subrecipients. See <b>13.2.f</b> for information about awards to individuals.		
<b>23.4</b>	<u>Unique entity identifier</u> . You may not make a subaward to an eligible organization (entity) without a unique entity identifier, currently a DUNS number. Thus, you must notify potential subrecipients that they cannot receive a subaward from you unless they provide a valid DUNS number. (Individuals receiving subawards do not need to have a DUNS number.)	2 CFR 25 Appendix A I.B.	Guidelines (Funding announcements) Application form Award notification
<b>23.5</b>	<u>Review of Risk</u> . You must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward and consider imposing specific subaward conditions if appropriate.	200.331(b), (c), and (e)	Guidelines (Funding announcements) Panelist/staff review instructions Terms & Conditions
<b>23.6</b>	<u>Acceptance of Federally-recognized indirect cost rates</u> . Unless you have noted otherwise in your funding opportunity notice (e.g., guidelines), you must accept an approved indirect cost rate negotiated between the subrecipient and the Federal Government. Note: the reasons for the disallowance of indirect costs must be based on a legislative requirement or because the funding opportunity is restricted to direct costs only (e.g. artist fees), not agency preference. If no such rate exists, you can negotiate your own rate with the subrecipient in compliance with this part, or accept a de minimis indirect cost rate of 10% of modified total direct costs.	200.331(a)(4)  200.414(f)	Guidelines (Funding announcements) Terms & Conditions
<b>23.7</b>	<u>Identification of Federal or matching funds</u> . You must identify if the subaward is comprised, in whole or in part, of Federal funds or funds that are used to meet the minimum required match for the Federal award. You must also identify the Federal Awarding Agency and provide other required information as outlined in Appendix B. NOTE: 200.331 requires that this information is conveyed at the time the subaward is made, when/if any of these data elements change, or in a subsequent subaward modification. If this information is not available at the time the subaward is made, you must provide the best information available to describe the Federal award and subaward and provide updates to the subrecipient as necessary upon the receipt or disbursement of Federal or matching funds.	200.331(a)(1)	Award notification Other appropriate documentation related to the subgrant

	<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location options</b>
<b>23.8</b>	<u>Other Federal requirements.</u> You must inform the subrecipient of any other Federal requirements that "flow down" as outlined in <b>Appendix A.</b> (See item <b>24</b> for more detail.)	200.101(b)(1)	Guidelines Terms & Conditions
<b>23.9</b>	<u>Monitoring.</u> You must monitor the activities of your subrecipient(s) as necessary to ensure that subawards are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.	200.331(d - h)	SAA/RAO written procedures Terms & Conditions
<b>23.10</b>	<u>Subrecipient Reporting.</u> You may impose additional requirements on the subrecipient to meet your own responsibility to us, including any required financial and performance reports. You must also keep subrecipients' report submissions on file for three years after the date you submit your Federal Financial Report to the Arts Endowment.	200.331(a)(3)	Guidelines Award documents Terms & Conditions
<b>23.11</b>	<u>FFATA Reporting.</u> As required by the Federal Funding Accountability and Transparency Act (FFATA), you must report any subawards that include \$25,000 or more in <b>Federal</b> funds through the Federal Subrecipient Reporting System at <a href="http://www.frs.gov">www.frs.gov</a> .	2 CFR 170	SAA/RAO's written procedures
<b>23.12</b>	<u>Record Retention and Access.</u> You must inform subrecipients that they must permit you and your auditor access to their records and financial statements as necessary for you to ensure compliance with the Federal award requirements. See item 18 for more detail.	200.331(a)(5) and 200.333	Guidelines Award documents Terms & Conditions
<b>23.13</b>	<u>Closeout.</u> All subawards made with Federal or matching funds must be closed out (including submission and approval of all subrecipient final reports and disbursement of all Federal and matching funds) prior to closing out your Federal award.  If you extend a subgrant to allow a subrecipient more time to complete the activities for which the subaward was made, the period of performance for the prime award must also be extended accordingly. However, subawards that encounter significant delays should (unless required to meet the match) be removed from the scope of the NEA award to avoid continued delays in closing out the Federal award.	200.77 and 200.331(a)(6)	Terms & Conditions
<b>23.14</b>	<u>Acknowledgement.</u> You must provide subrecipients with requirements for acknowledging the NEA and State support. Crediting language should specify the supported program/activity being supported by the Partnership award, and subrecipients should be	NEA policy	Terms & Conditions

	<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location options</b>
	instructed to remove NEA credits from all materials at the completion of their respective grant periods.  Crediting examples can be found in the State and Regional Partnership handbook.		

**24. Flow-through of National Policy and Other Legal Requirements to Subrecipients**

The Federal requirements associated with the NEA award also "flow down" to the subrecipients of Federal funds or funds that are used to meet the required match. Therefore, in addition to informing the subrecipient that they are receiving a Federal subaward, or one that is being used to match a Federal grant, you must provide them with information regarding the National Policy Requirements that are applicable to all Federal awards. These include requirements that prohibit discrimination, ensure accessibility of all facilities and programs funded with Federal monies, provide for the protection of environmental and historic resources, and more.

See **Appendix A** for more detail. All policies outlined here (with the exception of 4. The Drug Free Workplace Act) apply to subawards made with NEA or matching funds.

## **Appendix A: National Policy and Other Legal Requirements, Statutes, and Regulations that Govern Your Award**

**1. Nondiscrimination Policies.** As a condition of receipt of Federal financial assistance, you acknowledge and agree to execute your project (e.g., productions, workshops, programs, etc.) and require any contractors, successors, transferees, and assignees to comply with applicable provisions of national laws and policies prohibiting discrimination, including but not limited to:

**1.a Title VI of the Civil Rights Act of 1964, as amended,** provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Title VI also extends protection to persons with limited English proficiency (42 USC 2000d et seq.)

**1.b** As clarified by **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency**, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. You are encouraged to consider the need for language services for LEP persons in conducting your programs and activities. For assistance and information go to [www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance](http://www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance).

**1.c Title IX of the Education Amendments of 1972, as amended,** provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance (20 USC 1681 et seq.)

**1.d Section 504 of the Rehabilitation Act of 1973, as amended,** provides that no otherwise qualified individual with a disability in the United States shall, solely by reason of his/her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (29 USC 794).

Access should be integrated into all facets and activities of an organization, from day to day operations to long range goals and objectives. Access accommodations and services should be given a high priority and funds should be available for these services. All organizations are legally required to provide reasonable and necessary accommodations for staff and visitors with disabilities.

### **Section 504 - Self-Evaluation and Additional Resources**

- i. A Section 504 self-evaluation must be on file at your organization. To help your organization evaluate its programs, activities, and facilities to ensure full compliance with Section 504 accessibility requirements, the Civil Rights Office has provided you with a "Section 504 Self Evaluation Workbook." The Workbook is located at [www.arts.gov/about/504Workbook.html](http://www.arts.gov/about/504Workbook.html).
- ii. You should designate a staff member to serve as a 504 coordinator. The completed workbook or similar compliance and supporting documentation should be kept on file for a period of three (3) years from the date the Federal Financial Report (FFR) is filed, and made available to the public and the NEA upon request. The NEA may request the 504 Workbook or your compliance documents for various potential scenarios including an Inspector General audit and/or civil rights investigation.



- iii. "Design for Accessibility: A Cultural Administrator's Handbook" provides guidance on making access an integral part of an organization's staffing, mission, budget, and programs. This Handbook and other resources may be downloaded from the Arts Endowment's Web site at [www.arts.gov/accessibility/accessibility-resources/publications-checklists](http://www.arts.gov/accessibility/accessibility-resources/publications-checklists). If you have questions, contact the Office of Accessibility at [accessibility@arts.gov](mailto:accessibility@arts.gov); (202) 682-5532; FAX (202) 682-5715; or TTY (202) 682-5496.

**1.e The Age Discrimination Act of 1975, as amended**, provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (42 USC 6101 et seq.)

**1.f The Americans with Disabilities Act of 1990 (ADA), as amended**, prohibits discrimination on the basis of disability in employment (Title I); State and local government services (Title II); and places of public accommodation and commercial facilities (Title III) (42 USC 12101-12213).

## **2. Environmental and Preservation Policies**

**2.a The National Environmental Policy Act (NEPA) of 1969, as amended**, applies to any Federal funds that would support an activity that may have environmental implications. We may ask you to respond to specific questions or provide additional information in accordance with the Act. If there are environmental implications, we will determine whether a categorical exclusion may apply; to undertake an environmental assessment; or to issue a "finding of no significant impact," pursuant to applicable regulations and 42 USC Sec. 4332.

**2.b The National Historic Preservation Act (NHPA) of 1966, as amended**, applies to any Federal funds that would support either the planning or major renovation of any structure eligible for or on the National Register of Historic Places, in accordance with Section 106. This law also applies to project activities, such as new construction, that would affect such properties. We will consult with your State Historic Preservation Officer, as appropriate, to determine the impact of your plan or renovation on the structure or any affected properties. Any change in your design, renovation, or construction plans must be submitted to us for review and approval prior to undertaking any of the proposed changes. You may be asked to provide additional information on your project to ensure compliance with the Act (16 USC 470).

### **Other National Policies**

**3. Debarment and Suspension.** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR 180, as adopted by the Arts Endowment in 2 CFR 32.3254.

There are circumstances under which we may receive information concerning your fitness to carry out a project and administer Federal funds, such as:

- i. Conviction of, or a civil judgment for, the commission of fraud, embezzlement, theft, forgery, or making false statements;
- ii. Any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
- iii. Any other cause of so serious or compelling a nature that it affects an organization's present responsibility.

In these circumstances, we may need to act quickly to protect the interest of the government by suspending your funding while we undertake an investigation of the specific facts. We may coordinate our suspension actions with other Federal agencies that have an interest in our findings. A suspension may result in your debarment from receiving Federal funding government-wide for up to three (3) years.

**4. The Drug Free Workplace Act** requires you to publish a statement about your drug-free workplace program. You must give a copy of this statement to each employee (including consultants and temporary personnel) who will be involved in award-supported activities at any site where these activities will be carried out.

You must maintain on file the place(s) where work is being performed under this award (i.e., street address, city, state, and zip code). You must notify the Arts Endowment's Grants & Contracts Office of any employee convicted of a violation of a criminal drug statute that occurs in the workplace (41 USC 701 et seq. and 45 CFR 1155).

**5. Lobbying.** You may not conduct political lobbying, as defined in the statutes and regulations listed below, within your Federally-supported project. In addition, you may not use Federal funds for lobbying specifically to obtain awards. For definitions and other information on these restrictions, refer to the following:

**5.1** No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities (18 USC 1913).

**5.2** Lobbying (2 CFR 200.450) describes the cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans as an unallowable project cost. The regulation generally defines lobbying as conduct intended to influence the outcome of elections or to influence elected officials regarding pending legislation, either directly or through specific lobbying appeals to the public.

**5.3** Certification Regarding Lobbying to Obtain Awards. Section 319 of Public Law 101-121, codified at 31 USC 1352, prohibits the use of Federal funds in lobbying members and employees of Congress, as well as employees of Federal agencies, with respect to the award or amendment of any Federal grant, cooperative agreement, contract, or loan. While non-Federal funds may be used for such activities, they may not be included in your project budget, and their use must be disclosed to the awarding Federal agency. Disclosure of lobbying activities by long-term employees (employed or expected to be employed for more than 130 days) is, however, not required. In addition, the law exempts from definition of lobbying certain professional and technical services by applicants and awardees.

We strongly advise you to review these regulations carefully. They are published at 45 CFR 1158, and can be found at [www.gpo.gov/fdsys/](http://www.gpo.gov/fdsys/).

**6. Davis-Bacon and Related Acts (DBRA), as amended**, requires that each contract over \$2,000 to which the United States is a party for the construction, alteration, or repair of public buildings or public works (these activities include, but are not limited to, painting, decorating, altering, remodeling, installing pieces fabricated off-site, and furnishing supplies or equipment for a work-site) must contain a clause setting forth the minimum wages to be paid to laborers and mechanics employed under the contract. Under the provisions of DBRA, contractors or their subcontractors must pay workers who qualify under DBRA no less than the locally prevailing wages and fringe benefits paid on projects of a similar character.

Information about the laborers and projects that fall under DBRA can be found in the Department of Labor's Compliance Guide at [www.dol.gov/compliance/guide/dbra.htm](http://www.dol.gov/compliance/guide/dbra.htm). DBRA wage determinations are to be used in accordance with the provisions of Regulations, [29 CFR Part 1](#), [Part 3](#), and [Part 5](#), and with DOL's Compliance Guide. The provisions of DBRA apply within the 50 states, territories, protectorates, and Native American nations (if the labor is completed by non-tribal laborers).

**7. The Native American Graves Protection and Repatriation Act of 1990** applies to any organization that controls or possesses Native American human remains and associated funerary objects and receives Federal funding, even for a purpose unrelated to the Act (25 USC 3001 et seq.).

**8. U.S. Constitution Education Program.** Educational institutions (including but not limited to "local educational agencies" and "institutions of higher education") receiving Federal funds from any agency are required to provide an educational program on the U.S. Constitution on September 17 (P.L. 108-447, Division J, Sec. 111(b)). For more information on how to implement this requirement and suggested resources, see [www2.ed.gov/policy/fund/guid/constitutionday](http://www2.ed.gov/policy/fund/guid/constitutionday) and <http://thomas.loc.gov/teachers/constitution.html>.

**9. Prohibition on use of funds to ACORN or its subsidiaries.** None of the Federal or matching funds expended for your awarded project may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries (P.L. 111-88 Sec. 427).

## Appendix B: Required Data Elements for Subaward Notices

Pass-through entities are required to provide subrecipients with the following information any time a subaward is made with Federal funds or funds that are used to meet Federal grant's required match. You do not need to provide this information in any particular order or format; the important thing is that the subrecipient is aware of the Federal source of funding and informed of the applicable award requirements. You must also ensure that all subawards to which Federal/matching funds are obligated are in compliance with all other Terms & Conditions for the NEA award.

- Note that although these are data elements required for making subawards, you may also have other data elements and information that you provide to them based on your own policies and procedures.

The NEA does not prescribe how Federal/matching funds must be allocated; you may choose to apply them to a small number of subawards or spread them in smaller amounts more widely. It is up to your agency to determine the method that allows for the fullest compliance with these requirements.

In the case of subawards made only partially with Federal funds, your award notification should reflect the total amount awarded to the subrecipient, and then identify the Federal portion as required below. In the case of subawards that are being made only with matching funds, you would list the Federal amount as zero but include all other required data elements, so that the recipient understands this award cannot be used to match another Federal grant.

**\*\* NOTE:** For items (vi), (vii) and (viii), if you have not determined the allocation of Federal/matching funds at the time the subaward is made, you must make provisions to convey this information to the subrecipient at the time that Federal or matching funds are obligated to their award.

Also, if these three data elements are all the same (e.g. you are obligating all Federal funds at one time), you can simply report (viii), "Total Amount of the Federal Award."

<b>2 CFR 200.331</b>	<b>Sample Data</b>	<b>Notes</b>
(i) Subrecipient name	<i>Dance Council of Birmingham</i>	Legal name of the subrecipient; must match the entity's name in their D&B record.
(ii) Subrecipient's unique entity identifier	<i>DUNS # of Subrecipient</i>	The subrecipient's DUNS number; must reflect legal name and current address.
(iii) Federal Award Identification Number (FAIN)	<i>15-6100-20XX</i>	The NEA grant number as included on the SAA/RAO's NEA award document.
(iv) Federal Award Date	<i>June 15, 2015</i>	The date stamped on the SAA/RAO's NEA award document.
(v) Subaward Period of Performance	<i>July 1, 2015 - June 30, 2016</i>	The start and end dates for the subaward grant period; must be <u>within</u> the period of performance for the SAA/RAO's NEA award.
(vi) Amount of Federal Funds Obligated by this action	<i>(n/a)</i>	**
(vii) Total Amount of Federal Funds Obligated to the subrecipient	<i>(n/a)</i>	**

<b>2 CFR 200.331</b>	<b>Sample Data</b>	<b>Notes</b>
(viii) Total Amount of the Federal Award	<i>\$10,000</i>	** Amount of Federal funds awarded from the Partnership Agreement
(ix) Federal award project description	<i>To support Partnership Agreement activities.</i>	The project description for the SAA/RAO's NEA award as described on the NEA award document.
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official	<ul style="list-style-type: none"> <li>• <i>National Endowment for the Arts</i></li> <li>• <i>Alabama State Council on the Arts</i></li> <li>• <i>John Doe, ASCA Deputy Director</i></li> <li>• <i>555-333-5555</i></li> <li>• <i>jdoe@ASCA.gov</i></li> </ul>	The NEA's name, the SAA/RAO's name, and name and contact information for the person authorizing the subaward on the SAA/RAO's behalf.
(xi) CFDA Number and Name	<i>45.025 Promotion of the Arts - Partnership Agreements</i>	The NEA's CFDA # and title as listed on the NEA award document.
(xii) Identification of whether the award is R&D		Notification if the project being supported is considered Research & Development as defined at 200.87; if not applicable per SAA/RAO program guidelines, can be omitted.
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per 200.414)		The Indirect cost rate you approve for the subaward, if any. (See 23.5 for more detail.).