Special Terms & Conditions
for NEA Awards made under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)

BACKGROUND: The Office of Management & Budget's Office of Federal Financial Management (OFFM) is establishing government-wide guidance and standard award terms for Federal agencies to include in financial assistance awards as part of their implementation of sections 1512, 1605, 1606, and 1609 of the American Recovery and Reinvestment Act of 2009 (Recovery Act, or ARRA). This guidance, when issued, will be found at **2 CFR Chapter 1 Part 176**. In addition, there are other special terms and conditions identified here that are relevant to the NEA Recovery Act awards.

The Recovery Act Special Terms & Conditions apply concurrently with the NEA's standard *General Terms & Conditions for Awards to Organizations (NEA GTs)*. This document will also clarify if any special term overrides or deviates from the *NEA GTs.*

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1. **Reporting and Registration Requirement under Section 1512** of the American Recovery and Reinvestment Act of 2009 (2 CFR Subpart A Sec. 176.50)

   (a) This award requires recipients of projects or activities funded under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") to report on the use of Recovery Act funds. Information from these reports will be made available to the public.

   (b) The first report is due by October 10, 2009, or no later than ten calendar days after the initial calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter *(e.g., January 10, 2010; April 10, 2010).*

   (c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. (Recipients must ensure that DUNS and CCR requirements for their first tier subawardees are met no later than the first time Recovery Act data requirements are due.)

   (d) Recipients shall report the information described in section 1512(c) using the reporting instructions that will be provided online at www.FederalReporting.gov. *(Details about what and where to report will be maintained and updated as appropriate on the NEA Web site: www.arts.gov/manageaward/recovery.)*

2. **Buy American Requirement under Section 1605** of the American Recovery and Reinvestment Act of 2009 (2 CFR Subpart B Sec. 176.60) *Not applicable to NEA awards.*

3. **Wage Rate Requirements under Section 1606** of the American Recovery and Reinvestment Act of 2009 (2 CFR Subpart C Sec. 176.190) *This section is consistent with the labor standards set out in "29 CFR Part 505 – Labor Standards on Projects or Productions Assisted by Grants from the National Endowments for the Arts and Humanities" (in the NEA GTs).*

4. **Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub-recipients** (2 CFR Subpart D Sec. 176.210)

   (a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart ___. 21 "Uniform Administrative Requirements for Grants and Agreements" *(aka OMB A-110)* and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. *This is required whether or not you are subject to OMB Circular A-133 or the Single Audit Act Amendments.*

   (b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (see *NEA GTs* page 18) recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the *Schedule of Expenditures of Federal Awards* (SEFA) and the *Data Collection Form* (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

   (c) Recipients agree to separately identify to each subrecipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular sub-awards under the existing program.

   (d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

5. **Documentation of NEA Recovery Act funds**

   Recipients and subrecipients' systems must separately identify the expenditures for the NEA Recovery Act award regardless of whether the award is a new award or provided as an add-on to an existing Federal award or subaward. There can be NO overlapping <u>costs</u> among federal grants, either <u>directly</u> or indirectly, e.g., Federal funds that flow through another grantor such as a State arts agency.

   In addition, recipients must maintain adequate time-and-effort reports (i.e., personnel activity reports) when charging a person's salary in whole or in part to the grant. A sample report can be

found in the *NEA GTs*. *This term is required for all grant-approved salaried positions, regardless of the size of the award.* Written and signed contracts must also be maintained if the grant supports contracts with artists or other people.

6. **Unallowable cost—Fundraising**

No grant funds can be used for fundraising activity. This includes donor relations, grant writing, development, or other similar terms. This requirement applies across the Federal government. See Cost Principles A-122 (2 CFR 230); A-21 (2 CFR 220); and A-87 (2 CFR 225).

Therefore, no Recovery Act funds can be used to support fundraising activities carried out by position(s), whether salaried or contractual, supported by this award. If any position(s) supported by this award includes fundraising activities (e.g., an executive director of an organization), your documentation must demonstrate that the percentage of salary/fee and time supported by Recovery Act funds does not include fundraising activity.

7. **Release of payments** (Sec. 1512 (f))

Release of payment is contingent on recipients meeting the reporting requirements in Section 1512 (c) of the Recovery Act.

8. **Whistleblower Protection** (Sec. 1553)

Recipients or sub-recipients awarded funds under the Recovery Act shall promptly refer to the NEA Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds (Recovery Act Sec. 1553). The NEA Office of Inspector General (IG) has developed a document that provides additional information. The document can be found on the NEA Web site at www.arts.gov/recovery. The IG can be reached at oig@arts.gov or 202-682-5402.

9. **Acknowledgement**

Recipients must acknowledge the NEA and the Recovery Act in materials and announcements related to this grant. For printed or on-line material such as press announcements, guidelines, or other information provided for the general public, the NEA and Recovery Act logos should be used for the life of the grant period only. More information about the logos can be found at www.arts.gov/manageaward/recovery.

We reserve the right to change the language of the required acknowledgement of NEA support, as well as the right to disallow the use of the logos and acknowledgement of support.

10. **Change in staff position or contractor supported by this grant**

If a change in a position, whether salaried or contracted, identified in your application or proposal is necessary you **must** request an amendment before implementing a change. The request must include:

- 10-digit grant number,
- specific change(s) requested and justification for the change(s)
- revised project budget, if applicable,
- contact information, including a phone number, fax number and e-mail address, *and*
- signature of a current authorizing official.

Requests submitted after the fact, including after the current end date of your award, may not be approved. *This term is similar to a scope request for a change in artists found in the NEA GTs; however, for Recovery Act grants, it is required for all grant-approved positions, not just artists.*