compensation (including fringe benefits) required under the applicable collective bargaining agreement negotiated by the labor organization named in paragraph (a) of this section, or furnish a bond with a surety or sureties satisfactory to the Administrator for the protection of the compensation of the affected employees.

§ 505.4 Receipt of grant funds.

(a) The grantee shall not receive funds authorized by section 5 or section 7 of the Act until adequate initial assurances have been filed with the Chairperson of the National Endowment for the Arts or the Chairperson of the National Endowment for the Humanities, pursuant to sections 5(i) (1) and (2) and sections 7(g) (1) and (2) of the Act as provided in §505.5(a), that all professional performers and related or supporting professional personnel will be paid not less than the prevailing minimum compensation determined in accordance with §505.3(a) or (b) and that the safety and health requirements under §505.6 will be met. The Chairpersons will maintain on file in Washington, DC, for a period of three (3) years and make available upon request of the Secretary the original signed Form ESA–38 and a copy of the grant letter together with any supplementary documents needed to give a description of the project or production to be financed in whole or in part under the grant.

§ 505.5 Adequate assurances.

(a) Initial assurances. The grantee shall give adequate initial assurances that not less than the prevailing minimum compensation determined in accordance with §505.3 will be paid to all professional performers and related or supporting professional personnel, and that the safety and health requirements will be complied with. Neither shall the grantee receive any such funds if and after the Chairperson of the National Endowment for the Arts or the Chairperson of the National Endowment for the Humanities is advised by the Secretary that continuing assurances as provided in §505.5(b) are inadequate or that labor standards contemplated by sections 5(i) (1) and (2) or sections 7(g) (1) and (2) of the Act have not been observed.

(b) In order to facilitate such assurances so that the grantee may receive the grant funds promptly, the Chairpersons of the National Endowment for the Arts and the National Endowment for the Humanities will transmit with the grant letter, to each grantee of a grant that will provide assistance to projects or productions employing professional performers or related or supporting professional personnel under section 5 or section 7 of the Act, a copy of these regulations together with Form ESA–38. The Chairperson will advise the grantee that before the grant may be received, the grantee must give assurances that all professional performers and related or supporting professional personnel (other than laborers or mechanics with respect to whom labor standards are prescribed in section 5(j) and section 7(j) of the Act), will be paid, without subsequent deduction or rebate on any account not less than the minimum compensation determined in accordance with §505.3(a) or (b) and that the safety and health requirements under §505.6 will be met. The Chairpersons will maintain on file in Washington, DC, for a period of three (3) years and make available upon request of the Secretary the original signed Form ESA–38 and a copy of the grant letter together with any supplementary documents needed to give a description of the project or production to be financed in whole or in part under the grant.

§ 505.5 Adequate assurances.

(a) Initial assurances. The grantee shall give adequate initial assurances that not less than the prevailing minimum compensation determined in accordance with §505.3 will be paid to all professional performers and related or supporting professional personnel, and that no part of the project or production will be performed under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees, by executing and filing with the Chairperson of the National Endowment for the Arts or the Chairperson of the National Endowment for the Humanities, as appropriate, Form ESA–38.

(b) Continuing assurances. (1) The grantee shall maintain and preserve sufficient records as an assurance of compliance with section 5(i) (1) and (2) and section 7(g) (1) and (2) of the Act and shall make such reports therefrom to the Secretary as necessary or appropriate to assure the adequacy of the assurances given. Such records shall be kept for a period of three (3) years after the end of the grant period to which they pertain. These records shall include the following information relating to each performer and related or supporting professional personnel to whom a prevailing minimum compensation determination applies pursuant to §505.3. In addition the record required in paragraph (b)(1)(vii) of this section shall be kept for all employees engaged in the project or production assisted by the grant.
§ 505.6 Safety and health standards.

(a) Standards. Section 5(i)(2) and section 7(g)(2) of the Act provide that “no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws in the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance.” The applicable safety and health standards shall be those set forth in 29 CFR parts 1910 and 1926, including matters incorporated by reference therein. Evidence of compliance with State laws relating to health and sanitation will be considered prima facie evidence of compliance with the safety and health requirements of the Act, and it shall be sufficient unless rebutted or overcome by a preponderance of evidence of a failure to comply with any applicable safety and health standards set forth in 29 CFR parts 1910 and 1926, including matters incorporated by reference therein.

(b) Variances. (1) Variances from standards applied under paragraph (a) of this section may be granted under the same circumstances in which variances may be granted under section 6(b)(6)(A) or 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655). The procedures for the granting of variances and for related relief are those published in part 1905 of this title.

(2) Any requests for variances shall also be considered requests for variances under the Williams-Steiger Occupational Safety and Health Act of 1970, and any variance from a standard applied under paragraph (a) of this section and in part 1910 of this title shall be deemed a variance from the standards under both the National Foundation on the Arts and Humanities Act of 1965 and the Williams-Steiger Occupational Safety and Health Act of 1970.

§ 505.7 Failure to comply.

The Secretary’s representatives shall maintain a list of those grantees who are considered to be responsible for instances of failure to comply with the obligation of the grantees specified in section 5(i) (1) and (2) and section 7(g)