



**SOUTH DAKOTA
ARTS COUNCIL**



PLEASE NOTE: By signing the Grant Agreement, the grantee agrees to the Grant Terms and Conditions.

GRANT TERMS AND CONDITIONS

For Artist, Traditional Arts Apprenticeship, and Artist Collaboration Grantees

CREDIT

This grant is funded in part by a grant from the National Endowment for the Arts (CFDA No. 45.025). All published material and announcements regarding any project or production which is financed in part under this grant must include the following special acknowledgment statement: South Dakota Arts Council support is provided with funds from the State of South Dakota, through the Department of Tourism, and the National Endowment for the Arts. (In order to inform audiences of the importance of governmental support for the arts, we request that you include a display advertisement in your printed programs and/or organizational newsletters. South Dakota Arts Council logos are available on the website, www.artscouncil.com.)

FINANCIAL MANAGEMENT

- Grants are for the period specified in the approved application. Funds must be obligated within the period stated unless an extension has been approved by the South Dakota Arts Council.
- Funds granted shall be expended solely for the activities described in the approved application unless specific changes have been approved by the South Dakota Arts Council. Any funds granted but not expended or committed shall be returned to the South Dakota Arts Council at the conclusion of the grant period.
- The applicant assures that fund accounting, auditing and monitoring and such evaluation procedures as may be necessary to keep such records as the South Dakota Arts Council shall prescribe will be provided to assure fiscal control, proper management, and efficient disbursement of funds received through the South Dakota Arts Council. In accordance with 34 CFR 80.21(c), grantees/subgrantees shall be paid in advance, provided they maintain and demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee and subgrantee. The funds should be requested when they can be expended within a 30-60 day time period.
- Grantees shall establish and maintain accounts in such a manner as to separate grant funds and matching funds and shall reflect all receipts, obligations and disbursements of project funds. Since expenditures of these funds are subject to audit, all financial records, including substantiating documentation (e.g. payroll vouchers, invoices, bills) must be maintained for three years or until a federal audit has been completed and any questions arising from it have been resolved, whichever is the lesser period.

Grantees shall submit an evaluation to the South Dakota Arts Council within 30 days after the completion of the project. Subsequent grants are dependent upon receipt of completed evaluation reports.

Grants made by the National Endowment for the Arts and sub-granted by the South Dakota Arts Council are subject to the requirements outlined below. Grantees agree to abide by all federal and state regulations, including the following certified assurances.

CERTIFIED ASSURANCES

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

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

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

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

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

1.d Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified individual with a disability in the United States shall, solely by reason of his/her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (29 USC 794). Access should be integrated into all facets and activities of an organization, from day to day operations to long range goals and objectives.

Access accommodations and services should be given a high priority and funds should be available for these services. All organizations are legally required to provide reasonable and necessary accommodations for staff and visitors with disabilities.

Section 504 - Self-Evaluation and Additional Resources

- i. A Section 504 self-evaluation must be on file at your organization. To help your organization evaluate its programs, activities, and facilities to ensure full compliance with Section 504 accessibility requirements, the Civil Rights Office has provided you with a "Section 504 Self Evaluation Workbook." The Workbook is located at www.arts.gov/about/504Workbook.html.
- ii. You should designate a staff member to serve as a 504 coordinator. The completed workbook or similar compliance and supporting documentation should be kept on file for a period of three (3) years from the date the Federal Financial Report (FFR) is filed, and made available to the public and the NEA upon request. The NEA may request the 504 Workbook or your compliance documents for various potential scenarios including an Inspector General audit and/or civil rights investigation.
- iii. "Design for Accessibility: A Cultural Administrator's Handbook" provides guidance on making access an integral part of an organization's staffing, mission, budget, and programs. This Handbook and other resources may be downloaded from the Arts Endowment's Web site at www.arts.gov/accessibility/accessibility-resources/publications-checklists. If you have questions, contact the Office of Accessibility at accessibility@arts.gov; (202) 682-5532; FAX (202) 682-5715; or TTY (202) 682-5496.

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

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

2. Environmental and Preservation Policies

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

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

Other National Policies

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

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

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

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

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

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

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

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

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

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

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

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