



**National
Endowment
for the Arts**
arts.gov

General Terms & Conditions

for Grants and Cooperative Agreements

to Organizations

For awards issued under Federal Fiscal Years 2014 and earlier.
Sample award numbers include 14-xxxx-xxxx, 13-xxxx-xxxx, and DCA 2014-xx, DCA 2013-xx

Grants & Contracts Office

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Important Information

The General Terms & Conditions for Grants and Cooperative Agreements to Organizations (General Terms) apply to all grants and cooperative agreements (also referred to as "awards" or "assistance awards") that the National Endowment for the Arts (NEA) issues to nonprofit organizations, institutions of higher education, units of state and local governments, and Federally-recognized Indian Tribal governments.

These General Terms are based on the administrative requirements of the Office of Management and Budget (OMB) Circular A-110 (2 CFR 215), the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments OMB Circular A-102 (2 CFR 230), and the Federal laws, rules, regulations, and Executive Orders that apply to grants and cooperative agreements. They also are based on the NEA's legislation, rules, regulations, and policies. Award recipients must be familiar with and comply with these General Terms.

Award materials, including payment request and report forms, and links to the OMB Circulars referenced throughout the General Terms are available on our Web site at www.arts.gov/manageaward.

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Acceptance of an National Endowment for the Arts Award

1. Your Responsibilities

In accepting an NEA award, your organization assumes legal, financial, administrative, and programmatic responsibility for administering the award in accordance with any provisions included in the award; the laws, rules, regulations, and Executive Orders governing assistance awards; and these General Terms, all of which are hereby incorporated into this award by reference. While we may provide you with reminder notices regarding award requirements, the absence of receiving such notice does not relieve you of your responsibility to meet all applicable award requirements.

In accepting an NEA award, you also give us the right to examine and copy records, accounts, and other documents and sources of information related to your award, and permit us access to facilities, personnel, and other individuals and information as may be necessary.

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.

Lead members of consortia (for grants awarded for FY12 and earlier), Our Town lead partners, and entities responsible for approved independent components are responsible for all aspects of the award. Your organization must submit all payment requests, reports, and any amendment requests.

2. Compliance with the General Terms and any other Conditions

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.

3. Compliance with the Requirement to have a Dun & Bradstreet (DUNS) Number and Active Registration in the System for Award Management (SAM.gov)

Award recipients are required to maintain current information in the System for Award Management (SAM.gov), until an award is closed. This includes renewing your organization's registration in SAM.gov at least annually after the initial registration, and more frequently if required by changes in your information or another award term. Note that in some cases you will need to update your information with Dun & Bradstreet before you can complete your SAM.gov renewal.

4. Acknowledgment of National Endowment for the Arts Support and Disclaimer

Acknowledgment of the National Endowment for the Arts must be prominently displayed in all materials and announcements for your funded project. 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 agency's logo whenever possible.

For radio or television broadcast, we require the following language: "This project is supported in part by an award from the National Endowment for the Arts. Art Works." For television broadcast, display of the NEA logo is required.

The logo is available at www.arts.gov/manageaward. We reserve the right to change the language of the required acknowledgement of NEA support, as well as the right to disallow the use of our logo and acknowledgment of our support.

For more guidance in planning your media campaign, please consult "Working with the Media Toolkit" at www.arts.gov/manageaward/Working-with-the-Media-Toolkit.pdf. This toolkit provides tips for reaching out to members of the press, using social media, and crafting a press release announcing your NEA grant.

5. Authorizing Official.

An authorizing official is an official with the recipient organization who has authority to legally bind the organization. For organizations that act as a lead member of a consortium (FY12 and earlier) or are responsible for an approved independent component (e.g., a University and its art museum), the authorizing official must work for the lead organization.

For purposes of administering this award, the following apply:

- a. **Grants.gov Application Form.** Authorizing officials are designated on the Grants.gov application form. This electronic "signature" is accepted if your application was submitted through Grants.gov and the individual meets the definition above or the criteria noted in b., below for an authorizing official. We reserve the right to request a "hard copy" signature (i.e., ink on paper) of an organization's authorizing official, if necessary.
- b. **By Virtue of Position.** The following are considered to be authorizing officials for this or any award you may receive from the us, whether or not they are identified on an application:
 - *for nonprofit organizations* (excluding colleges and universities): chairman or officer of the board, president, executive director, chief financial officer (for financial matters), or individual of similar rank
 - *for colleges and universities*: chancellor, provost, president, trustee, director of sponsored programs/research, or individual of similar rank
 - *for cities or municipalities, or departments* thereof: mayor, city manager/ administrator, designated department, agency, or office official, or individual of similar rank, or
 - *for states or departments* thereof: governor or designated agency, department or office official, or individual of similar rank
- c. **NEA Panelist and Council Member Conflicts.** No panelist can review an application from an organization with which he or she is affiliated. In addition, if a panelist later becomes associated with a project that he or she reviewed, then he or she cannot act as an authorizing official for that project. This prohibition is in effect throughout the entire period of support.

Similarly, once an authorizing official for an organization that is an applicant or grantee is nominated to the National Council on the Arts, the authorizing official must recuse him/herself from acting in this capacity for applications and grant actions, including payment requests.

- d. **Changes in or Additional Authorizing Officials.** To designate other individuals as authorizing officials for an NEA award, a current authorizing official may submit a letter or e-mail making such a request to our Grants & Contracts Office (G&C). NOTE: Colleges and universities should follow these procedures to delegate authority to a fiscal officer or other appropriate personnel to approve payment requests and Federal Financial Reports.

Please let us know if someone is no longer serving as an authorizing official for your organization and submit updated contact data for the new authorizing official.

Obtaining Award Funds

6. Requesting Payment. As noted in item 2, requesting payment constitutes your agreement to comply with all the terms and conditions of the award.

- a. **Requests for Advance or Reimbursement.** The Request for Advance or Reimbursement (payment request) form, instructions, and video tutorial are available on our Web site www.arts.gov/manageaward. Payment requests must reflect allowable project-related expenses already incurred (reimbursement) and/or expenses to be incurred within 30 days from the date the authorizing official signs the request (advance). All costs must be incurred within the approved period of support.

- **Labor Assurance.** You must comply with the labor standards set out in "29 CFR Part 505 Labor Standards on Projects or Productions Assisted by Grants from the National Endowments for the Arts and Humanities." This is required by the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 USC 951 et seq.). Read the "Assurances as to Labor Standards" (page 2 of the payment request form) carefully. When you submit the payment request form you are agreeing to these standards.
- **Progress report.** Generally, this information is only required the first time the cumulative amount requested exceeds two-thirds of the award amount. The payment request form includes space for your report.

IMPORTANT: Funds must be disbursed immediately upon receipt. If you cannot do so, you must return the funds to the NEA. If interest is earned on advanced funds, please contact the G&C Office. In addition, you may not request funds to cover expenditures incurred prior to the beginning of the period of support (pre-award costs are unallowable).

- b. **Payments through an Alternative Method of Funding.** If you are currently on the working capital advance, cost reimbursement, or certification method of payment, refer to the NEA's Inspector General's guidelines available on our Web site at www.arts.gov/about/OIG/Guidance.
- c. **Withholding Payments.** Payment may be withheld any time you fail to comply with the terms and conditions of this award. This includes failure to maintain a current SAM.gov registration. Payment may also be withheld if you are not compliant on another NEA award. If we withhold payment, but do not suspend or terminate the award, the payment(s) will be released once we determine that you are in compliance.
- d. **Federal Debt Status.** You may not be delinquent in the repayment of any Federal debt. Examples of relevant debt include delinquent payroll or other taxes, audit disallowances, and benefits that were overpaid (OMB Circular A-129). You must notify us immediately if you become delinquent during your project period. We cannot release your award funds until you provide documentation showing a repayment plan has been accepted by the Internal Revenue Service and payments have been made.

If there are Changes in Your Project

7. Award Amendments

You are required to carry out a project consistent with the application or proposal approved for funding by the NEA. **As soon as you know that changes are necessary, and before implementation, you must submit a written request to G&C for approval.** Requests submitted to other NEA offices often result in a delayed response.

Each request must be submitted by a current authorizing official and include:

- 10-digit grant number (or DCA number for a cooperative agreement)
- specific change(s) requested (for types of amendments, see below)
- justification for the change(s)
- revised project budget, if applicable, and
- contact information, including a phone number, fax number and e-mail address

We reserve the right to request additional information, such as an update on specific project activities, or an itemized list of actual expenditures to date, as needed. In addition, if your organization is undergoing an audit by the NEA's Inspector General's office, amendments of the award(s) in question will not be approved independent of the audit resolution process.

Amendment requests are considered on a case-by-case basis; approval is not guaranteed. **Until you receive written approval from G&C, you may only incur costs consistent with the terms and conditions of the award in effect at the time of your request.**

- a. **Period of Support Extensions (Time Amendments).** All project activities and the commitment of project funds must take place within the period of support set out in your award document. As

soon as you become aware that your project cannot be completed on schedule, you must request a time amendment following the procedures outlined above. Requests submitted after the current end date of your award, or requests to extend the total period of support beyond four years, might not be approved.

- b. **Liquidation of Obligations.** You are also responsible for ensuring that all obligations incurred under an award are liquidated (paid) within 90 days after the end of the period of support, which also coincides with the submission of the Federal Financial Report. If all obligations cannot be liquidated within the 90 days, a time amendment must be requested.
- c. **Changes in Project Scope.** Project activities must be consistent with those approved for funding by the NEA. Contact G&C immediately if you want to make changes to the project or its objectives as originally proposed in your application or as revised during the Tentative Funding Recommendation/Application Update process. Examples of scope changes include:
- changes from artists confirmed in your application (see below)
 - changing from a production of "Hamlet" to a new commission for a comedy
 - replacing an art exhibition with an online blog or app
 - replacing a concert series on Mozart with a Film Festival on John Cage
 - engaging with different target audiences, if that was a major focus of your application
 - adding a component to a project that was not part of the original proposal, or removing a component that was a significant part of your project
 - changes in venue

You must request a scope amendment following the procedures outlined above. Requests submitted after the fact might not be approved.

- d. **Changes in Artists:** If changes in artists or arts organizations identified in your application or proposal are necessary, you must request an amendment following the procedures outlined above. Include a short biography or description of the new artists or arts organizations proposed. Requests submitted after the fact might not be approved. Prior approval is waived for changes in other key persons (e.g., executive or managing directors), as outlined in OMB Circular A-110 (2 CFR 215), Section 25 or the "Common Rule," Section 1157.30, unless your award specifies otherwise.
- e. **Consortium Member Changes (Grants for Arts Projects and Art Works awards made specifically as consortia grants for FY12 and earlier) and Changes in Partners for Our Town Grantees.** If changes to a consortium member or an Our Town grantee partner are necessary, you must seek written approval from the NEA before any changes are made, following the procedures outlined above. In addition, you must also provide:
- written concurrence from the consortium member or Our Town partner dropping out of the project,
 - a new Consortium Partner Information form for the new member or partner, and

- a signed letter of commitment from the new consortium member or partner that describes their involvement in the project.

Requests submitted after the fact might not be approved.

- f. **Budget Revisions.** Your award package includes an approved project budget that reflects the information contained in your application or proposal and any revisions made at your request or by us in order to bring it into compliance with our guidelines and applicable Federal regulations. All costs must be incurred within the project period specified in the award document or an approved amendment. The budget cannot include overlapping costs (e.g., share any costs) with any other Federal award.

These minor changes in the project budget do not require written approval from us:

- transfers among direct cost line items
- allocation of NEA funds among approved project costs
- elimination or addition of an allowable project cost that does not affect the scope of the award. See the Cost Principles under "Office of Management and Budget (OMB) Circulars that Govern Your Award" section

These significant changes in the project budget require prior written approval from us:

- budget changes due to a change in the scope of the NEA-supported project
- adding permanent equipment, foreign travel, or indirect costs (allowable under a federally-negotiated rate)
- request to increase the NEA award amount

Requests for significant budget changes must include the information outlined above. Requests submitted after the fact might not be approved.

- g. **Matching.** We will not waive minimum matching requirements except under the most unusual circumstances. Such requests must be accompanied by a new budget that reflects the revised commitment to the project. Requests submitted after the fact might not be approved. NOTE: For Save America's Treasures grants, matching requirements will not be waived.
- h. **Final Reports Filing Extensions.** You must fulfill all final reporting requirements within 90 days after the project period end date. If your project is completed but you need additional time to submit the required Final Reports and/or product, you may ask for an extension on filing the Final Reports. Follow the procedure outlined. Requests submitted after the final report due date might not be approved. Failure to submit a timely request may jeopardize future NEA funding.

8. Foreign Travel Requests

- a. **Foreign travel** is defined in the OMB Circulars as any travel outside Canada, Mexico, the United States (U.S.), and its territories and possessions. G&C must give written approval for all foreign travel not identified in your application or revised budget before travel is undertaken.

PLEASE NOTE: While travel requests to Mexico and Canada that are project related, allocable, and allowable do not require prior written approval from the NEA before being undertaken, the Fly America Act does apply. Please see b. for more information.

- b. According to the **Fly America Act**, any air travel (inclusive of persons or property) paid in whole or in part with NEA funds must be on a U.S. air carrier or a foreign air carrier under an air transport agreement with the United States when these services are available. For the Fly America Act, the United States means the 50 States, the District of Columbia, and the territories and possessions of the United States. U.S. air carrier service is considered available even when a foreign air carrier can provide a comparable or different kind of service at less cost and/or foreign air carrier service is preferred by, or is more convenient for, the traveler.

U.S. air carrier service is considered to be unavailable only under the following conditions:

- i. The traveler's origin or destination airport is a gateway airport abroad (i.e., the airport from which the traveler last embarks en route to the United States or at which the individual first arrives when traveling from the United States), and the use of a U.S. air carrier would increase travel time by at least 24 hours over travel by a foreign air carrier.
- ii. When a traveler while en route must transfer to another flight, and the use of a U.S. air carrier would extend travel time at least six hours over travel by a foreign air carrier.
- iii. When travel time on a scheduled flight by a foreign air carrier is three hours or less, and service by a U.S. air carrier would involve twice as much travel time.
- iv. When travel is between two points outside the U.S. and the use of a foreign air carrier would eliminate two or more aircraft changes en route.

If you discover that service on a U.S. air carrier or a foreign air carrier under an air transport agreement with the United States is unavailable, you must request an exception in writing from G&C before travel is undertaken.

9. Return of Full or Unused Portion of an Award or Declining an Award

If you cannot carry out the project, or cannot use the entire award amount, you must notify G&C in writing. Your letter should include:

- the 10-digit grant number (or DCA number for a cooperative agreement),
- an explanation for the return of the funds,
- contact information, including a phone number, fax number and e-mail address,
- the approval of an authorizing official, and

- if returning funds, a check in the correct amount payable to the National Endowment for the Arts (include the award number on the memo line).

If you have expended any of the NEA's funds for the project, you are still responsible for submitting your Final Reports by their due date.

If you are declining the award and have not drawn down any funds, your letter should include:

- the 10-digit grant number (or DCA number for a cooperative agreement),
- an explanation,
- contact information, including a phone number, fax number and e-mail address, and
- the approval of an authorizing official.

Termination and Remedies

10. Termination

There are circumstances under which we may determine that it is in the best interest of the government to terminate an award. OMB Circular A-110 (2 CFR 215), Sections 61 & 62, and the "Common Rule," Sections 1157.43 and .44, respectively, provide uniform termination procedures for Federal awards. Grants and cooperative agreements may be terminated in whole or in part.

a. For Convenience:

- By you upon sending us written notification with the reasons for the termination, the effective date, and in the case of partial termination, the portion of the project to be terminated. Withdrawals are considered terminations for convenience.
- By us with your consent, in which case we will agree upon termination conditions, including the effective date and, in the case of partial termination, the portion of the project 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.

b. For Cause by us if you materially fail to comply with the terms and conditions of an award.

In either case, this may result in our taking additional actions such as requiring you to return a portion or all of the award funds, requesting that you remove acknowledgement of NEA support, recommending government-wide suspension, or taking other legally available remedies.

In addition, termination may occur as described in 2 CFR Part 175, which has been amended to address paragraph (g) of section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 USC 7104(g)).

Reporting Requirements

11. Reporting Requirements

Your grant package includes a blue Reporting Requirements document, which outlines the reporting requirements for your award. Cooperative Agreements include reporting requirements and delivery schedule instructions within the agreement. We may request additional information as necessary. Instructions and report forms are on our Web site.

- a. **Progress Reports.** A progress report is generally required once the cumulative amount of funds requested exceeds two-thirds of the award amount. Specific instructions for submitting your progress report are in your Reporting Requirements document and on the payment request instructions.
- b. **Special Reporting Requirements.** 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. Instructions will be included in your award package when applicable.
- c. **Final Reports.** A Final Report package including the Final Descriptive Report (FDR), the Federal Financial Report (FFR), and any required final product(s) must be submitted no later than 90 days after the project period end date.

As of FY12 (award numbers beginning 12- or 2012-), final reports must be submitted electronically to finalreports@arts.gov. Refer to the Reporting Requirements document in your award package, or to the appropriate section in your cooperative agreement for more information.

Carefully review your Final Reporting Requirements and the FDR form to determine the narrative information required. All questions must be addressed and statistical and geographic data entered. On the FFR you must verify that the project for which NEA funds were awarded has been carried out and that the matching requirement, if any, has been met.

- d. **Failure to submit the required Final Reports** for any award(s) renders you ineligible to receive funding for five 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 may also affect eligibility for new awards. In addition, failure to submit required final reports within 210 days after the project period end date will result in the withdrawal of any funds remaining on that award.

Matching (or Cost Share) Requirements

12. Matching

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

The Federal Financial Report (FFR) is used to verify that the required match has been met. Ensure that the amounts reported on your FFR are based on actual allowable project expenditures and can be easily reconciled to your accounting records. Unallowable costs, such as fundraising or receptions (see the Cost Principles - 2 CFR 230, 2 CFR 220, and 2 CFR 225), cannot be included in your reported numbers.

Ineligible Matching Resources. The following items are not eligible as match.

- Other Federal funds, including NEA funds. This includes Federal funds that have been subgranted or disbursed to you from your State Arts Agency or another grantor and clearly identified as such. It is your State Arts Agency's (or other grantor's) responsibility to inform you if any portion of their award to you is a direct flow-through from a Federal agency.
- Resources that have been used to match another NEA award or other Federal program(s).
- Contributions or gifts transferred to your organization that are restricted and cannot be used to support the project.
- Gifts (testamentary or otherwise) which are not available to your organization during the project period.

13. Use of In-kind (or Third-Party) Contributions for Matching Purposes

If you include in-kind, third-party (i.e., not your own) contributions as part of your match, they must also be included as direct costs in your project budget and reflected as such in your accounting records. Volunteer services and donated property or space must be documented and their value determined according to the principles set out below.

- a. **Volunteer services** provided to you by professional and technical personnel, consultants, and other skilled and unskilled labor may be used as match if the service is integral to the approved project. Volunteer services must be valued at rates consistent with those paid for similar work within your organization. If you do not have employees performing similar work, the rates must be consistent with those paid by other employers for similar work in the same labor market. In either case, a reasonable amount of fringe benefits may be included in the valuation.
- b. When a **third-party employer** furnishes the services of an employee, these services must be valued at the employee's regular rate of pay (plus a reasonable amount of fringe benefits), provided these services involve the same skills for which the employee is normally paid.

- c. The value of **donated equipment** must not exceed the fair market value of equipment of the same age and condition at the time of donation. The value of loaned equipment cannot exceed its fair rental value.
- d. The value of **donated space** must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality.
- e. The value of **donated supplies** or other expendable property should be reasonable and should not exceed the fair market value of the property at the time of donation.

NOTE: A sample format for documenting in-kind contributions is on our Web site at www.arts.gov/manageaward.

14. Use of Program Income

Income earned during the period of support that results from activities supported through an NEA 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 real or personal property. Program income may be used as part of the match for an award, for additional costs of the NEA-supported project, or for other eligible projects in the arts conducted by the recipient.

15. Inclusion of Indirect Costs as Allowed by a Negotiated Agreement with a Federal Agency

The following applies only to those recipients who have indirect costs (or facilities and administrative costs for colleges and universities) included in their NEA-approved project budget.

Indirect costs are calculated using a rate that has been negotiated with a Federal agency. These costs are allowable and the recipient may use the corresponding amount to meet matching requirements. The NEA supports very few research awards; therefore "other sponsored projects" or "instruction" indirect cost rates are usually the only rates accepted.

- a. **Closing out your award.** Generally, the NEA will not close out an award with a **provisional indirect cost rate**. NEA funds may also be held until a final indirect cost rate covering the award period of support is provided. (Nov. 2013)
- b. **Expiration of indirect cost rate.**
 - 1) If indirect costs in your approved project budget were based on a recently expired rate agreement, a proposal must be submitted to your cognizant Federal agency immediately after you receive notification of an award or within three months after the start date of the period of support. Otherwise, a revised budget may be required.

A negotiated rate lower than the rate included in the project budget or failure to negotiate a rate by the end of the period of support may result in decreased Federal support if the total

non-Federal costs applied toward your NEA project do not satisfy the award's matching requirement.

- 2) If your final or predetermined rate expires during the period of support, you must submit a new indirect cost rate proposal to your cognizant Federal agency in time for the rate to be renegotiated before the end of the period of support, unless your institution is governed by OMB Circular A-21 (2 CFR 220). If the negotiated rate exceeds the rate specified in the approved project budget, the use of a higher rate is subject to the limitations set forth in OMB Circulars A-21 (2 CFR 220), A-87 (2 CFR 225), or A-122 (2 CFR 230), as applicable. In no event will additional Federal funds be awarded to support an increase in indirect costs.

Recordkeeping

16. Record Retention

You must maintain financial records, supporting documents (such as cancelled checks, invoices, contracts, travel reports, donor letters, in-kind contribution reports, and personnel activity reports), statistical records, and all other records pertinent to an award according to the provisions outlined in OMB Circular A-110 (2 CFR 215), Section 53, or the "Common Rule," Section 1157.42, as applicable. Generally, the retention period is three years from the date the final FFR is filed.

During the project period and the subsequent three-year retention period, the NEA's Inspector General, the Comptroller General of the United States, or any of our duly authorized representatives has the right to request additional information, and timely and unrestricted access to project records in order to audit, examine, excerpt, transcribe or copy them. This includes timely and reasonable access to the recipient's personnel and facilities for the purpose of interview and discussion related to the records. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained. (A-110 Subpart C .53 as noted above)

17. Financial Management Standards: Maintaining Accounting Records

There can be no overlapping project costs between Federal awards. Therefore, separate accounting records must be maintained for each award. OMB Circular A-110 (2 CFR 215) , Section 21, and the "Common Rule," Section 1157.20, as applicable, establishes standards for financial management systems of recipients (e.g., accounting systems, internal controls, allowable costs, cash management, etc.). The financial management systems of recipient organizations and their subrecipients must meet these standards.

The NEA's Inspector General has prepared two publications, "Financial Management Guide for Nonprofit Organizations" and "Financial Management Guide for State and Local Governments," that contain practical information on what is expected in terms of fiscal responsibility. These publications can be found at www.arts.gov/about/OIG/Contents.

18. Procurement Standards

OMB Circular A-110 (2 CFR 215), Section 40, and the "Common Rule," Section 1157.30, as applicable, establish standards for procurement. You must have standards to ensure that materials and services acquired under Federal awards are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and Executive orders.

Written procedures should include, among other things, determining economical approaches, providing for competition, dealing with conflict of interest, efforts to use minority, women-owned and small businesses, and maintaining records sufficient to detail the procurement process. In addition, 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 part 180 Subpart C) (OIG).

19. Personnel Activity Documentation (Documenting Salaries & Wages)

OMB Circulars require that compensation for personnel services charged to Federal awards be properly documented. Please refer to the applicable cost principles for the specific documentation that must be maintained.

The NEA requires officially-approved personnel activity reports (also known as "time and effort" reports) for any employee whose salary is charged, in whole or in part, to either the award or the matching funds if:

- your award is \$50,000 or greater, or
- you are on an alternative method of funding (as noted in your award document or the Inspector General's audit follow-up report).

Sample formats for allocating a person's time to a project are provided on our Web site. However, you may choose any format appropriate to your scale of operations. Reports must be prepared at least monthly and must coincide with one or more pay periods. Although you generally are not required to submit these to us, we reserve the right to request copies.

Even if you are not required to maintain officially-approved personnel activity reports as outlined above, you are still required to keep other appropriate records (e.g., payroll records, in-kind documentation, etc.) verifying the salary or wage costs attributed to the Federal or matching funds. If you are audited and do not have this documentation, the costs will be disallowed. This may result in a decrease in your award amount and/or funds will need to be returned to us.

20. Equipment

Equipment is defined as an article of tangible, nonexpendable, personal property having a useful life of more than one year that costs \$5,000 or more. Before purchasing equipment not identified in the approved project budget, you must obtain written approval from G&C (see Section 7 "Award

Amendments"). You are encouraged, whenever possible, to purchase American-made equipment in accordance with the "Buy American Act" (41 USC 10a-10c).

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 the NEA. We reserve the right to stipulate at the time of the award specific instructions for disposition of the equipment when you no longer need it (e.g., a transfer of title to the Federal government or a third party).

You also have title to artwork purchased under the NEA award, 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.

21. Copyright

You may arrange to copyright any materials you develop from the work undertaken during the period of support without prior approval from us. For procedural information, contact the U.S. Copyright Office, Library of Congress, www.copyright.gov.

Unless otherwise specified in the award, we are not entitled to receive royalties from work supported or made possible by a grant or cooperative agreement; however, we retain a royalty-free right to use such work for Federal government purposes (e.g., the use of final report final products to document the results of our award programs), including placement on our Web site.

22. 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/>.

Audit Matters

23. A-133 Audit Requirements

OMB Circular A-133, "Audits of States, Local Governments and Nonprofit Organizations," includes specific guidance for conducting financial and compliance audits. The threshold for requiring an A-133 audit is \$500,000 in *yearly expenditures* of Federal funds. This amount is the aggregate of funds from all Federal sources.

OMB Circular A-133 and the yearly compliance supplements are available online at www.whitehouse.gov/omb/grants_circulars. If you have questions, contact the Office of Inspector General at (202) 682-5402 or oig@arts.gov.

24. Award Payment Confirmation for Audit Purposes

Your auditor may contact the NEA's Finance Office for confirmation of the exact amount of funds received from us. Your requests must include the legal name of your organization and the grant or cooperative agreement number(s); otherwise, the Finance Office will not be able to process your request. Requests should be sent via:

- E-mail to NEAFinance@arts.gov (preferred), with the subject line "Grant Award Confirmation Request," or
- Fax to (202) 682-5679, or
- Mail via an alternative delivery service to,

Finance Office
National Endowment for the Arts,
400 7th Street, SW
Washington, DC 20506

25. CFDA Numbers (Catalog of Federal Domestic Assistance)

The CFDA tracks award programs in the Federal government and assigns each a specific number. CFDA numbers are included on your award document:

- 45.024 Awards to Organizations and Individuals
- 45.025 Partnership Agreements
- 45.201 Arts & Artifacts Indemnity

Office of Management and Budget (OMB) Circulars that Govern Your Award

26. Uniform Administrative Requirements

Nonprofit organizations, colleges, and universities are subject to the provisions of OMB Circular A-110 (2 CFR 215) ("Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations"), as amended. Units of State and local governments and Federally-recognized Indian Tribal governments are subject to the administrative requirements codified by the NEA at 45 Code of Federal Regulations (CFR) Part 1157 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" ("Common Rule"). Both are available at www.whitehouse.gov/omb/circulars_default/.

The "Uniform Administrative Requirements" establish administrative standards to ensure consistency among recipients of Federal awards. These include financial and program management, property and

procurement standards, cost sharing or matching, and reporting and record retention. These requirements, as applicable, are hereby incorporated into this award.

27. Cost Principles

The allowable costs for work performed under an NEA award shall be determined in accordance with the applicable Federal cost principles and the terms and conditions of the award. The following OMB Circulars set forth the Federal cost principles that, in general, apply to our recipients. These cost principles, as applicable, are hereby incorporated into this award:

- a. OMB Circular A-122 (2 CFR 230), "Cost Principles for Nonprofit Organizations," as amended: nonprofit organizations, exclusive of institutions of higher education;
- b. OMB Circular A-21 (2 CFR 220), "Cost Principles for Educational Institutions," as amended: public and private institutions of higher education;
- c. OMB Circular A-87 (2 CFR 225), "Cost Principles for State and Local Governments," as amended: State, local and Federally recognized Indian tribal governments; and
- d. Federal Acquisition Regulation (FAR) at 48 CFR Part 31 for commercial organizations, individuals, and those nonprofit organizations listed in Attachment C to OMB Circular A-122 (2 CFR 230). The FAR is available online at www.acquisition.gov/Far/

National Policy and Other Legal Requirements, Statutes, and Regulations that Govern Your Award

28. Nondiscrimination Policies. As a condition of receipt of Federal financial assistance, you agree to execute your project (e.g., productions, workshops, programs, etc.) in compliance with applicable provisions of national laws and policies prohibiting discrimination, including but not limited to the following.

- 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.)
 - 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.lep.gov.

- b. **Title IX of the Education Amendments of 1972** provides that no person in the United States shall, on the basis of sex or blindness, 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 and 1684 et seq.)
- c. **Section 504 of the Rehabilitation Act of 1973** 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)

Section 504 - Self-Evaluation and Additional Resources.

- A Section 504 self-evaluation must be on file at your organization. For each award, review the evaluation to ensure that it is still accurate, that your organization is still in compliance, and that the activity supported by the NEA will be in compliance. The lack of a Section 504 self-evaluation is one of the most common findings referenced by our Inspector General when conducting an audit or review of our award recipients. We have developed a **504 Self Evaluation Workbook** (which covers programs, activities and facilities) that you may use to determine if you are in compliance with Section 504 requirements. If you have not previously conducted this self-evaluation or wish to update the results of previously conducted evaluations, you may obtain the Workbook on our Web site at www.arts.gov/about/504Workbook. Or you may request a hard copy, free of charge, from the NEA's Office of Civil Rights at (202) 682-5454.
 - *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 NEA's Web site at www.arts.gov/resources/Accessibility. If you have questions, contact the Office of Accessibility at accessibility@arts.gov; (202) 682-5733; FAX (202) 682-5715; or TTY (202) 682-5496. You may purchase print copies of the *Handbook* from the National Assembly of State Arts Agencies, (202) 347-6352 or www.nasaa-arts.org.
- d. **The Age Discrimination Act of 1975** 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.)
 - e. **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)

29. Environmental and Preservation Policies

- a. **The National Environmental Policy Act of 1969 (NEPA)**, 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.
- b. **The National Historic Preservation Act of 1966 (NHPA)**, 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)

30. Other National Policies

- a. **Debarment and Suspension.** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR Part 180, as adopted by the NEA in Title 2 CFR, Chapter 32, Part 3254.

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

- Conviction of, or a civil judgment for, the commission of fraud, embezzlement, theft, forgery, making false statements
- Any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility
- 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 years.

- b. **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 NEA's G&C 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 Part 1155)

c. **Lobbying.** You may not conduct political lobbying, as defined in the statutes, regulations and OMB Circulars 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:

- (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. Lobbying with appropriated moneys)
- (2) OMB Circular A-122 (2 CFR 230) – "Lobbying" Revision clarifies that lobbying is an unallowable project cost. The Circular 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. You should review carefully both this Circular and Circular A-110 (2 CFR 215).
- (3) Certification Regarding Lobbying to Obtain Awards. Section 319 of Public Law 101-121, codified at 31 USC Sec. 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/.

- d. **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 (DOL) Compliance Guide at 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).

- e. **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.)
- f. **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 (PL 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 and <http://thomas.loc.gov/teachers/constitution.html>
- g. **NEA Enabling Legislation.** You are also required to execute your project, (e.g., productions, workshops, programs, etc.) in accordance with the NEA's enabling legislation that requires "artistic excellence and artistic merit" to be included in the criteria upon which awards are made.
- h. **Prohibition on use of funds to ACORN** or its subsidiaries. Beginning in FY10 (award number such as 10-xxxx-xxxx or DCA 2010-xx), 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)

Subgranting for State Arts Agencies, Regional Arts Organizations, and Designated Local Arts Agencies

31. Subgranting

Per our legislation, only State Arts Agencies, Regional Arts Organizations, and designated Local Arts Agencies are eligible to subgrant NEA funds.

A subgrant is an award made by a grantee or cooperator using award and/or matching funds (i.e., an award resulting from NEA support, but not one made directly by us). A subgrant exists when funds are regranted to an individual or an organization for activities conducted independently of the direct award recipient and for the benefit of the subgrantee's program objectives. A subgrant recipient is neither directly employed by nor affiliated with the direct award recipient. Please be aware that a subgrant relationship could exist even if you call the agreement a contract.

General Subgranting Requirements

- a. **Artistic Excellence and Artistic Merit.** In accordance with the NEA'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.)
- b. **Subgranting to Eligible Organizations, Units of State and/or Local Government.** 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 NEA award.

Effective with NEA awards beginning with the number 11- or 2011-, you may not make a subaward to an entity without a DUNS number (2 CFR 25 Appendix A). Thus, you must notify potential subrecipients that the entity cannot receive a subaward from you unless the entity has provided its DUNS number.

The Federal laws, rules, regulations and OMB Circulars that apply to NEA organizational award recipients generally also apply to such organizations when they receive a subgrant through an NEA supported award. Thus, you must inform subgrantees that they are receiving Federal funds from the National Endowment for the Arts, and that they must comply with these mandates.

You must also:

- Provide them with your Federal award number and associated CFDA number (the CFDA number is on your award letter or cooperative agreement document).
- Instruct them that there may be no overlapping project costs between Federal awards, whether they receive them directly from a Federal agency or indirectly, such as through a state agency or other entity.

- c. **Requirements for Federal Funding Accountability and Transparency Act (FFATA) implementation of subaward reporting.** Effective with NEA awards beginning with the number 11- or 2011-, you may be required to report subaward information to the FFATA subaward report database www.fsr.gov/, as described in 2 CFR Part 170.

This requirement applies to subawards of \$25,000 or more in Federal funds. Additional information is available at www.arts.gov/manageaward/FFATA-FAQ.pdf

- d. **Additional Requirements for Subgranting to Organizations and Individuals.** Your subgrant agreements must include a requirement that the subgrantee:
- provides you with final reports and any other information or reports necessary for you to fulfill all applicable Federal reporting requirements
 - adheres to the prohibition against lobbying within a Federally supported grant or cooperative agreement
 - uses U.S. air carriers for approved foreign travel
 - maintains records pertinent to the award for three years following submission of their final report to you.
- e. **Progress reports.** State Arts Agencies should require a progress report from their subgrantees, with discretion to determine when these reports must be submitted.
- f. **Time extensions.** You should request a period of support time extension (not a final report due date extension) from the NEA whenever a subgrantee's project cannot be completed within your award period. See Item 7.
- g. **Subgrantee records.** You must keep subgrantees' report submissions on file for three years after the date you submit your Federal Financial Report to the NEA.

Questions?

32. NEA Staff

Cooperators, please refer to your cooperative agreement for names of contact persons available to answer questions.

Grantees, if you have any questions concerning administrative or technical requirements, please contact G&C at (202) 682-5403 or grants@arts.gov. For programmatic requirements, please contact the program discipline/field or office identified in your award document. A staff directory is available at www.arts.gov/staff/staff.

33. Accessibility Accommodations

Individuals who are deaf or hard-of-hearing may e-mail G&C at grants@arts.gov or call (202) 682-5496 TTY.

Individuals who do not use conventional print may access the information in this document by contacting the Office for Accessibility at accessibility@arts.gov or call (202) 682-5733 for help acquiring an audio recording of these General Terms or any other NEA publication.

Individuals with limited English proficiency or recipients serving such individuals should contact the Office of General Counsel at (202) 682-5418 or by e-mail at ogc@arts.gov. You can also find information at www.lep.gov.