**ATTACHMENT B**

INFORMATION FOR FEDERAL SUBGRANT RECIPIENTS

ORGANIZATIONS AND INDIVIDUALS

The terms of this Attachment B are attached to and incorporated into the Subgrantee Award Agreement by this reference.

**General Provisions and Legal Requirements**

1. **Uniform Administrative Requirements**
	1. Subgrant recipients ("subgrantees") that are units of state and local governments and Federally-recognized Indian Tribal governments are subject to the administrative requirements codified by the Endowment at "45 CFR Part 1157 - Uniform Administrative Requirements for Grants & Cooperative Agreements to State and Local Governments" ("Common Rule").
	2. Subgrantees that are nonprofit organizations, colleges and universities are subject to the requirements of Office of Management and Budget (OMB) Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations," as amended.
2. **Allowable Costs.** The allowance of costs for work performed under an Endowment grant shall be determined in accordance with the applicable Federal cost principles and the terms and conditions of the grant award. The following OMB Circulars set forth the Federal cost principles that, generally, apply to subgrantees. They are available through a link on the Endowment’s Web site.
	1. OMB Circular A-87, "Cost Principles for State and Local Governments," as amended: state, local and Federally-recognized Indian tribal governments;
	2. OMB Circular A-122, "Cost Principles for Nonprofit Organizations," as amended: nonprofit organizations, exclusive of institutions of higher education; and
	3. OMB Circular A-21, "Cost Principles for Educational Institutions," as amended: public and private institutions of higher education.
3. **Nondiscrimination and Other Assurances.** Subgrantees are required to execute projects, productions, workshops and programs in accordance with the following laws where applicable. Copies of these regulations are available through links on the Endowment’s web site at <http://www.arts.gov> or from the Office of Civil Rights, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, DC 20506-0001. Telephone 202/682-5454; FAX 202/682-5553.
	1. 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 the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Title VI also extends protection to persons with limited English proficiency. (42 U.S.C. 2000d et seq.)
	2. Title IX of the Education Amendments of 1972 provides that no person in the United States shall, *on the basis of sex*, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance. (20 U.S.C. 1681 et seq.)
	3. 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 the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. (42 U.S.C. 6101 et seq.)
	4. Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability, in the United States, as defined in Section 7 (6), shall, *solely by reason of his/her disability*, be excluded from participation in, be denied the benefits of, or be subject to dis-crimination under any program or activity receiving Federal financial assistance. (29 U.S.C. 794)

Section 504 — Self-Evaluation. A self-evaluation must be on file at your organization. The Endowment has developed a *504 Self Evaluation Workbook* (which covers programs, activities, and facilities) which may be used by subgrantees to conduct a self-evaluation to determine if they are in compliance with 504 requirements. Subgrantees, who have not previously conducted this self-evaluation or wish to update the results of previously conducted evaluations, may request a copy of the *Workbook*, free of charge, from the Office of Civil Rights, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506-0001or call 202/682-5532.

*Design for Accessibility: A Cultural Administrator’s Handbook* is designed to help subgrantees not only comply with Section 504 and the Americans with Disabilities Act, but to assist in making access an integral part of an organization's planning, mission, programs, outreach, meetings, budget and staffing. Contact the Wyoming Arts Council for a free copy of the book. Individuals who do not use conventional print may access this publication through the Arts Endowment Web site at [www.arts.gov](http://www.arts.gov) or contact the Accessibility Office for help in acquiring an audio recording of the *Handbook*: . The Handbook is also available from the National Assembly of State Arts Agencies at nasaa@nasaa-arts.org. Bulk rates are available.

* 1. The Americans with Disabilities Act ("ADA") of 1990 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 U.S.C. 12101-12213)
1. **Debarment and Suspension.** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by the Arts Endowment in Title 2 CFR, Chapter 32, Part 3254. A subgrant applicant must certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that it will include this clause without modification in all lower tier covered transactions (excluding agreements under $25,000), solicitations and proposals. Where the subgrant applicant or any lower tier participant is unable to certify to this statement, it shall include an explanation as part of the application package.
2. **Lobbying.** Subgrantees are prohibited from conducting general political lobbying, as defined in relevant statutes, regulations, and OMB Circulars, within a Federally-supported grant project. In addition, subgrantees are prohibited from using Federal funds for lobbying specifically to obtain grants. Subgrantees are requested to note the following regarding lobbying activities:
	1. 18 U.S.C. Sec. 1913 Lobbying with Appropriated Moneys. "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, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business."
	2. OMB Circular A-122 - "Lobbying" Revision. OMB Circular A-122, "Cost Principles for Nonprofit Organizations, Lobbying Revision," published at 49 Federal Register 18260 (April 27, 1984), makes clear that lobbying, as defined therein, is an unallowable cost. OMB Circular A-122 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.
	3. Certification Regarding Lobbying to Obtain Grants (Section 319 of Public Law 101-121, codified at 31 U.S.C. Sec. 1352). This law prohibits the use of Federally-appropriated funds to pay costs associated with lobbying members of Congress, employees of Congress, and employees of Federal agencies with respect to the award or amendment of any Federal grant, cooperative agreement, agreement or loan. While subgrant applicants and subgrantees may use non-Federal funds for such activities, use of these funds must be disclosed to the Federal agency. The law exempts from the disclosure requirement the lobbying activities of long-term employees (those employed or expected to be employed for more than 130 days) of a subgrant applicant or subgrantee. The law also exempts from the definition of lobbying certain agency and legislative liaison activities and professional and technical services by subgrant applicants and subgrantees.

 You are strongly advised to review these regulations carefully. They are published at 45

 CFR Part 1158

1. **Drug-Free Workplace Act Requirements.** The Drug-Free Workplace Act of 1988 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) that work is being performed under this award, i.e., street address, city, state and zip code. You must notify the Arts Endowment through your state arts agency 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 1154)
2. **National Historic Preservation Act of 1966, as amended.** This law 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 new construction that would affect such properties. Your state arts agency or regional arts organization, in conjunction with your State Historic Preservation Officer, is required to provide the Arts Endowment with a finding as to 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 the Arts Endowment through your state arts agency or regional arts organization for review and approval prior to undertaking any of the proposed changes. (16 U.S.C. 470)
3. **National Environmental Policy Act of 1969.** This law applies to any Federal funds that would support an activity that may have environmental implications. Your state arts agency or regional arts organization may request that you provide information to the Arts Endowment in response to specific questions in accordance with the Act. The Arts Endowment will then determine whether to undertake an environmental assessment or issue a "finding of no significant impact." A "finding of no significant impact" requires no additional action by the Arts Endowment or you. (42 U.S.C. Section 4332)
4. **Native American Graves Protection and Repatriation Act of 1990.** This law applies to any organization which controls or possesses Native American human remains and associated funerary objects, and which receives Federal funding, even for a purpose unrelated to the Act. (25 U.S.C. 3001 et seq.)
5. **Foreign Travel.** All travel outside the United States, its territories, and Canada must be approved by your state arts agency before travel is undertaken. Additionally, any foreign air travel (inclusive of persons or property) that is paid in whole or in part through an Endowment-supported grant must be performed 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. U.S. air-carrier service is considered available even though a comparable or different kind of service can be provided at less cost by a foreign air carrier and/or foreign air-carrier service is preferred by, or is more convenient for, the traveler. For additional guidance on foreign travel, please contact your state arts agency.
6. **Equipment.** Consistent with 41 U.S.C. 10a-10c, "Buy American Act," subgrantees who are purchasing equipment and products through an Endowment-supported grant are encouraged, whenever possible, to purchase American-made equipment and products.
7. **Labor Assurance**
	1. Compensation. All professional performers and related or supporting personnel employed on projects or productions financed in whole or in part under the Endowment-supported grant shall receive not less than the prevailing minimum compensation as determined by the Secretary of Labor. Labor standards are 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."
	2. Working Conditions. No part of any project or production which is financed in whole or in part under the Endowment-supported grant will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance.

 A copy of 29 CFR Part 505 may be obtained through the Endowment's website.

1. **Final Report.** Subgrantees are required to submit final expenditure and descriptive reports at the completion of their project to their state arts agency or regional arts organization.
2. **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 audit is $500,000 in *yearly expenditures* of Federal awards. This amount is the aggregate of funds from all Federal sources. OMB Circular A-133 is available online at www.whitehouse.gov/omb/circulars. If you have questions, contact the Office of Inspector General at (202) 682-5402 or oig@arts.gov.
3. **Arts Endowment enabling legislation.** You are also required to execute projects, productions, workshops and programs in accordance with the Arts Endowment’s enabling legislation that requires “artistic excellence and artistic merit” to be included in the criteria upon which awards are made.
4. **Monitoring Activities.** Agency shall have the right to monitor all activities related to this agreement that are performed by the organization. This shall include, but not be limited to, the right to make site inspections at any time and with reasonable notice; to examine the books, ledgers, documents, papers, and records pertinent to this agreement; and, to observe personnel in every phase of performance of the related work.
5. **Assumption of Risk.** Subgrantee shall assume the risk of any loss of state or federal funding, either administrative or program dollars, due to its failure to comply with state or federal requirements. The Agency shall notify the Contractor of any state or federal determination of noncompliance.
6. **Non-Supplanting Certification.** Subgrantee hereby affirms that federal grant funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Subgrantee should be able to document that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds under this agreement.
7. **Program Income.** Subgrantee shall not deposit grant funds in an interest bearing account without prior approval of Agency. Any income attributable to the grant funds distributed under this agreement must be used to increase the scope of the program or returned to Agency.
8. **Copyright License and Patent Rights.** Subgrantee acknowledges that the National Endowment for the Arts, the State of Wyoming, and Agency reserve a royalty-free, non-exclusive, unlimited, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for federal and state government purposes: (1) the copyright in any work developed under this agreement; and (2) any rights of copyright to which Subgrantee purchases ownership using funds awarded under this agreement. Subgrantee must consult with Agency regarding any patent rights that arise from, or are purchased with, funds awarded under this agreement.
9. **Human Trafficking.** As required by 22 U.S.C. 7104(g) and 2 C.F.R. Part 175, this agreement may be terminated without penalty if a private entity that receives funds under this agreement:
	1. Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
	2. Procures a commercial sex act during the period of time that the award is in effect; or
	3. Uses forced labor in the performance of the award or subawards under the award.

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