



# Arts Midwest Touring Fund

## Assurance of Compliance

Arts Midwest Touring Fund is supported by funds that derive from Federal funds (**CFDA #45.025**) from the National Endowment for the Arts. All selected applicants must comply with the following national policies and legal requirements, statutes, and regulations, including the [Uniform Guidance for Federal Awards](#) (2 CFR).

1. **Required registrations.** Organizations are required to have a DUNS number ([Dun and Bradstreet](#)) that reflects the organization's legal name and current physical address. Organizations must also maintain an active registration in SAM.gov ([System of Award Management](#)) from submission of the application and if selected through the duration of the programming dates.
2. **Nondiscrimination Policies.** Your organization must acknowledge and agree to execute your project (e.g. productions, workshops, engagement, program, etc.) and require any contractors, successors, and assignees to comply with applicable provisions of national laws and policies prohibiting discrimination, including but not limited to:
  - i. **Section 504 of the Rehabilitation Act of 1973** ([29 U.S.C. 794](#)), 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 activities supported by Federal funds.
  - ii. **Section 504 Self-Evaluation and Additional Resources**
    - i. A Section 504 self-evaluation must be on file at your organization. It assists in evaluating programs, activities, and facilities to ensure full compliance with Section 504 accessibility requirements; the Civil Rights Office has provided a "Section 504 Self-Evaluation Workbook" found at <https://www.arts.gov/open-government/civil-rights-office/section-504-self-evaluation-workbook>.
    - ii. A staff member should be designated as the 504 coordinator. The completed workbook or similar compliance and supporting documentation should be kept on file for a period of three years from the date a Final Report is filed and made available to the public and Arts Midwest upon request.
  - iii. **Americans with Disabilities Act of 1990** ([42 U.S.C. 12101-12213](#)), 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).
  - iv. **Title VI of the Civil Rights Act of 1964** ([42 U.S.C 2000d et seq.](#)), 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 supported by Federal funds. Title VI extends protection to persons with limited English proficiency.
    - v. **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, an organization 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. An organization is encouraged to consider the need for language services for LEP persons in conducting your program and activities. For assistance and information go to <http://arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance>
  - vi. **Title IX of the Education Amendments of 1972** ([20 U.S.C. 1681 et seq.](#)), provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any education program or activity supported by Federal funds.
  - vii. **Age Discrimination Act of 1975** ([42 U.S.C. 6101 et seq.](#)), 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 supported by Federal funds.
3. **Environmental and Preservation Policies**
  - **National Environmental Policy Act of 1969** ([42 U.S.C. Section 4332](#)), applies to any activity supported by Federal funds that would have environmental implications.
  - **National Historic Preservation Act of 1966** ([16 U.S.C. 470](#)), applies to any project supported by Federal funds that would either support 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.

4. **Debarment and Suspension.** An organization must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by the Arts Endowment in 2 CFR 32.3254. The organization certifies that it is not delinquent in the repayment of any Federal debt. There are circumstances under which we may receive information concerning your fitness to carry out a project and administer Federal funds, such as:
  - i. Conviction of, or a civil judgment for, the commission of fraud, embezzlement, theft, forgery, or making false statements;
  - ii. Any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
  - iii. Any other cause of so serious or compelling a nature that it affects an organization's present responsibility.
5. **Federal Debt Status** ([OMB Circular A-129](#)) in which the organization certifies that it is not delinquent in the repayment of any federal debt. Examples of relevant debt includes delinquent payroll or other taxes, audit disallowances, and benefit overpayments.
6. **Drug-Free Workplace Act** ([41 U.S.C. 701 et seq. and 45 CFR Part 1155](#)) 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).
7. **Lobbying** You may not conduct political lobbying, as defined in the statutes and regulations listed below, within your project supported by Federal funds. 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:
  - i. 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 manner, 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 department 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, lay 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 to interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. (18 U.S.C. 1913)
  - ii. Lobbying ([2 CFR 200.450](#)) describes the cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans as an unallowable project cost. The regulation generally defines lobbying as conduct intended to influence the outcome of elections or to influence elected officials regarding pending legislation, either directly or through specific lobbying appeals to the public.
  - iii. Certification Regarding Lobbying to Obtain Awards (Section 319 of Public Law 101-121, codified at 31 U.S.C. 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 Arts Midwest. Disclosure of lobbying activities by long-term employees 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 that are published at 45 CFR 1158, and can be found at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

8. **The Native American Graves Protection and Repatriation Act of 1990** ([25 U.S.C. 3001 et seq.](#)) applies to any organization that controls or possesses Native American human remains and associated funerary objects and received Federal funds even for a purpose unrelated to the Act.
9. **U.S. Constitution Education Program.** (P.L. 108-447, Division J, Sec. 11(b)) Educational institutions (including but not limited to "local educational agencies" and "institutions of higher education") receiving Federal funds are required to provide an educational program on the U.S. Constitution on September 17. For more information on how to implement this requirement and suggested resources, see <http://www2.ed.gov/policy/fund/guid/constitutionday.html> and <http://thomas.loc.gov/teachers/constitution.html>.
10. **Prohibition of use of funds to ACORN or its subsidiaries.** (P.L. 111-88 Sec. 427) None of the Federal funds to be received shall be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

11. **Fly American Act** ([41 CFR 301-10.131-10.143](#)) An organization is required to follow the provision of this Act. Any air travel paid in whole or in part with Federal funds must be on a U.S. flag air carrier or a foreign air carrier under an air transport agreement (code share agreement) with the United States when these services are available. Lower cost, convenience, or traveler preferences are not acceptable reasons for using a foreign air carrier. Foreign travel is defined as any travel outside of Canada, Mexico, and the United States, and its territories and possessions.
12. **Regulations Relating to Labor** ([Part 505 of Title 29 of the Code of Regulations](#)) concerning all professional performers and personnel employed on a project that are financed in part or in whole with Federal funds must comply with these regulations.
13. **Cost Principles.** The allowability of costs for projects supported by Federal funds shall be in accordance with the [Uniform Guidance Subpart E – Cost Principles](#).

The following are unallowable costs based on NEA legislation and policy and take precedence over the Uniform Guidance.

- i. Cash reserves and endowments
  - ii. Construction, purchase, or renovation costs of facilities or land. However, costs associated with predevelopment, design fees, and community development, as well as preparing exhibit space, setting a piece of public art, etc. may be allowable.
  - iii. Costs to bring a project into compliance with Federal award requirements.
  - iv. 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.
  - v. Visa costs that are paid the U.S. Government (P.L. 109-54, Title III General Provisions, Sec. 406), however, the cost of preparing material (legal documentation, etc.) for submission is allowable.
14. **Cost Sharing or Match Requirements** (20 U.S.C. 954(e) and [2 CFR 200.306](#)) Federal funds cannot exceed 50% of the total expenditures of the project and must be matched 1 to 1 unless otherwise stated in the Grant Agreement. This required cost sharing, or match, refers to the portion of project costs not paid by Federal funds and may include your organization's general funds, donations, non-Federal grants, and other revenue.

Other Federal funds are not eligible to meet your cost share or matching requirement. This includes Federal funds that have been sub-granted or dispersed to your organization from a State Arts Agency or other organization. Please consult with the State Arts Agency or other organization to determine if any portion of their award to your organization includes funds from a Federal agency.

15. **Indirect (Facilities & Administration) Costs** ([2 CFR 200.414](#)). Award recipients may claim indirect costs based on a current and appropriate indirect cost rate agreement negotiated with a Federal agency (research rates do not apply) or a charge a de minimis rate of 10% on modified total direct costs ([2 CFR 200.414 \(f\)](#)). The organization cannot claim both overhead or administrative costs and indirect costs.
16. **Standards for Documentation of Personnel Expenses** ([2 CFR 200.430 \(i\)](#)) Any salaries and wages included in the project's budget 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 use of Federal funds and as the cost share or matching requirements.
17. **Record Retention and Access** ([2 CFR 200.333](#)) Records of the project supported by Federal funds, including financial and supporting documents, must be retained for a period of three years after June 30, 2018. Award recipients must permit Arts Midwest and its auditor access to recipient's records and financial statements, as necessary, to ensure the compliance with Federal award requirements.
18. **Working conditions.** Any project supported by Federal funds will not be performed or engaged in working conditions which are unsanitary, hazardous, or dangerous to the health and safety of those involved.
19. **Audit requirements** ([2 CFR 200.501](#)) The threshold for requiring a Single Audit or Program-Specific Audit is \$750,000 in yearly expenditures of Federal funds. This amount is the aggregate of funds from all Federal sources. The percentage of costs related to an award supported by the Arts Midwest Touring Fund that would be included in this audit may be allowable.

## More information

- [Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards](#) (Uniform Guidance of Federal Awards: 2 CFR)
- [National Endowment for the Arts Office of Civil Rights](#)