



**CITY OF DUBUQUE &
NATIONAL ENDOWMENT FOR THE ARTS
AMERICAN RESCUE PLAN ACT
ARTS OPERATING RECOVERY
SUBGRANT PROGRAM**



TERMS AND CONDITIONS

These Terms and Conditions are provided to aid in the subgrantee's awareness of the National Endowment for the Arts (NEA) American Rescue Plan (ARP) Grant compliance requirements and management of a subgrant. Read the full Terms & Conditions carefully to ensure the organization can implement the subgrant in full accordance with all federal regulations and policy requirements.

The City of Dubuque is a recipient of an NEA ARP Grant and is designated as a Local Arts Agency (LAA) for subgranting. Therefore, the allocation of federal funds requires the City of Dubuque and its subgrantees to comply with all federal requirements.

FEDERAL POLICIES

Subgrantees are responsible for complying with flow-down federal regulations and policy requirements, as outlined by the NEA's Specific Terms and Conditions ([Appendix C](#)). National Policy Requirements prohibit discrimination, ensure accessibility of all facilities and programs funded with federal monies, provide for the protection of environmental and historic resources, and more. Reference the section National Policy and Other Legal Requirements, Statutes, and Regulations below.

UNIQUE ENTITY IDENTIFIER (UEI)

- Due to the federal origins of this subgrant (National Endowment for the Arts), no nonprofit organization (subgrantee entity) may receive a subgrant from the City of Dubuque until the organization has provided a valid UEI.
- Subgrantees are not required to obtain an active SAM registration but must obtain a UEI. [Learn more about SAM and UEI.](#)

FUNDING

- This is a one-time monetary award.
- This award does not require a match.
- Funds must be used explicitly to cover allowable expenses outlined under ALLOWABLE COSTS and incurred during the period of performance (January 1, 2023 – December 31, 2023).
- This is a competitive subgrant opportunity, and funding for all eligible applicants is not guaranteed.

- Organizations subgranted funding will be required to submit additional documentation (e.g., Vendor Registration, W-9) in order to release funds.
- Operating expenses related to public art must comply and be approved by the City of Dubuque and the National Endowment for the Arts for its potential impact on historic properties/districts/sites and the environment to fulfill responsibilities and obligations under the National Historic Preservation Act (NHPA) and the National Environment Policy Act (NEPA), respectively. Subgrants for public art projects will be considered pending until all parties have fully approved the specific operations.

ALLOWABLE COSTS

Funds are intended to support day-to-day general business expenses/operating costs for arts, arts education, arts activities, and/or artistic experiences. Allowable costs are limited to any or all of the following costs:

- Salary support, full or partial, for one or more staff positions.
** Subgrant funds may be used to support salaries or wages for one or more jobs, including existing and new jobs, or restoring jobs that were furloughed or eliminated due to the pandemic that are dedicated to the general operations of the arts activities of the organization. Institutions of higher education are only eligible to apply to support jobs whose main function is providing or supporting public programming. Institutions of higher education are only eligible to apply to support jobs whose main function is providing or supporting public programming. Funds cannot be used to support academic positions.*
- Fees/stipends for artists and/or contractual personnel for services they provide for specific activities in support of the organization's general operations.
**Services must be part of the organization's regular, day-to-day work in support of the organizational mission and cannot be for a new or special project or program.*
- Costs associated with health and safety supplies for staff and/or visitors/audiences (e.g., personal protective equipment, cleaning supplies, hand sanitizer, etc.).
**These are the only supplies that can be funded through this grant.*
- Facilities costs such as rent and utilities (e.g., electric, phone, gas bills).
**Costs related to home offices, upgrades to HVAC/ventilation systems, and other capital improvements are unallowable.*
- Marketing and promotion costs.
- Indirect costs. An approved indirect cost rate negotiated with the Federal government may be used, or if no rate exists, a de minimis indirect cost rate of up to 10% of modified total direct costs.
**For example, overhead, administrative, or general operating expenses that are not readily identifiable with, or are difficult to assign to, a specific project, but nevertheless are necessary to the operation of the organization, the performance of its activities, and the execution of its projects.*

Examples of Allowable Costs

- A museum contracts with security guards for ongoing protection of the collection (a regular function of the museum's operations).

- An organization hires/contracts with IT experts to address its website as part of ongoing marketing and promotion (an allowable cost), or to upgrade technology to improve virtual engagement. An arts education organization whose day-to-day work is developing and presenting educational programs contracts with a teaching artist to design or deliver a program.
- An organization hires/contracts tech support to carry out its ongoing virtual activities in response to COVID-19, including individuals to provide expertise in the areas of staging, lighting, or sound.

UNALLOWABLE COSTS

- Alcoholic beverages.
- Commercial (for-profit) enterprises or activities, including concessions, food/drink, clothing, artwork, or other items for resale, including online or virtual sales/shops.
- Construction, purchase, or renovation of facilities.
- Costs supported by any other federal funding (“double dipping”), including funds received directly from a federal agency or indirectly from a pass-through organization.
- Expenses related to compensation to foreign nationals when those expenditures are not in compliance with regulations issued by the U.S. Treasury Department of Foreign Assets Control.
- General fundraising.
- General miscellaneous or contingency costs.
- Land purchase costs.
- Lobbying, including activities intended to influence the outcome of elections or influence government officials regarding pending legislation either directly or through specific lobbying appeals to the public.
- Rental costs for home office workspace owned by individuals or entities affiliated with the applicant organization.
- Social activities such as receptions, parties or galas.
- Subgrants to replace lost revenue.
- Travel costs.
- Vehicle purchases.
- Visa costs paid to the U.S. government.
- Voter registration drives and related activities.
- All other costs that are unallowable per 2 CFR 200 and other laws.

AGREEMENT

- The agreement must be signed to assure compliance with the Arts Operating Recovery subgrant and returned by the deadline communicated in the award notification.
- Changes or Delays: Subgrantee must notify the City of Dubuque of any substantive changes related to the subgrantee's application.
- The City of Dubuque will monitor the subgrantee's arts operations and may offer guidance toward subgrant compliance.
- Organizations subgranted funding will have their name publicized.

REPORTING & CLOSEOUT

- A sample final report will be provided with the subgrant announcement, and a notification will be sent to subgrantees when the final report is available online.
- Subgrantees will review the subgrant report form in advance to ensure that they are tracking the impact and demographical information required for the report form.
- Each subgrantee is required to submit a final report providing a detailed description of the funded activities, participation statistics and demographics, sample marketing and program materials, and an accurately documented fund expenditure budget that aligns with the submitted budget.
- Subgrantees must submit a final report within 30 days after the end of period of performance – no later than Wednesday, January 31, 2024.
- If funds are not used, or funds are used for unauthorized/unallowable costs or activities, the subgrantee must return the funds to the City of Dubuque.

RECORD RETENTION & 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 years from the end date of the City of Dubuque's period of performance (05/2024) as an LAA (2 CFR 200.344).
- Subgrantees must permit the City of Dubuque and its auditors access to records and financial statements, as necessary, to ensure compliance with federal award requirements (2 CFR 200.332 (a)(5), .334 and .337).

ACKNOWLEDGEMENT

Art Operating Recovery subgrants are funded by tan National Endowment for the Arts' American Rescue Plan Grant to Local Arts Agencies. Subgrantees must clearly acknowledge support from the National Endowment for the Arts **AND** the City of Dubuque on all materials (printed or electronic) associated with the funded activities, such as programs, press releases, social media posts, promotions, etc. Such acknowledgment should noticeably indicate that funds were provided for arts operating support and should not be used to show support for a project or activity outside the scope of funding. Access acknowledgment resources [here](#).

National Policy and Other Legal Requirements, Statutes, and Regulations

You must ensure that the funded project is implemented 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 (2 CFR 200.300).

As a registrant with SAM.gov, in most cases, you have already self-certified to the “Financial Assistance General Certifications and Representations,” including attesting to the accuracy of the certification and acknowledging that you may be subjected to criminal prosecution under Section 1001, Title 18 USC, or civil liability under the False Claims Act if you have misrepresented the information. A copy of this Financial Assistance Certifications Report is available in your SAM.gov entity registration record.

1. Nondiscrimination Policies

As a condition of receipt of Federal financial assistance, you acknowledge and agree to execute your project, and require any contractors, successors, transferees, and assignees to comply with applicable provisions of national laws and policies prohibiting discrimination, including but not limited to:

1.a 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.)

1.b 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, you 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. You are encouraged to consider the need for language services for LEP persons in conducting your programs and activities. For assistance and information go to <https://www.arts.gov/about/foia/reading-room/limited-english-proficiency-plan>.

1.c 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.)

1.d 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.)

1.e 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).

1.f 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 11/3/21 National Endowment for the Arts: Specific Terms and Conditions for the American Rescue Plan Grants to Local Arts Agencies Page 15 of 17 from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance (29 USC 794). 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

- i. 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 our website.
- ii. 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.
- iii. *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.

2. Environmental and Preservation Policies

2.a The National Environmental Policy Act of 1969, as amended, applies to any Federal funds that would support an activity that may have environmental implications. We may ask you to respond to specific questions or provide additional information in accordance with the Act. If there are environmental implications, we 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.b 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. We will 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). 11/3/21 National Endowment for the Arts: Specific Terms and Conditions for the American Rescue Plan Grants to Local Arts Agencies Page 16 of 17 Other National Policies.

Other National Policies

3. 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:

- 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.

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 (3) years.

4. The Drug Free Workplace Act requires you to publish a statement about your drugfree 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).

5. Lobbying. 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:

5.1 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 (18 USC 1913). 11/3/21 National Endowment for the Arts: Specific Terms and Conditions for the American Rescue Plan Grants to Local Arts Agencies

5.2 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.

5.3 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.

6. 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).

7. 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.).

8. 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>.

9. Prohibition on use of funds to ACORN or its subsidiaries. None of the federal or matching 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)