

## **California Nonprofit Performing Arts Grant Program**

### **Applicant Certifications**

In connection with the California Nonprofit Performing Arts Grant Program (the "Program") funded by the State of California (the "State") and administered by the California Office of the Small Business Advocate ("CalOSBA") within the Governor's Office of Business and Economic Development ("GO-Biz") the undersigned, constituting an authorized representative of the below-referenced applicant non-profit entity ("Applicant"), acknowledges and agrees, on behalf of Applicant, that the State, CalOSBA, GO-Biz and B.S.D. Capital, Inc. dba Lendistry ("Lendistry"), as the designated intermediary of the Program, each may rely on the below certifications in determining Applicant's eligibility for the Program and receipt of a grant award (a "Grant Award") under the Program.

The undersigned further acknowledges and agrees that if: (i) any of the following certifications are untrue; (ii) Applicant knowingly makes any false or misleading statement or material omission in the information or materials required or requested from the Applicant; or (iii) Applicant uses any resulting Grant Award for any unauthorized purpose, the State, CalOSBA, GO-Biz and/or Lendistry may require Applicant to repay such Grant Award or take any other legal or equitable recourse available, including, without limitation, by seeking remedies for fraud.

**By executing this document, Applicant hereby certifies to all of the following** (please initial next to each of the certifications below):

- \_\_\_\_ **1.** The undersigned signatory is a duly authorized representative and executive director or other equivalent senior managing officer of Applicant and has full authority to make the certifications referenced herein on Applicant's behalf.
- \_\_\_\_ **2.** Applicant represents and warrants that it meets or, upon receipt of the full Grant Award will meet, all eligibility requirements under the Program, including without limitation the following:
  - (a)** Applicant satisfies one of the following:
    - (i)** meets the definition of an "eligible nonprofit performing arts organization" pursuant to Program guidelines, meaning that Applicant is registered as a 501c(3) nonprofit entity that satisfies the criteria for a qualified small business pursuant to subdivision (f) of Cal. Gov't Code § 12100.82, has no more than two million dollars ( $\leq 2,000,000$ ) in annual gross revenue, and is in one of the following North American Industry Classification System codes, as reported on the entity's tax return:
      - (1)** 711110 - Theater Companies and Dinner Theaters.
      - (2)** 711120 - Dance Companies.
      - (3)** 711130 - Musical Groups and Artists.
      - (4)** 711190 - Other Performing Arts Companies; or
    - (ii)** serves as a fiscal sponsor for entities that meet the requirements set forth in subsection 2(a)(i) above.
  - (b)** Applicant, or in the case of a fiscal sponsor, such Applicant's eligible, fiscally-sponsored organization began operating in the state prior to June 1, 2019, as evidenced by the eligible nonprofit performing arts organization's official filing with the California Secretary of State.

- \_\_\_\_ 3. If a Grant Award is received by Applicant, such Grant Award will be used only to cover one or more of the following eligible costs and expenses of Applicant, or in the case of a fiscal sponsor, such Applicant's eligible, fiscally-sponsored organization:
- (a) all employee expenses including payroll costs, health care benefits, paid sick, medical, or family leave, and insurance premiums;
  - (b) contributions or payments to a centralized payroll service;
  - (c) recruitment, training, development, and other human resources related expenses; and/or
  - (d) other operating expenses or equipment for employees.
- \_\_\_\_ 4. If a grant is received by Applicant, no portion of the Grant Funds will be used for any purposes other than those listed in (3) above. Specifically, no portion of the Grant Funds will be used for the following costs and/or expenses (collectively, "Excluded Expenses"): (a) human resource expenses for the State share of Medicaid; (b) employee bonuses or severance pay; (c) tax payments; (d) legal settlements; (e) personal expenses or other expenses unrelated to the business; (f) expenses for repairs from damage covered by applicable insurance; or (g) reimbursement to donors for donated items or services. Applicant acknowledges and agrees that if all or any portion of a Grant Award is used for any unauthorized purpose, the State may hold the undersigned, Applicant, and/or any other officer or director thereof legally liable, including, but not limited to, liability for possible charges of fraud.
- \_\_\_\_ 5. Applicant acknowledges and agrees that neither Applicant nor in the case of a fiscal sponsor, such Applicant's eligible, fiscally-sponsored organization, is one or more of the following types of businesses or organizations deemed ineligible to receive a Grant Award under the Program:
- (a) a nonprofit entity not registered as either a 501c(3);
  - (b) a government entity (other than an entity owned and/or operated by a Native American tribe) or elected official office;
  - (c) a business or organization primarily engaged in political or lobbying activities;
  - (d) a passive business or organization, investment company or investor who files a Schedule E on its tax returns;
  - (e) a church or other religious institution, other than a school, child care, or other educational organization affiliated with a church or other religious institution where (i) greater than 50% of the gross annual revenue (as reflected on the entity's most recent federal tax filing (2019)) is derived from the school, child care facility or other educational business and (ii) the grant funds will be used only for eligible costs and expenses directly related to the school, child care, or other educational organization, and no portion of the Grant Award will be used for any normal profit or overhead of the church or other religious institution;
  - (f) a financial business or organization primarily engaged in the business of lending, such as a bank, finance company or factoring company;
  - (g) a business or organization engaged in any activity that is illegal under federal, state or local law;
  - (h) a business or organization of a prurient sexual nature, including a business or organization which presents live performances of a prurient sexual nature or a business or organization which derives directly or indirectly more than de minimis gross revenue

through the sale of products or services, or the presentation of any depictions or displays, of a prurient sexual nature;

- (i) a business or organization engaged in any socially undesirable activity or activity that may be considered predatory in nature such as rent-to-own businesses or check cashing businesses;
- (j) a business or organization that restricts patronage for any reason other than capacity, specifically any business that illegally discriminates patronage;
- (k) a speculative business or organization, meaning a business or organization for the sole purpose of purchasing and holding an item until the market price increases or other business or organization principally engaged in risky activity for the chance of an unusually large profit, including but not limited to, (i) oil wildcatting, (ii) dealing in stocks, bonds, commodity futures, and other financial instruments and (iii) mining gold or silver in other than established fields;
- (l) an eligible nonprofit performing arts organization (as defined in Section 6(a)(i) above) that is affiliated (as such term is defined in 13 C.F.R. § 121.103) with another Applicant;
- (m) a business, organization, franchise, or location of which any executive director or equivalent senior managing officer of Applicant, or in the case of a fiscal sponsor, such Applicant's eligible, fiscally-sponsored organization, has already applied for and received a grant under the Program;
- (n) a publicly traded corporation, or a business or organization majority owned and controlled by a publicly traded corporation; or
- (o) a business or organization that does not have (1) multiple clients providing income to the business or organization as demonstrated by multiple W-9 forms, invoices, purchase orders or (2) a business plan clearly stating a pathway to obtaining multiple clients and/or creating two (2) or more jobs.

\_\_\_\_ 6. Applicant understands that it is ineligible to receive a Grant Award under the Program if any officer or board member of Applicant or such Applicant's eligible, fiscally-sponsored organization:

- (a) has within the prior three-years been convicted of or had a civil judgment rendered against such officer or board member, or has had commenced any form of parole or probation (including probation before judgment), for:
  - (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction,
  - (ii) violation of federal or state anti-trust or procurement statutes, or
  - (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
- (b) is presently indicted for or otherwise criminally or civilly charged by a government entity, (federal, state or local) with commission of any of the offenses enumerated in subparagraph (a) above.

- \_\_\_\_ 7. No executive director or equivalent senior managing officer of the eligible nonprofit performing arts organization that would receive the benefits of any Grant Award under the Program has applied for or received, nor will any executive director or equivalent senior managing officer of such eligible nonprofit performing arts organization apply for or receive, any other grant through or under the Program on behalf of any other business and/or organization for which such person is also an owner, executive director, or equivalent senior managing officer. Applicant agrees that if a second award is issued, then one or both awards will be voidable at the discretion of the State, CalOSBA, GO-Biz and/or Lendistry, as applicable.
- \_\_\_\_ 8. No officer or director of Applicant, or in the case of a fiscal sponsor, such Applicant's eligible, fiscally-sponsored organization, are listed on the sanctions list for the Office of Foreign Assets Control of the U.S. Department of the Treasury. Further, neither Applicant nor, in the case of a fiscal sponsor such Applicant's eligible, fiscally-sponsored organization identified on such sanctions list.
- \_\_\_\_ 9. The undersigned, on behalf of Applicant, hereby authorizes the State and its designated authorized representatives, including without limitation CalOSBA, GO-Biz and Lendistry, to request access to, and to review, Applicant, Applicant's tax return information, if any, and other information related to Applicant that may be requested by such representatives, which may include an investigatory background check of Applicant. Applicant acknowledges that Lendistry will confirm Applicant's eligibility for the Program and the eligible Grant Award thereunder based, in part, on tax or other documents provided by Applicant, including any tax return(s) provided, and that the State, CalOSBA and GO-Biz may rely on such confirmation and documents in making a Grant Award to Applicant. Applicant further affirms that any tax return information provided in connection with the Program is identical to the applicable tax return information submitted to the Internal Revenue Service. Applicant understands, acknowledges and agrees that the State and its authorized representatives, including without limitation CalOSBA, GO-Biz and Lendistry, may share any such information with local, state and federal authorized representatives, including without limitation for the purpose of compliance with federal, state, or local laws and regulations.
- \_\_\_\_ 10. Any and all information provided by or on behalf of Applicant, including without limitation the information contained in Applicant's grant application submitted for the Program and any and all information provided in support of Applicant's application under the Program is and will be true and accurate in all material respects, including without limitation the North American Industry Classification System code(s) identified in the Applicant's application accurately reflects the classification of industry(ies) in which Applicant operates.
- \_\_\_\_ 11. Applicant acknowledges that the State of California, CalOSBA, GO-Biz and Lendistry are each relying upon the certifications made in this document in addition to any other certifications made by Applicant in connection with its application for, and participation in, the Program. Applicant further acknowledges and agrees that all certifications made by Applicant in connection with the Program are made in good faith.
- \_\_\_\_ 12. Applicant acknowledges and agrees that Applicant's receipt of a Grant Award under the Program is subject to, and conditioned upon the satisfaction of certain requirements, including without limitation, successful submission of Applicant's application, execution of this Applicant Certification, Applicant's satisfaction of all eligibility requirements for the Grant Award, execution of a Grantee Agreement between Applicant and the State, and Applicant's receipt of applicable grant funds. Applicant further acknowledges that Applicant's potential selection to

move forward in the Program does not mean that Applicant will be determined to receive a Grant Award under the Program.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Applicant Organization Name

\_\_\_\_\_  
Applicant EIN

\_\_\_\_\_  
Applicant Organization Address

**Fiscal Sponsors Only:**

\_\_\_\_\_  
Sponsoree Organization Name

\_\_\_\_\_  
Sponsoree EIN

\_\_\_\_\_  
Sponsoree Organization Address