

Contractual Requirements for Grantees

Tax-exempt Status Changes and IRS Form 990: A grantee must notify the North Carolina Arts Council of any changes in its tax-exempt status with the Internal Revenue Service under Section 501(c)(3). It must also file the IRS Form 990 annually, if required under IRS regulations.

Nondiscrimination: The Arts Council and all of its grantees are contractually committed to abide by federal regulations which bar discrimination on the basis of race, color, national origin, disability, age, or sex and which require accessibility for persons with disabilities.

Grantees are required to conduct their operations in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, the Age Discrimination Act of 1975 and, where applicable, Title IX of the Education Amendments of 1972. Grant recipients must also be in compliance with the Fair Labor Standards Act, which provides for minimum compensation to employees.

All Arts Council grantees must ensure that people with disabilities have access to both the location and content of all funded programs.

Fiscal Agents: In cases where a grantee is using a fiscal agent, the fiscal agent, as well as the grantee organization, is fiscally and legally responsible for all grant requirements.

When the grant is awarded, the fiscal agent and grantee sign the grant contract agreeing to all its terms. The fiscal agent receives the grant payment directly from the Arts Council. It is strongly recommended that the fiscal agent handle the accounting for the grant by receiving all income and paying all expenses for the project. It is allowable to charge the grantee for this service or have the cost included in the budget as a grant expense. The fiscal agent can transfer the grant payments to the grantee who would then handle the grant expenditures, but the fiscal agent would still be responsible for these expenditures.

The fiscal agent and the grantee sign the final report certifying its accuracy. The fiscal agent is liable for the repayment of any grant funds not spent or misspent. The fiscal agent should be aware that receiving these additional grant dollars may increase its audit obligations to the Arts Council and the Office of the State Auditor.

Management of Grant Funds: Grant recipients are sent a contract letter and copies of regulations, which must be agreed to as part of the contract. Grantees must manage any funds received in accordance with federal regulations for administrative requirements and applicable cost principles. (Applicants with concerns about their ability to fulfill governmental regulations may, prior to applying for funds, contact the Grants Office for referral to locations where the complete requirements can be obtained.)

The contract specifies the grant amount and budget of the proposal for which funds are being awarded and any special stipulations. Grant funds will not be available to the grant recipient until the contract is signed and returned to the Arts Council.

Any payment is contingent upon the Arts Council's receipt and approval of all prior grant reports due to the Arts Council by the grantee. Neither grant funds nor their matching funds can be used to match another Arts Council grant. Grantees must have any matching funds in their possession before spending the grant funds.

The grant recipient is obligated to maintain complete and accurate records of all activities connected with the grant, and these financial records must be available to state and federal officials for audit. The records are to be kept for three years from the date of submission of the final report or, if an audit is begun, for three years from the date when the audit is resolved, whichever is later. Also, the grantee must adhere to standard administrative and accounting practices.

After funds have been awarded, the grantee must submit a written request and obtain approval before any substantial changes in the grant project can be made. This includes changes in any budget line that vary by more than 10% of the total budget for the whole project. Funds may be spent only on the activities specified in the grant application or approved in a budget revision. Any grant money remaining unspent at the end of the grant period must be refunded.

By March 31, 2008, the grantee must inform the staff if it will not be able to spend all of the grant funds. Refunds should be returned to the Arts Council as soon as possible and no later than May 31. If unspent grant funds are returned after this deadline and are reverted to the state budget office, the grantee will not be eligible to receive 2008-2009 grant funds.

Final Reports: At the end of the grant period, the grantee must submit a complete and accurate final report on the Arts Council's Grant Report Form describing the grant project, giving an accurate account of how grant and matching funds were spent. See also the State Auditor's Requirements section below.

The report will include any specific reporting requirements described in the guidelines for each grant category. It will also include Project Descriptors and Individuals Benefitting for national report statistics. Refer to the Glossary for descriptions of this data. The report must be in the Arts Council's office no later than the report due date specified in the grant contract.

Report Violations and Consequences

A late final report is a violation of the North Carolina Arts Council Grant Contract. A report is late when it is received after the report due date shown on the Grant Award. Violations are taken into consideration when an organization applies for future grants. Funding may be denied based on reporting practices.

An extension of the report due date may be requested in exceptional circumstances. Requests for final reporting extensions must be made in writing before the report due date. Grants can be extended only until July 31.

Any reports more than five weeks delinquent (not received or incomplete) are turned over to the Attorney General's office for collection. If a grantee's contract must be turned over to the Attorney General's Office for collection, the grantee will not be eligible for current or future grant funds for one fiscal year. Grantees must pay any collection agency costs involved in the North Carolina Arts Council's obtaining a final report or grant refund.

State Auditor's Requirements: The Arts Council requires a report from every grantee without regard to the amount of State funds received. The State Auditor's Office requires that this report be attested to in a sworn, notarized statement on the organization's letterhead by the treasurer and one other authorizing officer of the grantee. If a fiscal agent is used, this certification must also be submitted on the letterhead of the fiscal agent and attested to by the treasurer and one other authorizing officer of the fiscal agent. These requirements can be found in detail on the Office of the State Auditor's Web site <http://www.ncauditor.net>

If the grantee receives funds from the State of North Carolina, including state or federal funds, from any source including the North Carolina Arts Council grant, then the grantee must also complete the Schedule of Grantee Receipts and Expenditures with its attachments as prescribed in the State Auditor's Memorandum NGO-1 (part of Audit Advisory #2, May, 1997), and file this report with the Arts Council and any other state agency from which funds have been received. This schedule is available on the Office of the State Auditor's Web site <http://www.ncauditor.net/NonProfitSite/nphome.aspx>

If a grantee receives \$300,000 in State funds from the Arts Council or the Arts Council's grants combined with State funds received from any other source, an audit is required in addition to the Council's report. This audit must be filed with the Arts Council, the State Auditor and any other state funding agency. Specific descriptions of these audit requirements are provided to grantees as part of the contract package.

A grantee that receives less than \$300,000 in State funds within any fiscal year of the grantee is not required to have an audit performed. However, the Arts Council encourages all organizations to have basic financial statements for each fiscal year prepared in accordance with generally accepted accounting principles. These basic financial statements should be audited in conformity with generally accepted auditing standards on a regular basis. All financial records, including the financial records of any subgrantees, must be furnished to the State Auditor, if requested, to provide full accountability for the use and expenditure of state funds.