



# General Terms and Conditions for Partnership Agreements

Award numbers XXXXXXX-61-21, etc.

Title 2 of the Code of Federal Regulations (2 CFR)

Including updates effective November 12, 2020 \*  
(see 85 FR 49529 August 13, 2020)

Highlighting 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and  
Audit Requirements for Federal Awards.

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\*For awards issued after October 1, 2020.

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

## 1. Applicability

The *General Terms and Conditions for Partnership Agreements* (Partnership General Terms or Partnership GTCs) apply to grants (also referred to as awards), that the National Endowment for the Arts (Arts Endowment) issues to State Arts Agencies (SAAs) and Regional Arts Organizations (RAOs) to conduct activities under the State & Regional Partnership Program.

NOTE: Awards to other non-federal entities are subject to the *General Terms and Conditions for Grants and Cooperative Agreements to Organizations*.

These Partnership GTCs implement Title 2 of the Code of Federal Regulations (2 CFR) including *Subtitle A-Office of Management and Budget Guidance for Grants and Agreements* and *Part 200–Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance, or Part 200), as revised August 13, 2020.

The revisions incorporate changes to 2 CFR 25 *Universal Identifier and System for Award Management*, 2 CFR 170 *Reporting Subaward and Executive Compensation Information*, and 2 CFR 183 *Never Contract with the Enemy*.

The National Endowment for the Arts has adopted the Uniform Guidance through regulation at 2 CFR 3255.1.

The Partnership GTCs are also based on the Arts Endowment's legislation and established policies, along with other Federal statutes, regulations, Executive Orders, and all applicable laws that apply to grants and cooperative agreements. Award recipients must be familiar with and comply with these requirements.

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

When applicable, *Specific Terms and Conditions* may be included with your award. Should there be inconsistency between requirements, the *Specific Terms and Conditions* supersede the Partnership GTCs.

If you are making awards using Arts Endowment or cost share/matching funds, you are considered a "pass-through entity" as defined by 2 CFR 200.1 and the awards you make using these funds are considered subawards. The particular requirements that apply to you in your role as a pass-through entity (i.e., a subawarder) of Federal or matching funds, and the subrecipient entities who receive such awards, are noted throughout these Partnership GTCs and Appendix B.

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

For the purposes of these Partnership GTCs, the term "project" is intended to include activities carried out as part of the state or regional arts plan that was approved as part of your Partnership Agreement. These activities may include your own administration, programs and initiatives you manage (e.g., Poetry Out Loud, Arts Education, Folk and Traditional Arts activities, etc.), as well as any subawarding activity supported with Federal or cost share/matching funds.

We encourage you to report broadly in your Final Descriptive Report on all state or regional arts plan activity that took place during the period of performance for this Agreement, however, your payment requests and Federal Financial Report should reflect only the portion/elements of the plan that are allowable under these Partnership GTCs and allocated to the award.

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

## **2. Your Responsibilities**

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

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

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

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

Acknowledgment of the Arts Endowment must be prominently displayed in all materials and announcements related to Partnership Agreement activities for the duration of the period of performance for this award. See the Manage Your Award section of [www.arts.gov](http://www.arts.gov) for copies of the most up-to-date National Endowment for the Arts logos.

**(A)** For print and online project materials, a basic requirement is a phrase acknowledging support from the National Endowment for the Arts using the following language: "This project is supported in part by the National Endowment for the Arts."

- We encourage you to include "To find out more about how National Endowment for the Arts grants impact individuals and communities, visit [www.arts.gov](http://www.arts.gov)."
- In addition, we encourage you to use the National Endowment for the Arts current logo whenever possible to accurately indicate that either your project has been supported by the National Endowment for the Arts, or that your organization is currently receiving support from the National Endowment for the Arts. As the agency's logo has changed over the years, please check the link above to make sure you are using the correct logo.
- You may also use social media to indicate National Endowment for the Arts support of your project, such as "This project is supported in part by the National Endowment for the Arts." It is also

acceptable to include the agency in a list among other project supporters. (On Twitter and Instagram, you may use **@NEAarts** instead of spelling out the full name of the agency.)

- (B)** For radio or television broadcast, we require the following voice-over language: "This project is supported in part by the National Endowment for the Arts. On the web at arts dot gov." For television broadcast, display of the National Endowment for the Arts logo and web address is required.
- (C)** We reserve the right to change the language of the required acknowledgement of National Endowment for the Arts support, as well as the right to disallow the use of our logo and acknowledgement of our support for any reason, at the agency's discretion.
- (D)** Despite the above, your agency or subawardee must clearly acknowledge Arts Endowment support as follows:
- Where a partnership agreement has been amended to include funds for general operating support through CARES/ARP, use of our logo - or other acknowledgement of our funding - must not imply support of any particular activity.
  - Where funds were awarded for project-based support for particular activity, the acknowledgement of our funding must be limited just to the specific Arts Endowment funded project. Do not imply our support of other activity that we did not fund.

Additional required guidance on this topic may follow.

You may want to consult our "Working with the Media" Toolkit on our Manage Your Award web page. All logo files are available on our website.

For additional information about acknowledgement requirements for Partnership Agreement activities, including subawards made with Federal or matching funds, see "Requirements for Acknowledgement of Arts Endowment Support: Partnership Awards" at [www.arts.gov/grants/manage-your-award/awards-after-oct1-2017-to-saa-rao](http://www.arts.gov/grants/manage-your-award/awards-after-oct1-2017-to-saa-rao).

#### **4. Resources**

Resources to manage your award can be found on our Web site at [www.arts.gov/grants/manage-your-award/awards-after-oct1-2017-to-saa-rao](http://www.arts.gov/grants/manage-your-award/awards-after-oct1-2017-to-saa-rao), including:

- (A) How to Manage Your NEA Award and eGMS REACH Handbook.** This document includes detailed information about requesting payment, reporting requirements, and how to request changes to your award. However, the Handbook is not a substitute for the Partnership GTCs.
- (B)** Payment request and final report instructions, plus sample templates for documenting in-kind support and time and effort reporting.
- (C)** Information specific to Partnership Agreements' application and award cycle, administrative tips, crediting examples, and other items can be found in the **State and Regional Program Handbook**.

## 5. Selected Definitions (2 CFR 200.1)

The Partnership GTCs use terminology consistent with the Uniform Guidance. Select items are summarized below; see 2 CFR 200.1 for additional detail. The terms are listed in alphabetical order.

Term	Definition
Assistance listings	Refers to the publicly available listing of Federal assistance programs managed and administered by the General Services Administration, formerly known as the Catalog of Federal Domestic Assistance (CFDA).
Authorizing Official	An authorizing official is a person with the recipient organization who has authority to legally and financially bind the organization. For organizations responsible for an approved independent component/child (e.g. a University and its art museum), the authorizing official must work for the parent organization.
Closeout	The process by which the federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in 2 CFR 200.344.
Cognizant agency for indirect costs	The federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals for the non-Federal entity on behalf of all Federal agencies. The cognizant agency for indirect costs is not necessarily the same as the cognizant agency for audit. For assignments of cognizant agencies see the Appendices in Part 200.
Contract	A legal instrument by which the recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award.
Cost share or matching funds	The portion of the approved Arts Endowment award’s project costs not paid with Federal funds.
De minimis indirect cost rate (effective November 12, 2020)	<p>An indirect cost rate of 10% of modified total direct costs (MTDC) that any non-Federal entity that does not have a current negotiated (including provisional) rate may elect to charge to their award project budget.</p> <p>A non-Federal entity that had a past indirect cost rate agreement that is now expired may elect to charge the de minimis indirect cost rate (see “Expanded Use of the De Minimis Rate” in Part 200). The de minimis rate may be used indefinitely. See also “Modified Total Direct Cost.”</p>
Disallowed Cost	Those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.
Equipment	Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.
Federal share	The portion of the award’s costs, including administrative or programmatic subaward costs, that are paid by Federal funds. 2 CFR 200.1.

Term	Definition
Institutions of Higher Education (IHEs)	Public, private, and tribal colleges and universities, but excluding for-profit institutions. See definition at <u>20 U.S.C. 1001</u> .
Modified Total Direct Cost (MTDC)	Used as a base for applying indirect costs through a Federally-negotiated indirect cost rate agreement, or the de minimis rate. Usually, "modified" means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.
Non-Federal entity	A state, local or tribal government, IHE, or nonprofit organization that carries out a Federal award as a recipient or subrecipient.
Participant support costs	Direct costs for such items as stipends, subsistence, travel allowances and registration fees for conferences or training projects paid to or on behalf of participants or trainees. This does not include employees of the award recipient.
Pass-through entity	A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.  <b>NOTE:</b> This includes all SAAs/RAOs who issue subawards using Arts Endowment or cost share/matching funds.
Period of performance	The start and end date of the award. Only costs associated with approved activities incurred during this time period can be charged to the award.
Project Costs	The total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.
Recipient	The non-Federal entity that receives an award directly from the Federal agency.
Recipient cost share or match	Non-Federal funds that are used to support additional costs for the project. For Arts Endowment grants, this means matching the Arts Endowment award at a minimum of one-to-one. See Section 12. Cost Sharing or Matching Requirements for Eligible and Approved Sources to Meet the Required Match, the Arts Endowment Guidelines, and P.L. 108 – 108, November 10, 2003.
Source documentation (Financial Management)	Documentation that provides evidence that expenditures were incurred during the approved period of performance. Documentation includes receipts, invoices, contracts, copies of cancelled checks, transaction reports, bank statements, charge/debit card statements, and in-kind contribution reports, all of which must specifically identify the expense(s).
Subaward	An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out a project or activity identified as part of a Federal award. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.



Term	Definition
Subrecipient	A non-Federal entity that receives a subaward from a pass-through entity to carry out a project or activity identified with the Federal program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.
Supplies	Tangible personal property items having an acquisition cost of less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. Generally, a basic computer device is considered a supply for use and disposition purposes, regardless of the length of its useful life, if it meets this definition.
Third-party <u>in-kind</u> contributions	The value of non-cash contributions (i.e., property or services) that— (a) Benefit a federally-assisted project or program; and (b) Are contributed by non-federal third parties (not the award recipient), without charge, to a non-federal entity under a federal award.
Unique Entity Identifier	<p>A Unique Entity Identifier (UEI) is a unique number assigned to all entities (public and private companies, individuals, institutions, or organizations) who register to do business with the federal government.</p> <ul style="list-style-type: none"> <li>▪ Since 2010, a Dun &amp; Bradstreet (DUNS) number has been required as the unique entity identifier for applying for, and obtaining, federal funds.</li> <li>▪ As of April 2021, existing entities registered in SAM.gov will automatically be assigned a new UEI which will be displayed in SAM.gov alongside the DUNS.</li> <li>▪ In April 2022, the Federal government will switch from the DUNS number as the official version of UEI to a UEI generated by SAM.gov.</li> </ul>
Unrecovered indirect costs	The difference between the amount charged to the federal award and the amount which could be charged to the federal award under the non-federal entity's approved negotiated indirect cost rate.
Voluntary Committed Cost Share	Cost sharing specifically pledged on a voluntary basis in the proposal's budget on the part of the non-Federal entity and that becomes a binding requirement of Federal award. See also 2 CFR 200.306.

## 6. Required Registrations (2 CFR Part 25)

Organizations are required to have a Unique Entity Identifier or UEI. Since 2010, this has been a Dun & Bradstreet number, or DUNS. In April 2022 the Federal government will switch to the use of a UEI created in SAM.gov to be the official UEI. An UEI reflects the organization's legal name and current, physical address.

SAs and RAOs (but not subrecipient organizations) must also maintain an **active** registration—based on the UEI provided in the application—in the System for Award Management (SAM.gov), from application submission through award closeout. See SAM.gov for more information about registering and renewing your entity.

- Requirement for recipients to ensure subrecipients have a unique entity identifier (2 CFR 25.300)

- (1) A recipient may not make a subaward to a subrecipient unless that subrecipient has obtained and provided to the recipient a unique entity identifier.
- (2) Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
- (3) A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier as described in 2 CFR Part 25.300.

The only Arts Endowment award recipients eligible to make subawards are the State Arts Agencies, Regional Arts Organizations, and Local Arts Agencies identified in the Arts Endowment's legislation (*P.L. 108-108* Section 309).

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

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

- (A) You must have written conflict of interest policies that ensure that all employees, board members, officers, or agents engaged in the selection, award, and administration of grants or contracts, avoid conflicts as described in 2 CFR 200.318.
- (B) You are required to disclose to us any actual or potential conflicts, including but not limited to the following:
  - National Endowment for the Arts Panelist. 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 performance.
  - National Council on the Arts member. 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 award actions, including payment requests.
- (C) You must also notify us of any violations of Federal criminal law involving fraud, bribery, or gratuity violations that potentially affect the Federal award, as noted in 2 CFR 200.113 and Appendix XII to Part 200. See 2 CFR 32.3254 for more information.

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

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

- (A) Statutory Policy Requirements. You are required to ensure that Federal funding is expended and programs are implemented in full accordance with the U.S. Constitution, Federal Law, and public policy requirements. You are required to adhere to all national policy requirements as outlined in Appendix A, including, but not limited to, those protecting public welfare, the environment, and prohibiting discrimination.

**(B)** National Endowment for the Arts Enabling Legislation. You are required to execute your project, (e.g., productions, workshops, programs, etc.) in accordance with the Agency’s enabling legislation that requires "artistic excellence and artistic merit."

**(C)** Financial Assistance General Certifications and Representations. By accepting these “Certs and Reps” in SAM.gov, you attest to complying with the legal requirements noted therein.

### **9. Financial Management (2 CFR 200.302) and Internal Controls (2 CFR 200.303)**

Your financial management systems must meet standards described in 2 CFR 200.302(b)(1) through (b)(7), including:

- Accurate identification of Federal award data, financial results, and the ability to provide source documentation upon request.
- Written procedures for determining the allowability of costs and for managing payments.

You must establish and maintain effective internal controls over your award and provide reasonable assurance that you are managing the award in compliance with Federal statutes, regulations, and the terms and conditions of the award. See 2 CFR 200.303(a).

### **10. General Procurement Standards (2 CFR 200.317-.327)**

**(A)** For SAAs, when procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with 2 CFR 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms; 200.322 Domestic preferences for procurements; and 200.323 Procurement of recovered materials. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in 2CFR 200.317 through 200.327.

**(B)** For RAOs, you must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The documented procurement procedures must conform to the procurement standards as set forth in 2 CFR 200.317-327.

- You should have written procedures to ensure that contractors or recipients, with whom you intend to do business, are not debarred or suspended prior to the award or payment of Federal funds (2 CFR 180 Subpart C).
- Your procurement contracts must contain provisions as described in Appendix II to Part 200— Contract Provisions for Non-Federal Entity Contracts under Federal Awards.
- You must maintain records sufficient to detail the history of any procurement under your Arts Endowment award 2 CFR 200.318(i).

You may be able to take advantage of the flexibilities found by using informal procurement methods such as micro-purchases (2 CFR 200.320(a)(1)), which have a current threshold of \$10,000 or less, and

small purchases (2 CFR 200.320(a)(2)), which have a current threshold of \$250,000 or less (Simplified Acquisition Threshold).

We may ask to review your procurement policy, plans, and other documents such as requests for proposals and independent cost estimates (2 CFR 200.325).

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

- (A) For States, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 CFR Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and (TFM) 4A-2000, “Overall Disbursing Rules for All Federal Agencies”.
- (B) For RAOs, you must have written procedures to minimize the time elapsing between the receipt and the disbursement of Federal award funds to avoid having excessive Federal funds on hand. Requests for advance payment are limited to your immediate cash needs and are not to exceed anticipated expenditures for a 30-day period (2 CFR 200.305(b)(1)).
- (C) Payments may be withheld (2 CFR 200.305(b)(6)) if:

- You have failed to comply with the terms and conditions of the award, including any Federal statutes or regulations, as well as the project objectives of the award, or,
- You are delinquent in a debt to the United States, or,
- You are withholding payment to contractors to assure satisfactory completion of work on the award.

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

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

(A) For SAAs,

- Per the Arts Endowment's legislation (20 USC 954(g)(4), SAAs must match the Federal award with state government funds that are directly controlled and appropriated by the state and directly managed by the state agency. Note: all Partnership Agreement funds must be used to supplement and *not supplant* non-federal funds.
- SAAs may not use in-kind contributions to meet the minimum cost share/matching requirements for the Partnership Agreement.
- SAAs may not use program income to meet the minimum matching requirements for the Partnership Agreement.

- SAAs may not use subrecipient cost share/matching funds to meet the minimum cost share/matching requirements for the Partnership Agreement.

**(B) For RAOs,**

- RAOs may use a variety of sources to meet the required cost share/match, including donations, non-Federal grants and other revenue.
- Use of Third-Party In-kind Contributions (2 CFR 200.306(d-j)). If you include in-kind third-party (i.e., not your own) contributions as part of your cost share or match, they must also be included as direct costs in your project budget so we can determine their allowability, and reflected as such in your accounting records. Volunteer and donated services, goods, property, or space must be documented and their fair market value determined per the Uniform Guidance.
- Although you may use in-kind contributions to meet the required match, you cannot be reimbursed by the National Endowment for the Arts for goods or services that were provided to you on an in-kind basis.

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

**Costs supported by both the National Endowment for the Arts funds and cost share/match (including voluntary committed cost share) approved in your project budget must conform to all the requirements of the Federal award (2 CFR 200.306(b)).**

**(C) Use of Unrecovered Indirect Costs for Cost Sharing or Matching (2 CFR 200.306(c)).**

Unrecovered indirect costs may be included as part of the cost share/match for an award if you have a current Indirect Cost Rate (or Facilities & Administrative/F&A) Agreement with a Federal agency.

**(D) Use of Program Income (2 CFR 200.307) – RAOs only.**

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

Per 2 CFR 200.307(e)(3) and .307(f), the National Endowment for the Arts allows program income to be used as part of the cost share/match for allowable expenses of the Arts Endowment-supported project, or for other eligible projects in the arts conducted by your organization.

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

**(E) Ineligible Cost Share/Matching Resources.**

These items are not eligible to meet your cost share or matching requirement:

- Other Federal funds, including other Arts Endowment funds (2 CFR 200.306(b)(5)).

- Resources that have been used to match another National Endowment for the Arts award or other Federal program (2 CFR 200.306(b)(2) and 2 CFR 200.403(f)).
- Contributions or gifts provided to your organization that are restricted and cannot be used to support the project. This includes gifts (bequeathed or otherwise) which are not available to your organization during the award period of performance.
- SAAs may not use subrecipient cost share/matching funds to meet the minimum cost share/matching requirements for the Partnership Agreement.

### 13. Cost Principles

The allowability of costs for work performed under your Arts Endowment award, including costs incurred under subawards made with Federal or matching funds, is determined in accordance with the Arts Endowment’s Partnership Agreements guidelines and the Uniform Guidance Subpart E-Cost Principles.

**(A)** All costs included in the approved project budget or reported on payment requests and financial reports for the award, whether supported with Federal or required cost share/matching funds or any voluntary committed cost share, must be:

- Necessary and reasonable for the performance of the Federal award.
- Allocable and in conformance with these cost principles and as set forth in the award (200.403(b)).
- Consistent with policies and procedures that apply uniformly to both Federally-financed and other activities of the non-Federal entity.
- Accorded consistent treatment as either a direct or indirect cost.
- Determined in accordance with generally accepted accounting principles (GAAP).
- Not included as a cost or used to meet cost sharing or matching requirements of any other Federally-financed program.
- Adequately documented for reporting and audit purposes.
- Incurred during the approved period of performance during which funds are budgeted.

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

**(B) Selected costs and their allowability under Partnership Agreements**

The allowability of costs is based on National Endowment for the Arts legislation and 2 CFR 200.

**(1) Unallowable**

- **Compensation to foreign nationals**, including travel to or from foreign countries, when those expenditures are not in compliance with regulations issued by the U.S. Treasury Department Office of Foreign Assets Control (OFAC Sanctions/National Endowment for the Arts guidelines) are **unallowable**.
- **Entertainment** (2 CFR 200.438). Entertainment, including amusement and social activities such as receptions, parties, galas, dinners, community gatherings, etc., and any associated costs including food, catering, alcoholic beverages, as well as costs for the planning, staffing, and supplies, for such, etc., are **unallowable**.
  - Specific costs that might otherwise be considered entertainment but have a programmatic purpose **may be allowable** if authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.
- Funding **cash reserve or endowment accounts** or instruments is **unallowable**.
- **Home Office Workspace** (2 CFR 200.465(f)). Rental of any property owned by any individuals or entities affiliated with the non-Federal entity for purposes such as a home office workspace is unallowable.
- Costs associated with subawards made to **ineligible recipients** are **unallowable**.
- **Prohibited telecommunications and video surveillance services and equipment** (2 CFR 200.216 and .471). You may not buy or obtain, nor extend or renew a contract for, covered telecommunications and video surveillance services and equipment that is prohibited by P. L. 115-232, section 889.
- **Visa costs** paid to the U.S. Government (P.L. 109-54, Title III General Provisions, Sec. 406); however, the cost of preparing material (legal documentation, etc.) for submission is allowable.
- The purchase of **vehicles**, including but not limited to cars, vans, buses, trucks, sport utility vehicles, etc.

**(2) Allowable or generally allowable**

- Construction and renovation-type projects—e.g., accessibility-related construction and renovation, substantial exhibition design, the installation of climate control systems for a museum, etc., are **allowable**. Projects that involve construction labor must comply with the provisions of the Davis-Bacon Act.

- **Conferences** (2 CFR 200.432). Costs of conferences (including meetings, retreats, seminars, symposia, workshops or other events whose primary purpose is dissemination of technical information) are still **generally allowable**, however:
  - Conference sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed in a manner that minimizes costs to the Federal award.
  - Costs associated with activities that generally occur at a closing meal, or a reception at the end of the working day, are **unallowable**. These activities also often have alcohol associated with them and/or are of a social nature, which are **prohibited** under Federal awards (see also Entertainment.)
  
- **Fundraising** (2 CFR 200.442). A percentage of salaries and fringe benefits for development or fundraising staff, or fees to contractors who raise funds to implement the National Endowment for the Arts project during the period of performance **may be allowable** costs. However:
  - Salaries or other costs for general fundraising activities or events, including those for donors, or that benefit the organization as a whole, are **unallowable**.
  - Costs associated with activities such as galas or parties, picnics or other community gatherings where food and beverages are provided, are **unallowable** (see also Entertainment.)
  
- **Individual Artists**. Awards to individuals or organizations to honor or recognize achievement (P.L. 111–88, October 30, 2009, Sec. 438 (2)) are **unallowable**. Emergency relief funds for housing, food, etc. to an individual artist are also **unallowable**.

However, support to individual artists **may be allowable** if the award funds programs and activities and is not a one-time monetary recognition award to an individual artist. Awards to individuals should include presentations, training, research, and/or creation of an artwork, with tangible outcomes required by the subaward. This is considered a stipend to the artist for the work undertaken and completed.

Because neither the Arts Endowment Partnership Agreement funds nor the cost share/matching funds can support a fellowship solely as an honorific, costs for this type of award program must not be included in the Partnership Agreement budget and future financial reports.

**(C) Goods for resale (National Endowment for the Arts guidelines, 2 CFR 200.421(e)(3).**

Costs of goods for resale are **unallowable**. This includes the sale of concessions, promotional merchandise, including clothing, or items purchased for sale, even if related to your programming. It also includes any associated staffing or facilities costs. However, costs of items that are produced as part of the approved project activity (e.g., publishing books or exhibition catalogs, or making recordings or films for distribution) and that are incurred during the period of performance are allowable.



**(D) Indirect Costs (Facilities & Administration) (2 CFR 200.414 and 2 CFR 200.332).**

Award recipients and your subrecipients may claim indirect costs based on:

- (1) A current and appropriate indirect cost rate negotiated with your Federal Cognizant Agency, or;
- (2) A de minimis rate.
  - For awards issued on or after November 12, 2020, an organization that does not have a current negotiated (including provisional) rate may charge a de minimis rate of 10% on modified total direct costs (MTDC) if included in the project budget and approved by the Arts Endowment. For example, if an organization had negotiated an indirect cost rate previously, but the negotiated rates have expired, it has the option to claim the de minimis rate (2 CFR 200.414 (f)). This de minimis rate may be used indefinitely (effective November 12, 2020).

**NOTE:** You cannot claim both direct overhead/administrative costs and the de minimis, or negotiated, indirect cost rate. However, if no approved rate exists, you, as the pass-through entity, must determine the appropriate rate in collaboration with the subrecipient, which is either:

- The negotiated indirect cost rate between the pass-through entity and the subrecipient; which can be based on a prior negotiated rate between a different pass-through entity and the same subrecipient. If basing the rate on a previously negotiated rate, the pass-through entity is not required to collect information justifying this rate, but may elect to do so;
- The de minimis indirect cost rate.

You cannot require the use of a de minimis indirect cost rate if the subrecipient has a Federally approved rate. Subrecipients can elect to use the cost allocation method to account for indirect costs in accordance with 2 CFR 200.405(d).

More information about indirect costs for a National Endowment for the Arts award can be found in the *How to Manage Your National Endowment for the Arts Award and eGMS Reach Handbook* and the *Indirect Cost Guide* on the Arts Endowment's website.

**14. Travel (2 CFR 200.475 and 41 CFR 301-10; 2 CFR 200.1)**

Travel costs are expenses for transportation, lodging, subsistence, and related items incurred by those individuals who are on official business attributable to work under an award and in accordance with your entity's written travel reimbursement policies. In addition, "Participant Support Costs" (2 CFR 200.1) may be approved for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants (but not employees) in connection with conferences, projects, or events that are part of the grant.

- (A)** Any airfare charged to the award, whether domestic or foreign, may not exceed the value of the basic least expensive unrestricted accommodations class offered by a commercial carrier (2 CFR 200.475(e)).

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

- You are required to follow the provisions of the Fly America Act (49 USC 40118). The regulations regarding the Fly America Act are available at 41 CFR 301-10.131-.143. Any air travel paid in whole or in part with National Endowment for the Arts funds must be on a U.S. flag air carrier or a foreign air carrier under an air transport agreement (code share agreement) with the United States when these services are available.
- For travel under an air transport agreement (code share agreement) the ticket, or documentation for an e-ticket, must identify the U.S. flag carrier's designator code and flight number, e.g., American Airlines (AA) 1606 operated by Air France.
- There are some exceptions to the Fly America Act, see 41 CFR 301-10.135-138. If you do use a foreign air carrier you must provide us with a certification, including a justification as to why your travel met one of the exceptions. We may request additional information if necessary.
- Lower cost, convenience, or traveler preferences are NOT acceptable reasons for using a foreign air carrier.

**(C) Foreign Travel.**

Foreign travel is defined as any travel outside the United States, its territories and possessions. For foreign travel that was not originally approved in your award, you must request written approval from the Office of Grants Management before travel is undertaken (2 CFR 200.308).

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

You are required to carry out a project consistent with the application or proposal approved for funding by the National Endowment for the Arts. Amendment requests are considered on a case-by-case basis, and approval is not guaranteed. Until you receive written approval from the Office of Grants Management, you may only incur costs consistent with the terms and conditions of the award in effect at the time of your request. Detailed information about how to request an amendment can be found in the *How to Manage Your National Endowment for the Arts Award and eGMS Reach Handbook*.

- We have the right to request additional information, such as updates on specific project activities, including a revised budget or an itemized list of actual expenditures, as needed.
- If your organization is undergoing an audit by the National Endowment for the Arts Inspector General's office, amendments of the award(s) in question will be reviewed in conjunction with the audit resolution process.

**(A) The following types of amendments require written approval from the Office of Grants Management:**

**(1) Period of performance changes.**

This may include a new start date (no earlier than the earliest allowable start date per the Arts Endowment's guidelines), as well as an end date extension.

NOTE: Arts Endowment funds can only be used to support activities related to the approved state or regional arts plan of the fiscal year for which your award has been made.

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

(2) Final report filing extension.

This may include the Final Descriptive Report, Federal Financial Report, and if required, a work product.

(3) Project scope changes.

These include changes to the approved project activities, focus of content, significant changes in targeted participants, and changes in the breadth or impact of projects. These also include:

- Changes in artists or key partners, if they were specifically identified as confirmed in the application or project budget. (Exception: Festival artist substitutions do not require a scope change, unless they were "headliners.") Provide a short biography for each artist.
- Changes in an activity's location that may impact historic buildings or sites. (A project involving or occurring near a district, site, building, landscape, structure or object that is 50 years old or older). Complete the NHPA / NEPA Questionnaire.

(4) Budget Revisions.

- Budget changes due to a significant change in the scope of the National Endowment for the Arts-supported project. If in doubt, contact the Office of Grants Management for guidance.
- Adding permanent equipment.
- Adding foreign travel.
- Adding indirect/F&A costs allowable under a Federally-negotiated rate.

**(B)** The following changes do not require written approval from us:

(1) Project activities.

- Changes in organizational management/project administration (unless specified in your award document).

- Changes in artists, participants, or project partners that were not identified specifically in the approved project. (This is common with festivals.)
- Addition or removal of auxiliary programming as long as it does not impact the overall project scope.
- Changes in project venues or touring locations, as long as: all project locations are fully accessible in compliance with Section 504 of the Rehabilitation Act of 1973, as amended, (Section 504) and the Americans with Disabilities Act of 1990 (ADA), as amended, or specific accommodations will be made appropriately; and, the constituency to be reached is the same as originally approved.

(2) Budget Revisions.

- Transfers among direct cost line items.
- Elimination or addition of an allowable project cost that does not affect the scope of the award.
- For RAOs, replacement of in-kind cost share/match with cash cost share/match or other changes in cost share/match sources, as long as they meet all other cost share/match requirements.

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

(C) Declining an Award.

You may decide to decline the award after it has been made. Please see *How to Manage Your National Endowment for the Arts Award and eGMS Reach Handbook* for instructions.

**16. Performance and Financial Reporting (2 CFR 200.328-344)**

More information can be found in the *How to Manage Your National Endowment for the Arts Award and eGMS Reach Handbook*. Report forms and instructions are also on our website.

(A) Progress Report (20 USC 954(j)).

A progress report is required once the cumulative amount of National Endowment for the Arts funds requested exceeds two-thirds of the award amount. The progress report is most often included on the payment request form submission, and must be approved before we release funds that exceed this amount.

(B) Specific Reporting Requirements (2 CFR 200.208).

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, in-kind documentation, an itemized list of actual expenditures to date, etc.) or at other times during the project. These *Specific Terms and Conditions* will be included in your award notice when applicable.

**(C) Reporting to the Federal Subrecipient Reporting System (FSRS).** As required by the Federal Funding Accountability and Transparency Act (FFATA), you must report any subawards that include **\$30,000** or more in Federal funds to FSRS at [www.fsrs.gov](http://www.fsrs.gov) by the end of the month after the subaward is made. For more details see “The Transparency Act and Sub-award Reporting Requirements” at [www.arts.gov/grants/manage-your-award/awards-after-oct1-2017-to-saa-rao](http://www.arts.gov/grants/manage-your-award/awards-after-oct1-2017-to-saa-rao).

**NOTE:** for subawards issued prior to October 2020, the threshold for reporting is **\$25,000** in Federal funds per subaward.

**(D) Subrecipients have 90 days after the period of performance end date of the Partnership Agreement to submit final reports to you.** As the pass through entity, your final reports are due 30 days after that or 120 days from the end date of the Partnership Agreement. (2CFR 200.329(c)(1)).

- Subrecipient final reports should include a comparison of actual accomplishments to objectives described in the Arts Endowment’s Partnership Agreement Guidelines and the reason why established goals were not met (2 CFR 200.329(c)(2)(i)).
- If delays or other significant developments occur, the subrecipient must inform you, and you the Arts Endowment, as soon as they become known (2 CFR 200.329(e)).

**(E) Final Reports (2 CFR 200.329, .339 and .344).**

To close out your award you must submit the following no later than **120 days after the period of performance end date** (2 CFR 200.329(c):

- Final Descriptive Report (FDR) that provides us with information on the performance of your award activities and associated data. This includes the data sequencing forms and other data documents that are submitted to the Arts Endowment’s partner, the National Assembly of State Arts Agencies
- A Federal Financial Report (FFR),
- Any required work product(s) as identified on the Reports Schedule/Tab in REACH.

**(F) Monitoring and Reporting Program Performance (2 CFR 200.329 (b-c)).**

It is expected that the approved project, as described in the application, approved in the Notice of Action, and, if applicable, as amended with the approval of the Arts Endowment, will be completed by the end date of the period of performance. The goals and performance of the project will be measured and evaluated against the requirements described in the Arts Endowment Partnership Agreements guidelines.

**(G) Failure to submit required reports (200.344(h)and (i)).**

You are required to submit all final reports within **120 days** from the end date of the period of performance, or by the extended due date as amended. There are *severe* consequences if final reports are not received by the deadlines.

- This includes the Arts Endowment’s withdrawal of any funds still available on the award, and eligibility for new awards.

- Failure to submit the required final reports for any award(s) renders you ineligible to receive National Endowment for the Arts funding for five (5) years following the final report due date of the award(s) or until the delinquent final reports are submitted, whichever occurs first.
- *Acceptability of final reports may also affect eligibility for new awards.* These failures may also affect our ability to release funds on any other open awards. Federal awarding agencies may also pursue other enforcement actions (2 CFR 200.339 and 2 CFR 200.344(i)).

**(H) Federal Awardee Performance and Integrity Information System or FAPIIS.**

If you do not submit all reports within one year of the approved period of performance end date, the National Endowment for the Arts must report to FAPIIS your material failure to comply with the terms and conditions of the award. (85 FR 49529 August 13, 2020).

*For awards issued under previous General Terms and Conditions for Partnership Agreements after October 1, 2014 and before November 11, 2020, see below:*

- (I) For awards issued from October 1, 2014, to September 30, 2017.** Failure to submit required and satisfactory final reports within 210 days after the period of performance end date will result in the withdrawal of any funds remaining on that award and the award will be closed out (see 20. Closeouts, Adjustments, etc.).
- (J) For awards issued after October 1, 2017.** Required final reports must be received within 150 days after the period of performance end date, and must be determined to be acceptable. Failure to do so will result in the actions as noted above.

**17. Property Standards: Use and Disposition**

Property may include commissioned, purchased, or fabricated art work(s) approved under the National Endowment for the Arts award. Unless otherwise specified, you will have title to this property, without further obligation to the Federal government, provided that it will be used for similar activities. One example of similar activity is selling the art 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.

**(A) Equipment (2 CFR 200.1) includes tangible, nonexpendable, personal property.**

- Having a useful life of more than one (1) year, and
- A per unit cost that equals or exceeds the lesser of the
  - Capitalization level established by your organization, or
  - \$5,000
- That have been approved to purchase under the National Endowment for the Arts award.

**(B) Buy American Act (41 USC 8301-8305) and Domestic Preference for Procurement (2 CFR 200.322).**

You are strongly encouraged to purchase American-made equipment in accordance with the "Buy American Act." Furthermore, you should, to the greatest extent, provide a preference for the

purchase, acquisition, or use of goods, products, or materials (beyond equipment) produced in the United States.

**(C) Disposition Instructions (2 CFR 200.313(e) and (e)(1)).**

Unless otherwise specified, you will have title to equipment commissioned, purchased, or fabricated under the award, without further obligation to the Federal government, provided that it will be used for activities similar to those approved by us.

Items of equipment with a current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to the National Endowment for the Arts.

**(D) Supplies (2 CFR 200.314) include computing devices.**

If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value, including computing devices purchased for \$5,000 or less per unit, you may retain them without further obligation to the Federal government, provided that they will be used for activities similar to those approved by us.

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

You may copyright any material that is subject to copyright and was developed, or for which ownership was acquired, under the National Endowment for the Arts award during the period of performance. For procedural information, visit the U.S. Copyright Office at [www.copyright.gov](http://www.copyright.gov). (2 CFR 200.315(b)).

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

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, visit the Library of Congress at <http://www.loc.gov/publish/cip/>.

**18. Record Retention (2 CFR 200.334) and Access**

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

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

**(A) Standards for Documentation of Personnel Expenses (2 CFR 200.430(i)(1)).**

Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. The records must comply with your organization's internal controls and established accounting policies. Records must support these costs for both the Federal funds and cost share

requirements. We may require personnel activity reports or equivalent documentation if necessary (2 CFR 200.430(i)(8)). Also see section 12 regarding in-kind contributions by RAOs.

(B) Records for equipment must be retained for three (3) years after final disposition (2 CFR 200.334(c)).

(C) Access to Federal award information.

During the period of performance and the subsequent retention period, the National Endowment for the Arts Inspector General, the Comptroller General of the United States, or any of our authorized representatives has the right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to your personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but last as long as records are retained (2 CFR 200.337).

(D) Federal award-related information should be collected and stored in open and machine-readable formats whenever practicable (2 CFR 200.336). In addition, restrictions on public access are generally limited to protected personally identifiable information (PII) and FOIA and other applicable exemptions (2 CFR 200.338).

## **19. Noncompliance (2 CFR 200.339-343)**

(A) Remedies (2 CFR 200.339).

If you fail to comply with Federal statutes, regulations, or the terms and conditions of our award, we may impose additional conditions, as described in 2 CFR 200.208. If we determine that noncompliance cannot be remedied by imposing additional conditions, we may take one or more of the following actions, as appropriate in the circumstances:

- Temporarily withhold cash payments pending correction of the deficiency, or more severe enforcement action.
- Disallow the use of National Endowment for the Arts funds or your cost share/match for the unallowable costs or activities.
- Wholly or partly suspend or terminate the National Endowment for the Arts award.
- Initiate suspension or debarment proceedings as authorized under 2 CFR 180 and our regulations at 2 CFR 32.3254.
- Withhold further National Endowment for the Arts awards.
- Take other remedies that may be legally available.

(B) Termination (2 CFR 200.340).

A termination occurs *during* the award period of performance. The Federal award may be terminated in whole or in part as follows,

- By us, if you fail to comply with the terms and conditions of a Federal award;



- By us, to the greatest extent authorized by law, if the award no longer meets the program goals or addresses agency priorities; (85 FR 49529 August 13, 2020).
- By us, with your consent, in which case we will agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- By you, upon sending us written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if we determine that the reduced or modified portion of the award will not accomplish the purposes for which it was made, we may terminate the award in its entirety.

(C) Termination Provisions (2 CFR 200.340(b))

These may be included in Specific Terms for an individual award; a notification of intent by us to terminate, or other options. We reserve the right to take additional actions such as,

- Requiring you to return a portion or all of the award funds,
- Requesting that you remove acknowledgement of National Endowment for the Arts support,
- Recommending government-wide suspension, or
- Taking other legally available remedies.

You will be notified of such actions and be given an opportunity to provide information and come into compliance (200.340(c) and (200.341)).

(D) If your award is terminated due to your material failure to comply with the Federal award terms and conditions during the period of performance, the Arts Endowment is required to report the termination to the OMB-designated integrity and performance system accessible through SAM (currently Federal Awardee Performance and Integrity Information System or FAPIIS) per 2 CFR 200.340(c). The information will be available in the system for 5 years from the date of termination.

(E) Government-wide suspension and debarment will follow a process in conjunction with our Office of Inspector General (see also 2 CFR Part 180).

**20. Closeout, Adjustments, and Continuing Responsibilities (2 CFR 200.344-.345)**

After the period of performance end date, the next stage of an award's life is termed closeout. During the closeout process, the Arts Endowment reviews final reports and other items to determine if all applicable administrative actions and all required work of the award have been completed in an acceptable manner and in accordance with the terms and conditions of the award.

As a reminder, acceptable final reports must be submitted within **120 days** of the approved period of performance end date of the award.

Upon receipt and approval of all final reports, the agency will close out your award. Any unused Federal funds shown on the final Federal Financial Report (usually in Line **10.h**) will be deobligated.

(A) If you do not submit all required reports within one year of the approved period of performance end date, the **National Endowment for the Arts is required to report your organization's material failure to comply with the terms and conditions of the award to the OMB-designated integrity and performance system, FAPIIS).**

We may also pursue other enforcement actions (2 CFR 200.344(i) and 200.339 (see section 9 (A) Remedies, above)).

(B) Closeout will also occur even if final reports are not received. In either case, after 150 days from the period of performance end date, funds will no longer be available.

(C) If you need to return National Endowment for the Arts funds that you are not using, or you are not going to draw down all of the Arts Endowment award funds, follow the instructions in the *How to Manage Your National Endowment for the Arts Award and eGMS Reach Handbook*.

(D) The closeout of a Federal award does not affect any of the following:

- Our right to disallow costs and recover funds on the basis of a later audit or other review within the record retention period.
- Your obligation to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
- Our ability to make financial adjustments to a previously closed award.
- Audit requirements if you must have a Single or Program-Specific Audit (see section 21, below).
- Property management and disposition requirements.
- Records retention as required in 2 CFR 200.334-.338.

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

The threshold for requiring a Single Audit or Program-specific audit is \$750,000 in yearly expenditures of Federal funds. This amount is the aggregate of funds from all Federal sources. If your organization meets or exceeds this threshold, a percentage of Single Audit costs may be included in your award budget. Otherwise, audit costs are unallowable (2 CFR 200.425).

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

## 22. Subawarding Federal or Cost Share/Matching Funds

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

An Arts Endowment subaward is an award made by you (sometimes called the "prime" or "direct" recipient) using Federal and/or cost share/matching funds for the purpose of carrying out a portion of a Federal award (200.331(a)). A subaward exists when funds are subgranted to an eligible non-Federal entity for activities conducted independently of the direct award recipient and for the benefit of the subrecipient's program objectives. A subaward recipient is neither directly employed by nor affiliated with the direct award recipient. A subaward relationship could exist even if you call the grant agreement a contract.

If you make subawards as part of your Partnership award, you are considered a "pass-through" entity per the definition provided at 2 CFR Part 200 Subpart A "Acronyms and Definitions," and you must also comply with the requirements for monitoring and management of all subrecipients who receive subawards comprised of Federal and/or cost share/matching funds.

- A subaward exists when funds are re-granted to an eligible non-Federal entity for activities conducted independently of the direct award recipient for the benefit of the subrecipient's program objectives.
- A subrecipient is neither directly employed by nor affiliated with the direct award recipient.
- A subaward relationship *could* exist even if you call the grant agreement a contract.

**NOTE:** If subawards are made for *further* subawarding activity, the subrecipient becomes a pass-through entity as defined by 2 CFR Part 200 and must comply with all the provisions of items 3 and 4 below.

## 23. Requirements for Subawards made under a Partnership Agreement (2 CFR 200.332)

As the pass-through entity, you are required to ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information in Appendix B, at the time of the subaward. If any of these data elements change, include the changes in subsequent subaward modification(s). When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward (2 CFR 200.332).

Both the Arts Endowment's enabling legislation and the Uniform Administrative Requirements (2 CFR Part 200) include requirements for subawards that are made under a Federal award.

- You must abide by, or implement, all of the items below if you are making subawards with Arts Endowment or cost share/matching funds.
- Any subrecipients who make further subawards using Arts Endowment or cost/share matching funds must also comply with these requirements.

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

**NOTE:** The Arts Endowment does not prescribe how Federal/cost sharing/matching funds must be allocated. For example, you may choose larger amounts to apply to a small number of subawards or spread smaller amounts more widely. You determine the method that allows for the fullest compliance with the requirements outlined below.

<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location Options</b>
<p><u>Review Criteria.</u> In accordance with the Arts Endowment's enabling legislation, you must include "artistic excellence and artistic merit" in the review criteria used to make the subawards.</p>	<p>20 USC Sec. 951 et seq. (also found in the Arts Endowment Partnership Guidelines)</p>	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Panelist/staff review instructions</p>
<p><u>Eligible Organizational Subrecipients.</u> Only 501(c)(3) nonprofit organizations, units of state or local government, institutions of higher education, or Federally-recognized Indian tribal governments are eligible to receive funds subawarded through an Arts Endowment award.</p>	<p>20 USC Sec. 954(f)</p>	<p>Guidelines (Notice of Funding Opportunity)</p>
<p><u>Eligible Individual Subrecipients.</u> Support to individual artists may be allowable if the subaward supports allowable programs and activities and is <u>not</u> a one-time monetary recognition award. Awards to individuals may include providing presentations, workshops, research, and/or creation of artwork, with tangible outcomes required by the subaward. This is considered a stipend to the artist for the work undertaken and completed.</p> <p>Neither the Federal funds nor the cost share/matching funds can support a fellowship solely as an honorific. Costs for this type of award program must not be included in the budget or financial reports for the Arts Endowment award.</p>	<p>20 USC 954</p>	<p>Guidelines (Notice of Funding Opportunity)</p>

<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location Options</b>
<p><u>Unique entity identifier.</u>            You may not make a subaward with Federal or cost share/matching funds to an eligible organization (entity) without a unique entity identifier, currently a DUNS number.*</p> <p>Subrecipients are <i>not</i> required to complete full SAM registration to obtain a unique entity identifier.</p> <p>You must notify potential subrecipients that they cannot receive a subaward from you unless they provide a valid UEI.</p> <p><b>NOTE:</b> Individual persons receiving subawards do not need to have a UEI (2 CFR 25.110(b))</p> <p>**By April 2022, the Federal government will stop using the DUNS number to uniquely identify entities registered in the System for Award Management (SAM). At that point, entities doing business with the Federal government will use a Unique Entity Identifier created in SAM.gov.</p> <ul style="list-style-type: none"> <li>▪ As of April 2021, existing entities registered in SAM.gov will automatically be assigned a new UEI which will be displayed in SAM.gov alongside the DUNS number.</li> <li>▪ In April 2022, the Federal government will switch from the DUNS number as the official version of UEI to the UEIs generated by SAM.gov.</li> </ul>	<p>2 CFR 25.200</p> <p>2 CFR 25.300</p> <p>2 CFR 25.110(b)</p>	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Application form</p> <p>Award notification</p>
<p><u>Review of Risk.</u>            You must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward and consider imposing specific subaward conditions if appropriate.</p>	<p>2 CFR 200.332(b), (c), and (e)).</p>	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Panelist/staff review instructions</p> <p>Terms and Conditions</p>

<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location Options</b>
<p><u>Acceptance of Federally-recognized indirect cost rates.</u> Unless you have noted otherwise in your notice of funding opportunity (e.g., guidelines), you must:</p> <ul style="list-style-type: none"> <li>▪ Accept an approved indirect cost rate negotiated between the subrecipient and the Federal Government.</li> <li>▪ If no such rate exists, you can negotiate your own rate with the subrecipient in compliance with this part, or accept a <b>de minimis indirect cost rate</b> of up to 10% of modified total direct costs.</li> <li>▪ You may also accept a de minimis rate if the subrecipient’s Federally-negotiated rate is expired.</li> </ul> <p><b>NOTE:</b> The reasons for the disallowance of indirect costs must be based on a legislative requirement or because the publicly available notice of funding opportunity is restricted to direct costs only (e.g., artist fees), not the pass-through entity’s preference.</p>	<p>2 CFR 200.332(a)(4) and 2 CFR 200.414(f)</p>	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Terms and Conditions</p>
<p><u>Identification of Federal or matching funds.</u> You must identify if the subaward is comprised, in whole or in part, of Federal funds or funds that are used to meet the minimum required cost share/match for the Federal award. You must also identify the Federal Awarding Agency and provide other required information as outlined in Appendix B.</p> <p>2 CFR 200.332 <u>requires</u> that this information is conveyed,</p> <ul style="list-style-type: none"> <li>▪ At the time the subaward is made,</li> <li>▪ When/if any of these data elements change, including in any subsequent subaward modification(s).</li> </ul> <p>If this information is not available at the time the subaward is made, you must provide the best information available to describe the Federal award and subaward and provide updates to the subrecipient as necessary upon the receipt or disbursement of Federal or matching funds.</p>	<p>2 CFR 200.332(a)</p>	<p>Award notification</p> <p>Other appropriate documentation related to the subaward</p>
<p><u>Other Federal requirements.</u> You must inform the subrecipient of any other Federal requirements that "flow down" as outlined in <b>Appendix A</b>. (See section 24 below, for more detail.)</p>	<p>200.101(b)(1)</p>	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Terms and Conditions</p>

<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location Options</b>
<p><u>Debarment and Suspension.</u> 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.</p> <p><u>What does this mean for you and your subrecipients?</u> Per 180.300 Subpart C, this means checking <a href="http://SAM.gov">SAM.gov</a> for any exclusions, reviewing certifications (also available on SAM.gov) or adding a term or condition to the award with that entity (including subrecipients) regarding compliance with 180.300 Subpart C.</p> <ul style="list-style-type: none"> <li>▪ Exclusion Records are publicly available; <a href="http://SAM.gov">SAM.gov</a> will display if an entity has an active exclusion.</li> <li>▪ Search to view the entity’s SAM.gov record.</li> <li>▪ Within the entity’s record, <ul style="list-style-type: none"> <li>(a) Click on “Reps and Certs” to review certifications.</li> <li>(b) Click on “Exclusion” to view these.</li> </ul> </li> </ul>	180.300 Subpart C	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Terms and Conditions</p>
<p><u>Terms and Conditions.</u> You must provide subrecipients with Terms and Conditions for their subaward that outline all requirements for managing their subaward. These Terms and Conditions must include or reference all of the Federal requirements that "flow down" to the subaward, instructions for submitting performance and financial reports required by your agency, information relating to the closeout of the subaward, and record retention, among others.</p>		
<p><u>Monitoring.</u> You must monitor the activities of your subrecipient(s) as necessary to ensure that subawards are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.</p>	2 CFR 200.332(d - h)	<p>SAA/RAO written procedures</p> <p>Terms and Conditions</p>
<p><u>Subrecipient Reporting.</u> You may impose additional requirements on the subrecipient to meet your own responsibility to us, including any required financial and performance reports. You must also keep subrecipients' report submissions on file for three years after the date you submit your Federal Financial Report to the Arts Endowment.</p>	200.331(a)(3)	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Award documents</p> <p>Terms and Conditions</p>

<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location Options</b>
<p><u>Reporting to the Federal Subrecipient Reporting System (FSRS).</u> As required by the Federal Funding Accountability and Transparency Act (FFATA), you must report any subawards that include \$30,000 or more in Federal funds to FSRS at <a href="http://www.fsr.gov">www.fsr.gov</a> by the end of the month after the subaward is made.</p>	<p>2 CFR 170</p>	<p>SAA/RAO's written procedures</p>
<p><u>Record Retention and Access.</u> You must inform subrecipients that they must permit you and your financial auditors access to their records and financial statements as necessary for you to ensure compliance with the Federal award requirements.</p> <p>Subrecipients must retain financial records and other supporting documents related to the subaward for a period of three years from the date they submit their final expenditure report to you.</p> <p><b>Reminder:</b> You must retain all records pertinent to your Federal award for a period of three years from the date that you submit the final Federal Financial Report (FFR) to us.</p>	<p>(2 CFR 200.332 (a)(5), .334 and .337).</p>	<p>Guidelines (Notice of Funding Opportunity)</p> <p>Award documents</p> <p>Terms and Conditions</p>
<p><u>Closeout.</u> All subawards made with Federal and/or required cost-share/matching funds must be closed out (including submission and approval of all subrecipient final reports and disbursement of all Federal and cost share/matching funds) <b>prior to</b> closing out your Federal award.</p> <p>If you extend a subaward to allow a subrecipient more time to complete the activities for which the subaward was made, the period of performance for the prime award must also be extended accordingly. However, subawards that encounter significant delays should (unless required to meet the cost share/match) be removed from the scope of the Arts Endowment award to avoid continued delays in closing out the Federal award.</p> <p>Review 2 CFR 200.344 for additional closeout actions and requirements.</p>	<p>2 CFR 200.332(a)(6) and .344(a)</p>	<p>Terms and Conditions</p>



<b>Requirement</b> <i>(Suggested locations in far right column)</i>	<b>Citation</b>	<b>Suggested Location Options</b>
<p><u>Acknowledgement.</u> You must provide subrecipients with requirements for acknowledging the Arts Endowment and State support. Crediting language should specify the supported program/activity being supported by the Partnership award. Subrecipients should be instructed to remove Arts Endowment credits from all materials at the completion of their respective grant periods.</p> <p>Crediting examples can be found in “Requirements for Acknowledgement of Arts Endowment Support: Partnership Awards” on the Manage Your Award Section for Partnership Agreements awarded after October 1, 2017.</p>	National Endowment for the Arts policy	Terms and Conditions

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

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

**You may not impose upon the subrecipient any requirements prohibited by federal law.**

Notice of Funding Opportunity (e.g., program guidelines).

Your guidelines must include flow-down federal regulations and policy requirements, so that potential applicants understand and are prepared to comply if they are selected for an award. Appendix A provides information regarding regulations, Executive Orders, and national policy requirements that are applicable to all Federal awards.

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

## APPENDIX A

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

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You must ensure that the funded project is implemented in full accordance with the U.S. Constitution, Federal Law, and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination (2 CFR 200.300).

As a registrant with SAM.gov, in most cases, you have already self-certified to the “Financial Assistance General Certifications and Representations,” including attesting to the accuracy of the certification and acknowledging that you may be subjected to criminal prosecution under Section 1001, Title 18 USC, or civil liability under the False Claims Act if you have misrepresented the information. A copy of this Financial Assistance Certifications Report is available in your SAM.gov entity registration record.

#### 1. Nondiscrimination Policies

As a condition of receipt of Federal financial assistance, you acknowledge and agree to execute your project, 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, and implemented by the National Endowment for the Arts at 45 USC 1110, provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Title VI also extends protection to persons with limited English proficiency (42 USC 2000d et seq.)
- 1.b As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. You are encouraged to consider the need for language services for LEP persons in conducting your programs and activities. For assistance and information go to [www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance](http://www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance).
- 1.c Title IX of the Education Amendments of 1972, as amended, provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance (20 USC 1681 et seq.)
- 1.d 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.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).
- 1.f 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 with regard to Section 504 accessibility requirements, the Civil Rights Office has a *Section 504 Self Evaluation Workbook* available on our website.
- 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 National Endowment for the Arts upon request. The NATIONAL ENDOWMENT FOR THE ARTS 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 National Endowment for the Arts website. If you have questions, contact the Office of Accessibility at [accessibility@arts.gov](mailto:accessibility@arts.gov); (202) 682-5532; FAX (202) 682-5715; or TTY (202) 682-5496.

## 2. Environmental and Preservation Policies

2.a The National Environmental Policy Act 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 of 1966, as amended, applies to any Federal funds that support activities that have the potential to impact any structure eligible for or on the National Register of Historic Places, adjacent to a structure that is eligible for or on the National Register of Historic Places, or located in a historic district, in accordance with Section 106. This also applies to planning activities that may affect historic properties or districts. We will conduct a review of your project activities, as appropriate, to determine the impact of your project activities on the structure or any affected properties. Agency review must be completed prior to any agency funds being released. You may be asked to provide additional information on your project to ensure compliance with the Act at any time during your award period (16 USC 470).

## Other National Policies

3. Debarment and Suspension. You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR Part 180, as adopted by the National Endowment for the Arts in 2 CFR 3254.10.

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 National Endowment for the Arts Office of Grants Management of any employee convicted of a violation of a criminal drug statute that occurs in the workplace (41 USC 701 et seq. and 2 CFR Part 3256).

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

ected 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.

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

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

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

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

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

## APPENDIX B

### Required Data Elements for Subaward Notices 2 CFR 200.332

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

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

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

**NOTE:** For items (viii) Amount of Federal Funds Obligated by this action, (ix) Total Amount of Federal Funds Obligated to the subrecipient, (x) Total Amount of the Federal Award, if you have not determined the allocation of Federal/matching funds at the time the subaward is made, you must make provisions to convey this information to the subrecipient at the time that Federal or matching funds are obligated to their subaward.

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

2 CFR 200.332	SAMPLE RESPONSE	NOTES
(i) Subrecipient name	<i>Dance Council of Birmingham</i>	Legal name of the subrecipient; must match the entity's name in their D&B record.
(ii) Subrecipient's unique entity identifier UEI	<i>Since 2010 the Subrecipient's DUNS #. By April 2022 an UEI created by SAM.gov.</i>	The subrecipient's UEI; must reflect legal name and current physical address.
(iii) Federal Award Identification Number (FAIN)	<i>XXXXXXXX-61-XX</i>	The Arts Endowment grant number as included on the SAA/RAO's Arts Endowment's Official Notice of Action award document.
(iv) Federal Award Date	<i>June 15, 20xx</i>	The award date on the SAA/RAO's Arts Endowment's Official Notice of Action award document.

2 CFR 200.332	SAMPLE RESPONSE	NOTES
(v) and (vi) Subaward Period of Performance and Budget Period	<i>July 1, 20xx - June 30, 20xx</i>	The start and end dates for the subaward grant period which includes when expenses must be incurred; must be <u>within</u> the period of performance for the SAA/RAO's Arts Endowment award.
(vii) Total amount of subaward ( <b>non-Federal and Federal</b> , if applicable)	<i>\$15,000</i>	This is the total amount of the subaward to the subrecipient.
(viii) Amount of <b>Federal Funds</b> Obligated by this action by the pass-through entity to the subrecipient	<i>\$10,000</i>	This is the amount of Federal funds obligated by you, if any, to the subrecipient for the subaward.
(ix) Total Amount of <b>Federal Funds</b> Obligated to the subrecipient by the pass-through entity including the current financial obligation	<i>\$10,000</i>	Usually the same amount as the row above, unless, as the pass-through, you amended the subaward with additional Federal funds.
(x) Total Amount of the <b>Federal Award</b> committed to the subrecipient by the pass-through entity	<i>\$10,000</i>	<b>**</b> Amount of Federal funds awarded under the Partnership Agreement to a subrecipient. Again, usually the same as the row above unless, as the pass-through, you amended the subaward with additional Federal funds.
(xi) Federal award project description - <i>as required to be responsive to the Federal Funding Accountability and Transparency Act.</i>	<i>To support arts programs, services, and activities associated with carrying out the agency's National Endowment for the Arts-approved strategic plan.</i>	The project description included on the Arts' Endowment's Official Notice of Action (NOA) for your Federal award or as amended.
(xii) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of SAA or RAO	<ul style="list-style-type: none"> <li>• <i>National Endowment for the Arts</i></li> <li>• <i>The Great State Council on the Arts</i></li> <li>• <i>John Doe, GSCA Deputy Director</i></li> <li>• <i>555-333-5555</i></li> <li>• <i>jdoe@GSCA.gov</i></li> </ul>	The Arts Endowment's name, the SAA/RAO's name, and name and contact information for the person authorizing the subaward on the SAA/RAO's behalf.
(xiii) Assistance Listings number and Title (previously the CFDA Number and Name)	<i>45.024 Promotion of the Arts - Grants to Organizations and Individuals</i>	The Arts Endowment's Assistance Listings number and title as provided on the Official Notice of Action for your Arts Endowment award.

2 CFR 200.332	SAMPLE RESPONSE	NOTES
(xiv) Identification of whether the award is R&D	<i>Yes/No.</i>	Identify whether your Arts Endowment award supports Research & Development activities. This information is provided on the Official Notice of Action for your Arts Endowment award.
(xv) Indirect cost rate <u>for the Federal award</u> (including if the de minimis rate is charged per 2 CFR 200.414)		The indirect cost rate, if any, charged to the approved project budget for your Arts Endowment award.
(xvi) Indirect cost rate <u>for the subaward</u> (including if the de minimis rate is charged per 2 CFR 200.414)	<i>The de minimis indirect cost rate is approved.</i>	The indirect cost rate you approve for the subaward, if any. See section 13 (D) for more detail.
(xvii) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award.		
(xviii) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports.	<i>Your performance and final financial reports are due MM/DD/YYYY.</i>	Provide your subrecipients with a list of required final reports for the subaward and the deadline for receipt.  Subrecipients must submit their required final reports to you no later than 90 days from the end of the period of performance for the subaward.
(xix) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements.		
(xx) Appropriate terms and conditions concerning closeout of the subawards.		