

NEVADA ARTS COUNCIL: TERMS AND CONDITIONS

Legal Requirements, Statutes, and Regulations that Govern Your Award

National Policy

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.
- 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.
- 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. If you have questions, contact the Office of Accessibility at 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).

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.

Nevada Arts Council (NAC) Policy

6. This grant is made for specific projects within the NAC plan as submitted in accordance with your application to NAC. The Terms and Conditions of the application are hereby incorporated by reference into the Terms and Conditions of this grant.

7. If the grant is altered substantially (over 20% change in any item) from the approved application, or there are substantial financial, programmatic or personnel changes within the organization, the grantee must submit the "Grant Change Request Form" **within 30 days** and receive NAC approval for proposed or stated changes to stay in compliance.

- 8. Matching funds, as required per each grant category, must be demonstrated to NAC when requesting funds by 1) listing Source and Amount on Cash Request Form in the space provided and 2) providing accepted support materials with submission of the Cash Request Form. Accepted Matching Funds Back-up documents are:**
- a) Income statement
 - b) Grant Award Letter from another, non-federal/state entity
 - c) Donation log
 - d) In-kind verification form (if accepted in grant category)
- 9. Accounting and Records.** The grantee agrees to maintain a financial management system. Any generally accepted accounting system and internal control procedures, including the provision for audit, will be satisfactory.
- 10. Official Audit of Records.** Nevada Arts Council, the National Endowment for the Arts, the State Legislative Auditor, the Controller General of the United States or any duly authorized representative, shall have access to any books, documents, papers and all records of information determined to be necessary to conduct an audit for funds expended under the terms and conditions of all NAC grants.
- i. Those organizations that have received more than \$750,000 in Federal dollars from all federal sources must supply NAC with an audit done in accordance to the principles stated in the Audit Requirements 2CFR200.501. If an audit or a copy of the 990 cannot be submitted by June 30 of the current grant period, then a commitment letter from the audit firm must be submitted stating the expected timeline.
 - ii. On December 26, 2013 OMB issued 2 CFR 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) which combined and streamlined 8 previous OMB circulars that governed the management of federal assistance awards. The Uniform Guidance eliminates duplicative and conflicting guidance in these documents. For more information: <https://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>
 - iii. Nonprofit organizations shall maintain on file the Articles of Incorporation, Corporate By-Laws, meeting minutes, resolutions, or other organizational authorizations that influence the NAC grant.
 - iv. Personnel activity (time and effort reports) OMB Circular A-122, Attachment B, requires that non-profit organizations maintain personnel activity reports on employee time. These reports must be maintained for any employee whose salary, in whole or in part, is included in an NAC-supported project. This information should be maintained by the organization and does not have to be filed with the NAC.
 - v. All organizations must remain in good standing with the Internal Revenue Service (IRS) and Nevada Secretary of State Office.
- 11. Maintaining Documentation.** All NAC grantees are required to keep copies of all financial records, which must be kept on file for a minimum of three years following the official termination/completion of the grant.
- 12. Termination for Non-Appropriation.** The continuation of this grant is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. Reservation of funds based upon budget reductions is included herein. The granting authority may reduce or terminate this grant, and the grantee waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the granting agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.

TERMS AND CONDITIONS ACKNOWLEDGEMENT PAGE

It is acknowledged that the Terms and Conditions stated herein, as well as those in the Grant Award Letter and Nevada Arts Council Guidelines, are fully understood and will be complied with regarding the approved program or project. This document must be signed by an individual who is authorized to enter into legal agreements on behalf of the applicant. If using a Fiscal Agent, the Fiscal Agent must sign below as the Authorizing Official.

Grant Category: _____

NAC Grant #: _____

Grant Award Amount: \$ _____

Organization Name: _____

Address: _____

Tax ID: _____

Authorizing Official Printed Name: _____

Authorizing Official Title: _____

Authorizing Official Signature: _____

Date: _____