

**ARTS FOUNDATION OF CAPE COD
AMERICAN RESCUE PLAN SUBGRANTING PROGRAM
TERMS AND CONDITIONS**

Cost Share:

ARPA funds are non-matching. There is no cost share.

Allowable Costs:

These are not project grants. Funds are available to assist local arts organizations with the following costs:

- Salary support, full or partial, for one or more staff positions.
- Facilities costs such as mortgage (principal only), rent, and utilities.
- Costs associated with health and safety supplies for staff and/or visitors/audiences (e.g., personal protective equipment, cleaning supplies, hand sanitizer, etc.).
- Marketing and promotion costs.

These costs must not be covered by any other Federal agency, such as the Small Business Administration, the National Endowment for the Humanities, etc. during the grant period (September 1, 2022 to September 1, 2023).

Unallowable Costs:

- “Artist relief” programs where the funding is intended to alleviate financial hardship.
- Alcoholic beverages.
- Commercial (for profit) enterprises or activities, including concessions, food, clothing, artwork, or other items for resale. This includes online and virtual sales/shops.
- Construction, purchase, or renovation of facilities.
- General fundraising.
- General miscellaneous or contingency costs.
- Land purchase costs.
- Mortgage interest, fines and penalties, or deficit reduction.
- Rental costs for home office workspace owned by individuals or entities affiliated with the applicant organization.
- Social activities such as receptions, parties, or galas.
- Subawards to other entities.
- Lobbying activities.

- Travel costs.
- Vehicle purchases.
- Visa costs paid to the U.S. government.
- Voter registration drives and related activities.
- Costs supported by any other federal funding. This includes federal funding received either directly from a federal agency or indirectly from a pass-through organization such as a state arts agency, regional arts organization, or a grant made to another entity.
- Expenditures related to compensation to foreign nationals when those expenditures are not in compliance with regulations issued by the U.S Treasury Department Office of Foreign Assets Control.
- Costs incurred prior to the awarding of the grant.

Indirect Costs:

If you have an approved indirect cost rate negotiated with the Federal government, you may use that. If no such rate exists, you may use a de minimis indirect cost rate of up to 10% of modified total direct costs.

Financial Record Management:

You will be required to submit a report one year after receiving funding. All funds must be accounted for and accurately documented. You must retain financial records and other supporting documents related to this grant for a period of three (3) years from the date the final report is submitted to the AFCC. You must permit the AFCC and our auditors access to your records and financial statements, as necessary, to ensure compliance with federal award requirements. If you do not use the funds or if the funds are used for unauthorized/unallowable costs or activities, you must return the funds to the AFCC.

Acknowledgement:

- You must clearly acknowledge support from the Arts Foundation of Cape Cod and the National Endowment for the Arts in your programs and related promotional material, including publications and websites. **Such acknowledgement should clearly indicate that funds were provided for general operating support and should not be used to indicate support for a project that the agency has not funded.**
- You are encouraged to include: “To find out more about how National Endowment for the Arts grants impact individuals and communities, visit www.arts.gov.”
- You are also encouraged to use the AFCC’s logo and the NEA’s current logo. <https://www.arts.gov/grants/manage-your-award/nea-logo>. (For the AFCC’s logo, please email info@artsfoundation.org.)
- On social media, you are encouraged to use “[Organization Name] is supported in part by the National Endowment for the Arts.” On Twitter and Instagram, you may use @NEAarts instead of spelling out the full name of the agency.
- Additional acknowledgment requirements may be provided later.

Closeout:

All funds must be disbursed and the award must be closed out within one (1) year of the award.

Reporting:

You must complete a final grant report and submit to the AFCC one (1) year from the date of the award. A link to the grant report will be emailed closer to the due date. A PDF of the grant report may be found on our website.

LEGAL REQUIREMENTS:

You must ensure that all federal funds are used for activities that are in full accordance with the U.S. Constitution, federal law, and public policy requirements, including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

Nondiscrimination Policies:

As a condition of receipt of federal financial assistance, you must acknowledge and agree to comply with applicable provisions of national laws and policies prohibiting discrimination, including but not limited to:

1. Title VI of the Civil Rights Act of 1964, as amended, and implemented by the National Endowment for the Arts at 45 USC 1110, provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. Title VI also extends protection to persons with limited English proficiency (42 USC 2000d et seq.)
2. As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, Grantees must take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Grantees are encouraged to consider the need for language services for LEP persons in conducting programs and activities. For assistance and information go to www.arts.gov/foia/reading-room/nea-limited-english-proficiency-policy-guidance.
3. Title IX of the Education Amendments of 1972, as amended, provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any education program or activity receiving federal financial assistance (20 USC 1681 et seq.)
4. The Age Discrimination Act of 1975, as amended, provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance (42 USC 6101 et seq.)
5. The Americans with Disabilities Act of 1990 (ADA), as amended, prohibits discrimination on the basis of disability in employment (Title I); State and local government services

(Title II); and places of public accommodation and commercial facilities (Title III) (42 USC 12101-12213).

6. Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified individual with a disability in the United States shall, solely by reason of his/her disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance (29 USC 794).
7. Access should be integrated into all facets and activities of an organization, from day-to-day operations to long range goals and objectives. Access accommodations and services should be given a high priority and funds should be available for these services. All organizations are legally required to provide reasonable and necessary accommodations for staff and visitors with disabilities.

Section 504 - Self-Evaluation and Additional Resources:

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

Environmental and Preservation Policies:

1. The National Environmental Policy Act of 1969, as amended, applies to any federal funds that would support an activity that may have environmental implications. The NEA may ask you to respond to specific questions or provide additional information in accordance with the Act. If there are environmental implications, the NEA will determine whether a categorical exclusion may apply; to undertake an environmental assessment; or to issue a "finding of no significant impact," pursuant to applicable regulations and 42 USC Sec. 4332.
2. The National Historic Preservation Act of 1966, as amended, applies to any federal funds that support activities that have the potential to impact any structure eligible for or on the National Register of Historic Places, adjacent to a structure that is eligible for or on the National Register of Historic Places, or located in a historic district, in accordance

with Section 106. This also applies to planning activities that may affect historic properties or districts. The NEA may conduct a review of your project activities, as appropriate, to determine the impact of your project activities on the structure or any affected properties. Agency review must be completed prior to any agency funds being released. You may be asked to provide additional information on your project to ensure compliance with the Act at any time during your award period (16 USC 470).

Debarment and Suspension:

You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR Part 180, as adopted by the National Endowment for the Arts in 2 CFR 3254.10.

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

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

In these circumstances, the NEA 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. The NEA may coordinate their suspension actions with other federal agencies that have an interest in our findings. A suspension may result in your debarment from receiving federal funding government-wide for up to three (3) years.

Drug Free Workplace:

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 National Endowment for the Arts Office of Grants Management of any employee convicted of a violation of a criminal drug statute that occurs in the workplace (41 USC 701 et seq. and 2 CFR Part 3256).

Lobbying:

1. You may not conduct political lobbying, as defined in the statutes and regulations listed below, within your federally-supported project. In addition, you may not use federal funds for lobbying specifically to obtain awards. For definitions and other information on these restrictions, refer to the following:
2. No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any

personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities (18 USC 1913). Lobbying (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.

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

Davis-Bacon and Related Acts:

Davis-Bacon and Related Acts (DBRA), as amended, requires that each contract over \$2,000 to which the United States is a party for the construction, alteration, or repair of public buildings or public works (these activities include, but are not limited to, painting, decorating, altering, remodeling, installing pieces fabricated off-site, and furnishing supplies or equipment for a work-site) must contain a clause setting forth the minimum wages to be paid to laborers and mechanics employed under the contract. Under the provisions of DBRA, contractors or their subcontractors must pay workers who qualify under DBRA no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. Information about the laborers and projects that fall under DBRA can be found in the U.S. Department of Labor's Compliance Guide at <https://www.dol.gov/agencies/whd/government-contracts/construction> . DBRA wage determinations are to be used in accordance with the provisions of Regulations, 29 CFR Part 1, Part 3, and Part 5, and with DOL's Compliance Guide. The provisions of DBRA apply

within the 50 states, territories, protectorates, and Native American nations (if the labor is completed by non-tribal laborers).

Native American Graves Protection:

The Native American Graves Protection and Repatriation Act of 1990 applies to any organization that controls or possesses Native American human remains and associated funerary objects and receives federal funding, even for a purpose unrelated to the Act (25 USC 3001 et seq.).

U.S. Constitution Education:

U.S. Constitution Education Program. Educational institutions (including but not limited to "local educational agencies" and "institutions of higher education") receiving federal funds from any agency are required to provide an educational program on the U.S. Constitution on September 17 (P.L. 108-447, Division J, Sec. 111(b)). For more information on how to implement this requirement and suggested resources, see www2.ed.gov/policy/fund/guid/constitutionday and <https://www.loc.gov/extranet/cld/constitution.html>.

Prohibition on Use of Funds to ACORN or its Subsidiaries:

None of the federal funds expended for your awarded project may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries (P.L. 111-88 Sec. 427)