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National Foundation on the Arts and Humanities: Reauthorization (1985): Report 04

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CHOICES OF AMENDMENTS TO OFFER DEALING WITH PORNOGRAPHY:

1. PRE AND POST-AWARD REVIEW

Rationale:As Professor Brooks from Yale University testified in our hearing on pornography, the funding of artistic and scholarly excellence should preclude the funding of pornographic material. These amendments which strengthen current pre and post award evaluations would also serve to answer some of the criticisms of accountability for federal funds. The post-award review amendment has clear sanctions.

a. Pre-award amendment--When panels of experts make recommendations for funding of projects, they shall only recommend for funding those projects which have significant merit, are reflective of exceptional talent, and foster excellence.

b. Post-award amendment--Grant recipients must within 90 days of the termination of the grant turn in a financial and descriptive report which the Endowments shall use in the postaward evaluation that must be conducted for all projects. The results of the evaluation may be used to determine whether to deny subsequent financial assistance to recipients. In addition the Endowments may require that recipients publish a disclaimer for the project or may prohibit the group or individual from in any way associating the project with the Endowment.

*burden
or
pro forma*

2. OFFER EITHER OBSCENITY OF POLICY DEVELOPMENT AMENDMENTS

Rationale:Amendment 1 allows any U.S. Attorney to prosecute a recipient for obscenity and if a work is deemed obscene allows for retrieval of funds. This takes the definition of obscenity out of the peer review system and into the courts. An alternative is to have the Federal Council as the policy-making arm of the Endowments develop a policy on funding pornographic works.

a. Obscenity--Any U.S. attorney may take a recipient to court for producing obscenity. If the court finds the recipient guilty of dissimulation of an obscene work of art funded by the Endowment, the Chair of the Endowment shall seek through all legal means to recoup the grant monies. (We may add to this that the recipient shall be ineligible for five years to apply for assistance from the Endowments.)

or

b. Federal Council develop policy--The Federal Council shall over the next two years develop and submit to Congress a policy on the funding of obscene works.