

Monitoring Protocol GSF

STATE NAME:

GSF RECIPIENT NAME: WNET

Attachment D - GSF Recipient documents. To be submitted by each GSF Recipient being monitored. Please return to State Contact when completed.

PLEASE CLEARLY LABEL EVERY DOCUMENT with Section Number and Title from this document. For example, "Agency Name - Section II - Fiscal Oversight of SFSF Funds - Document Name." PLEASE NUMBER ALL PAGES.

SECTION NUMBER	TITLE	DOCUMENTATION	PROVIDED (Check X)	NOT PROVIDED (Check X)	NAME OF DOCUMENT SUBMITTED (Use this title consistently for header of document and name of email attachment).	COMMENTS If not provided, please explain why (i.e. not available, not applicable)
I	GSF applications and allocations	No documentation required from GSF Recipient for Section I				No documentation required from GSF Recipient for Section I
II	Fiscal Oversight of SFSF Funds	Recipient's financial management policies and procedures, including documentation that SFSF funds are tracked separately, such as ledgers or other documentation for the most recent quarter		X		Written policies, procedures and automated grant management system are currently under development. They will submit a draft of these guidelines to the State Education Department by July 30, 2010.
		Recipient's policies and procedures on compliance with cash management requirements, including transaction details (such as accounting journals) for the most recent quarter showing that obligations were liquidated to meet immediate obligation needs (i.e. within 3-5 days)		X		The Cash Management Improvement Act requires recipients of federal grants to remit any interest earned as a result of federal grants to the federal government by way of the State Education agency. In the case of SFSF—Government Services funds provided to public broadcasting stations such as WNET, the State Education Department provided funds on a reimbursement basis only after expenditures were incurred by grant recipients. No advances were provided and thus it was not possible for grant recipients to earn interest from the funds. Because NYSED reimbursed for expenses already incurred, there were no cash management issues to be addressed.
III	Progress in 4 Reform Areas	No documentation required from Recipient for Section III				No documentation required from Recipient for Section III
IV	Subrecipient Monitoring	Documentation evidencing actions taken in response to State monitoring recommendations		X		No recommendations were issued following monitoring visit.
V	Reporting	Sample of documentation supporting data provided to the State in Section 1512 quarterly report for the most recent quarter		X		ARRA reporting required by section 1512 of the Recovery Act involved grant recipients reporting on job impact and expenditures to date. The State provided OMB guidance issued in September 2009 which allowed grant recipients to report on jobs that were indirectly saved or created because of Recovery Act funding. Because of this guidance WNET reported 43 jobs indirectly saved as a result of Recovery Act guidance. On December 18, 2009, OMB released new guidance asking grant recipients to report the job impact only for jobs directly funded with ARRA funds. As a result of the revised guidance WNET reported no jobs saved or created. Expenditures to date were reported by the SED payment office (Grants Finance) as WNET drew down its funds. WNET submitted a detailed list of check numbers, dates, payees and amounts of rent checks to the State Education Department with the request for reimbursement payment.

Attachment 1

Attachment 1

**Public Broadcasting
09-10 ARRA Fund Application**

Name: *STEVEN E. Mandel*

Address: *450 W. 33RD ST.*

Contact Person: *STEVEN E. Mandel*

Contact Phone Number: *212-560-2784*

Contact E-mail: *MandelS@WNET.ORG*

DUNS Number: *003933595*

Central Contract Registration Valid Until: *8 17 10*

I hereby certify that I am the chief executive officer of the public television council or public radio station and that the information contained in this application is, to the best of my knowledge, complete and accurate. I further certify, to the best of my knowledge, that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations, application guidelines and instructions, Assurances, Certifications, and that the requested budget amounts are necessary for the implementation of this project. It is understood by the applicant that this application constitutes an offer and, if accepted by the NYS Education Department or renegotiated to acceptance, will form a binding agreement. It is also understood by the applicant that immediate written notice will be provided to the grant program office if at any time the applicant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

Authorizing Official (Print): *ROBERT CLAUSER*

RF

Authorizing Official (Signature, blue ink):



Date Singed: *08/11/2009*

Attachment 2

The University of the State of New York
 THE STATE EDUCATION DEPARTMENT
 (see instructions for mailing address)

PROPOSED BUDGET FOR A
 FEDERAL OR STATE PROJECT
 FS-10 (01/05)

Local Agency Information

Funding Source: FEDERAL - ARRA - Public Broadcasting

Report Prepared By: STEVEN MANOEL

Agency Name: Educational Broadcasting Corp.

Mailing Address: 450 W. 33RD ST.

Street		
<u>N.Y.</u>	<u>N.Y.</u>	<u>10001</u>
City	State	Zip Code

Telephone #: 212-560-2784 County: New York

E-Mail Address: mandel59@nec.org

Project Operation Dates: 7 / 1 / 09 12 / 31 / 09
 Start End

INSTRUCTIONS

- ❖ Submit the original budget and the required number of copies along with the completed application directly to the appropriate State Education Department office as indicated in the application instructions for the grant program for which you are applying. DO NOT submit this form to the Grants Finance.
- ❖ Enter whole dollar amounts only.
- ❖ Prior approval by means of an approved budget (FS-10) or budget amendment (FS-10-A) is required for:
 - Personnel positions, number and type
 - Beginning with the 2005-06 budgets, equipment items having a unit value of \$5,000 or more, number and type
 - Budgets for 2004-05 and earlier years equipment items having a unit value of \$1,000 or more, number and type
 - Minor remodeling
 - Any increase in a budget subtotal (professional salaries, purchased services, travel, etc.) by more than 10 percent or \$1,000, whichever is greater
 - Any increase in the total budget amount.
- ❖ Certification on page 8 must be signed by Chief Administrative Officer or designee.
- ❖ High quality computer generated reproductions of this form may be used.
- ❖ For changes in agency or payee address contact the State Education Department office indicated on the application instructions for the grant program for which you are applying.
- ❖ For further information on budgeting, please refer to the Fiscal Guidelines for Federal and State Aided Grants which may be accessed at www.oms.nysed.gov/cafe/ or call Grants Finance at (518) 474-4815.

PURCHASED SERVICES: Code 40

Include consultants (indicate per diem rate), rentals, tuition, and other contractual services. Copies of contracts may be requested by the State Education Department. Purchased Services from a BOCES, if other than applicant agency, should be budgeted under Purchased Services with BOCES, Code 49.

Description of Item	Provider of Services	Calculation of Cost	Proposed Expenditure
RENT/TRANSMISSION	EMPIRE STATE Building	BASED ON INVOICE (CONTRACTUAL)	179,329
RENT	450 PARTNERS LLC	BASED ON INVOICE (CONTRACTUAL)	2,416,683
Subtotal - Code 40			2,596,012

SUPPLIES AND MATERIALS: Code 45

Beginning with the 2005-06 year include computer software, library books and equipment items under \$5,000 per unit.

For earlier years include computer software, library books and equipment items under 1,000 per unit.

Description of Item	Quantity	Unit Cost	Proposed Expenditure
Subtotal - Code 45			

Attachment 3

Attachment 3

New York State Education Department

Terms and Conditions, Assurances and Certifications for Federal Program Funds under the American Recovery and Reinvestment Act (ARRA)

The following terms and conditions, assurances and certifications are intended to facilitate the release of newly awarded federal funds under the American Recovery and Reinvestment Act (ARRA). By signing the certification on the application cover page, the District Superintendent, Superintendent or Chief Executive Officer of the sub-grantee is ensuring:

- required accountability and compliance with all applicable federal and State laws, regulations, and grants management requirements including ARRA Public Law 111-5 including the reporting requirements outlined in Section 1512 of the Act,
- maintenance and availability of records and information required for fiscal audit and program evaluation including, but not limited to an inventory of equipment purchased with funds under this Part, documentation of the fair market value of required in-kind contribution, if any; and data that documents progress toward the performance indicators,
- funds will be used only for activities and items authorized by the respective statute and outlined in the approved application,
- funds will be accounted for separately,
- title to materials and equipment obtained with these funds will be retained by the sub grantee to support grant activities or returned to the State Education Department,
- funds received under the grant are used to supplement, not supplant, funds used before the award of this grant,
- adequate space will be available to fully implement activities as described in the application and such space is in compliance with all applicable safety standards, and
- services provided with this grant will be physically and programmatically accessible to individuals with disabilities and their families.

Terms and Conditions

Sub-grantees shall administer each ARRA sub-grant in accordance with the Act to the extent consistent with State Laws and regulations and use the funds in a highly cost effective manner consistent with The American Recovery and Reinvestment Act of 2009 and the United States Education Department principals and guidelines. Sub-grantees will also register on line with the United States Government's *Central Contractors Registration* at <http://www.ccr.gov>.

Sub-grantees shall report quarterly certain required standard data elements pertaining to the use of ARRA funds on time in a manner prescribed by the State and the New York State Education Department.

Buy American - Use of American Iron, Steel, and Manufactured Goods

Sub-grantees may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

Wage Rate Requirements

[This term and condition shall not apply to tribal contracts entered into by the Indian Health Service funded with this appropriation. (ARRA Title VII—Interior, Environment, and Related Agencies, Department of Health and Human Services, Indian Health Facilities)]

Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code. (ARRA Sec. 1606)

Limit on Funds (ARRA)

None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. (ARRA Sec. 1604)

Disclosure of Fraud or Misconduct

Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. The Office of Inspector General can be reached at <http://www.oig.gov/fraud/hotline/>

ARRA: One-Time Funding

Unless otherwise specified, ARRA funding to existent or new awardees should be considered one-time funding.

ASSURANCES - NON-CONSTRUCTION PROGRAMS

As the duly authorized representative of the applicant, and by signing the application cover page, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction sub agreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following:

(a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

**Standard Form 424B (Rev. 7-97), Prescribed by OMB Circular A-102, Authorized for Local
Reproduction, as amended by New York State Education Department**

CERTIFICATIONS REGARDING LOBBYING

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of the Application Cover Page provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part

85, "Government-wide Debarment and Suspension (Nonprocurement)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, contracts under grants and cooperative agreements, and subcontracts) and that all sub recipients shall certify and disclose accordingly.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION — LOWER TIER COVERED TRANSACTIONS

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing the Application Cover Page, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and

“voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ED 80-0014, as amended by the New York State Education Department

GENERAL EDUCATION PROVISIONS ACT ASSURANCES

These assurances are required by the General Education Provisions Act for certain programs funded by the U.S. Department of Education.

As the authorized representative of the applicant, by signing the application cover page, I certify that:

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction –

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

APPENDIX A **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred,

conveyed, sublet or otherwise disposed of without the previous consent, in writing, of the State and any attempts to assign the contract without the State's written consent are null and void. The Contractor may, however, assign its right to receive payment without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. Unless exempt by law or the Office of the State Comptroller's policy, in accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6.a).

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** All invoices or New York State standard vouchers submitted for payment for the sale of goods or services or the lease of real or personal property to a New York State agency must include the payee's identification number, i.e., the seller's or lessor's identification number. The number is either the payee's Federal employer identification number or Federal social security number, or both such numbers when the payee has both such numbers. Failure to include this number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or New York State standard voucher, must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.**

(1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the

Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

(2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in New York State's Central Accounting System by the Director of Accounting Operations, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State; or (iii) banking services, insurance policies or the sale of securities. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Governor's Office of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
30 South Pearl St -- 7th Floor
Albany, New York 12245
Telephone: 518-292-5220
Fax: 518-292-5884
<http://www.empire.state.ny.us>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
30 South Pearl St -- 2nd Floor
Albany, New York 12245
Telephone: 518-292-5250
Fax: 518-292-5803
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

- (a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;
- (b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
- (c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and
- (d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. PURCHASES OF APPAREL. In accordance with State Finance Law 162 (4-a), the State shall not purchase any apparel from any vendor unable or unwilling to certify that: (i) such apparel was manufactured in compliance with all applicable labor and occupational safety laws, including, but not limited to, child labor laws, wage and hours laws and workplace safety laws, and (ii) vendor will supply, with its bid (or, if not a bid situation, prior to or at the time of signing a contract with the State), if known, the names and addresses of each subcontractor and a list of all manufacturing plants to be utilized by the bidder. **(June 2006)**

Attachment D

ATTACHMENT D

GOVERNMENT SERVICES FUND MONITORING PROTOCOL

STATE FISCAL STABILIZATION FUND PROGRAM

GSF Recipient Entity: WNET

State: NY

Name/Title of GSF Recipient Representative completing this form: [Evelyn Mendez for WNET.org](#)

Date of submission to ED: 7/27/10

GSF Recipient: Please return this form and all required documentation to State contact.

State: Please submit this form and all required documentation in PDF Format to: SFSFMonitoring@ed.gov

I. Government Service Fund applications and allocations

ISSUE: Whether the State has established appropriate procedures for awarding Government Services funds to entities.

Guiding Questions

1. Did the State require you to submit an application for Government Services funds?
(Optional) If so, what information did the State require you to include in the application?

Submission of two documents constituted the ARRA application. Attachment 1 is the request for ARRA funding WNET submitted to the NYSED Office of Educational Television and Public Broadcasting on August 11, 2009. Attachment 2 is the State Education Department Grant Application Form which was submitted by WNET on September 22, 2009, reviewed and approved by the Office of Educational Television and Public Broadcasting on September 30, 2009, and forwarded to the State Education Department's Office of Grants Finance on October 1, 2009 for their review and approval.

2. Were any conditions or restrictions placed on your eligibility for Government Services funds?
Attachment 3 contains the details of the terms and conditions agreed to.
3. What guidance did the State initially provide to you?

On July 7, 2009 the Office of Educational and Public Broadcasting sent an e-mail to ARRA eligible recipients explaining the process and allowable expenditures.

4. How much Government Services funding did the State provide to your entity?
\$2,596,012
5. When were the funds first made available to you?
Upon receipt and approval of application documents AND receipt of request-for-payment documents.
6. Did you receive the funds on a regular schedule? If so, what is that schedule (e.g., monthly, quarterly)?
There was no schedule imposed by NYSED for the draw down. It occurred upon receipt of requests for payment documenting allowable expenditures. The ARRA funds were provided on a reimbursement basis.
7. Has the State made any adjustments to your original award amount?
No.

Evidence/Documentation

See Attachment 1, "Master Protocol Document."

II. Fiscal Oversight of SFSF Funds

ISSUE: Whether the entity has established appropriate policies and procedures for ensuring fiscal oversight of SFSF funds.

Guiding Questions

1. What internal controls does your entity have in place to ensure that SFSF expenditures are allowable? (See April 2009 SFSF Guidance at IV for information on allowable and prohibited uses of SFSF funds.)
All monies were used to cover one type of expenditure to ensure the expenditures were allowable. This expense was rent, which is allowable under SFSF guidelines.
2. What specific projects or activities did your entity support with SFSF funds?
Per guidance from the Federal Department of Education all expenditures went to rent.
3. How does your entity ensure that it complies with the requirements of the Cash Management Improvement Act (CMIA)?

The Cash Management Improvement Act requires recipients of federal grants to remit any interest earned as a result of federal grants to the federal government by way of the State Education agency. In the case of SFSF—Government Services funds provided to public broadcasting stations such as WNET, the State Education Department provided funds on a reimbursement basis only after expenditures were incurred by grant recipients. No advances were provided and thus it was not possible for grant recipients to earn interest from the funds. Because NYSED reimbursed for expenses already incurred, there were no cash management issues to be addressed.

4. Does your financial recordkeeping system properly account for the use of SFSF funds?
Yes, types of expenditures were isolated, rent invoices are on file, and ARRA revenues and expenditures can be traced through accounts payable and cash disbursement systems.
5. What guidance have you received from the State regarding the obligation and drawing down of SFSF funds?

<http://www.oms.nysed.gov/cafe> is a link to the State Education Department's Office of Grants Finance regarding the process for obligation and drawing down funds processed through the Education Department's Office of Grants Finance and compliance with applicable federal and state requirements. All ARRA monies were processed through this office upon approval from the Office of Educational Television and Public Broadcasting.

6. Did you receive authorization to use SFSF funds for preaward costs? Did you use funds for preaward costs during the approved period?

On 4/16/09, the ARRA award was included in the enacted 2009-10 budget. On September 24, 2009, the State Education Department received an approved Certificate of Approval from the Division of the Budget for use of the ARRA funds dated April 1, 2009. The application submitted by WNET, dated September 22, 2009, was approved by the State Education Department's Office of Educational Television and Public Broadcasting on September 30, 2009, enabled use of ARRA funds for reimbursement of allowable expenditures dating back to July 1, 2009.

7. What steps are you taking to ensure compliance with the cross-cutting ARRA requirements (e.g., Section 1512 reporting, Buy American, infrastructure certification)?

N/A. ARRA funds were for approved rent expenses.

Evidence/Documentation

See Attachment 1, "Master Protocol Document."

III. Subrecipient Monitoring

ISSUE: Whether the entity has cooperated with the State during the monitoring process.

Guiding Questions

1. Have you been monitored by the State? If so, when? If not, have you been notified of when you will be monitored?

The Office of Educational Television and Public Broadcasting performed ongoing desk monitoring prior to release of reimbursement payments. An on site monitoring visit took place on March 25, 2010.

2. Did the State provide you with a copy of its monitoring instruments?

No, the State did not have a monitoring instrument.

3. If you have been monitored by the State, what issues did the State discuss during its monitoring? What recommendations did the State make?

WNET reported 43 positions were saved for the quarter ending December 31, 2009. These were indirect positions saved because the ARRA funds were used solely for rent expenses. During the monitoring visit, WNET staff explained to the state monitor how it was determined that 43 positions were saved because of receipt of the ARRA funds.

4. What actions have you taken in response to any monitoring recommendations?

None, as there were no recommendations from the state.

Evidence/Documentation

See Attachment 1, "Master Protocol Document."

IV. Reporting

ISSUE: Whether the entity has cooperated with the State in complying with all reporting requirements.

Guiding Questions

1. What guidance on reporting has the State provided to you?

<http://www.oms.nysed.gov/cafe> is a link to the State Education Department's Office of Grants Finance regarding reporting for funds processed through the Education Department's Office of Grants Finance. All ARRA monies were processed through this office upon approval from the Office of Educational Television and Public Broadcasting. Guidance on quarterly reporting including calculating job estimates was provided at <http://usny.nysed.gov/arra/> which was used until the quarter ending 3/31/10 when the State implemented the revised OMB guidance of 12/18/09. As a result of the revised guidance, WNET discontinued reporting jobs.

2. What information has the State required you to provide so that it may comply with applicable reporting requirements?

ARRA reporting required by section 1512 of the Recovery Act involved grant recipients reporting on job impact and expenditures to date. The State provided OMB guidance issued in September 2009 which allowed grant recipients to report on jobs that were indirectly saved or created because of Recovery Act funding. Because of this guidance WNET reported 43 jobs indirectly saved as a result of Recovery Act guidance. On December 18, 2009, OMB released new guidance asking grant recipients to report the job impact only for jobs directly funded with ARRA funds. As a result of the revised guidance WNET reported no jobs saved or created. Expenditures to date were reported by the SED payment office (Grants Finance) as WNET drew down its funds. WNET submitted a detailed list of check numbers, dates, payees and amounts of rent checks was submitted to the State Education Department with the request for reimbursement payment.

Evidence/Documentation

See Attachment 1, "Master Protocol Document."