

**ADOPTED REGULATION OF THE BOARD OF
THE NEVADA ARTS COUNCIL**

LCB File No. R175-03

Effective August 25, 2004

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 233C.090.

A REGULATION relating to the Nevada Arts Council; establishing requirements for natural persons to apply for grants from the Nevada Arts Council; establishing a procedure for the review of applications and the approval of grants; and providing other matters properly relating thereto.

Section 1. Chapter 233C of NAC is hereby amended by adding thereto a new section to read as follows:

- 1. The Administrator shall mail a copy of the agenda and any supporting documents to each member of the Board at least 10 days before a scheduled meeting of the Board.*
- 2. The Board may wait until the next meeting of the Board to consider any material that is submitted to the Administrator after the Administrator has mailed a copy of the agenda for a scheduled meeting to the members of the Board.*

Sec. 2. NAC 233C.010 is hereby amended to read as follows:

233C.010 As used in this chapter, unless the context otherwise requires:

- ~~1. “Council” means the State Arts Council.~~
- ~~2. “Executive Director” means the Executive Director of the Council.~~
- ~~3. “Subgrantee”] “Administrator” means the Administrator of the Division.~~
- 2. “Board” means the Board of the Division created pursuant to NRS 233C.030.*

3. *“Division” means the Nevada Arts Council.*

4. *“Grantee” means an organization or a natural person receiving money from the [Council.] Division.*

Sec. 3. NAC 233C.020 is hereby amended to read as follows:

233C.020 1. ~~[Only those]~~ *Art and cultural* programs and projects directly related to Nevada *or that serve the residents of Nevada* are eligible for grants from the ~~[Council.]~~ *Division.*

2. An organization applying for a grant from the ~~[Council.]~~ *Division* must be a nonprofit organization *incorporated in Nevada* and have a tax-exempt status. This requirement does not preclude another tax-exempt organization from acting as the fiscal agent for the applicant.

3. A ~~[program or project which is already in progress or completed on the date of a funding session of the Council is not eligible for a grant from the Council.]~~

~~—4.— In determining the eligibility of a program or project for a grant, the Council will consider the following factors as important:~~

~~—(a) The quality of the proposed program or project;~~

~~—(b) The number of participants and the estimated audience;~~

~~—(c) Whether the approaches and ideas of the program or project are new or especially creative;~~

~~—(d) Whether a duplicative or similar program exists in the same community;~~

~~—(e) The anticipated effect on or value to children, disadvantaged groups, senior citizens and the general public of the program or project;~~

~~—(f) Other sources of financing for the program or project. The Council will give special consideration to programs and projects which do not have general access to tax support, established patrons or businesses;~~

~~—(g) The location of the program or project, with special consideration for programs in rural areas and projects where artistic and cultural presentations are infrequent or in a developing stage;~~

~~—(h) The competence, experience and qualifications of persons who will conduct the program or project; and~~

~~—(i) The past experience of the Council and its staff with the applicant, his organization and his staff.~~

~~—5.— An applicant is not eligible for a grant from the Council if the applicant seeks to use the Council's money for:~~

~~—(a) New construction;~~

~~—(b) Renovation or reconstruction of permanent facilities;~~

~~—(c) Purchase of permanent supplies or equipment; or~~

~~—(d) Payment of bad debts, contingencies, contributions, donations, fines, penalties, scholarships, governor's expenses, interest, financial cost, legislative expenses or underrecovery of costs under grant agreements.~~

~~—6.— An application for a grant of more than \$10,000 requires a two-thirds vote of the Council for approval.]~~ *natural person may apply for a grant if, at the time he submits the application,*

he is:

(a) A resident of Nevada;

(b) At least 21 years of age; and

(c) Not seeking an academic degree in a field of study that is related to the type of grant for which he is applying.

Sec. 4. NAC 233C.030 is hereby amended to read as follows:

233C.030 1. ~~[An application must be submitted on the Council's Form No. 1, and must be typed. The requested information must be set out briefly and clearly. If all requested information is not supplied, action upon the application will be delayed.~~

~~—2.— An application must also conform with the guidelines listed on the Council's Form No. 2.~~

~~—3.]~~ *The Board will approve grants in accordance with the grant guidelines approved by the Board.*

2. The Division shall make any proposed substantive change to the grant guidelines available for public review and comment at least 2 weeks before the approval of the changes by the Board.

3. An application for a grant must be completed in accordance with the grant guidelines approved by the Board for the type of grant for which the applicant is applying. The grant guidelines will be available not less than 3 months before the announced deadline for filing the application.

4. If an application is received [at the Council's office] by the Division after the announced [cutoff date] deadline for filing, the application will not be considered and will be returned to the applicant.

~~[4.— If the application is so returned, it may be resubmitted for consideration at the next session of the Council at which the Council awards grants.~~

~~—5.— The budget shown on an application must be accurate, detailed and appropriate to the purpose of the program or project.~~

~~—6.— The application must be signed personally by the administrative officer and the project coordinator.~~

~~—7.— A project or program and the application must be approved by the governing board or administrator of the applying organization before the application is submitted to the Council.~~

~~—8.— Ten copies of each application must be submitted to the Council before the cutoff date unless the Executive Director of the Council has agreed to accept fewer copies.~~

~~—9.— Any information or clarification concerning an application must be made readily available by the applicant to the Executive Director or other member of the Council's staff upon request.~~

~~—10.— Services in kind, money or other items allocated to another grant, program or project must not be used or referred to in an application for a grant from the Council.]~~

5. A copy of the grant guidelines approved by the Board may be obtained from the Nevada Arts Council, 716 North Carson Street, Suite A, Carson City, Nevada 89701, at no cost, or on the Internet at <http://www.culturegrants-nv.org/>.

Sec. 5. NAC 233C.040 is hereby amended to read as follows:

233C.040 *1.* The ~~[Executive Director of the Council shall]~~ *Division will* examine each application for completeness, accuracy and compliance with the ~~[provisions of this chapter. The Executive Director may communicate with the applicant to obtain any required clarification or additional information and may assist the applicant in preparing and submitting an amended application when necessary.]~~ *grant guidelines applicable to the type of grant for which the applicant is applying.*

2. *A panel selected by the Division will review the application and make a recommendation to the Board in accordance with the grant guidelines and the panel review process approved by the Board for the type of grant for which the applicant is applying.*

3. *The panel shall base the review solely on the application materials submitted by the applicant including the application form, narrative, budget and any supplemental material that conforms to the grant guidelines applicable to the type of grant for which the applicant is applying.*

4. *An applicant is not required to attend the meeting of a panel to review the application of the applicant, and an absence from the meeting will not prejudice the review of the application by the panel.*

5. *The Division shall make any proposed substantive change to a panel review process available for public review and comment at least 4 weeks before the Board acts to approve the change. A copy of the proposed substantive change may be obtained from the Nevada Arts Council, 716 North Carson Street, Suite A, Carson City, Nevada 89701, at no cost, or on the Internet at <http://www.culturegrants-nv.org/>.*

6. *The Board will review the recommendation of the panel and the review process used by the panel, and the Board will vote to determine whether to approve the grant and the amount of any grant so approved.*

Sec. 6. NAC 233C.100 is hereby amended to read as follows:

233C.100 1. ~~Any grant of money received by a subgrantee from the Council must be expended within 3 months after the money is received, and the money must not be kept in an interest-bearing account.~~

~~—2.— If any such money remains uncommitted at the end of the prescribed period of the grant, the subgrantee shall immediately forward a check for the amount, payable to the Council, to the Executive Director of the Council, along with a final report evaluating the program or project.~~

~~—3.— A final report evaluating a program or project financed by the Council must be filed at the office of the Council within 30 days after completion of the program or project.~~

~~—4.— The Council will withhold 10 percent of the authorized money from a grant until the subgrantee meets all reporting requirements.~~

~~—5.— The Council will not disburse money for a project in a new fiscal year until the subgrantee has met all requirements of any preceding grant. The subgrantee must keep accurate and current records of cash, services in kind, materials, attendance, and other items essential to the project or program as required by the Council. A subgrantee receiving money from the Council shall submit a progress report when requested to do so by the Executive Director.~~

~~—6.] *A grantee must comply with all requirements set out in the grants management packet provided by the Division.*~~

2. The Division will make any proposed substantive change to the grants management packet available for public review and comment at least 2 weeks before the Board acts to approve the change. A copy of the grants management packet may be obtained from the Nevada Arts Council, 716 North Carson Street, Suite A, Carson City, Nevada 89701, at no cost, or on the Internet at <http://www.culturegrants-nv.org/>.

3. A grantee must file a final report form with the Division in accordance with the grant guidelines and the grants management packet. If a grantee fails to file a final report form, the Division will notify the grantee in writing that the grant application does not comply with the grant guidelines and the grants management packet. The Division will not accept a new grant

application from an applicant that does not comply with the grant guidelines and the grants management packet.

4. *A grantee shall notify the Division of any proposed change to a program or project that was outlined in the application of the grantee. The Division must give approval for the proposed change before the grantee may make the proposed change.*

5. *A grantee shall notify the Division of any change in the essential personnel involved in a program or project.*

6. A grant may be terminated or reduced by the ~~[Council, 30]~~ *Division 15* days after ~~[consultation with the subgrantee.]~~ *the Division gives notification to the grantee that the grant application does not comply with the grant guidelines and the grants management packet, that there have been changes to the budget of the Division or as directed by the Office of the Governor.* The termination or reduction does not affect any commitment which, in the judgment of the ~~[Council.]~~ *Division*, has become firm before the effective date of the termination.

7. ~~[Complete accuracy and verification of statistics and the budget are required on all projects financed by the Council.~~

~~—8.]~~ The records of a project or program , *including, without limitation, a copy of the original application, financial records, supporting documents and any other record related to the grant*, must be retained by a ~~[subgrantee]~~ *grantee and made available for review by the Division* for at least 3 years ~~[and must be made available during that period for audit upon request of the Executive Director of the Council.~~

~~—9.—~~ ~~Proof of services as donations in kind must be made on the form prescribed by the Council.]~~ *after the completion of the project.*

Sec. 7. NAC 233C.050, 233C.060, 233C.070, 233C.080 and 233C.090 are hereby repealed.

TEXT OF REPEALED SECTIONS

233C.050 Grant awards sessions.

1. An applicant, or a person designated by him in writing, may be present during a session held to award grants and, after being recognized by the presiding officer, may address the Council concerning his application or the merits of his proposed program or project. Remarks will be limited to 5 minutes, excluding any time consumed by questions from the members of the Council.

2. Any other person who desires to address the Council on any subject on the meeting agenda other than an application for a specific grant must first secure the permission of the presiding officer, state his name and affiliation and thereafter limit his remarks to 5 minutes, excluding any time used in questioning by members of the Council.

3. Any person who desires to discuss a subject not included on the agenda for a particular meeting must first request permission from the presiding officer, who shall give his permission upon an affirmative vote of two-thirds of the Council's members present.

233C.060 Notification of Council before change of project, program, organization occurs.

1. The Council must be notified of any proposed change to a project or program which has been outlined in an application for a grant. The Council's approval for any such change must be secured before the change is made effective.

2. A subgrantee shall notify the Council's Executive Director of any change in the address or telephone number of any of its essential personnel.

233C.070 Accessibility of personnel of subgrantee. Personnel of a subgrantee must be reasonably accessible, upon request, to the Chairman or other officially designated member of the Council or to its Executive Director.

233C.080 Public statement of source of funding required. Whenever financial support for a program or project is received from the National Endowment for the Arts through the Council, a statement noting this fact must be included in all written or graphic publicity, concerning the program or project. If such media are not used, an oral statement noting the source of financing must be made at each public performance of the program or project.

233C.090 Performances: Attendance without charge to council members; others.

1. To enable the Council to review performances under a project or program financed by it, the subgrantee shall make available, without charge, tickets, passes or invitations to members of the Council who reside in the area where the performances are to be conducted.

2. Effort must be made by a subgrantee to provide an opportunity for disadvantaged persons and senior citizens to attend, either without charge or at reduced rates, any performance, event or exhibit sponsored in whole or in part by the Council.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R175-03**

The Board of the Nevada Arts Council adopted regulations assigned LCB File No. R175-03 which pertain to chapter 233C of the Nevada Administrative Code on November 12, 2003.

Notice date: 10/12/2003
Hearing date: 11/20/2003

Date of adoption by agency: 11/12/2003
Filing date: 8/25/2004

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

This amendment was sent via U.S. mail and e-mail to more than 100 grantees and constituents of the Nevada Arts Council, and posted at the Nevada State Library Archives and Archives, Washoe County Library, Carson City Library, Clark County Library, Elko County Library and both the Carson City and Las Vegas offices of the Nevada Arts Council. No public attending the hearing held in Las Vegas on November 12, 2003.

2. The number of person who:

- A. Attended the hearing(s) 0
- B. Testified at each hearing N/A
- C. Submitted written comments 0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how interested persons may obtain a copy of the summary.

A memorandum explaining the amendments was sent, either via U.S. Mail, e-mail or fax, to more than 100 grantees and constituents of the Nevada Arts Council. We received no written or verbal responses. The amendment is on file at both the Carson City and Las Vegas offices of the Nevada Arts Council.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

Not applicable

5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public.

- A. No economic effect on businesses
- B. No economic effect on the public

6. The estimated cost to the agency for enforcement of the adopted regulation.

None

7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary.

None

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

Not applicable

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable