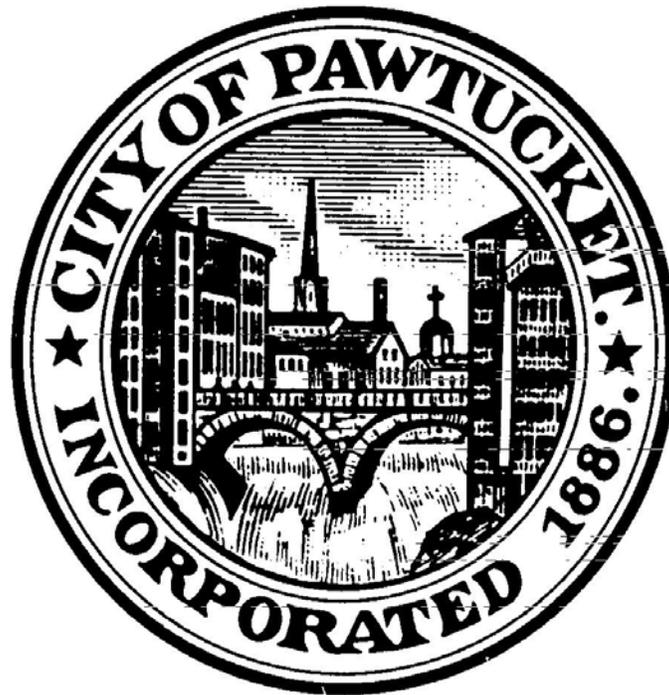


# **CITY OF PAWTUCKET**

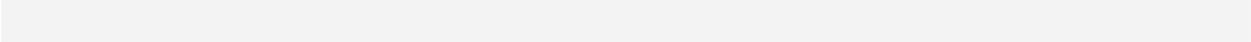
## **REQUEST FOR PROPOSALS**



**14-068**

**Community Engagement Consultant**

Contents:

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- 

## 1.0 - Bid/Solicitation Information

### **Schedule**

*Pre-Bid/Proposal Conference:* X No    Yes

Requests for information or clarification must be made electronically to the attention of:  
David Clemente - Purchasing Agent  
E-mail: [dclemente@pawtucketri.com](mailto:dclemente@pawtucketri.com)

Please reference the RFP / LOI number on all correspondence. Answers to questions received, if any, will be posted on the internet as an addendum to this bid solicitation.

*RFP Submission Deadline:*            October 23, 2014 at 10:00 AM

**Late submittals will not be considered.**

Proposals must be mailed or hand-delivered in a sealed envelope **marked with the RFP/Bid # and Project Name** to:

Pawtucket City Hall - Purchasing Office  
137 Roosevelt Avenue  
Pawtucket, RI 02860

### **Bonds/Surety Required**

*Surety Bond:* X No     Yes

Bidder is required to provide a bid surety in the form of a bid bond or certified check payable to the City of Pawtucket in an amount not less than five percent (5%) of the bid price.

*Fidelity Bond:* X No     Yes

*Performance Bond:* X No     Yes

The successful bidder will be required to furnish all insurance documentation as outlined in the attached Purchasing Rules & Regulations and General Terms & Conditions of Purchase.

### **Miscellaneous**

The bid process and resulting contract are subject to the Rules and Regulations and General Terms and Conditions of Purchase. Submission of a bid in response to this solicitation is acknowledgement and acceptance of these Rules and Regulations and General Terms and Conditions of Purchase.

The City of Pawtucket reserves the right to award on the basis of cost alone, accept or reject any or all bids, and to act in its best interest including, but not limited to, directly negotiating with any vendor who submits a proposal in response to this RFP and to award a contract based upon the results of those negotiations alone. Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further. The City of Pawtucket may, at its sole option, elect to require presentations(s) by bidders clearly in consideration for award.

## 2.0 - Instructions and Notifications to Bidders

- It is the vendor's responsibility to examine all specifications and conditions thoroughly, and comply fully with specifications and all attached terms and conditions. Vendors must comply with all Federal, State, and City laws, ordinances and regulations, and meet any and all registration requirements where required for contractors as set forth by the State of Rhode Island. Failure to make a complete submission as described herein may result in a rejection of the proposal.
- All costs associated with developing or submitting a proposal in response to this Request, or to provide oral or written clarification of its content shall be borne by the bidder. The City of Pawtucket assumes no responsibility for these costs.
- A submittal may be withdrawn by written request to the Purchasing Agent by the proposer prior to the stated RFP deadline.
- Prior to the proposal deadline established for this RFP, changes may be made to a proposal already received by the City if that vendor makes a request to the Purchasing Agent, in writing, to do so. No changes to a proposal shall be made after the RFP deadline.
- Proposals are considered to be irrevocable for a period of not less than ninety (90) days following the opening date, and may not be withdrawn, except with the express written permission of the Purchasing Agent. Should any vendor object to this condition, the vendor must provide objection through a question and/or complaint to the Purchasing Agent prior to the proposal deadline.
- All pricing submitted will be considered to be firm and fixed unless otherwise indicated herein.
- The vendor has full responsibility to ensure that the proposal arrives at the Purchasing Division Office prior to the deadline set out herein. The City assumes no responsibility for delays caused by the U.S. Postal Service or any other delivery service. Postmarking by the due date will not substitute for actual receipt of response by the due date. Proposals arriving after the deadline may be returned, unopened, to the vendor, or may simply be declared non-responsive and not subject to evaluation, at the sole discretion of the Purchasing Agent. **For the purposes of this requirement, the official time and date shall be that of the time clock in the City of Pawtucket's Purchasing Office.**
- It is intended that an award pursuant to this Request will be made to a prime contractor, who will assume responsibility for all aspects of the work. Joint venture and cooperative proposals will not be considered, but subcontracts are permitted, provided that their use is clearly indicated in the bidder's proposal, and the subcontractor(s) proposed to be used are identified in the proposal.
- Bidders are advised that all materials submitted to the City of Pawtucket for consideration in response to this Request for Proposals shall be considered to be public records as defined in Title 38 Chapter 2 of the Rhode Island General Laws, without exception, and may be released for inspection immediately upon request once an award has been made.

- Vendors are responsible for errors and omissions in their proposals. No such error or omission shall diminish the vendor's obligations to the City.
- The City reserves the right to reject any or all proposals, or portions thereof, at any time, with no penalty. The City also has the right to waive immaterial defects and minor irregularities in any submitted proposal at its sole discretion. All material submitted in response to this RFP shall become the property of the City of Pawtucket upon delivery to the Purchasing Agent.
- There is no official, public opening of proposals. The City asks that companies refrain from requesting proposal information concerning other respondents until an intention to award is determined, as a measure to best protect the solicitation process, particularly in the event of a cancellation or re-solicitation. Proposal materials become public information only after a contract is awarded.

## 3.0 - Overview

### **Project Introduction**

This request for proposals is for a community engagement specialist to assist the City of Pawtucket with the implementation of this project. The City of Pawtucket received a \$75,000 Our Town grant from the National Endowment of the Arts for this project, which will be matched locally. The project will involve the selection of an artist who will design, fabricate and install overpass art. The community engagement specialist/artist liaison will oversee community outreach for the development of the overpass art design concept, and continue to keep the public involved and informed about the project. Pawtucket has set aside \$30-35,000 of the grant for this work.

### ***About Pawtucket***

Pawtucket has approximately 72,000 residents, and is one of the densest cities in Rhode Island with an average of 7,958 persons per square mile compared to a statewide average close to 1,000 persons per square mile. The proportion of minority population within the City, 33.5%, is high compared to 18.67% statewide. The percentage of Pawtucket residents who speak English less than very well (17.8%) is more than twice the State (8.8%) or National (8.7%) averages (2008-12 American Community Survey). Pawtucket's unemployment rate is 13.16, compared to 8.2 nationally (RI Department of Labor, 2012 average). The City's poverty rate (18.7%), also exceeds the national figure (14.9%). The City will strive to reach out all of Pawtucket, including the minority and low-income residents, who have been somewhat underrepresented in the City's arts renaissance.

For over 20 years, the City of Pawtucket has committed itself to the promotion and encouragement of the arts. The City views the arts and artists as an important economic development activity. The City has an annual Arts Festival which brings over 20,000 visitors to the City. Pawtucket also provides small project-based grants for local art projects and operational support for Pawtucket-based arts organizations. The recently formed advisory committee on Arts and Culture was established to provide some direction and consistency in the placement of public art in the City.

### ***About the Project***

When Interstate 95 was initially constructed in Pawtucket, it essentially cut off many of the City's neighborhoods from the downtown. This project is intended to help reconnect the neighborhoods to the downtown by installing community-inspired public art along the overpass, which are traditionally very pedestrian unfriendly places. The process through which the design concept will be determined will include significant community outreach, and is also intended to re-connect the City's all of the City's residents to the arts renaissance that the City is experiencing. (See the attachment at the end for similar projects which inspired this one.) In addition to the resulting public art, Pawtucket will be hosting a series (2-3) of gallery events over the two-year project period, which highlight the history of art and design in the City. Pawtucket will strive to incorporate the art and design traditions of the people who settled here, throughout its history.

The overall project has a number of different goals:

1. To improve the pedestrian connection between the neighborhood and the downtown through the provision of public art, as well as sidewalk and street improvements, along the highway overpasses;
2. To promote the City as a creative community to the state and region through a series of events;
3. To design and install public art which reflects all of Pawtucket's diverse communities and cultures;
4. To get community engagement from all of the City's diverse communities and cultures.
5. To increase the capacity of the City's existing local artist and designer groups.

The over-arching theme of this project will be connections, or re-connections, and intersections. The intent of the public art will be to re-connect the neighborhoods and the downtown. At the same time, the project will strive to make connections between all of the City's residents and the arts and artists in Pawtucket. The intent of the programming, and the job of the community outreach specialist will be to forge this connection.

### ***Project Oversight and Partners***

The Steering Committee for the project will be comprised of representatives from the City of Pawtucket, Pawtucket's recently established Advisory Commission on Arts and Culture, the Pawtucket Arts Collaborative, XOS Studios, the Pawtucket Foundation and the Slater Mill. The Steering Committee will provide overall project direction. It is anticipated that the Steering Committee would meet monthly throughout the duration of the project. This steering committee will designate a sub-committee to select an artist and this Artist Selection sub-committee would select a nationally renowned artist by the end of 2014.

It is anticipated that the Community Engagement person or firm would work with local community organizations, including Pawtucket Citizens Development Corporation (PCDC) and Blackstone Community Action Program (BVCAP) to reach out to all Pawtucket residents. These organizations can make introductions and connections with community leaders and groups and by providing translation services, where needed. Spanish-language newspapers and radio programs could also be used to help expand the promotion of the project.

The City of Pawtucket is also working with the Rhode Island Department of Transportation, the City Department of Public Works and the Building Department to develop construction guidelines for the proposed artwork, to ensure that the resulting design is safe and can be installed properly. This group would also identify any infrastructure modifications which would provide a safer, more pleasant, pedestrian experience. Both the Rhode Island Department of Health and the Pawtucket School Department have agreed to participate in the process, and help coordinate our collective efforts. The City is also working with the Pawtucket School Department to identify ways to involve the students in this process.

The City of Pawtucket, in collaboration with Slater Mill and other project partners, will host a series of gallery events throughout the two years of this project that highlight the evolution of art and design in Pawtucket. One of these events will feature a display of the designs submitted by the finalists for the artist selection process. Slater Mill has resources within its collections that relate to Pawtucket's early ironworks industry, and the artisan history of the community that dates back to the 17<sup>th</sup> century and has also

agreed to assist in the curation and promotion of this series of events. Slater Mill, as well as the Blackstone Valley Tourism Council (BVTC), has gallery and public meeting space in Pawtucket, available for hosting the proposed events. The BVTC will contribute staff and resources to further promote and coordinate these events within their networks. The Pawtucket Arts Collaborative and XOS Studios are two established local arts organizations in the community that have considerable experience exhibiting art in Pawtucket. Each has agreed to assist with making connections to local artists. The Community Engagement Specialist will work with the project partners and stakeholders to develop a schedule of these events, and to help coordinate and promote them.

### ***Project Location***

Pawtucket considered a number of locations where local streets passed over Interstate 95. The one that will be used for these design improvements is the George Street overpass. This location is one of the City's gateways. There is access to Interstate 95, and this is the exit that many visitors take for the downtown, Slater Mill, or the Pawtucket Red Sox.

## **4.0 - Scope of Work**

The grant period will run from September 1, 2014 through September 1, 2016. This work is anticipated to be ongoing throughout the grant period, with the community outreach, including the Charrette, being more intense in the first six months of the project. The three gallery events are intended to be spread out along the grant period, leading up to the installation of the final design.

This request for proposals is for a community engagement specialist to assist the City of Pawtucket within the implementation of this project. Pawtucket is looking for an individual or team which can coordinate community outreach and communicate with the artist. Pawtucket is also looking for the consultant to work as the community liaison throughout the project, keeping the public up to date on the project, and working to promote it through various media, including social media and non-traditional media and to keep the community updated and engaged in the project. The community engagement specialist will also work with the City to plan and promote events which are intended to encourage community participation. These events will be put together in collaboration with the Blackstone Valley Visitor's Center, the Slater Mill and the project Steering Committee, which includes local artist organization.

### ***Be responsible for community engagement and project promotion.***

- Develop and maintain a list of community and stakeholder contacts for project outreach.
- Develop and implement a multi-media approach for community outreach and engagement – constant contact, social media, etc.
- Develop and maintain a project website or project blog.
- Utilize technology to make the project accessible online (allowing for online community feedback, allowing people to post photos that provide inspiration, etc.).
- Work with the Pawtucket School Department to establish an opportunity for student involvement.

- Prepare for and run a Design Charrette (or series of mini-Charrettes), to obtain public input on the proposed design. The method of outreach, and timing of the Charrette should be designed so as to reach as many different segments of the population as is feasible.
- Provide written translation services for project outreach materials, and oral translation services at the Design Charrette and any public meetings.
- Assist in the development and promotion of the 2-3 events, including the display of the finalists' designs, which are intended to encourage community engagement.
- Prepare a report which documents all of the various community outreach efforts.
- Synthesizes the results of the Design Charrette(s) in a way that will help the artist to understand Pawtucket and its communities.
- Work with the City to identify either studio or display space within the City which provides residents with the opportunity to see the various stages of design and fabrication.
- Assist the City with administrative support – meeting notes, agendas, etc. for all of the meetings associated with this project (Steering Committee, Sub-Committees, Stakeholder Meetings, etc.).
- Assist the City with the artist selection process.

## **5.0 - Insurance**

The vendor shall maintain and keep in force such comprehensive general liability insurance as shall protect them from claims which may arise from operations under any contract entered into with the City of Pawtucket, whether such operations be by themselves or by anyone directly or indirectly employed by them.

The amounts of insurance shall be not less than \$1,000,000.00 combined single limit for any one occurrence covering both bodily injury and property damage, including accidental death.

The City of Pawtucket and National Grid shall be named as additional insured on the vendor's General Liability Policy.

The vendor shall maintain and keep in force such Workers' compensation insurance limits as required by the statutes of the State of Rhode Island, and Employer's Liability with limits no less than \$500,000.

## **6.0 - Acknowledgement of Risk & Hold Harmless Agreement**

In addition to the indemnity provisions in the City of Pawtucket's Terms and Conditions of Purchase and to the fullest extent permitted by law, the selected vendor, its officers, agents, servants, employees, parents, subsidiaries, partners, officers, directors, attorneys, insurers, and/or affiliates (Releasors) agree to release, waive, discharge and covenant not to sue the City of Pawtucket, its officers, agents, servants or employees (Releasees) from any and all liability, claims, cross-claims, rights in law or in equity, agreements, promises demands, actions and causes of action whatsoever arising out of or related to any loss, damage, expenses (including without limitation, all legal fees, expenses, interest and penalties) or injury (including death), of any type, kind or nature whatsoever, whether based in contract, tort, warranty, or other legal, statutory, or equitable theory of recovery, which relate to or arise out of the Releasors use of or

presence in and/or on City of Pawtucket property. The Releasors agree to defend, indemnify and hold harmless the Releasees from (a) any and all claims, loss, liability, damages or costs by any person, firm, corporation or other entity claiming by, through or under Releasors in any capacity whatsoever, including all subrogation claims and/or claims for reimbursement, including any court costs and attorneys fees, that may incur due to Releasors use of or presence in and on City of Pawtucket property; and (b) any and all legal actions, including third-party actions, cross-actions, and/or claims for contribution and/or indemnity with respect to any claims by any other persons, entities, parties, which relate to or arise out of Releasors use of or presence in and on City of Pawtucket property.

The Releasors acknowledge the risks that may be involved and hazards connected with use of or presence in and on City of Pawtucket property but elect to provide services under any contract with the City of Pawtucket with full knowledge of such risks. Releasors also acknowledge that any loss, damage, and/or injury sustained by Releasors is not covered by Releasees insurance. Releasors agree to become fully aware of any safety risks involved with the performance of services under any contract with the City of Pawtucket and any safety precautions that need to be followed and agree to take all such precautions.

The duty to indemnify and/or hold harmless the City of Pawtucket shall not be limited by the insurance required under the City of Pawtucket Terms and Conditions of Purchase.

## **7.0 - Additional Insurance Requirements**

In addition to the insurance provisions in the City of Pawtucket Terms and Conditions of Purchase, the liability insurance coverage, except Professional Liability, Errors and Omissions or Workers' Compensation insurance required for performance of a contract with the City of Pawtucket shall include the City of Pawtucket, its divisions, officers and employees as Additional Insureds but only with respect to the selected vendor's activities under the contract. The insurance required through a policy or endorsement shall include:

- A. a Waiver of Subrogation waiving any right to recovery the insurance company may have against the City of Pawtucket; and
- B. a provision that the selected vendor's insurance coverage shall be primary with respect to any insurance, self insurance or self retention maintained by the City of Pawtucket and that any insurance, self insurance or self retention maintained by the City of Pawtucket shall be in excess of the selected vendor's insurance and shall not contribute.

There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal without thirty (30) days written notice from the selected vendor or its insurer(s) to the City of Pawtucket's Purchasing Agent. Any failure to comply with the reporting provision of this clause shall be grounds for immediate termination of the contract with the City of Pawtucket.

Insurance coverage required under the contract shall be obtained from insurance companies acceptable to the City of Pawtucket. The selected vendor shall pay for all deductibles, self insured retentions and/or self insurance included hereunder.

The City of Pawtucket's Purchasing Agent reserves the right to consider and accept alternative forms and plans of insurance or to require additional or more extensive coverage for any individual requirement.

## **8.0 - Proposal Content and Organization**

The proposal should include both a Work Plan and a proposed schedule. Consultants are encouraged to explain, in detail, their understanding of the scope of work and to identify any supplemental tasks deemed necessary that may enhance the project or reduce the costs. Optional tasks, not specifically mentioned in this RFP may be added. Optional tasks should be clearly identified and budgeted separately from other tasks.

Identify the decision, products, and information the consultant expects from the City to ensure successful completion of the project.

Pricing must include all costs as specified in this solicitation. Pricing for this proposal must be indicated on the Bid Form in Section 12.0 and must be submitted in a separate, sealed envelope marked with the words "Pricing Proposal". Only one pricing proposal needs to be submitted.

All Bid Forms must be signed.

Vendors must include on the Bid Form a list of at least four (4) references with whom they have contracted to do similar work by including the company name, telephone number, contact person, and number of years they have served this customer. Preferably, references should be municipalities which are of approximate size as the City of Pawtucket, and a website address should be included if available.

Respondents must also include an overview of their company's experience including, but not limited to, the number of years the company has been providing these services, the size of the company (including the number of employees and locations), a description of work undertaken that is similar to what is being requested in this RFP, and, if applicable, certifications that show a knowledge of equipment that would be serviced or provided under this contract. Identify the key personnel for this project, including any subcontractors.

If any subcontractors are to be used in the performance of any work contracted for under this RFP, please list their name(s), contractor license #, address and phone number, and specific description of the subcontract work to be performed.

Four (4) copies of your proposal, one (1) original and three (3) copies, must be submitted at the time of submission. Proposals must be in the following format:

Bid Form

Company overview

Length of time your firm has been in business

Length of time at current address

All licensing (List types and business license number(s)), certification and permits as required in the Scope of Work

Please state any and all additions, deletions, and exceptions, if any, that you are taking to any portion of this proposal. If not addressed specifically, the City of Pawtucket assumes that the vendor will adhere to all terms and conditions listed in this RFP.

Submission of a proposal is acknowledgement and acceptance of the City of Pawtucket's Purchasing Rules and Regulations and General Terms and Conditions of Purchase.

## 9.0 - Evaluation Criteria

The evaluation of proposals will be conducted in a time frame convenient to the City.

The City of Pawtucket reserves the right to award on the basis of cost alone, accept or reject any or all proposals, and to otherwise act in its best interest including, but not limited to, directly negotiating with any Supplier who submits a proposal in response to this RFP and to award a contract based upon the results of those negotiations alone. Further, the City reserves the right to waive irregularities it may deem minor in its consideration of proposals.

Proposals found to be technically or substantially non-responsive at any point in the evaluation process will be rejected and not considered further. The City of Pawtucket may elect to require presentations(s) by vendors in consideration for award.

Proposals will be evaluated in three (3) phases:

1. The first phase is an initial review to determine if the proposal, as submitted, is complete. To be complete, a proposal must meet all the requirements of this RFP.
2. The second phase is an in-depth analysis and review based on criteria below and their associated weights.

<u>Evaluation Criteria</u>	<u>Importance</u>
Experience with Public Art Projects	25%
Experience Engaging Diverse Communities	25%
Experience Designing and Implementing a comprehensive public outreach strategy	25%
References	25%

3. The third is a comparison of each proposal's weighted evaluation relative to the costs proposed.

In the event that the City requires further information and/or a demonstration of any equipment or process offered in any proposal, all vendors asked for same will do so at no cost to the City.

## 10.0 - Miscellaneous

Vendors shall at all times comply with all federal, state, and local laws, ordinances and regulations and shall defend, indemnify and save harmless the City of Pawtucket against any claims arising from the violation of any such laws, ordinances and regulations, including but not limited to challenges as to the legality of any and all vendor installations.

The City is exempt from the payment of the Rhode Island State Sales Tax under the 1956 General Laws of the State of Rhode Island, 44-18-30, Paragraph 1, as amended. Further, the City is also exempt from the payment of any excise or federal transportation taxes. The proposal prices submitted must be exclusive of same, and will be so construed.

The City of Pawtucket reserves the right to cancel an agreement with the Vendor with thirty (30) days written notice and to award the contract to the next highest evaluated bidder.

The City of Pawtucket reserves the right to renegotiate the terms of this contract with the Vendor for subsequent years provided the Vendor agrees to the contract terms for the renewal period.

The payment and performance of any obligations under this contract for years beyond the first fiscal year are subject to the availability of funds.

The City reserves the right to pay the selected Vendor via credit card at its sole discretion.



# 11.0 – Bid Form

## 14-068 - Community Engagement Consultant

Date: \_\_\_\_\_

Submitted By: \_\_\_\_\_  
(Include Name, Address and Telephone No.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name and remittance address that will appear on invoices:

Physical address of business:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### General Information

Is your firm a sole proprietorship doing business under a different name? \_\_\_\_Yes \_\_\_\_No

If yes, please indicate sole proprietorship, a name, and the name you are doing business under.

\_\_\_\_\_  
\_\_\_\_\_

Is your firm incorporated? \_\_\_\_Yes \_\_\_\_No

Will any of the work spelled out in this bid be outsourced? \_\_\_\_Yes \_\_\_\_No

If so, please explain below:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Have you or your firm been subject to suspension, debarment or criminal conviction by the City of Pawtucket, the State of Rhode Island, or any other jurisdiction?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

Have the City of Pawtucket and/or the State of Rhode Island ever terminated contracts with your firm for cause?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

Has your firm ever withdrawn from a contract with the City of Pawtucket and/or the State of Rhode Island during its performance?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

Have you or your firm been involved in litigation against the City of Pawtucket and/or the State of Rhode Island.

Yes: \_\_\_\_\_ No: \_\_\_\_\_

If you answered yes to any of the foregoing, please explain the circumstances below. If you or your firm has been involved in litigation against the City of Pawtucket and/or the State of Rhode Island, please include the case caption, case number and status. (If more space is needed, please attach separate sheet and submit with the bid.)

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Is your company bonded? Yes \_\_\_\_ No \_\_\_\_

Please describe the nature and extent of all insurance coverage:

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Addenda

The following Addenda have been received. The noted modifications to the Bidding Documents have been considered and all costs are included in the Bid Sum.

Addendum #1, Dated: \_\_\_\_\_

Addendum #2, Dated: \_\_\_\_\_

Addendum #3, Dated: \_\_\_\_\_

References

Please list at least four (4) companies' with whom you have contracted to provide similar services. Preferably, references should be municipalities which are of approximate size as the City of Pawtucket, and a website address should be included if available.

<p><u>Reference #1</u></p> <p>Company Name: _____</p> <p>Contact Person: _____ Telephone #: _____</p> <p>Contract Dates: _____ To _____</p> <p>Website Address: _____</p>
---

<p><u>Reference # 2</u></p> <p>Company Name: _____</p> <p>Contact Person: _____ Telephone #: _____</p> <p>Contract Dates: _____ To _____</p> <p>Website Address: _____</p>
--

<p><u>Reference # 3</u></p> <p>Company Name: _____</p> <p>Contact Person: _____ Telephone #: _____</p> <p>Contract Dates: _____ To _____</p> <p>Website Address: _____</p>
--

<p><u>Reference # 4</u></p> <p>Company Name: _____</p> <p>Contact Person: _____ Telephone #: _____</p> <p>Contract Dates: _____ To _____</p> <p>Website Address: _____</p>
--

**Pricing Proposal**  
**Community Outreach/Artist Liaison**

Having examined RFP # 14-068, we propose to enter into a contract to perform services per the bid specifications for the costs listed below:

Provide the lump sum cost below, and on an attached sheet provide a break-out showing the classifications of the persons working on each task, their billing rate, the total hours projected that they will work on each task, as well as all other incidental charges that make up your overall fee. Optional tasks, not specifically mentioned in this RFP may be added. Optional tasks should be clearly identified and budgeted separately from other tasks.

\$				,				,				.		
Numeric														

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Written

**Bid Form Signature**

\_\_\_\_\_  
(Bidder Name – Please Print)

By: \_\_\_\_\_  
(Signature)

Title: \_\_\_\_\_

\*\*\*\*\* **BID FORM MUST BE SIGNED** \*\*\*\*\*

**ANTI-KICKBACK ACKNOWLEDGMENT**

**ALL BIDDERS/OFFERORS MUST ATTEST TO THE FOLLOWING:**

The vendor acknowledges, under the pains and penalties of perjury, that he/she has not been offered, paid, or solicited for any contribution or compensation, nor has he/she been granted a gift, gratuity, or other consideration, either directly or indirectly by any officer, employee or member of the governing body of the City of Pawtucket who exercises any functions or responsibilities in connection with either the award or execution of the project to which this contract pertains.

Further, the vendor acknowledges, under the pains and penalties of perjury, that he/she has not offered, paid, or solicited by way of any contribution or compensation, nor has he/she granted a gift, gratuity or other consideration either directly or indirectly to any officer, employee, or member of the governing body of the City of Pawtucket who exercises any functions or responsibilities in connection with either the award or execution of the project to which this project or contract pertains.

\_\_\_\_\_  
SIGNATURE OF OFFEROR

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
COMPANY

Title of RFP:

\_\_\_\_\_

## Appendix B

### CITY OF PAWTUCKET GENERAL TERMS AND CONDITIONS OF PURCHASE

#### *Preamble*

The City of Pawtucket's Purchasing Office may, from time to time, make amendments to the General Terms and Conditions when the City of Pawtucket's Purchasing Agent determines that such amendments are in the best interest of the City of Pawtucket. Amendments shall be made available for public inspection at the Purchasing Office located in Pawtucket City Hall but shall not require formal public notice and hearing. Copies of the Terms and Conditions shall be provided to any individual or firm requesting them.

#### **CITY OF PAWTUCKET'S PURCHASING OFFICE GENERAL CONDITIONS OF PURCHASE**

All City of Pawtucket purchase orders, contracts, solicitations, delivery orders and service requests shall incorporate and be subject to the provisions of Rhode Island General Laws 8-15-4 and the City of Pawtucket purchasing rules and regulations adopted pursuant thereto, all other applicable provisions of the Rhode Island General Laws, the Pawtucket City Charter, specific requirements described in the Request or Contract, and the following General Conditions of Purchase:

1. **GENERAL**

All purchase orders, contracts, solicitations, delivery orders, and service requests are for specified goods and services, in accordance with express terms and conditions of purchase, as defined herein. For the purposes of this document, the terms "bidder" and "contractor" refer to any individual, firm, corporation, or other entity presenting a proposal indicating a desire to enter into contracts with the City of Pawtucket, or with whom a contract is executed by the City of Pawtucket's Purchasing Agent, and the term "contractor" shall have the same meaning as "vendor".

2. **ENTIRE AGREEMENT**

The City of Pawtucket's Purchase Order, or other City of Pawtucket contract endorsed by the City of Pawtucket Purchasing Office, shall constitute the entire and exclusive agreement between the City of Pawtucket and any contractor receiving an award. In the event any conflict between the bidder's standard terms of sale, these conditions or more specific provisions contained in the solicitation shall govern.

All communication between the City of Pawtucket and any contractor pertaining to any award or contract shall be accomplished in writing.

- a. Each proposal will be received with the understanding that the acceptance, in writing, by contract or Purchase Order by the City of Pawtucket Purchasing Agent of the offer to do work or to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the bidder and the City of Pawtucket. This shall bind the bidder on his part to furnish and deliver at the prices and in accordance with the conditions of said accepted proposal and detailed specifications and the City of Pawtucket on its part to order from such contractor (except in case of emergency) and to pay for at the agreed prices, all materials, equipment, supplies or services specified and delivered. A contract shall be deemed executory only to the extent of funds available for payment of the amounts shown on Purchase Orders issued by the City of Pawtucket to the contractors.
- b. No alterations or variations of the terms of the contract shall be valid or binding upon the City of Pawtucket unless submitted in writing and accepted by the City of Pawtucket Purchasing Agent. All orders and changes thereof must emanate from the City of Pawtucket Purchasing Office: no oral agreement or arrangement made by a contractor with a department or employee will be considered to be binding on the City of Pawtucket Purchasing Agent, and may be disregarded.
- c. Contracts will remain in force for the contract period specified or until all articles or services ordered before date of termination shall have been satisfactorily delivered or rendered and accepted and thereafter until all terms and conditions have been met, unless:

1. terminated prior to expiration date by satisfactory delivery against orders of entire quantities, or
2. extended upon written authorization of the City of Pawtucket Purchasing Agent and accepted by the contractor, to permit ordering of the unordered balances or additional quantities at the contract price and in accordance with the contract terms, or
3. canceled by the City of Pawtucket in accordance with other provisions stated herein.
  - d. It is mutually understood and agreed that the contractor shall not assign, transfer, convey, sublet or otherwise dispose of this contract or his right, title or interest therein, or his power to execute such contract, to any other person, company or corporation, without the previous consent, in writing, of the City of Pawtucket Purchasing Agent.
  - e. If, subsequent to the submission of an offer or issuance of a purchase order or execution of a contract, the bidder or contractor shall merge with or be acquired by another entity, the contract may be terminated, except as a corporate resolution prepared by the contractor and the new entity ratifying acceptance of the original bid or contract terms, condition, and pricing is submitted to the City of Pawtucket Purchasing Office, and expressly accepted.
  - f. The contractor or bidder further warrants by submission of an offer or acceptance of a purchase order or other contract that he has no knowledge at the time of such action of any outstanding and delinquent or otherwise unsettled debt owed by him to the City of Pawtucket, and agrees that later discovery by the City of Pawtucket Purchasing Agent that this warranty was given in spite of such knowledge, except where the matter is pending in hearing or from any appeal therefrom, shall form reasonable grounds for termination of the contract.

3. **SUBCONTRACTS**

No subcontracts or collateral agreements shall be permitted, except with the City of Pawtucket's express written consent. Upon request, contractors must submit to the City of Pawtucket Purchasing Office a list of all subcontractors to be employed in the performance of any Purchase Order or other contract arising from this Request.

4. **RELATIONSHIP OF PARTIES**

The contractor or bidder warrants, by submission of an offer or acceptance of a purchase order or other contract, that he is not an employee, agent, or servant of the City of Pawtucket, and that he is fully qualified and capable in all material regards to provide the specified goods and services. Nothing herein shall be construed as creating any contractual relationship or obligation between the City of Pawtucket and any sub-bidder, subcontractor, supplier, or employee of the contractor or offeror.

5. **COSTS OF PREPARATION**

All costs associated with the preparation, development, or submission of bids or other offers will be borne by the offeror. The City of Pawtucket will not reimburse any offeror for such costs.

6. **SPECIFIED QUANTITY REQUIREMENT**

Except where expressly specified to the contrary, all solicitations and contracts are predicated on a specified quantity of goods or services, or for a specified level of funding.

- a. The City of Pawtucket reserves the right to modify the quantity, scope of service, date of delivery or completion, or funding of any contract, with no penalty or charge, by written notice to the contractor, except where alternate terms have been expressly made a part of the contract.
- b. The City of Pawtucket shall not accept quantities in excess of the specified quantity except where the item is normally sold by weight (where sold by weight, the City of Pawtucket will not accept quantities greater than ten per cent [10%] of the specified quantity), or where the Request or Contract provides for awards for other than exact quantities.

- c. Purchase Orders or other contracts may be increased in quantity or extended in term without subsequent solicit with the mutual consent of the contractor and the City of Pawtucket, where determined by the City of Pawtucket Purchasing Agent to be in the City of Pawtucket's best interest.
7. **TERM AND RENEWAL**  
Where offers have been requested or contracts awarded for terms exceeding periods of twelve (12) months, it is mutually understood and agreed that the City of Pawtucket's commitment is limited to a base term not to exceed twelve (12) months, subject to renewal annually at the City of Pawtucket's sole option for successive terms as otherwise described, except where expressly specified to the contrary. Purchase orders appearing to commit to obligations of funding or terms of performance may be executed for administrative convenience, but are otherwise subject to this provision, and in such cases the City of Pawtucket's renewal shall be deemed to be automatic, conditional on the continued availability of appropriated funds for the purpose, except as written notice of the City of Pawtucket's intent not to renew is served.
8. **DELIVERY/COMPLETION**  
Delivery must be made as ordered and/or projects completed in accordance with the proposal. If delivery qualifications do not appear on the bidder's proposal, it will be interpreted to mean that goods are in stock and that shipment will be made within seven (7) calendar days. If the project completion date is not specified in the proposal, the date shall be determined by the City of Pawtucket Purchasing Agent. The decision of the City of Pawtucket Purchasing Agent, as to reasonable compliance with the delivery terms, and date of completion shall be final. Burden of proof of delay in receipt of order shall rest with the contractor. No delivery charges shall be added to invoices except when authorized on the Purchase Order.
9. **FOREIGN CORPORATIONS**  
In accordance with Title 7 Chapter 1.1 ("Business Corporations") of the General Laws of Rhode Island, no foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the Secretary of State.
10. **PRICING**  
All pricing offered or extended to the City of Pawtucket is considered to be firm and fixed unless expressly provided for to the contrary. All prices shall be quoted F.O.B. Destination with freight costs included in the unit cost to be paid by the City of Pawtucket, except, where the Request or Contract permits, offers reflecting F.O.B. Shipping Point will be considered, and freight costs may then be prepaid and added to the invoice.
11. **COLLUSION**  
Bidder or contractor warrants that he has not, directly or indirectly, entered into any agree participated in any collusion or otherwise taken any action in restraint of full competitive bidding. In special circumstances, an executed affidavit will be required as a part of the bid.
12. **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES**  
Bidder or contractor warrants that he has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the City of Pawtucket for the purpose of obtaining any contract or award issued by the City of Pawtucket. Bidder or contractor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by the City of Pawtucket, except as shall have been expressly communicated to the City of Pawtucket Purchasing Agent in writing prior to acceptance of the contract or award in question. Subsequent discovery by the City of Pawtucket of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts and suspension or debarment of the bidder(s) or contractor(s) involved.
13. **AWARDS**  
Awards will be made with reasonable promptness and by written notice to the successful bidder (only); bids are considered to be irrevocable for a period of ninety (90) days following the bid opening unless expressly provided for to the contrary in the Request, and may not be withdrawn during this period without the express permission of the City of Pawtucket Purchasing Agent.

- a. Awards shall be made to the bidder(s) whose offer(s) constitutes the lowest responsive price offer (or lowest responsive price offer on an evaluated basis) for the item(s) in question or for the Request as a whole, at the option of the City of Pawtucket. The City of Pawtucket reserves the right to determine those offers which are responsive to the Request, or which otherwise serve its best interests.
- b. The City of Pawtucket reserves the right, before making award, to initiate investigations as to whether or not the materials, equipment, supplies, qualifications or facilities offered by the bidder meet the requirements set forth in the proposal and specification, and are ample and sufficient to insure the proper performance of the contract in the event of award. If upon such examination it is found that the conditions of the proposal are not complied with or that articles or equipment proposed to be furnished do not meet the requirements called for, or that the qualifications or facilities are not satisfactory, the City of Pawtucket may reject such a bid. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the City of Pawtucket to make any examinations before awarding a contract; and it is further understood that if such examination is made, it in no way relieves the contractor from fulfilling all requirements and conditions of the contract.
- c. Qualified or conditional offers which impose limitations of the bidder's liability or modify the requirements of the bid, offers for alternate specifications, or which are made subject to different terms and conditions than those specified by the City of Pawtucket may, at the option of the City of Pawtucket, be
  - 1. rejected as being non-responsive, or
  - 2. set aside in favor of the City of Pawtucket's terms and conditions (with the consent of the bidder), or
  - 3. accepted, where the City of Pawtucket Purchasing Agent determines that such acceptance best serves the interests of the City of Pawtucket.
 Acceptance or rejection of alternate or counter-offers by the City of Pawtucket shall not constitute a precedent which shall be considered to be binding on successive solicitations or procurements.
- d. Bids submitted in pencil, or which do not bear an original signature, in ink, by an owner or authorized agent thereof, will not be accepted.
- e. Bids must be extended in the unit of measure specified in the Request. In the event of any discrepancy between unit prices and their extensions, the unit price will govern.
- f. The City of Pawtucket Purchasing Agent reserves the right to determine the responsibility of any bidder for a particular procurement.
- g. The City of Pawtucket Purchasing Agent reserves the right to reject any and all bids in whole or in part, to waive technical defects, irregularities, and omissions, and to give consideration to past performance of the offerors where, in his judgment the best interests of the City of Pawtucket will be served by so doing.
- h. The City of Pawtucket Purchasing Agent reserves the right to make awards by items, group of items or on the total low bid for all the items specified as indicated in the detailed specification, unless the bidder specifically indicates otherwise in his bid.
- i. Preference may be given to bids on products raised or manufactured in the City of Pawtucket or State of Rhode Island, other things being equal.
- j. The impact of discounted payment terms shall not be considered in evaluating responses to any Request.
- k. The City of Pawtucket Purchasing Agent reserves the right to act in the City of Pawtucket's best interests regarding awards caused by clerical errors by the City of Pawtucket Purchasing Office.

14. **SUSPENSION AND DEBARMENT**

The City of Pawtucket Purchasing Agent may suspend or debar any vendor or potential bidder, for good cause shown:

- a. A debarment or suspension against a part of a corporate entity constitutes debarment or suspension of all of its divisions and all other organizational elements, except where the action has been specifically limited in scope and application, and may include all known corporate affiliates of a contractor, when such offense or act occurred in connection with the affiliate's performance of duties for or on behalf of the contractor, or with the knowledge, approval, or acquiescence of the contractor or one or more of its principals or

directors (or where the contractor otherwise participated in, knew of, or had reason to know of the acts).

- b. The fraudulent, criminal or other serious improper conduct of any officer, director, shareholder, partner, employee, or any other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval or acquiescence. The contractor's acceptance of benefits derived from the conduct shall be evidence of such knowledge, approval, or acquiescence.
- c. A vendor or contractor who knowingly engages as a subcontractor for a contract awarded by the City of Pawtucket to a vendor or contractor then under a ruling of suspension or debarment by the City of Pawtucket shall be subject to disallowance of cost, annulment or termination of award, issuance of a stop work order, or debarment or suspension, as may be judged to be appropriate by the City of Pawtucket's Purchasing Agent.

15. PUBLIC RECORDS

Contractors and bidders are advised that certain documents, correspondence, and other submissions to the City of Pawtucket's Purchasing Office may be voluntarily made public by the City of Pawtucket absent specific notice that portions of such submittals may contain confidential or proprietary information, such that public access to those items should be withheld.

16. PRODUCT EVALUATION

In all specifications, the words "or equal" are understood after each article when manufacturer's name or catalog are referenced. If bidding on items other than those specified, the bidder must, in every instance, give the trade designation of the article, manufacturer's name and detailed specifications of the item the bidder proposes to furnish; otherwise, the bid will be construed as submitted on the identical commodity described in the detailed specifications. The City of Pawtucket's Purchasing Agent reserves the right to determine whether or not the item submitted is the approved equal the detailed specifications.

- a. Any objections to specifications must be filed by a bidder, in writing, with the City of Pawtucket's Purchasing Agent at least 96 hours before the time of bid opening to enable the City of Pawtucket's Purchasing Office to properly investigate the objections.
- b. All standards are minimum standards except as otherwise provided for in the Request or Contract.
- c. Samples must be submitted to the City of Pawtucket's Purchasing Office in accordance with the terms of the proposals and detailed specifications. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating whether or not the bidder desires their return and specifying the address to which they are to be returned (at the bidder's risk and expense), provided they have not been used or made useless by tests; and absent instructions, the samples shall be considered to be abandoned. Award samples may be held for comparison with deliveries.
- d. All samples submitted are subject to test by any laboratory the City of Pawtucket's Purchasing Agent may designate.

17. PRODUCT ACCEPTANCE

All merchandise offered or otherwise provided shall be new, of prime manufacture, and of first quality unless otherwise specified by the City of Pawtucket. The City of Pawtucket reserves the right to reject all nonconforming goods, and to cause their return for credit or replacement, at the City of Pawtucket's option. Contract deliverables specified for procurements of services shall be construed to be work products, and subject to the provisions of this section.

- a. Failure by the City of Pawtucket to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the City of Pawtucket's right to subsequently reject the goods in question.
- b. Formal or informal acceptance by the City of Pawtucket of non-conforming goods shall not constitute a precedent for successive receipts or procurements.
- c. Where the contractor fails to promptly cure the defect or replace the goods, the City of Pawtucket reserves the right to cancel the Purchase Order, contract with a different contractor, and to invoice the original contractor for any differential in price over the original contract price.

- d. When materials, equipment or supplies are rejected, the same must be removed by the contractor from the premises of the City of Pawtucket within forty-eight (48) hours of notification. Rejected items left longer than two days will be regarded as abandoned and the City of Pawtucket shall have the right to dispose of them as its own property.

18. **PRODUCT WARRANTIES**

All product or service warranties normally offered by the contractor or bidder shall accrue to the City of Pawtucket's benefit, in addition to any special requirements which may be imposed by the City of Pawtucket. Every unit delivered must be guaranteed against faulty material and workmanship for a period of one year unless otherwise specified, and the City of Pawtucket may, in the event of failure, order its replacement, repair, or return for full credit, at its sole option.

19. **PAYMENT**

Unless otherwise provided for by the Request or Contract, payment shall not be made until delivery has been made, or services performed, in full, and accepted. Payment shall not be due prior to thirty (30) working days following the latest of completion, acceptance, or the rendering of a properly submitted invoice.

- a. Payment terms other than the foregoing may be rejected as being nonresponsive.
- b. No partial shipments, or partial completion will be accepted, unless provided for by the Request or Contract.
- c. Where a question of quality is involved, or failure to complete a project by the specified due date, payment in whole or part against which to charge back any adjustment required, shall be withheld at the direction of the City of Pawtucket Purchasing Agent. In the event a cash discount is stipulated, the withholding of payments, as herein described, will not deprive the City of Pawtucket from taking such discount.
- d. Payments for used portion of inferior delivery or late delivery will be made by the City of Pawtucket on an adjusted price basis.
- e. Payments on contracts under architectural or engineering supervision must be accompanied by a Certificate of Payment and Statement of Account signed by the architect or engineer and submitted to the City of Pawtucket Purchasing Office for approval.

20. **THIRD PARTY PAYMENTS**

The City of Pawtucket recognizes no assigned or collateral rights to any purchase agreement except as may be expressly provided for in the bid or contract documents, and will not accede to any request for third party or joint payment(s), except as provided for in specific orders by a court of competent jurisdiction, or by express written permission of the City of Pawtucket's Purchasing Agent. Where an offer is contingent upon such payment(s), the offeror is obligated to serve affirmative notice in his bid submission.

21. **SET-OFF AGAINST PAYMENTS**

Payments due the contractor may be subject to reduction equal to the amount of unpaid and delinquent state taxes (or other just debt owed to the State), except where notice of delinquency has not been served or while the matter is pending in hearing or from any appeal therefrom.

22. **CLAIMS**

Any claim against a contractor may be deducted by the City of Pawtucket from any money due him in the same or other transactions. If no deduction is made in such fashion, the contractor shall pay the City of Pawtucket the amount of such claim on demand. Submission of a voucher and payment, thereof, by the City of Pawtucket shall not preclude the City of Pawtucket's Purchasing Agent from demanding a price adjustment in any case when the commodity delivered is later found to deviate from the specifications and proposal.

- a. The City of Pawtucket's Purchasing Agent may assess dollar damages against a vendor or contractor determined to be non-performing or otherwise in default of their contractual obligations equal to the cost of remedy incurred by the City of Pawtucket, and make payment of such damages a condition for consideration for any subsequent award. Failure by the vendor or contractor to pay such damages shall constitute just cause for disqualification and rejection, suspension, or debarment.

23. **CERTIFICATION OF FUNDING**  
The Director of Finance shall provide certification as to the availability of funds to support the procurement for the current fiscal year ending June 30th only. Where delivery or service requirements extend beyond the end of the current fiscal year, such extensions are subject to both the availability of appropriated funds and a determination of continued need.
24. **UNUSED BALANCES**  
Unless otherwise specified, all unused Blanket Order quantities and/or unexpended funds shall be automatically canceled on the expiration of the specified term. Similarly, for orders encompassing more than one fiscal year, unexpended balances of funding allotted for an individual fiscal year may be liquidated at the close of that fiscal year, at the City of Pawtucket's sole option.
25. **MINORITY BUSINESS ENTERPRISES**  
Pursuant to the provisions of Title 37 Chapter 14.1 of the General Laws, the City of Pawtucket reserves the right to apply additional consideration to offers, and to direct awards to bidders other than the responsive bid representing the lowest price where:
- a. the offer is fully responsive to the terms and conditions of the Request, and
  - b. the price offer is determined to be within a competitive range (not to exceed 5% higher than the lowest responsive price offer) for the product or service, and
  - c. the firm making the offer has been certified by the R.I. Department of Economic Development to be a small business concern meeting the criteria established to be considered a Minority Business Enterprise.
26. **PREVAILING WAGE REQUIREMENT**  
In accordance with Title 37 Chapter 13 of the General Laws of Rhode Island, payment of the general prevailing rate of per diem wages and the general prevailing rate for regular, overtime and other working conditions existing in the locality for each craft, mechanic, teamster, or type of workman needed to execute this work is a requirement for both contractors and subcontractors for all public works.
27. **EQUAL OPPORTUNITY COMPLIANCE, HANDICAPPED ACCESS AND AFFIRMATIVE ACTION**  
Contractors of the City of Pawtucket are required to demonstrate the same commitment to equal opportunity as prevails under federal contracts controlled by Federal Executive Orders 11246, 11625, 11375 and 11830, and Title 28 Chapter 5.1 of the General Laws of Rhode Island. Affirmative action plans shall be submitted by the contractor for review by the State Equal Opportunity Office. A contractor's failure to abide by the rules, regulations, contract terms and compliance reporting provisions as established shall be grounds for forfeiture and penalties as shall be established, including but not limited to suspension.
28. **DRUG-FREE WORKPLACE REQUIREMENT**  
Contractors who do business with the City of Pawtucket and their employees shall abide by the State's drug-free workplace policy and the contractor shall so attest by signing a certificate of compliance.
29. **TAXES**  
The City of Pawtucket is exempt from payment of excise, transportation and sales tax imposed by the Federal or State Government. These taxes should not be included in the proposal price. Exemption Certificates will be furnished upon request.
30. **INSURANCE**  
All construction contractors, independent tradesmen, or firms providing any type of maintenance, repair, or other type of service to be performed on City of Pawtucket premises, buildings, or grounds are required to purchase and maintain coverage with a company or companies licensed to do business in the state as follows:
- a. Comprehensive General Liability Insurance
    - 1) Bodily Injury \$500,000 each occurrence/ \$1,000,000 annual aggregate
    - 2) Property Damage \$500,000 each occurrence /\$500,000 annual aggregate

- Independent Contractors
- Contractual - including construction hold harmless and other types of contracts or agreements in effect for insured operations
- Completed Operations
- Personal Injury (with employee exclusion deleted)
- b. Automobile Liability Insurance
  - Combined Single Limit not less than \$150,000 each occurrence
  - Bodily Injury
  - Property Damage, and in addition non-owned and/or hired vehicles and equipment
- c. Workers' Compensation Insurance
  - As required by the General Laws of Rhode Island.

The City of Pawtucket's Purchasing Agent reserves the right to consider and accept alternate forms and plans of insurance or to require additional or more extensive coverage for any individual requirement. Successful bidders shall provide certificates of coverage, reflecting the City of Pawtucket as an additional insured, to the City of Pawtucket Purchasing Office, forty-eight (48) hours prior to the commencement of work, as a condition of award. Failure to comply with this provision shall result in rejection of the offeror's bid.

31. **BID SURETY**

When requested, a bidder must furnish a Bid Bond or Certified Check for 5% of his bid, or for the stated amount shown in the solicitation. Bid Bonds must be executed by a reliable Surety Company authorized to do business in the State of Rhode Island. Failure to provide Bid Surety with bid may be cause for rejection of bid. The Bid Surety of any three bidders in contention will be held until an award has been made according to the specifications of each proposal. All others will be returned by mail within 48 hours following the bid opening. Upon award of a contract, the remaining sureties will be returned by mail unless instructed to do otherwise.

32. **PERFORMANCE AND LABOR AND PAYMENT BONDS**

A performance bond and labor and payment bond of up to 100% of an award may be required by the City of Pawtucket's Purchasing Agent. Bonds must meet the following requirements:

- a. Corporation: The Bond must be signed by an official of the corporation above his/her official title and the corporate seal must be affixed over his/her signature.
- b. Firm or Partnership: The Bond must be signed by all of the partners and must indicate that they are " Doing Business As (name of firm)."
- c. Individual: The Bond must be signed by the individual owning the business and indicate "Owner."
- d. The Surety Company executing the Bond must be licensed to do business in the State of Rhode Island or Bond must be countersigned by a company so licensed.
- e. The Bond must be signed by an official of the Surety Company and the corporate seal must be affixed over his signature.
- f. Signatures of two witnesses for both the principal and the Surety must appear on the Bond.
- g. A Power of Attorney for the official signing of the Bond for the Surety Company must be submitted with the Bond.

33. **SUSPENSION, DEFAULT AND TERMINATION**

a. **Suspension of a Contract by the City of Pawtucket**

The City of Pawtucket reserves the right at any time and for any reason to suspend all or part of this contract, for a reasonable period, not to exceed sixty days, unless the parties agree to a longer period. The City of Pawtucket shall provide the contractor with written notice of the suspension order signed by the Purchasing Agent or his or her designee, which shall set forth the date upon which the suspension shall take effect, the date of its expiration, and all applicable instructions. Upon receipt of said order, the contractor shall immediately comply with the order and suspend all work under this contract as specified in the order. The contractor shall take all reasonable steps to mitigate costs and adverse impact to the work specified in the contract during the suspension period. Before the order expires, the City of Pawtucket shall either:

- 1. cancel the suspension order;
- 2. extend the suspension order for a specified time period not to exceed thirty (30) days; or

3. terminate the contract as provided herein.

The contractor shall resume performance once a suspension order issued under this section is canceled or expires. If as a result of the suspension of performance, there is a financial or schedule impact upon the contract, an appropriate adjustment may be made by, or with the approval of, the City of Pawtucket's Purchasing Agent. Any adjustment shall be set forth in writing. After a suspension order has been canceled or expires, the contractor shall provide any request for adjustment to the City of Pawtucket's Purchasing Agent within thirty (30) days after resuming work performance.

b. Termination of a Contract by the City of Pawtucket

1. Termination for Default or Nonperformance

If, for any reason, the contractor breaches the contract by failing to satisfactorily fulfill or perform any obligations, promises, terms, or conditions, and having been given reasonable notice of and opportunity to cure such default, fails to take satisfactory corrective action within the time specified by the City of Pawtucket, the City of Pawtucket may terminate the contract, in whole or in part, the termination of all outstanding contracts or sub-contracts held by the contractor, and the suspension or debarment of the contractor from future procurements by giving written notice to the contractor specifying the date for termination. The City of Pawtucket shall endeavor to provide such notice at least seven (7) calendar days before the effective date of the termination.

A contractor who fails to commence within the time specified or complete an award made for repairs, alterations, construction, or any other service will be considered in default of contract. If contractor consistently fails to deliver quantities or otherwise perform as specified, the City of Pawtucket's Purchasing Agent reserves the right to terminate the contract and contract for completion of the work with another contractor and seek recourse from the defaulting contractor or his surety. In the event of a termination for default or nonperformance, in whole or in part, the City of Pawtucket may procure similar goods or services in a manner and upon terms it deems appropriate, and the contractor shall be liable for the excess costs incurred by the City of Pawtucket as a result of the contractor's default. The contractor, or its surety, agrees to promptly reimburse the City of Pawtucket for the excess costs, but shall have no claim to the difference should the replacement cost be less.

2. Termination Without Cause

The City of Pawtucket may terminate the contract in whole or in part without cause at any time by giving written notice to the contractor of such termination at least thirty (30) days before the effective date of such termination. The notice shall specify the part(s) of the contract being terminated and the effective termination date.

Within thirty (30) days of the effective date of the termination of the contract the contractor shall compile and submit to the City of Pawtucket an accounting of the work performed up to the date of termination. The City of Pawtucket may consider the following claims in determining reasonable compensation owed to the contractor for work performed up to the date of termination:

- a. contract prices for goods or services accepted under the contract;
- b. costs incurred in preparing to perform and performing the terminated portion of the contract; or
- c. any other reasonable costs incurred by the contractor as a result of the termination.

The total sum to be paid to the contractor shall not exceed the total contract price, less any payments previously made to the contractor, the proceeds from any sales of goods or manufacturing materials, and the contract price for work not terminated.

3. Contractor's Obligations in the Event of Termination

If the contract is terminated for any reason, or expires pursuant to its terms, the contractor shall transfer and deliver to the City of Pawtucket in the manner and to the extent directed by the City of Pawtucket:

- a. all finished or unfinished material prepared by the contractor; and
- b. all material, if any, provided to the contractor by the City of Pawtucket.

For the purposes of the contract, "material" shall include, but is not limited to, goods, supplies, parts, tools, machinery, equipment, furniture, fixtures, information, data, reports, summaries, tables, maps, charts, photographs, studies, recommendations, files, audiotapes, videotapes, records, keys, security badges, and documents.

If the contract is terminated for cause, the contractor shall not be relieved of liability to the City of Pawtucket for damages sustained because of any breach by the contractor. In such event, the City of Pawtucket may retain any amounts which may be due and owing to the contractor until such time as the exact amount of damages due the City of Pawtucket from the contractor has been determined by the City of Pawtucket Purchasing Agent. The City of Pawtucket may also set off any damages so determined against the amounts retained.

Upon termination of the contract, the contractor shall stop performance on the date specified, terminate any outstanding orders and subcontracts applicable to the terminated portion of the contract, and shall incur no further commitments or obligations in connection with the terminated performance. The contractor shall settle all liabilities and claims arising out of the termination of subcontracts and order generating from the terminated performance. The City of Pawtucket may direct the contractor to assign the contractor's right, title and interest under terminated orders or subcontracts to the City of Pawtucket or a third party.

Terminations of Purchase Order Contracts or Master Pricing Agreements shall require the signature of the City of Pawtucket Purchasing Agent or his designee. Notice of termination by either party shall be submitted in writing to the other party in accordance with the termination clause of the contract, or where no specific termination clause is included, written notice shall be provided no later than thirty (30) days before the expiration of the contract.

34. INDEMNITY

The contractor guarantees:

- a. To save the City of Pawtucket, its agents and employees, harmless from any liability imposed upon the City of Pawtucket arising from the negligence, either active or passive, of the contractor, as well as for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee or licensee.
- b. To pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the City of Pawtucket and of the State of Rhode Island.
- c. That the equipment offered is standard new equipment, latest model of regular stock product with all parts regularly used with the type of equipment offered; also, that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.

35. CONTRACTOR'S OBLIGATIONS

In addition to the specific requirements of the contract, construction and building repair contractors bear the following standard responsibilities:

- a. To furnish adequate protection from damage for all work and to repair damages of any kind, for which he or his workmen are responsible, to the building or equipment, to his own work, or to the work of other contractors;
- b. The contractor, its subcontractor(s) and their employees and/or agents, shall protect and preserve property in the contractor or subcontractor's possessions in which the City of Pawtucket has an interest, and any and all materials provided to the contractor or subcontractor by the City of Pawtucket;

- c. To clear and remove all debris and rubbish resulting from his work from time to time, as directed or required, a completion of the work leave the premises in a neat unobstructed condition, broom clean, and in satisfactory order and repair;
- d. To store equipment, supplies, and material at the site only upon approval by the City of Pawtucket, and at his own risk;
- e. To perform all work so as to cause the least inconvenience to the City of Pawtucket, and with proper consideration for the rights of other contractors and workmen;
- f. To acquaint themselves with conditions to be found at the site, and to assume responsibility for the appropriate dispatching of equipment and supervision of his employees during the conduct of the work;
- g. To ensure that his employees are instructed with respect to special regulations, policies, and procedures in effect for any City of Pawtucket facility or site, and that they comply with such rules, including but not limited to security policies or practices and/or criminal background checks for any employees and/or subcontractors;
- h. The contractor shall ensure that its employees or agents are experienced and fully qualified to engage in the activities and services required under the contract;
- i. The contractor shall ensure that at all times while services are being performed under this contract at least one of its employees or agents on the premises has a good command of the English language and can effectively communicate with the City of Pawtucket and its staff;
- j. The contractor and contractor's employees or agents shall comply with all applicable licensing and operating requirements required by federal or state law and shall meet accreditation and other generally accepted standards of quality in the applicable field of activity;
- k. The contractor shall secure and retain all employee-related insurance coverage for its employees and agents as required by law; and
- l. The contractor, subcontractor, and his or her employees and agents shall not disclose any confidential information of the City of Pawtucket to a third party. Confidential information means:
  - (1) any information of a sensitive or proprietary nature, whether or not specially identified as confidential or proprietary; or
  - (2) any information about the City of Pawtucket gained during the performance of a contract that is not already lawfully in the public domain.

36. **FORCE MAJEURE**

All orders shall be filled by the contractor with reasonable promptness, but the contractor shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any other acts not within the control of the contractor and which by the exercise of reasonable diligence, the contractor is unable to prevent.



**General Terms & Conditions  
for Grants and Cooperative Agreements  
to Organizations**



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

# **General Terms & Conditions**

## **for Grants and Cooperative Agreements**

### **to Organizations**

updated December 2012

**Grants & Contracts Office**

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

Telephone (202) 682-5403  
FAX (202) 682-5610 or 5609

[grants@arts.gov](mailto:grants@arts.gov)  
[finalreports@arts.gov](mailto:finalreports@arts.gov)  
[www.arts.gov](http://www.arts.gov)

## **Important Information**

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

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

General information about your grant is available online at [www.arts.gov/mygrant](http://www.arts.gov/mygrant). Award materials, including payment request and report forms, and links to the OMB Circulars referenced throughout the General Terms are available on our Web site at [www.arts.gov/manageaward](http://www.arts.gov/manageaward).

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## **Acceptance of an Arts Endowment Award**

### **1. 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; the laws, rules, regulations, and Executive Orders governing assistance awards; and these General Terms, all of which are hereby incorporated into this award by reference. While we may provide you with reminder notices regarding award requirements, the absence of receiving such notice does not relieve you of your responsibility to meet all applicable award requirements.

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

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

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

### **2. Compliance with the General Terms and any other Conditions**

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

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

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

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

Acknowledgment of the National Endowment for the Arts must be prominently displayed in all materials and announcements for your funded project. For print materials, a phrase acknowledging support from the National Endowment for the Arts is a basic requirement. In addition, we encourage you to use the agency's logo whenever possible.

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

The logo is available at [www.arts.gov/manageaward](http://www.arts.gov/manageaward). We reserve the right to change the language of the required acknowledgement of Arts Endowment support, as well as the right to disallow the use of our logo and acknowledgment of our support.

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

## 5. Authorizing Official.

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

For purposes of administering this award, the following apply:

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

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

- d. **Changes in or Additional Authorizing Officials.** To designate other individuals as authorizing officials for an NEA award, a current authorizing official may submit a letter or e-mail making such a request to our Grants & Contracts Office (G&C). A [Signature Authorization Form](#) is also available on our Web site for your use if you prefer. NOTE: Colleges and universities should follow these procedures to delegate authority to a fiscal officer or other appropriate personnel to approve payment requests and Federal Financial Reports.

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

## Obtaining Award Funds

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

- a. **Requests for Advance or Reimbursement.** The Request for Advance or Reimbursement (payment request) form, instructions, and video tutorial are available on our Web site [www.arts.gov/manageaward](http://www.arts.gov/manageaward). Payment requests must reflect allowable project-related expenses already incurred (reimbursement) and/or expenses to be incurred within 30 days from the date the authorizing official signs the request (advance). All costs must be incurred within the approved period of support.
- **Labor Assurance.** You must comply with the labor standards set out in "29 CFR Part 505 Labor Standards on Projects or Productions Assisted by Grants from the National Endowments for the Arts and Humanities." This is required by the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 USC 951 et seq.). Read the "Assurances as to Labor Standards" (page 2 of the payment request form) carefully. When you submit the payment request form you are agreeing to these standards.
  - **Progress report.** Generally, this information is only required the first time the cumulative amount requested exceeds two-thirds of the award amount. The payment request form includes space for your report.

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

- b. **Tracking Status of Grant Payments on [www.arts.gov/mygrant](http://www.arts.gov/mygrant).** By entering your 10-digit grant number, you can see when we received your payment request, when it was processed, and the

amount paid. A payment history and the current balance on your award are also displayed. At this time, cooperative agreement payment information is not available through this tool.

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

## If there are Changes in Your Project

### 7. Award Amendments

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

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

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

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

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

- a. **Period of Support Extensions (Time Amendments).** All project activities and the commitment of project funds must take place within the period of support set out in your award document. As soon as you become aware that your project cannot be completed on schedule, you must request a time amendment following the procedures outlined above. Requests submitted after the current end date of your award, or requests to extend the total period of support beyond four years, might not be approved.
- b. **Liquidation of Obligations.** You are also responsible for ensuring that all obligations incurred under an award are liquidated (paid) within 90 days after the end of the period of support, which also coincides with the submission of the Federal Financial Report. If all obligations cannot be liquidated within the 90 days, a time amendment must be requested.
- c. **Changes in Project Scope.** Project activities must be consistent with those approved for funding by the Arts Endowment. Contact G&C immediately if you want to make changes to the project or its objectives as originally proposed in your application or as revised during the Tentative Funding Recommendation/Application Update process. Examples of scope changes include:
- changes from artists confirmed in your application (see below)
  - changing from a production of "Hamlet" to a new commission for a comedy
  - replacing an art exhibition with an online blog or app
  - replacing a concert series on Mozart with a Film Festival on John Cage
  - engaging with different target audiences, if that was a major focus of your application
  - adding a component to a project that was not part of the original proposal, or removing a component that was a significant part of your project
  - changes in venue

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

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

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

Requests submitted after the fact might not be approved.

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

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

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

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

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

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

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

## 8. Foreign Travel Requests

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

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

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

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

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

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

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

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

- the 10-digit grant number (or DCA number for a cooperative agreement),
- an explanation for the return of the funds,
- contact information, including a phone number, fax number and e-mail address,
- the approval of an authorizing official, and
- if returning funds, a check in the correct amount payable to the National Endowment for the Arts (include the award number on the memo line).

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

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

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

## **Termination and Remedies**

### **10. Termination**

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

#### **a. For Convenience:**

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

However, if we determine that the reduced or modified portion of the award will not accomplish the purposes for which it was made, we may terminate the award in its entirety.

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

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

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

## Reporting Requirements

### 11. Reporting Requirements

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

- a. **Progress Reports.** A progress report is generally required once the cumulative amount of funds requested exceeds two-thirds of the award amount. Specific instructions for submitting your progress report are in your Reporting Requirements document and on the payment request instructions.
- b. **Special Reporting Requirements.** We may require you to submit certain information before funds can be released (e.g., verification of compliance with NEPA/NHPA requirements, a signed contract, copyright release, an itemized list of actual expenditures to date, etc.) or at other times during the project. Instructions will be included in your award package when applicable.
- c. **Final Reports.** A Final Report package including the Final Descriptive Report (FDR), the Federal Financial Report (FFR), and any required final product(s) must be submitted no later than 90 days after the project period end date.

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

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

- d. **Tracking Status of Final Reports** on [www.arts.gov/mygrant](http://www.arts.gov/mygrant). By entering your grant number, you can see when your final reports are due and if a product is required. You can also see if we received them. This tool is only available for grants.
- e. **Failure to submit the required Final Reports** for any award(s) renders you ineligible to receive funding for five years following the final report due date of the award(s) or until the delinquent final reports are submitted, whichever occurs first. Acceptability of final reports may also affect eligibility for new awards. In addition, failure to submit required final reports within 210 days after the project period end date will result in the withdrawal of any funds remaining on that award.

## Matching (or Cost Share) Requirements

### 12. Matching

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

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

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

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

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

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

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

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

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

#### **14. Use of Program Income**

Income earned during the period of support that results from activities supported through an Arts Endowment award is considered to be program income. These earnings can include, but are not limited to, income from fees for services, admission fees, or the use or rental of real or personal property. Program income may be used as part of the match for an award, for additional costs of the Arts Endowment-supported project, or for other eligible projects in the arts conducted by the recipient.

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

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

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

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

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

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

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

## **Recordkeeping**

### **16. Record Retention**

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

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

### **17. Financial Management Standards: Maintaining Accounting Records**

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

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

## **18. Procurement Standards**

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

Written procedures should include, among other things, determining economical approaches, providing for competition, dealing with conflict of interest, efforts to use minority, women-owned and small businesses, and maintaining records sufficient to detail the procurement process. In addition, you should have written procedures to ensure that contractors or recipients are not debarred or suspended prior to the payment or award of Federal funds (2 CFR part 180 Subpart C) (OIG).

## **19. Personnel Activity Documentation (Documenting Salaries & Wages)**

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

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

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

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

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

## **20. Equipment**

Equipment is defined as an article of tangible, nonexpendable, personal property having a useful life of more than one year that costs \$5,000 or more. Before purchasing equipment not identified in the approved project budget, you must obtain written approval from G&C (see Section 7 "Award Amendments"). You are encouraged, whenever possible, to purchase American-made equipment in accordance with the "Buy American Act" (41 USC 10a-10c).

Unless otherwise specified, you will have title to equipment commissioned, purchased, or fabricated under the award, without further obligation to the Federal government, provided that it will be used for activities similar to those approved by the Arts Endowment. We reserve the right to stipulate at the time of the award specific instructions for disposition of the equipment when you no longer need it (e.g., a transfer of title to the Federal government or a third party).

You also have title to artwork purchased under the Arts Endowment award, without further obligation to the Federal government, provided that it will be used for similar activities. One example of similar activity is selling the work to another museum or visual art center with the intention that it will be available to the public. It may not be de-accessioned to a private collector where it would no longer be on view to the public.

## **21. Copyright**

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

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

## **22. Library of Congress Cataloging in Publication Data**

We strongly recommend that any publication that results from this award be cataloged by the Cataloging in Publication Program of the Library of Congress before final printing. This method of cataloging enables libraries to acquire and process books quickly. Publishers ineligible for this program may be eligible for the Library's Preassigned Control Number Program. Entering these titles in a national bibliographic database leads to greater dissemination of publications. For procedural information, contact the Library of Congress, <http://www.loc.gov/publish/cip/>.

## **Audit Matters**

### **23. A-133 Audit Requirements**

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

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

## **24. Award Payment Confirmation for Audit Purposes**

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

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

Finance Office  
National Endowment for the Arts, Rm 624  
1100 Pennsylvania Avenue, NW  
Washington, DC 20506-0001

## **25. CFDA Numbers (Catalog of Federal Domestic Assistance)**

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

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

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

### **26. Uniform Administrative Requirements**

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

The "Uniform Administrative Requirements" establish administrative standards to ensure consistency among recipients of Federal awards. These include financial and program management, property and procurement standards, cost sharing or matching, and reporting and record retention. These requirements, as applicable, are hereby incorporated into this award.

## 27. Cost Principles

The allowable costs for work performed under an Arts Endowment award shall be determined in accordance with the applicable Federal cost principles and the terms and conditions of the award. The following OMB Circulars set forth the Federal cost principles that, in general, apply to our recipients. They are available [www.whitehouse.gov/omb/grants\\_default/](http://www.whitehouse.gov/omb/grants_default/) These cost principles, as applicable, are hereby incorporated into this award:

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

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

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

- a. **Title VI of the Civil Rights Act of 1964**, as amended, provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Title VI also extends protection to persons with limited English proficiency. (42 USC 2000d et seq.)
  - As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. You are encouraged to consider the need for language services for LEP persons in conducting your programs and activities. For assistance and information go to [www.lep.gov](http://www.lep.gov).
- b. **Title IX of the Education Amendments of 1972** provides that no person in the United States shall, on the basis of sex or blindness, be excluded from participation in, be denied benefits of, or be

subject to discrimination under any education program or activity receiving Federal financial assistance. (20 USC 1681 and 1684 et seq.)

- c. **Section 504 of the Rehabilitation Act of 1973** provides that no otherwise qualified individual with a disability in the United States, shall, solely by reason of his/her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. (29 USC 794)

#### **Section 504 - Self-Evaluation and Additional Resources.**

- A Section 504 self-evaluation must be on file at your organization. For each award, review the evaluation to ensure that it is still accurate, that your organization is still in compliance, and that the activity supported by the Arts Endowment will be in compliance. The lack of a Section 504 self-evaluation is one of the most common findings referenced by our Inspector General when conducting an audit or review of our award recipients. We have developed a **504 Self Evaluation Workbook** (which covers programs, activities and facilities) that you may use to determine if you are in compliance with Section 504 requirements. If you have not previously conducted this self-evaluation or wish to update the results of previously conducted evaluations, you may obtain the Workbook on our Web site at [www.arts.gov/about/504Workbook](http://www.arts.gov/about/504Workbook). Or you may request a hard copy, free of charge, from the NEA's Office of Civil Rights at (202) 682-5454.

- *Design for Accessibility: A Cultural Administrator's Handbook* provides guidance on making access an integral part of an organization's staffing, mission, budget, and programs. This *Handbook* and other resources may be downloaded from the Arts Endowment's Web site at [www.arts.gov/resources/Accessibility](http://www.arts.gov/resources/Accessibility). If you have questions, contact the Office of Accessibility at [accessibility@arts.gov](mailto:accessibility@arts.gov); (202) 682-5733; FAX (202) 682-5715; or TTY (202) 682-5496. You may purchase print copies of the *Handbook* from the National Assembly of State Arts Agencies, (202) 347-6352 or [www.nasaa-arts.org](http://www.nasaa-arts.org).

- d. **The Age Discrimination Act of 1975** provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. (42 USC 6101 et seq.)
- e. **The Americans with Disabilities Act of 1990 (ADA)**, as amended, prohibits discrimination on the basis of disability in employment (Title I); State and local government services (Title II); and, places of public accommodation and commercial facilities (Title III). (42 USC 12101-12213)

#### **29. Environmental and Preservation Policies**

- a. **The National Environmental Policy Act of 1969 (NEPA)**, as amended, applies to any Federal funds that would support an activity that may have environmental implications. We may ask you to respond to specific questions or provide additional information in accordance with the Act. If there are environmental implications, we will determine whether a categorical exclusion may

apply; to undertake an environmental assessment; or, to issue a "finding of no significant impact," pursuant to applicable regulations and 42 USC Sec. 4332.

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

### 30. Other National Policies

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

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

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

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

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

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

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

- (1) No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. (18 USC § 1913. Lobbying with appropriated moneys)
- (2) OMB Circular A-122 (2 CFR 230) – "Lobbying" Revision clarifies that lobbying is an unallowable project cost. The Circular generally defines lobbying as conduct intended to influence the outcome of elections or to influence elected officials regarding pending legislation, either directly or through specific lobbying appeals to the public. You should review carefully both this Circular and Circular A-110 (2 CFR 215).
- (3) Certification Regarding Lobbying to Obtain Awards. Section 319 of Public Law 101-121, codified at 31 USC Sec. 1352, prohibits the use of Federal funds in lobbying members and employees of Congress, as well as employees of Federal agencies, with respect to the award or amendment of any Federal grant, cooperative agreement, contract, or loan. While non-Federal funds may be used for such activities, they may not be included in your project budget, and their use must be disclosed to the awarding Federal agency. Disclosure of lobbying activities by long-term employees (employed or expected to be employed for more than 130 days) is, however, not required. In addition, the law exempts from definition of lobbying certain professional and technical services by applicants and awardees.

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

d. **Davis-Bacon and Related Acts (DBRA)**, as amended, requires that each contract over \$2,000 to which the United States is a party for the construction, alteration, or repair of public buildings or public works (these activities include, but are not limited to, painting, decorating, altering, remodeling, installing pieces fabricated off-site, and furnishing supplies or equipment for a work-site) must contain a clause setting forth the minimum wages to be paid to laborers and mechanics employed under the contract. Under the provisions of DBRA, contractors or their subcontractors

must pay workers who qualify under DBRA no less than the locally prevailing wages and fringe benefits paid on projects of a similar character.

Information about the laborers and projects that fall under DBRA can be found in the Department of Labor's (DOL) Compliance Guide at [www.dol.gov/compliance/guide/dbra.htm](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).

- e. **The Native American Graves Protection and Repatriation Act of 1990** applies to any organization that controls or possesses Native American human remains and associated funerary objects and receives Federal funding, even for a purpose unrelated to the Act. (25 USC 3001 et seq.)
- f. **U.S. Constitution Education Program.** Educational institutions (including but not limited to "local educational agencies" and "institutions of higher education") receiving Federal funds from any agency are required to provide an educational program on the U.S. Constitution on September 17 (PL 108-447, Division J, Sec. 111(b)). For more information on how to implement this requirement and suggested resources, see [www2.ed.gov/policy/fund/guid/constitutionday](http://www2.ed.gov/policy/fund/guid/constitutionday) and <http://thomas.loc.gov/teachers/constitution.html>
- g. **Arts Endowment Enabling Legislation.** You are also required to execute your project, (e.g., productions, workshops, programs, etc.) in accordance with the Arts Endowment's enabling legislation that requires "artistic excellence and artistic merit" to be included in the criteria upon which awards are made.
- h. **Prohibition on use of funds to ACORN** or its subsidiaries. Beginning in FY10 (award number such as 10-xxxx-xxxx or DCA 2010-xx), none of the Federal or matching funds expended for your awarded project may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. (P.L. 111-88 Sec. 427)

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

### **31. Subgranting**

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

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

## General Subgranting Requirements

- a. **Artistic Excellence and Artistic Merit.** In accordance with the Arts Endowment's enabling legislation, you must include "artistic excellence and artistic merit" in the review criteria used to make the subgrant awards. (20 USC Sec. 951 et seq.)
- b. **Subgranting to Eligible Organizations, Units of State and/or Local Government.** 501(c)(3) nonprofit organizations, units of state or local government, institutions of higher education, or Federally-recognized Indian tribal governments are eligible to receive funds subgranted through an Arts Endowment award.

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

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

You must also:

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

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

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

- d. **Additional Requirements for Subgranting to Organizations and Individuals.** Your subgrant agreements must include a requirement that the subgrantee:
  - provides you with final reports and any other information or reports necessary for you to fulfill all applicable Federal reporting requirements
  - adheres to the prohibition against lobbying within a Federally supported grant or cooperative agreement

- uses U.S. air carriers for approved foreign travel
  - maintains records pertinent to the award for three years following submission of their final report to you.
- e. **Progress reports.** State Arts Agencies should require a progress report from their subgrantees, with discretion to determine when these reports must be submitted.
- f. **Time extensions.** You should request a period of support time extension (not a final report due date extension) from the Arts Endowment whenever a subgrantee's project cannot be completed within your award period. See Item 7.
- g. **Subgrantee records.** You must keep subgrantees' report submissions on file for three years after the date you submit your Federal Financial Report to the Arts Endowment.

## Questions?

### 32. Arts Endowment Staff

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

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

### 33. Accessibility Accommodations

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

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

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