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Rogelio Garcia

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TO : Senate Committee on Labor and Human Resources
     Subcommittee on Education, Arts and Humanities
     Attention: Sandy Crary

FROM : Rogelio Garcia
       Analyst in American National Government
       Executive Organization and Operations Section
       Government Division

SUBJECT: Grant Making Authority At National Endowment for the Arts
         and At Similar Agencies

In response to your request, this memorandum examines the grant making
authority of the Chairman of the National Endowment for the Arts (NEA) and the
heads of similar Federal agencies— the National Endowment for the Humanities,
the Institute of Museum Services, and the National Science Foundation. (The
National Endowment for the Humanities and the Institute of Museum Services are
sister agencies of the Endowment for the Arts. All three are located within
the National Foundation on the Arts and the Humanities.)

Telephone discussions with officials at each of the agencies and a review
of the appropriate statutes indicate that the Chairmen of the Endowment for the
Arts and the Endowment for the Humanities and the Director of the Institute of
Museum Services have final statutory authority to approve or disapprove a
grant application.

The Director of the National Science Foundation, on the other hand, needs
the specific approval or delegated authority of the National Science Board
before he or she may make a grant. As a matter of policy, the Board regularly
delegates its grant making authority, subject to certain conditions, to the Director who in turn delegates the authority to his Division Managers. The statutory provisions central to the grant making authority of the agencies are outlined below.

The National Endowment for the Arts

The NEA is headed by a Chairman and has a National Council on the Arts, which advises the Chairman with respect to policies, procedures and applications for financial support. The Chairman and Council members are appointed by the President with the advice and consent of the Senate.

The Chairman, with the advice of the Council, is authorized

(1) to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts . . . (20 U.S.C. 954 (c));

(2) to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions . . . (20 U.S.C. 954 (g)(1));

(3) to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State or local level . . . (20 U.S.C. 954 (l)(1)).

The National Council on the Arts is composed of the NEA Chairman (who also chairs the Council) and 26 other members appointed by the President with the advice and consent of the Senate. The Council meets at the call of the Chairman but not less often than twice a year. The Council

(1) advises the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties or responsibilities;
(2) reviews applications for financial assistance ... and makes recommendations to the Chairperson [who] may not approve or disapprove an application until he has received the Council's recommendation unless the Council fails to make a recommendation within a reasonable time. The Council may delegate to the Chairperson authority to act, without a recommendation, if the application is for $30,000 or less. In such cases, however, the Council reviews the action (20 U.S.C. 955(f)).

National Endowment for the Humanities

The NEH is headed by a Chairman and has a National Council on the Humanities, which advises the Chairman with respect to policies, procedures, and applications for financial support. The Chairman and Council members are appointed by the President with the advice and consent of the Senate.

The Chairman of the NEH has grant-making authority similar to that of the Chairman of the NEA. With the advice of the Council, the Chairman is authorized

(1) to award fellowships and grants to institutions or individuals for training and workshops in the humanities (20 U.S.C. 956(c));

(2) to establish and carry out a program of contracts-in-aid in each of the several States (20 U.S.C. 956(f));

(3) to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations (20 U.S.C. 956(h)(1)).

The National Council on the Humanities is composed of the NEH Chairman (who also chairs the Council) and 26 other members appointed by the President with the advice and consent of the Senate. The Council meets at the call of the Chairman but not less often than twice a year. The Council

(1) advises the Chairman with respect to policies, programs, and procedures for carrying out his functions, duties or responsibilities;
(2) reviews applications for financial assistance and makes recommendations to the Chairperson who may not approve or disapprove an application until he has received the Council's recommendation unless the Council fails to make a recommendation within a reasonable time. The Council may delegate to the Chairperson authority to act, without a recommendation, if the application is for $30,000 or less. In such cases, however, the Council reviews the action (20 U.S.C. 957 (f)).

Institute of Museum Services

The Institute is administered by a Director who is subject to the policy directives and priorities set by a 15-member National Museum Services Board. The Board members and the Director are appointed by the President with the advice and consent of the Senate. The Chairman of the Board is designated by the President from among its appointed members (20 U.S.C. 963 (a)).

The Board is responsible for establishing the Institute's general policies (20 U.S.C. 963 (f)). The Director, subject to the policy direction of the Board, is authorized

(1) to make grants to museums to increase and improve museum services (20 U.S.C. 965 (a));

(2) to enter into contracts and cooperative agreements with professional museum organizations to provide financial assistance to such organizations . . . (20 U.S.C. 965 (b)).

1 Also serving on the Board as nonvoting members are the Chairman of the National Endowment for the Arts; the Chairman of the National Endowment for the Humanities; the Secretary of the Smithsonian Institution; and the Director of the National Science Foundation.
National Science Foundation

The NSF consists of the National Science Board, which has 24 members, and a Director, who is an ex officio member of the Board. The Board elects its own Chairman and Vice Chairman from among its members, as well as the Director. Board members and the Director are appointed by the President with the advice and consent of the Senate. The Board is responsible for policymaking and has final grant making authority.

The Director may make grants, contracts, and other arrangements pursuant to section 1870(c) of this title only with the prior approval of the Board or under authority delegated by the Board, and subject to such conditions as the Board may specify (42 U.S.C. 1864 (e)(1)).

In practice, the Board routinely delegates its grant making authority to the Director, who in turn delegates it to his Division Managers. The most recent delegation was on August 21, 1987. Subject to certain reservations, the delegation of authority reads:

The Director of the National Science Foundation shall make no award involving a total commitment of more than six million dollars or more than one and one-half million dollars in any one year without the prior approval of the National Science Board . . . (Federal Register, vol. 52, No. 185, September 24, 1987, p. 35977).

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2 P.L. 99-159 amended subsection (e). Prior to the amendment, subsection (e) read as follows: "The Director shall not make any contract, grant, or other arrangement pursuant to section 1870(c) of this title without the prior approval of the Board, except that a grant, contract, or other arrangement involving a total commitment of less than $2,000,000, or less than $500,000 in any one year, or a commitment of such lesser amount or amounts and subject to such other conditions as the Board in its discretion may from time to time determine to be appropriate and publish in the Federal Register, may be made if such action is taken pursuant to the terms and conditions set forth by the Board, and if each such action is reported to the Board at the Board meeting next following such action."
Peer Review of Grant Applications

Peer review panels established by each agency review and make recommendations on the individual grant applications received by the agencies. At the Endowment for the Arts, peer review panels make their recommendations to the Council on the Arts; at the Endowment for the Humanities, peer review panels make their recommendations to the National Council on the Humanities. Each Council then sends the applications and the recommendations, including its own, to the Chairman of their respective agency for final action.

At the Institute for Museum Services, peer review of applications is conducted mostly by field reviewers. Panel review is reserved for a small number of applications, including some applications that have undergone field review and that the staff of the Institute feel should be evaluated by a panel. The applications and the recommendations of the field reviewers and panel reviewers are sent to the Director of the Institute for final action.

At the National Science Foundation, grant applications are evaluated by peer review panels that send their recommendations to Program Managers. The Program Managers in turn send the recommendations, along with their own, to their Division Managers. The Division Manager makes the final decision if the grant is for $1.5 million or less in any one year or for a total commitment of $6 million or less. Grants larger than the above amounts need the approval of the National Science Board.

If you have any questions regarding this memorandum, please call me on 287-8687.