

General Terms & Conditions for Grants and Cooperative Agreements to Organizations

INTRODUCTION

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, the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 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. 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.

You can reach us at:

Grants & Contracts Office (G&C)
National Endowment for the Arts
1100 Pennsylvania Avenue, Room 618
Washington, DC, 20506
Telephone (202) 682-5403
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TABLE OF CONTENTS

<u>Item</u>	<u>Subject</u>	<u>Page</u>
Acceptance of an Arts Endowment Award		
1.	Your Responsibilities	4
2.	Compliance with Terms and Conditions	4
3.	Acknowledgment of Arts Endowment Support and Disclaimer	4
Authorizing Official		
4.	Authorizing Official	5
How to Obtain Your Award Funds		
5.	Requesting Payment	6
If There Are Changes in Your Project		
6.	Award Amendments	7
7.	Foreign Travel Requests	9
8.	Return of Full or Unused Portion of an Award or Declining an Award	10
Remedies and Termination		
9.	Termination	11
Reporting Requirements		
10.	Reporting Requirements	12
Matching (Cost Share) Requirements		
11.	Matching	13
12.	Use of In-kind (Third Party) Contributions	13
13.	Use of Program Income	14
14.	Use of Indirect Costs	14
Recordkeeping		
15.	Record Retention	15
16.	Financial Management Standards: Accounting Records	15
17.	Procurement Standards	16
18.	Personnel Activity	16
19.	Equipment	16
20.	Copyright	17
21.	Library of Congress Cataloging in Publication	17
Audit Matters		
22.	A-133 Audit Requirements	18
23.	Award Confirmation for Audit Purposes	18
24.	Catalog of Federal Domestic Assistance (CFDA) Numbers	18
Office of Management and Budget (OMB) Circulars that Govern Your Award		
25.	Uniform Administrative Requirements	19
26.	Cost Principles	19

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

27. Nondiscrimination Policies	20
28. Environmental Policies	21
29. Other National Policies	21
a. Debarment and Suspension	21
b. Drug-Free Workplace Act	22
c. Lobbying	22
d. Native American Graves Protection and Repatriation Act	23
e. The National Historic Preservation Act	23
f. U.S. Constitution education program	23
g. Arts Endowment enabling legislation	23
h. Prohibition on use of funds	23

Subgranting

30. Subgranting for State Arts Agencies, Regional Arts Organizations and Local Arts Agencies	24
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Questions?

31. Arts Endowment Staff	25
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Attachments

Sample Personnel Activity (Time & Effort) Report	27
Sample In-kind Contribution Report	28
Signature Authorization Form	29

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, as well as 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. Failing to comply with these requirements may result in suspension or termination of the award and our recovery of funds.

Sponsors or Lead members of consortia. If you are a sponsor for another organization, or the lead member of a consortium, your organization is legally, financially, administratively, and programmatically responsible for all aspects of the award. Your organization must submit all payment requests, reports, and any amendment requests. These same requirements hold for awards made to ***Fiscal Agents*** before FY 2007.

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

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

3. **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." For television broadcast, display of the Arts Endowment logo is required.

The logo is available at www.nea.gov/manageaward/logos/index.html. 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.

4. **Authorizing Official.** An authorizing official is an official of the recipient organization with authority to legally bind the organization. For organizations that act as sponsor or lead member of a consortium—the authorizing official must work for the sponsor or lead organization. For purposes of administering this award, the following apply:

a. **Application Form.** Authorizing officials are designated by signature on the form. An electronic "signature" is accepted if your application was submitted through Grants.gov. We reserve the right to request a "hard copy" signature (i.e., ink on paper) of an organization's authorizing official if necessary.

Only officials identified by signature on your application or on file (see d., below) can sign the payment request form.

b. **By Virtue of Position.** The following are considered to be authorizing officials for this or any award you may receive from the Arts Endowment, whether or not they have signed an application:

- (1) 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;
- (2) for *colleges and universities*: chancellor, provost, president, trustee, director of sponsored programs/research, or individual of similar rank;
- (3) for *cities or municipalities, or departments thereof*: mayor, city manager/administrator, designated department, agency, or office official, or individual of similar rank; or
- (4) for *states or departments thereof*: governor or designated agency, department or office official, or individual of similar rank.

c. **Arts Endowment Panelist.** Generally, any person serving as an Arts Endowment panelist can act as an authorizing official for his or her organization. However, no panelist may review an application from an organization with which he or she is affiliated. If a panelist later becomes associated with a project that he or she reviewed, then he or she may not act as an authorizing official for that project. This prohibition is in effect throughout the entire period of support.

d. **Changes in or Additional Authorizing Officials.** If you wish to designate other individuals as authorizing officials for this or any other Arts Endowment award, submit a letter making such a request—signed by a current authorizing official—to our Grants & Contracts Office. A *Signature Authorization Form* (page 28) is also available on our Web site for your use. **NOTE:** *Colleges and universities should follow these procedures to delegate authority to a fiscal officer to sign payment requests and Federal Financial Reports.*

Please submit updated information if **changes** in authorizing officials occur within your organization (e.g., let us know if someone is no longer serving as an authorizing official) **or** every four years, whichever comes first.

5. **Requesting Payment**

a. **Requests for Advance or Reimbursement.** The *Request for Advance or Reimbursement* form and instructions are available on our Web site. Payment requests must reflect expenses to be incurred within 30 days from the date the authorizing official signs the request (advance) and/or costs already incurred (reimbursement).

- **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.**" You provide this assurance by signing the *Request for Advance or Reimbursement* form and returning it to the Grants & Contracts Office. This is required by the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 et seq.). Read the "Assurances as to Labor Standards" (page 2 of the form) carefully.
- **Progress report.** Generally, this information is only required the first time the cumulative amount requested exceeds two-thirds of the award amount.

Important: Funds must be disbursed immediately upon receipt. If you cannot do so, you must return the funds to the Arts Endowment. Also, while you may request *all* of your award funds once the period of support begins, you may **not** request funds to cover expenditures incurred prior to the beginning of the period of support; pre-award costs are unallowable. If interest is earned on advanced funds, you should refer to OMB Circular A-110, Section 22(l) or the "Common Rule," Section 1157.21(i) for information regarding its disposition.

b. **Geographic Location of Project Activity report.** Beginning with award numbers that start with 10- this report is included as Part III of the Final Descriptive Report form. For more information, see Section 10 c., "Final Reports."

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 appropriate guidelines provided by the Arts Endowment. These guidelines are also available on our Web site at www.arts.gov/about/OIG/FAQs.html.

d. **Withholding Payments.** If you fail to comply with the terms and conditions of this award, payment may be withheld at any time during the project period. 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.

- **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). Should you become delinquent during your project period, you must notify us immediately. We cannot release your award funds until a repayment plan has been accepted by the Internal Revenue Service.

Tracking Status of Grant Payments on www.arts.gov/mygrant. By entering your grant number, you can see when we received your payment request, when it was processed, and the amount paid. A history of payments and the current balance of your award are also provided.

If There Are Changes in Your Project

6. 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, you must submit a written request **to our Grants & Contracts Office before implementation**. Requests submitted to other Arts Endowment offices often result in a delayed response.

Each request must include:

- **10-digit grant number (or DCA # for a cooperative agreement),**
- **specific change(s) requested (for types of amendments, see below)**
- **justification for the change(s),**
- **revised project budget, if applicable,**
- **contact information, including a phone number, fax number and e-mail address,**
and
- **signature of a current authorizing official** (see Item 4).

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 the recipient 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 the Grants & Contracts Office, 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) & Liquidation of Obligations.** 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 immediately request a time amendment following the procedures outlined above. Requests submitted after the fact, including after the current end date of your award, or requests to extend the total period of support beyond four years, may not be approved.

You are also responsible for ensuring that all obligations incurred under an award are liquidated (paid) within 90 days of the end of the period of support to coincide with the submission of the Federal Financial Report. Therefore, a time amendment must be requested if all obligations cannot be liquidated within 90 days.

- b. **Changes in Project Scope.** Project activities must be consistent with those approved for funding by the Arts Endowment. As soon as you believe changes in the project are necessary, you **must** request a scope amendment following the procedures outlined above. Requests submitted after the fact, including after the current end date of your award, may not be approved.
- c. **Change 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, including after the current end date of your award, may not be approved. Prior approval is waived for changes in other key persons (e.g., executive or project directors), as outlined in OMB Circular A-110, Section 25 or the "Common Rule," Section 1157.30, unless your award specifies to the contrary.
- d. **Consortium Member Changes (Grants for Arts Projects awards made specifically as consortia grants).** If changes to the consortium membership are believed necessary, the lead member of a consortium must seek written approval from the Arts Endowment **before** any changes are made following the procedures outlined above. In addition, the lead member **must also provide**:
 - written concurrence from the consortium member dropping out of the project; and
 - a signed letter of commitment from the consortium member being added that details their involvement in the project.

Requests submitted after the fact, including after the current end date of the award, may not be approved.

- e. **Budget Revisions.** Most awards include 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 the project budget 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

If There Are Changes in Your Project, cont.

- elimination or addition of an allowable project cost that does not affect the scope of the award

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
- request to increase the Arts Endowment award amount

Requests for **significant** budget changes should include the information outlined above. Requests submitted after the fact, including after the current end date of your award, may not be approved.

- f. 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, including after the current end date of your award, may not be approved. NOTE: For *Save America's Treasures* grants, matching requirements will not be waived.
- g. Final Reports Filing Extensions.** You must fulfill all final reporting requirements within 90 days of the project period end date. Requests submitted after the fact, including after the current report due date of your award, may not be approved. Failure to submit a timely request may jeopardize future Arts Endowment funding.

7. 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. The Grants & Contracts Office 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 Art Endowment before being undertaken, the **Fly America Act** does apply. Please see b) for more information.

- b) Use of U.S air carrier vs. foreign air carrier (**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.

If There Are Changes in Your Project, cont.

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

- a) 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;
- b) 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;
- c) 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; or
- d) 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 the Grants & Contracts Office **before** travel is undertaken.

8. 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 the Grants & Contracts Office in writing. If you are returning funds, 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, and
- signature of an authorizing official, and
- 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 Federal 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, and
- contact information, including a phone number, fax number and e-mail address, and signature of an authorizing official.

9. **Termination**

There are circumstances under which we may determine that it is in the best interests of the government to terminate an award. OMB Circular A-110, 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 setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion of the project to be terminated.
- By us with your consent, in which case the two parties shall 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, etc.

In addition, termination may occur as described in 2CFR 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 U.S.C. 7104(g)).

10. Reporting Requirements

Your grant package includes a blue document, titled Reporting Requirements, which provides guidance on the reporting requirements for this 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 from Arts Endowment award recipients once the cumulative amount 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., a signed recording 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 work product(s) must be submitted no later than 90 days after the project period end date. Refer to the Reporting Requirements document included in your award package or your Cooperative Agreement for more information. Please note: Beginning with award numbers that start with "10-" the Geographic Location of Project Activity report is included as Part III of the Final Descriptive Report.

Carefully review your Final Reporting Requirements and the FDR form to determine the narrative information required. All questions must be addressed. An authorizing official must sign the FFR to verify that the project for which Arts Endowment funds were awarded has been carried out. Final report forms are available on our Web site.

Tracking Status of Reports on www.arts.gov/mygrant. By entering your grant number, you can see when your final reports are due, if you have a product requirement, and the date we log their receipt into our database.

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. In addition, failure to submit required final reports within 210 days from the project period end date will result in the withdrawal of any funds remaining on that award.

PLEASE NOTE: Since October 2001, the delivery of first-class mail to NEA has been delayed. In addition, some or all of the first-class and Priority mail we receive may be put through an irradiation process to protect against biological contamination. Products (e.g., CDs, videos, slides) put through this process are suffering irreversible damage. Please FAX payment requests and report forms or use an alternative delivery service if you are sending fragile or time-sensitive materials.

Matching (Cost Share) Requirements

11. Matching

Unless otherwise stated in the grant award document or cooperative agreement, and/or reflected in the approved project budget, 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 is used to verify that the required match has been met.

Ensure that the amounts reported on your Federal Financial Report can be easily reconciled to your accounting records.

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

- Other Arts Endowment or Federal funds. This includes Federal funds that have been subgranted or dispersed 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 your project.
- Gifts (testamentary or otherwise) that are not available to your organization during the project period.

12. Use of In-Kind (Third-Party) Contributions for matching purposes

If you include in-kind, third-party (i.e., not the awardee) contributions or donations as part of your match, they must also be included as direct costs 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 don't 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.

Matching (Cost Share) Requirements, cont.

- 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 shall not 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 assigned to 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 (third-party) contributions is provided on page 27 and as a separate form on our Web site.

13. Use of Program Income

Income earned by a recipient 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, the use or rental of real or personal property, etc. Program income may be used as part of the match for an award, for additional costs of the Arts Endowment-supported project, or for use in other projects in the arts provided that it will be used for activities similar to those approved by the Arts Endowment.

14. Use of Indirect Costs

The following applies only to those recipients who have indirect costs (or facilities and administrative costs for colleges and universities) included in their project budget as approved by the Arts Endowment.

Indirect costs are calculated using a rate that has been negotiated with a Federal agency or based on an estimate. These costs are allowable and the recipient may use the corresponding amount to meet matching requirements.

- a. **Estimated indirect cost rate.** If indirect costs *based upon an estimate* were included in your approved project budget, a rate proposal **must** be submitted to the oversight Federal agency immediately after you have received notification of an award or within three months after the start date of the period of support.
- b. **Expiration of indirect cost rate.** If your rate expires during the period of support, you must submit a proposal 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. 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, A-87, or A-122, as applicable. **In no event will additional Federal funds be awarded to support an increase in indirect costs.**

- c. Closing out your award.** 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- supported project do not satisfy the award's matching requirement. Also, the Arts Endowment will not close out an award with a provisional rate if the indirect costs are needed to meet the minimum required match.

Please note that the Arts Endowment grants do not support research or in-school instruction; therefore, research or instruction rates are generally not approved.

Recordkeeping Requirements

15. 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, Section 53, or the "Common Rule," Section 1157.42, as applicable. Generally, the retention period is three years from the date the final Federal Financial Report is filed.

During the project period and the subsequent three-year retention period, the Arts Endowment, the Endowment'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/or to 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 recipients' personnel for the purpose of interview and discussion related to the records.

16. Financial Management Standards: Maintaining Accounting Records

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

The Inspector General has prepared two publications, *Financial Management Guide for Non-Profit 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 on our Web site at www.arts.gov/about/OIG/Contents.html.

17. Procurement Standards

OMB Circular A-110, 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 business, and maintaining records sufficient to detail the procurement process.

18. Personnel Activity

OMB Circulars require that compensation for personnel services charged to Federal awards, in whole or in part, be properly documented. Please refer to the applicable cost principles for the specific documentation that is required.

You **must** maintain personnel activity ("Time & 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 an award document or the Inspector General's audit follow up report).

A sample format for documenting personnel activity is provided on page 26 and as a separate form 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.

Except as noted above, the Arts Endowment waives the requirement to maintain personnel activity reports. *[However, you are still required to keep other appropriate records (e.g., payroll records, in-kind documentation, etc.) verifying the salary/wage costs attributed to the Federal or matching funds.]*

19. 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 the Grants & Contracts Office (see Item 6e). You are encouraged, whenever possible, to purchase American-made equipment in accordance with the "Buy American Act" (41 U.S.C. 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, however, 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 will 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.

20. **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: U.S. Copyright Office, Library of Congress, 101 Independence Avenue SE, Washington, DC, 20559-6000; 202/707-3000; 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 work products to document the results of our award programs), including placement on our Web site.

21. **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 it is prepared for final printing. This method of cataloging, available only to publishers of titles likely to be widely acquired by U.S. libraries, enables libraries to acquire and process books quickly. Publishers ineligible for this program may be eligible for the Library's Preassigned Card Number Program. Entering these titles in a national bibliographic database leads to greater dissemination of publications. For procedural information, contact: Library of Congress, 101 Independence Ave., SE, Washington, DC 20540; 202/707-5000; <http://cip.loc.gov/cip/>.

22. **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 for fiscal years ending after December 31, 2003. This amount is the aggregate of funds from **all** Federal sources.

OMB Circular A-133 is available online at www.whitehouse.gov/omb/circulars. If you have questions, contact the Office of Inspector General at (202) 682-5402 or oig@arts.gov.

23. **Award Confirmation for Audit Purposes**

To confirm the exact amount of an award payment received from us, you should FAX or mail your request to the **Finance Office**, National Endowment for the Arts, Room 624, 1100 Pennsylvania Avenue, N.W., Washington, DC 20506-0001. FAX 202/682-5679. *[NOTE: Confirmation requests **MUST** include grant or cooperative agreement number(s); otherwise the Finance Office will **not** be able to process your request.]*

24. **CFDA Numbers (Catalog of Federal Domestic Assistance)**

The CFDA tracks award programs in the Federal government and assigns each a specific number. For awards issued in fiscal year 2005 or later (dated October 1, 2005 or later), CFDA numbers are provided below. CFDA numbers are also included on your award document:

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

In addition, for awards issued **prior to FY 2005** (dated no later than September 30, 2004)

- 45.026 Leadership Initiatives
- 45.027 Challenge America

25. **Uniform Administrative Requirements**

Nonprofit organizations and colleges and universities are subject to the provisions of OMB Circular A-110 ("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 through a link on our Web site.

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:

26. **Cost Principles**

The allowability of 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 through a link on our Web site. 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. The FAR is available online at www.arnet.gov/far.

27. Nondiscrimination Policies

You must execute projects, productions, workshops and programs in accordance with the following laws, where applicable. Copies of these regulations are available through links on our Web site and from our Office of Civil Rights, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, DC 20506-0001. Telephone 202/682-5454; FAX 202/682-5553.

- 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 U.S.C. 2000d et seq.)
- 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 U.S.C. 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 U.S.C. 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. 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 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: www.nea.gov/about/504Workbook.html. Or you may request a hard copy, free of charge, from the Arts Endowment's Office of Civil Rights. Telephone 202/682-5454; FAX 202/682-5553; Voice/Text-Telephone (TTY) 202/682-5695.

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. Contact your State Arts Agency for a free copy of the book or you may purchase copies from the National Assembly of State Arts Agencies, 202/347-6352 or www.nasaa-arts.org.

National Policy and other Legal Requirements, Statutes, and Regulations that Govern Your Award, cont.

The Handbook and other resources may also be downloaded from the Arts Endowment's Web site at www.arts.gov/resources/Accessibility. If you have questions, contact the Office of AccessAbility at 202/682-5733; FAX 202/682-5715, TTY 202/682-5496.

- 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 U.S.C. 6101 et seq.)
- e. **The Americans with Disabilities Act of 1990** ("ADA") prohibits discrimination *on the basis of disability* in employment (Title I), state and local government services (Title II), places of public accommodation and commercial facilities (Title III). (42 U.S.C. 12101-12213)

28. Environmental Policies

- a. **The National Environmental Policy Act of 1969** applies to any Federal funds that would support an activity that may have environmental implications. We may ask you to respond to specific questions in accordance with the Act. We will then determine whether to undertake an environmental assessment or issue a "finding of no significant impact," which requires no additional action by you or the Arts Endowment. (42 U.S.C. Section 4332)

29. 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--for instance:

- 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; and/or
- 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 Grants & Contracts Officer of any employee convicted of a violation of a criminal drug statute that occurs in the workplace. (41 U.S.C. 701 et seq. and 45 CFR Part 1154)

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."
- (2) **OMB Circular A-122 – "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.
- (3) **Certification Regarding Lobbying to Obtain Awards.** Section 319 of Public Law 101-121, codified at 31 U.S.C. 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 not be included in your project budget, and their use must be disclosed to the awarding Federal agency. Disclosure of lobbying activities by

National Policy and other Legal Requirements, Statutes, and Regulations that Govern Your Award, cont.

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 Part 1158, and can be found at <http://www.gpoaccess.gov/nara/>.

- d. **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 U.S.C. 3001 et seq.)
- e. **The National Historic Preservation Act of 1966** 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 requested to provide additional information on your project to ensure compliance with the Act. (16 U.S.C. 470)
- f. **U.S. Constitution education program.** Starting in FY 2005, educational institutions (includes but is 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, Section 111(b)]. For more information on how to implement this requirement and suggested resources, see <http://www.ed.gov/legislation/FedRegister/other/2005-2/052405b.html>.
- g. **Arts Endowment enabling legislation.** You are also required to execute projects, productions, workshops and programs in accordance with the Arts Endowment's enabling legislation that requires "artistic excellence and artistic merit" to be included in the criteria upon which awards are made.
- h. **Prohibition on use of funds.** None of the federal or matching funds expended for your FY 10 award (award number starts 10-) may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. (P.L. 111-88 Sec. 427).

30. 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 regranted 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 U.S.C. 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.
 - (1) 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 should inform subgrantees that they are receiving Federal funds from the National Endowment for the Arts, and that they must comply with these mandates. Provide them with the Federal award number and CFDA number. You should also inform your subgrantees that there may be no overlapping project costs between two or more Federal awards.
 - (2) **Additional Requirements for Subgranting to Organizations and Individuals.** Your subgrant agreements must include a requirement that the subgrantee:
 - (a) provides you with final reports and any other information or reports necessary for you to fulfill all applicable Federal reporting requirements;
 - (b) adheres to the prohibition against lobbying within a Federally-supported grant or cooperative agreement;
 - (c) uses U.S. air carriers for foreign travel; and
 - (d) maintains records pertinent to the award for three years following submission of the final report.
- c. Progress reports.** State Arts Agencies (SAAs) should require a progress report from their subgrantees, with discretion to determine when these reports must be submitted.

Subgranting, conti.

- d. **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 6.
- e. **Subgrantee records.** You must keep subgrantees' report submissions on file for three years from the date you submit your Federal Financial Report to the Arts Endowment.

Questions?

31. 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 the Grants & Contracts Office at 202/682-5403 or grants@arts.gov. For programmatic requirements please contact the discipline/field or office identified in your award document at area code 202:

Discipline/fields

AccessAbility	682-5733	Museum	682-5452
Artist Communities	682-5600	Music A – M	682-5590
Dance	682-5452	N – Z	682-5487
Design	682-5452	Musical Theater	682-5509
Folk & Traditional Arts	682-5678 / 5726	Opera	682-5600 / 5469
International	682-5562	Presenting	682-5658
Literature	682-5428	State & Regional	682-5430
Local Arts Agencies	682-5586	Theater	682-5020 / 5509
Media Arts	682-5452	Visual Arts	682-5452
Multidisciplinary	682-5658		

Challenge America Fast-Track 682-5700

Learning in the Arts for Children and Youth

Design, Literature, Media Arts, Museums	682-5521
Folk & Traditional, Local Arts Agencies, Multidisciplinary/ Presenting	682-5690
Musical Theater, Theater, Visual Arts	682-5688
Dance, Music, Opera	682-5044

Accessibility Resources

Individuals who are deaf or hard-of-hearing may call 202/682-5496 TTY.

Questions?, conti.

Individuals who do not use conventional print may access this document on our Web site or by contacting the Office for AccessAbility at 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. You can also find information at www.lep.gov.

**SAMPLE PERSONNEL ACTIVITY REPORT
(TIME AND EFFORT REPORT)**

Organization Name: _____	
Employee's Name: _____	Week Ending: _____
<u>Activity</u>	<u>Distribution of Time</u>
Arts Endowment:	
1. Grant or DCA #: _____	_____ %
2. Grant or DCA #: _____	_____ %
Other:	
3. Project name: _____	_____ %
4. Project name: _____	_____ %
5. Project name: _____	_____ %
Administrative: _____	_____ %
Fundraising: _____	_____ %
Leave:	
Sick _____	_____ %
Vacation _____	_____ %
Other (specify): _____	_____ %
TOTAL:	100 %
Employee's Signature: _____	Date: _____
Supervisor's Signature: _____	Date: _____

In preparing personnel activity reports, please note the following:

- The reports must be based on an after-the-fact determination of the employee's actual activities (i.e., these cannot be estimated in advance). For example, the distribution of time might be determined based on notes from personal calendars and/or reasonable estimates of time spent on various activities.
- All of the employee's compensated time must be accounted for in these reports. This would include time spent on activities in addition to the Arts Endowment-supported project(s), as well as leave (sick/vacation/holiday), administrative duties, etc. NOTE: For nonprofessional employees, you must also maintain records indicating the total number of hours worked each day in conformance with the Fair Labor Standards Act (29 CFR Part 516).
- The reports must be signed by the employee and a responsible supervisory official.
- Reports must coincide with one or more pay periods and be used to reconcile salary and fringe benefit costs to appropriate accounts on a regular (at least monthly) basis.
- Unless otherwise specified in the award document or if you are on an alternative method of funding, the Arts Endowment waives the requirement to maintain formal personnel activity reports for organizations receiving an award of less than \$50,000 (or an award given earlier than FY 05 of \$25,000 or less).

SAMPLE IN-KIND CONTRIBUTION REPORT

Report of SERVICES RENDERED, GOODS DONATED, FACILITIES PROVIDED
to the awardee:

Project: _____
Donor: _____
Address: _____

Donor's Signature: _____

Title: _____ Phone: _____

Date(s) services were performed, goods were donated, or facilities provided for project:

Services Rendered:

By: _____	Hours: _____	\$ _____
By: _____	Hours: _____	_____
By: _____	Hours: _____	_____
By: _____	Hours: _____	_____
By: _____	Hours: _____	_____
By: _____	Hours: _____	_____

Others listed on reverse; amount from reverse: _____

Total Services: \$ _____

Goods Donated:

Item: _____	\$ _____
Item: _____	_____
Item: _____	_____

Others listed on reverse; amount from reverse: _____

Total Goods: \$ _____

Facilities Provided:

Place: _____	\$ _____
Place: _____	_____
Place: _____	_____

Others listed on reverse; amount from reverse: _____

Total Facilities: \$ _____

TOTAL VALUE: \$ _____

Approved By:

Name: _____
Title: _____
Date: _____

NOTE: Please attach an explanation of the bases for the valuation of each item and any supporting documentation.



NATIONAL ENDOWMENT FOR THE ARTS

SIGNATURE AUTHORIZATION

Complete this form and mail or FAX (202/682-5610 or 5609) it to:
Grants & Contracts Office, Room 618; National Endowment for the Arts:
1100 Pennsylvania Avenue, N.W.; Washington, DC 20506-0001

ORGANIZATION'S LEGAL NAME: _____

An **AUTHORIZING OFFICIAL** is an official of your organization who has authority to legally bind the organization. This individual has authority to sign all application and grant-related documents (Please refer to the *General Terms* for individuals considered to be authorizing officials.). This form is used to identify additional authorizing official(s) for your organization. Please submit an updated Signature Authorization when changes in authorizing officials occur **or** every four years, whichever comes first.

Current Authorizing Official making this request (mandatory):

X _____
Signature Date

Typed Name: _____

Title: _____

e-mail: _____ phone: _____

ALTERNATE AUTHORIZING OFFICIAL:

X _____
Signature Date

Typed Name: _____

Title: _____

e-mail: _____ phone _____

ALTERNATE AUTHORIZING OFFICIAL:

X _____
Signature Date

Typed Name: _____

Title: _____

e-mail: _____ phone _____

FOR COLLEGES AND UNIVERSITIES ONLY: A **FISCAL OFFICER** is an individual delegated authority to act for the college or university on fiscal matters only (e.g., signing payment requests or Federal Financial Reports).

FISCAL OFFICER:

X _____
Signature Date

Typed Name: _____

Title: _____

e-mail: _____ phone

FISCAL OFFICER:

X _____
Signature Date

Typed Name: _____

Title: _____

e-mail: _____ phone