**94-088 MAINE ARTS COMMISSION**

**Chapter 2: RULES FOR AWARDING GRANTS AND PROVIDING SERVICES**

**SUMMARY:** This chapter outlines the procedures and standards governing grant-making and services offered by the Maine Arts Commission.

**1. Provisions for awarding grants and providing services.**

 **A. DEFINITIONS**

 I. **Agency**: “Agency” shall mean the Maine Arts Commission, and shall include Maine Arts Commission members, the Director and staff and Review Committees.

 II. **Artist**: “Artist” shall mean an individual who may be trained in, and/or practice an art form as a creator, performer, director or tradition bearer in one or more of, but not limited to, the arts disciplines of dance, design arts, literature, media arts, music, theater, traditional arts, and visual arts, and may satisfy some or all of the following criteria:

 (a) receives, or has received, remuneration for works, notably in the form of sales, royalties, commissions, fees, residuals, grants, and awards that can reasonably be considered an integral part of the income that the artist earns from arts activity, or

 (b) receives recognition from the public or peers, notably honorable mentions, awards, or critical attention in the media for the work, or

 (c) presents works to the public through exhibitions, performances, readings, showings or any other means corresponding to the nature of the works, or

 (d) is represented by, or contracts with, a dealer, publisher, agent, producer, or similar representative, depending on the nature of the work, or

 (e) devotes a reasonable percentage of time or effort promoting and marketing works, attending auditions, seeking patrons or agents, and other similar efforts, depending on the nature of the work.

 III. **Arts**: “Arts” shall mean any activity undertaken by arts organizations or individual artists, involved with, but not limited to, the disciplines of arts in education, community arts, dance, design arts, literature, media arts, museums, music, performance arts, theater, traditional arts, and visual arts.

 IV. **Commission**: "Commission" shall mean the Maine Arts Commission, a policy-making Board of the Agency, whose members are appointed by the Governor. (27 MRSA §401)

1. **Committees**: The Maine Arts Commission may vote to establish standing committees relating to Agency programs and the Chair of the Maine Arts Commission may appoint ad-hoc task forces and working groups to carry out the work of the Agency.

 VI. **Director**: "Director" shall mean the paid chief executive officer of the Maine Arts Commission charged with carrying out the activities of the Agency, to whom all Agency staff are responsible. (27 MRSA §403-A)

 VII. **Executive Committee**: "Executive Committee" shall mean the officers (Chair and Vice Chair – both appointed by the Governor as defined in IV. above) of the Commission and other appointed members by the Chair of the Commission. The Executive Committee shall meet at regular intervals between Commission meetings to prepare the work and agendas for the Commission and act on behalf of the Commission.

 VIII. **Review Committees**: “Review Committees” shall mean volunteer members of the arts and arts-related communities, who may be in- or out-of-state residents, including arts practitioners, presenters and administrators, and who represent either peer-status of organizations or individuals applying for grants, or expertise in a particular arts or administrative field. Review Committees shall be nominated by the Maine Arts Commission, Director and/or the public, and are appointed by the Chair or Director of the Maine Arts Commission. Review Committees shall be administered by the Director and shall make recommendations to the Maine Arts Commission with regard to grant applications and other Maine Arts Commission projects. Review Committees may be standing or ad-hoc. Some Review Committee functions may be accomplished by the use of a Review Jury.

 IX. **Statewide Arts Service Organizations**: "Statewide Arts Service Organizations" shall mean any discipline-based, nonprofit, arts organizations which provides statewide services to its membership and/or general public. Service organizations may serve, but are not limited to serving, the disciplines of arts in education, community arts, dance, design arts, literature, media arts, museums, music, performance arts, theater, traditional arts and visual arts.

 **B. AWARDING OF GRANTS**

 The Agency may make grant funds available to eligible arts nonprofit organizations, arts service organizations, educational organizations engaged in arts programming, units of government, other organizations engaged in arts programming and individuals.

 Grant awards may carry a matching component based on, but not limited to cash or services.

 I. **Eligibility**: Organizations or individuals shall first meet the following eligibility requirements before applying for a grant:

 (a) an individual shall

 (i) be an artist or arts administrator, and

 (ii) be a Maine resident as evidenced by,

 (aa) required to file Maine State income tax during the granting year as well as the year prior, and

 (bb) have resided in Maine for at least 183 of the past 365 days, and

 (iii) be eighteen years or older, and

 (iv) be subject to the Conflict of Interest rules of Section C below.

 (b) an organization shall

 (i) be a not-for-profit organization, established in the State of Maine, and

 (aa) have tax-exempt status (501)(c)(3) from the Internal Revenue Service, or

 (bb) be a unit of local, county or state government, or

 (ii) be a regional, national, or international arts service organization including, but not limited to, the New England Foundation for the Arts and the National Assembly of State Arts Agencies.

 II. **Grant Application**: Individuals or organizations eligible for grant funding shall make application with the Agency as follows:

 (a) an individual or organization shall complete the appropriate application form and/or steps obtained from the Agency, and

 (b) an individual or organization shall provide additional application materials and/or provide for a site visit from an advisory panelist if requested, and

 (c) an individual or organization may consult the Director with regard to the application, and the program/project it is meant to fund.

 III. **Application Review**: All Agency grant programs shall be reviewed in accordance with an established timeline and may be reviewed competitively.

 The grant review process shall be outlined in Agency publications which are made broadly available to the public. Grant applications may be reviewed by:

 (a) a standing or ad-hoc Review Committee, or

 (b) a jury, or

 (c) a reader, or

 (d) the Director

 utilizing a set of artistic and/or management criteria outlined by the specific grant program, including but not limited to:

 (i) artistic merit of the individual or project,

 (ii) responsible financial and organizational management,

 (iii) ability to provide for the grant match as requested,

 (iv) degree of community involvement, or

 (v) ability to serve special constituencies.

 A Review Committee, upon reviewing grant applications, shall make a recommendation to the Director for final grant approval. The Director shall then take the recommendations to the Commission, which upon reviewing grant applications, shall have authority to make final grant approval based on the process and may delegate this responsibility to the Director. The Director shall be responsible for preparing a record of all grant review procedures to be made available to the public.

 IV. **Grant Award Approval**: Final decisions on grant awards shall be determined by:

 (a) the Director, or

 (b) the Commission.

 V. **Appeal Process**: Any grant applicant shall have the opportunity to appeal a grant decision by submitting an appeal in writing to the Chair of the Commission within thirty days of notification of the grant decision.

 An appeal shall be made only on the basis of the procedure taken by the Review Committee or Director in reviewing the application, and not on the artistic, management or other evaluations, based on grant review criteria, made by the Review Committee or Director.

 The Director shall be responsible for presenting appropriate materials regarding the appeal to the Grant Review Committee of the Commission.

 The Grant Review Committee

 (a) shall review the appeal and written material provided by the appellant and the Director, and

 (b) may hear the appellant's case in person, and

 (c) shall make a recommendation to the Commission Chair.

 The Chair of the Commission shall consider the recommendation of the Grant Review Committee, and shall make all final decisions regarding appeals. A decision made in favor of the appellant may result in the awarding of grant funds.

 VI. **Responsibilities of the Grantee**: Once a grant award is made, the grantee shall be responsible for the following:

 (a) using the awarded funds only for the specific program or project applied for, and

 (b) signing and returning the Letter of Agreement in accordance with the grant letter, and

 (c) complying with all required federal and state regulations in accordance with the grant letter, including but not limited to the following:

 (i) assurance that the grantee and any organization assisted by it will comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 as amended, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975 and Agency policy, all of which bar discrimination in federally assisted projects on the basis of race, color, national origin, sexual orientation, age, disability or sex, and

 (ii) assurance that the grantee will comply with the Americans with Disabilities Act (ADA) of 1991 which guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications, and

 (iii) assurance that the grantee will comply with the Drug-Free Workplace Act of 1988, and

 (iv) assurance that the grantee and any organization assisted by it will comply with sections 5(j) and 5(k) of U.S. Public Law 89-209 in regard to the employment of professional personnel, mechanics and labors employed for any construction project and the health, safety and sanitary laws of the state, available to the U.S. Secretary of Labor upon request, and

 (v) compliance with 18 U.S. C. Sec. 1913 regulating lobbying with appropriated monies and with the Hatch Act (5 U.S.C. Sec. 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds, and

 (vi) assurance that the grantee will maintain an adequate financial management system to provide efficient and effective accountability and control of all property, funds and assets in compliance with OMB Circulars A-102, A-128 (for local governments) and A-110 (for nonprofit organizations and universities), and

 (d) utilizing the proper credit line on all materials related to the program/project for which funding is awarded to read: “This program/project is supported, in part, by the Maine Arts Commission, a state agency supported by public tax dollars,” and

 (e) submitting a final report within thirty days after the conclusion of the grant period, in accordance with the grant letter; failure to do so will make the applicant ineligible to apply or receive future Agency funds until submitted.

 **C. CONFLICT OF INTEREST**

 In accordance with the above or any other requirement of state law, members of the Commission, Review Committees and staff have the responsibility to avoid direct and indirect private interest which is at variance with the impartial performance of their public duty. Members also have responsibility to avoid the appearance of a conflict of interest by disclosure or by abstention. At the same time, since members of the Commission, Review Committees and staff have keen interest in the arts and in arts organizations in the state, they should not disqualify themselves from either ongoing participation in the arts and arts organizations of their choice, or from general policy-making discussions and decisions which carry out the statewide obligations of the Agency.

 I. No member of the Commission, Review Committees or Agency staff, or any spouse or dependent children of such individuals, on behalf of themselves or with respect to an organization with which they are employed as staff or consultant, or in which they have a direct and substantial financial interest shall:

 (a) submit or sponsor applications or proposals as individuals and/or on the behalf of organizations for Agency funds, or

 (b) seek to influence the decisions of members of the Commission, Review Committees or staff regarding applications for Agency funds, or

 (c) receive, accept, take, seek or solicit directly or indirectly, gifts, gratuities, favors, or anything of economic value from any person or organizations if there is any reason to believe the donor would not give said item except for that individual's office or responsibility with the Agency, or to unduly influence that individual's action on applications for Agency funds.

 II. No members of the agency staff shall participate in their official capacities in any proceedings which may fund or otherwise support:

 (a) individuals or organizations with whom the staff members (including spouse and dependents) are employed or are negotiating with for future employment, or

 (b) organizations for which the staff members (including spouse and dependents) serve on the governing boards.

 III. All members of the Commission, Review Committees and staff shall file and keep current on an annual basis with the Director statements listing those organizations reasonably expected to be eligible for agency funds in which they have a familial or policy-making interest, or direct and substantial financial interest.

 IV. The Chair of the Commission shall have responsibility to see that members of the Commission and Review Committees abide by these rules regarding conflict of interest, and the Director shall have similar responsibilities regarding the staff.

V. Nothing in these rules shall prohibit a member of the governing board of an arts organization (“a board member”) from serving as a member of the Maine Arts Commission (“a Commission member”). During his/her term of service as a Commission member, a board member shall comply with all provisions related to conflict of interest stated in this section and shall not participate in any manner in the consideration of grant applications by any organization on the board of which the Commission member serves.

VI. If a compensated Executive Director, staff member, employee of an arts organization, or the spouse or dependent children of any such individual (collectively referred to as “the organization agent”), is serving as a Commission member, that organization is not eligible to apply for grants or funding, and any application for grants or funding submitted by the arts organization by which the organization agent is employed or compensated shall be disqualified from consideration.

STATUTORY AUTHORITY: 27 MRSA §409

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