



## TourWest Grant Agreement Appendix B: General Terms and Conditions

Grantee acknowledges that they are a subrecipient to the WESTAF “pass-through” award and must assure compliance with the general terms and conditions mandated by the National Endowment for the Arts and the Federal government. The General Terms & Conditions for Partnership Agreements (Partnership General Terms or Partnership GTCs) apply to grants (also referred to as subawards), that the National Endowment for the Arts (Arts Endowment or NEA) issues to Regional Arts Organizations (RAOs)/WESTAF to conduct activities under the Regional Partnership Program.

**(GTC1.2)** These general terms and conditions implement Title 2 of the Code of Federal Regulations (2 CFR) Subtitle A-Office of Management and Budget Guidance for Grants and Agreements Part 200 Uniform administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance, or Part 200). The NEA has adopted the Uniform Guidance through regulation at 2 CFR 3255.1. The Uniform Guidance compiles and streamlines eight former OMB Circulars that governed Federal grants Management.

**(GTC1.3-1.4)** The GTCs are also based on the NEA's legislation and established policies, along with other federal statutes, regulations, and executive orders that apply to grants and cooperative agreements. Award recipients must be familiar with and comply with these requirements.

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

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

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 statutes, regulations, and Executive Orders governing Federal financial assistance awards; and these GTCs, all of which are hereby incorporated into your award by reference. While we may provide you with reminders regarding award requirements, the absence of receiving such notice does not relieve you of your responsibilities.

**(GTC 2)** Submission of signed grant agreement constitutes your agreement to comply with all the terms and conditions of the subaward. 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.

**(GTC 6) Required Registrations - (2 CFR 25.200)** Organizations (including subrecipient organizations, per item 23.3) are required to have a unique entity identifier (currently a Dun & Bradstreet number or DUNS) that reflects the organization's legal name and current physical address. The grantee certifies that they are an eligible organization (entity) with a current DUNS number submitted at the time of application. subrecipients without a valid DUNS number cannot receive a subaward from TourWest.

**(GTC 8 ) Statutory and National Policy Requirements (2 CFR 200.300)** - You are responsible for complying with all requirements of the federal award, including those based on: 8.1 Arts Endowment Enabling Legislation. You are 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."

National policy requirements. You are required to adhere to all national policy requirements as outlined in Appendix A, including but not limited to those protecting public welfare, the environment, and prohibiting discrimination.

**(GTC 13) Cost Principles** - The allowability of costs for work performed under your NEA award, including costs incurred under subawards made with federal or matching funds, is determined in accordance with the NEA Partnership program guidelines and GTCs and the Uniform Guidance Subpart E—Cost Principles. All costs included in the approved project budget or reported on payment requests and financial reports for the award, whether supported with federal or required matching funds or any voluntary cost share, must be:

- Necessary and reasonable for the performance of the federal award
- Allocable and in conformance with these cost principles
- Consistent with policies and procedures that apply uniformly to both federally financed and other activities of the non-federal entity
- Accorded consistent treatment as either a direct or indirect cost
- Determined in accordance with generally accepted accounting principles (GAAP)
- Not included as a cost or used to meet cost sharing or matching requirements of any other federally financed program
- Adequately documented

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

**(GTC 13.2) Selected costs and their allowability under Partnership Agreements.**

- Costs associated with Foreign nationals and artists compensation, including traveling to or from foreign countries, when those expenditures **are not** in compliance with regulations issued by the [U.S. Treasury Department Office of Foreign Assets Control](#), are **unallowable**.
- Visa costs that are paid to the U.S. Government (P.L. 109-54, Title III General Provisions, Sec. 406) are **unallowable**; however, the cost of preparing material (legal documentation, etc.) for submission is allowable.
- Costs associated with subawards made to ineligible recipients are **unallowable**.
- Funding cash reserve or endowment accounts or instruments is **unallowable**.
- Construction and renovation-type projects—e.g. accessibility-related construction and renovation, substantial exhibition design, the installation of climate control systems for a museum, etc., are **allowable**. These projects that involve construction labor must comply with the provisions of the Davis–Bacon Act as outlined in **Appendix A**.
- Support to individual artists **may be allowable** if the award funds programs and activities and is not a one-time monetary recognition award. Awards to individuals should include presentations, training, research, and/or creation of an artwork, with tangible outcomes required by the subaward. This is considered a stipend to the artist for the work undertaken and completed.
  - Because neither the NEA Partnership Agreement funds nor the matching funds can support a fellowship solely as an honorific, costs for this type of award program must not be included in the Partnership Agreement budget.
- Updates and Clarifications of selected items of cost that have been clarified or updated in Part 200 include:

- Conferences (2 CFR 200.432). Costs of conferences (including meetings, seminars, workshops or other events whose primary purpose is dissemination of technical information), are still **generally allowable**, however:
  - Conference sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed in a manner that minimizes costs to the Federal award.
  - Costs associated with activities that generally occur at a closing meal, or a reception at the end of the working day, are **unallowable**. These activities usually have alcohol associated with them and/or are of a social nature, which is prohibited under Federal awards (see also Entertainment.)
- Entertainment (2 CFR 200.438). Costs of entertainment, including amusement and social activities such as receptions, parties, galas, dinners, etc., and any associated costs including catering, alcohol, planning, staffing, supplies, etc. are **unallowable**. However:
  - Specific costs that might otherwise be considered entertainment have a programmatic purpose **may be allowable** if authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.
- Fundraising (2 CFR 200.442). Some fundraising costs that were previously unallowable may now be included. For example, a percentage of salary and fringe benefit costs (incurred within the period of performance) for development or fundraising staff or contractors who raise funds to implement the NEA project is **allowable**. However:
  - Salaries or contracts for general fundraising activities or events, including those for donors, or that benefit the organization as a whole, are **unallowable**.
  - Costs associated with fundraising activities such as galas, parties, or other events where alcohol is available, are **unallowable** (see also 13.3.b Entertainment.)
- Home Office Workspace (2 CFR 200.465(c)(6)). The rental of any property owned by any individuals or entities affiliated with the award recipient for purposes such as the home office workspace is now **unallowable**.
- Goods for resale. Costs of goods for resale are unallowable. This includes the sale of concessions, promotional merchandise, or items purchased to sell, even if related to your programming. It also includes any associated staffing or facilities costs.
  - Costs of items that are required to be produced as part of the approved project activity (e.g. publications, such as journals or exhibit catalogs, or recordings, such as orchestra concerts CDs), and that are incurred during the period of performance are allowable.

**(GTC18) Record Retention (2 CFR 200.333) and Access**

- Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three (3) years from the date of submission of the final Federal Financial Report (FFR).
- Exceptions include if litigation, claim, or audit is started before the expiration of the three-year period, or if we notify you in writing to extend the retention period.
- Standards for Documentation of Personnel Expenses (2 CFR 200.430(i)(1)). Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. The records must comply with your organization's internal controls and established accounting policies. Records must support these costs for both the Federal funds and cost share or matching requirements. We may require personnel activity reports or equivalent documentation if necessary (2 CFR 200.430(i)(8)).
- Records for equipment must be retained for three (3) years after final disposition (2 CFR 200.333(c)). NEA General Terms & Conditions for Partnership Agreements 17.

**(GTC 18.4) Access to Federal award information.**

- During the period of performance and the subsequent retention period, the NEA's Inspector General, the Comptroller General of the United States, or any of our authorized representatives has the right of access to any documents, papers, or other records which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to your personnel for the purpose of interviews and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but last as long as records are retained (2 CFR 200.336).
- Federal award-related information should be collected and stored in open and machine-readable formats whenever practicable (2 CFR 200.335). In addition, restrictions on public access are generally limited to protected personally identifiable information (PPII) and other FOIA and applicable exemptions (2 CFR 200.337).

**(GTC 19) Noncompliance**

- Remedies (2 CFR 200.338). If you fail to comply with Federal statutes, regulations, or the terms and conditions of our award, we may impose additional conditions, as described in 2 CFR 200.207. If we determine that noncompliance cannot be remedied by imposing additional conditions, we may take one or more of the following actions, as appropriate in the circumstances:
  - Temporarily withhold cash payments pending correction of the deficiency, or more severe enforcement action.
  - Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
  - Wholly or partly suspend or terminate the NEA award.
  - Initiate suspension or debarment proceedings as authorized under 2 CFR 180 and our regulations at 2 CFR 32.3254.
  - Withhold further NEA awards.
  - Take other remedies that may be legally available.
- Termination (2 CFR 200.339). There are circumstances under which we may determine that it is in the best interest of the government to terminate an award. Awards may be terminated in whole or in part:
  - By us if you fail to comply with the terms and conditions of a Federal award;
  - By us for cause;
  - By us with your consent, in which case we will agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or NEA General Terms & Conditions for Partnership Agreements.
  - By you upon sending us written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if we determine that the reduced or modified portion of the award will not accomplish the purposes for which it was made, we may terminate the award in its entirety.
- We reserve the right to take additional actions, such as requiring you to return a portion or all of the award funds, requesting that you remove acknowledgement of Arts Endowment support, recommending government-wide suspension, or taking other legally available remedies. You will be notified of such actions and given an opportunity to provide information and come into compliance.
- Government-wide suspension and debarment will follow a process in conjunction with our Office of Inspector General (2 CFR 200.341).

**(GTC 20) Closeout, Adjustments, and Continuing Responsibilities (2 CFR 200.343-344)**

Upon receipt and approval of all final reports, the agency will close out your award. Any unused Federal funds will be deobligated. We will also closeout a Federal award without final reports. In either case, after 210 days from the period of performance end date, funds will no longer be available.

- The closeout of a Federal award does not affect any of the following:
  - Our right to disallow costs and recover funds on the basis of a later audit or other review within the record retention period.
  - Your obligation to return any funds due as a result of later refunds, corrections, or other transactions, including final indirect cost rate adjustments.
  - Audit requirements if you must have a Single or Program-Specific Audit (see below).
  - Records retention as required in 2 CFR 200.333.

**(GTC24) Flow-through of National Policy and Other Legal Requirements to Subrecipients (Grantee)**

The Federal requirements associated with the NEA award also "flow down" to the subrecipients of Federal funds or funds that are used to meet the required match. Therefore, as a Subrecipient of WESTAF, the grantee in this agreement is receiving a Federal subaward, and this grant agreement provides you with information regarding the National Policy Requirements that are applicable to all Federal awards. These include requirements that prohibit discrimination, ensure accessibility of all facilities and programs funded with Federal monies, provide for the protection of environmental and historic resources, and more. See Appendix A for more detail. All policies outlined here apply to subawards made with NEA or matching funds.