

would be likely to significantly frustrate the implementation of proposed agency actions, *i.e.*, proposed funding decisions.

Consequently, in the interest of meeting our obligations of confidentiality in reference to matters submitted as part of grant applications, and in order to encourage and ensure, for the benefit of the Government's review and evaluation process, candid and uninhibited expression of views concerning the merits of grant applications and contract proposals:

It is hereby determined in accordance with the provisions of section 10(d) of the Act that the disclosure of information regarding the review, discussion, and evaluation of grant applications and contract proposals, as outlined herein is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action.

Therefore, in light of the above, I have determined that the above referenced meetings or portions thereof, devoted to review, discussion, evaluation, and/or ranking of grant applications, and contract proposals may be closed to the public in accordance with subsection (c)(4)(6), and 9(B) of section 552b of title 5, United States Code.

The staff of each committee shall prepare a summary of any meeting or portion not open to the public within three (3) business days following the conclusion of the meeting of the National Council on the Arts considering applications recommended by such committees. The summaries shall be consistent with the considerations that justified the closing of the meetings.

All other portions of the meetings of these advisory committees shall be open to the public unless the Chairperson of the National Endowment for the Arts or a designee determines otherwise in accordance with section 10(d) of the Act.

The Panel Coordinator shall be responsible for publication in the **Federal Register** or, as appropriate, in local media, of a notice of all advisory committee meetings. Such notice shall be published in advance of the meetings and contain:

(1) Name of the committee and its purposes:

(2) Date and time of the meeting, and, if the meeting is open to the public, its location and agenda; and

(3) A statement that the meeting is open to the public, or, if the meeting or any portion thereof is not to be open to the public, a statement to that effect.

The Panel Coordinator is designated as the person from whom rosters of lists of committee members may be obtained and from whom minutes of open meetings or open portions thereof may be requested.

Guidelines

Any interested person may attend meetings of advisory committees that are open to the public.

Members of the public attending a meeting will be permitted to participate in the committee's discussion at the discretion of the chairperson of the committee, if the chairperson is a full-time Federal employee; if the chairperson is not a full-time Federal employee then public participation will be permitted at the chairperson's discretion with the approval of the full-time Federal employee in attendance at the meeting in compliance with the order.

Dated: April 30, 2003.

Dana Gioia,

Chairman, National Endowment for the Arts.

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Determination of the Chairperson of the National Endowment for the Arts Regarding Potential Closure of Portions of Meetings of the National Council on the Arts

Section 6(f) of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951 *et seq.*) authorizes the National Council on the Arts to review applications for assistance to the National Endowment for the Arts and make recommendations to the Chairperson.

The Federal Advisory Committee Act (FACA), as amended (Pub. L. 92-463) governs the formation, use, conduct, management, and accessibility to the public of committees formed to advise the Federal Government. Section 10 of that Act directs meetings of advisory committees to be open to the public, except where the head of the agency to which the advisory committee reports determines in writing that a portion of a meeting may be closed to the public

consistent with subsection (c) of section 552b of Title 5, United States Code (the Government in the Sunshine Act.)

It is the policy of the National Endowment for the Arts that meetings of the National Council on the Arts be conducted in open session, including those parts during which applications are reviewed. However, in recognition that the Endowment receives as part of some grant applications non-public proprietary or financial information, I have determined to reserve the right to close limited portions of Council application reviews at which such protected information is specifically discussed. The purpose of closure is to protect the confidentiality of protected information. Closure for this purpose is authorized by subsection (c)(4) of section 552b of Title 5 United States Code.

Additionally, at one of its meetings, the Council will consider prospective nominees for the National Medal of Arts award in order to advise the President of the United States in his final selection of National Medal of Arts recipients. During this session information of a personal nature may be discussed. Disclosure of this information about individuals who are unaware that they are under consideration for the award would constitute a clearly unwarranted invasion of personal privacy. Moreover, the premature disclosure of this information would significantly frustrate the nomination and selection of National Medal of Arts recipients.

Therefore, in light of the above, I have determined that the above referenced portion of the July 2003 Council meeting, devoted to consideration of prospective nominees for the National Medal of Arts award, may be closed to the public. Closure for these purposes is authorized by subsections (c)(6) and (9)(B) of section 552b of Title 5, United States Code. A record shall be maintained of any closed portion of the Council meeting. Further, in accordance with the FACA, a notice of any intent to close any portion of the Council meeting will be published in the **Federal Register**.

Dated: April 30, 2003.

Dana Gioia,

Chairman, National Endowment for the Arts.

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