Shaun L. McGrath, 
Regional Administrator, Region 8. 
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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts
National Endowment for the Humanities
Institute of Museum and Library Services

45 CFR Part 1100
RIN 3135–AA26; 3136–AA31; 3137–AA23
Statement for the Guidance of the Public—Organization, Procedure and Availability of Information

AGENCY: National Endowment for the Arts, National Endowment for the Humanities, and Institute of Museum and Library Services.

ACTION: Proposed rule.

SUMMARY: The National Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), and the Institute of Museum and Library Services (IMLS) are proposing to amend their joint Freedom of Information Act (FOIA) regulations, to remove any reference to the NEH, the Federal Council on the Arts and the Humanities (FCAH), an agency for which the NEH provides legal counsel, and the IMLS. The NEA, the NEH and the IMLS are amending these joint regulations because each agency has proposed or plans to propose its own separate FOIA regulations.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before September 6, 2013.

ADDRESSES: You may submit comments by any of the following methods:

• Email: Gencounsel@neh.gov. Please include “NFAH FOIA Regulations” in the subject line of the message.
• FAX: (202) 606–8600. Please send your comments to the attention of Gina Raimond.
• Mail: Gina Raimond, Attorney Advisor, Office of the General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506. To ensure proper handling, please reference “NFAH FOIA Regulations” on your correspondence.


SUPPLEMENTARY INFORMATION: The NEA, the NEH, the IMLS, and the FCAH make up the National Foundation on the Arts and Humanities (Foundation). The Foundation was established by the National Foundation on the Arts and Humanities Act of 1965, 20 U.S.C. 951 et seq. The NEA, the NEH (for itself and on behalf of the FCAH), and the former Institute of Museum Services (now, the IMLS) last revised the joint regulations on December 21, 1987. Each of these agencies has now decided to issue separate FOIA regulations; therefore, they are proposing to amend 45 CFR part 1100. At this time, NEH has proposed new FOIA regulations for itself and the FCAH in 45 CFR part 1171, and IMLS has proposed new FOIA regulations for itself in 45 CFR part 1184. NEA intends to propose new FOIA regulations for itself in 45 CFR part 1160.

E.O. 12866, Regulatory Review

NEA, NEH, and IMLS have determined that the proposed rule is not a “significant regulatory action” under Executive Order 12866 and therefore is not subject to Office of Management and Budget (OMB) Review.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), NEA, NEH, and IMLS have determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records that agencies process for requesters. Thus, fees assessed for processing FOIA requests are nominal.

Unfunded Mandates Reform Act of 1995

For purposes of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, the proposed rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804, as amended. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

NEA, NEH, and IMLS have determined that the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., does not apply to the proposed rule because the rule does not contain information collection requirements that require OMB approval.

List of Subjects in 45 CFR Part 1100

Administrative practice and procedure, Freedom of Information.

For the reasons stated in the preamble, the NEA, the NEH (for itself and on behalf of the FCAH), and the IMLS propose to amend 45 CFR part 1100 as follows:

PART 1100—STATEMENT FOR THE GUIDANCE OF THE PUBLIC—ORGANIZATION, PROCEDURE AND AVAILABILITY OF INFORMATION

1. The authority citation for part 1100 continues to read as follows:


2. In § 1100.1 revise paragraph (a) to read as follows:

§ 1100.1 Definitions.

(a) Agency means the National Endowment for the Arts.

3. Revise § 1100.2 to read as follows:

§ 1100.2 Organization.

The National Foundation on the Arts and the Humanities was established by the National Foundation on the Arts and the Humanities Act of 1965, 20 U.S.C. 951 et seq. The Foundation is composed of the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum and Library Services, and the Federal Council on the Arts and the Humanities. The Institute of Museum and Library Services became a part of the National Foundation on the Arts and the Humanities pursuant to the Museum and Library Services Act, as amended (20 U.S.C. 9102). Each Endowment is headed by a Chairman and has an advisory national council composed of 26 presidential appointees. The Institute of Museum and Library Services is headed by a Director and has a National
§ 1100.4 Current Index.

The National Endowment for the Arts shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated and which is required to be made available pursuant to 5 U.S.C. 552(a)(1) and (2). Publication and distribution of such indices has been determined by the Foundation to be unnecessary and impracticable. The indices will be provided upon request at a cost not to exceed the direct cost of the duplication.

§ 1100.5 Agency procedures for handling requests for documents.

(a) Upon receiving a request for documents in accordance with the rules of this part, the General Counsel or respective Assistant General Counsel serving as the Freedom of Information Act Officer of the National Endowment for the Arts shall determine whether or not the request shall be granted in whole or in part.

(b)(1) Any party whose request for documents has been denied in whole or in part may file an appeal no later than ten (10) working days following receipt of the notification of denial. Appeals must be addressed to the Chairman, National Endowment for the Arts, Washington, DC 20506.

(c) In unusual circumstances, the time limits prescribed to determine a request for documents with respect to initial actions or actions on appeal may be extended by written notice from the General Counsel or respective Assistant General Counsel serving as the Freedom of Information Act Officer of the National Endowment for the Arts.

§ 1100.7 Foundation report of actions.

On or before March 1 of each calendar year, the National Endowment for the Arts shall submit a report of its activities with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and to the President of the Senate. The report shall include:

(a) The number of determinations made by National Endowment for the Arts not to comply with requests for records made to the agency under the provisions of this part and the reasons for each such determination;