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6-22-1994

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Recommended Citation

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Briefing Book: National Endowment for the Arts (1994). Paper 5.
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**NATIONAL
ENDOWMENT
FOR THE
ARTS**

June 22, 1994

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

*The Federal agency
that supports the
visual, literary and
performing arts to
benefit all Americans*

Dear Mr. Chairman:

*Office of the
Chairman*

Thank you for your recent letter in which you indicated your concerns about the March 5, 1994 performance of Mr. Ron Athey at the Walker Art Center in Minneapolis. I appreciate having the opportunity to respond further on this matter.

Arts in Education

I want to assure you in the strongest terms possible that protection of public health and safety are of paramount concern to the National Endowment for the Arts. Section 954 (m)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, states in part:

*Challenge &
Advancement*

"no part of any project or production which is financed in whole or in part under this section will be performed or engaged in working conditions which are unsanitary or hazardous or dangerous to the health and safety to the employees engaged in such project or production."

Dance

Design Arts

Expansion Arts

Folk Arts

All Endowment grantees are required to sign a statement of compliance with the above section. As Chairman, I am committed to enforcing the statute, and to insuring that no member of the public is ever endangered by an Endowment assisted project.

International

Literature

Locals

Media Arts

Museum

Music

*Opera/Musical
Theater*

*Presenting &
Commissioning*

With respect to the March 5 performance of Mr. Athey, these are the facts. Mr. Athey is HIV positive. Prior to his performance, the Walker Art Center took appropriate safety precautions as developed by the U.S. Centers for Disease Control and provided to the Walker by the Minnesota AIDS project. The Minnesota Department of Health concurred with the appropriateness of these safety precautions in a public statement. Suggestions that the audience, performers or crew backstage were at risk are simply untrue. As I am sure you are aware, there is still a considerable amount of misunderstanding among the general public about the medically known facts of HIV transmission.

State & Regional

Theater

Visual Arts

With respect to the Athey performance itself, his work is a study exploring modern day martyrdom as it relates to AIDS. It is a very disturbing but important contemporary subject. Unfortunately, much of what was written in the media about the performance was exaggerated, and those exaggerations are now being repeated by direct mail organizations for their own political purposes.

*The Nancy Hanks Center
1100 Pennsylvania Ave. NW
Washington, DC 20506*

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As Chairman of the National Endowment for the Arts, I am committed to ensuring that the statutory requirements of artistic excellence and artistic merit are met by every grantee we fund. The deliberative process followed by the Endowment in making those decisions is governed by written guidelines, which are discussed and voted on in open session of the National Council on the Arts.

These are the facts with respect to the grant in question which the Endowment made to the Walker Art Center in 1993. In 1992, the Walker applied for a \$110,000 Presenting and Commissioning grant to help offset the \$498,650 estimated cost of its 1993-1994 presenting season. The application indicated the season would include more than 100 events in music, dance and theater. The panel reviewing the application was unanimous in its recognition of the Walker's commitment to artistic excellence.

Because applicants for seasonal support generally must apply more than a year in advance, they do not, nor can we expect them to know at the point of application each event they intend to present. In large part, judgments as to artistic quality and merit in applications for seasonal support are based on the past achievement of the applicant. The many excellent artists who performed at the Walker in previous years, performers like Trisha Brown, David Byrne, Merce Cunningham, the Kronos Quartet and many others, were presented in the application as evidence testifying to the quality of the Walker Art Center.

In addition to past achievement, Arts Endowment guidelines look to the level of institutional and community support. As one of the most prestigious cultural institutions in Minnesota, the Walker Art Center enjoys unparalleled support. Among its major corporate sponsors are General Mills, 3M, American Express, Honeywell, Dayton-Hudson and many others. The level of individual support is equally impressive. Given all of these considerations, the Endowment's Presenting and Commissioning panel, the National Council on the Arts, and finally the Acting Chairman (who was my predecessor) deemed the application excellent and awarded a grant of \$104,500.

I want you to know that I am mindful of the concerns that some Members of Congress and others have expressed about seasonal support - concerns that center on the inexact nature of the application and the inability of opera companies, orchestras, presenting organizations, and theaters to know a year and a half in advance the exact repertory and/or performers they intend to present. That is the reality of the way this business works. Even Ford's Theater, the Kennedy Center and Lincoln Center do not know necessarily what their schedules will look like a year and a half in advance.

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However, I want you to know that I have taken steps since becoming Chairman to tighten the Endowment's grantee reporting requirements. In compliance with our authorizing statute, I am insuring that all our guidelines are amended to require grantees to submit written interim reports before the final one-third grant award may be drawn down. In the eventuality that a grantee fails to comply with grant requirements, the Endowment may undertake a number of options which include suspension of payments, termination of the grant, grant recovery or disbarment. I will not hesitate to utilize any of these sanctions if in my judgment a grantee fails to meet the grant requirements.

You mentioned, and I share, a concern about situations in which a grantee might use funds in a way that is different from what was proposed in the grant application and approved by the Endowment. In this regard, I have directed that our program guidelines include the following provision:


"Grantees are expected to carry out a project consistent with the proposal approved for funding by the Arts Endowment. If changes in the project are believed necessary, the grantee must send a written request with justification to the relevant program. The Endowment's Grants Office will notify the grantee in writing as to the Arts Endowment's determination on its request. Project amendment requests are considered on a case-by-case basis. Approval is not guaranteed."

In closing, I believe it is very important that the Committee understand my commitment to funding only the best art America has to offer. In addition, I believe it is critical that we at the Federal level be respectful of decisions that are made at the local community level about what kind of art is appropriate to each community. I believe that the measures I am taking as Chairman address the concerns you expressed in your letter.

Because you are Chairman of the Senate Appropriations Subcommittee with jurisdiction over the National Endowment for the Arts, I and my staff have contacted your office on several occasions requesting an appointment with you to discuss the priorities I have set for my Chairmanship of the Arts Endowment. I would still very much appreciate the opportunity to meet with you. I have much to report about the many wonderful projects that the Endowment supports throughout the country, including a number of important projects in your own state.

Again, I appreciate your writing, and look forward to hearing from you.

Very sincerely yours,



Jane Alexander
Chairman