

Dated: May 30, 2013.

**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](mailto: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.

**FOR FURTHER INFORMATION CONTACT:** Gina Raimond, Attorney Advisor, Office of the General Counsel, National Endowment for the Humanities, 202-606-8322.

**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:

**Authority:** 5 U.S.C. 552, as amended by Pub. L. 99-570, 100 Stat. 3207.

- 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

Museum and Library Services Board composed of 20 presidential appointees, the Director, and IMLS's Deputy Directors for the Offices of Library Services, and Museum Services. The Federal Council on the Arts and the Humanities, comprised of Executive branch officials and appointees of the legislative branch, is authorized to make agreements to indemnify against loss or damage for certain exhibitions and advise on arts and humanities matters. The National Endowment for the Humanities, the Federal Council on the Arts and Humanities, and the Institute of Museum and Library Services no longer follow the regulations under this part. The procedures for disclosing records of the National Endowment for the Humanities and the Federal Council on the Arts and the Humanities are available at 45 CFR part 1171. The procedures for disclosing records of the Institute of Museum and Library Services are available at 45 CFR part 1184.

■ 4. In § 1100.3 revise paragraphs (a), (b), and (c) to read as follows:

**§ 1100.3 Availability of information to the public.**

(a) Descriptive brochures of the organization, programs, and function of the National Endowment for the Arts are available upon request. Inquiries involving work of the National Endowment for the Arts should be addressed to the National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506. The telephone number of the National Endowment for the Arts is (202) 682-5400.

(b) The head of the National Endowment for the Arts is responsible for the effective administration of the Freedom of Information Act. The head of the National Endowment for the Arts pursuant to this responsibility hereby directs that every effort be expended to facilitate service to the public with respect to the obtaining of information and records.

(c) Requests for access to records of the National Endowment for the Arts may be filed by mail with the General Counsel of the National Endowment for the Arts or by email at [FOIA@arts.gov](mailto:FOIA@arts.gov). All requests should reasonably describe the record or records sought. Requests submitted should be clearly identified as being made pursuant to the Freedom of Information Act.

■ 5. Revise § 1100.4 to read as follows:

**§ 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.

■ 6. In § 1100.5 revise paragraphs (a), (b)(1), and the first sentence of paragraph (c) to read as follows:

**§ 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. \* \* \*

\* \* \* \* \*

■ 7. In § 1100.7 revise the introductory text and paragraph (a) to read as follows:

**§ 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;

\* \* \* \* \*

**India Pinkney,**

*General Counsel, National Endowment for the Arts.*

**Michael P. McDonald,**

*General Counsel, National Endowment for the Humanities.*

**Andrew Christopher,**

*Assistant General Counsel, Institute of Museum and Library Services.*

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**OFFICE OF MANAGEMENT AND BUDGET**

**Office of Federal Procurement Policy**

**48 CFR Part 9904**

**Cost Accounting Standards: CAS 413 Pension Adjustments for Extraordinary Events**

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, Office of Management and Budget.

**ACTION:** Notice.

**SUMMARY:** The Office of Federal Procurement Policy (OFPP), Cost Accounting Standards (CAS) Board, is conducting fact-finding for the development of a Staff Discussion Paper (SDP) on CAS 413 Pension Adjustments for Extraordinary Events. This is the first step in a four-step process that may result in a final rule. As part of these efforts, the public is invited to attend two public meetings that are scheduled for July 31, 2013 and August 14, 2013. To facilitate fact-finding, the CAS Board encourages the submission of written comments for consideration in the drafting of the SDP.

**DATES:**

*Registration date for public meetings:* Advance registration for the public meetings via email must be submitted by 5:00 p.m. (Eastern Standard Time), July 29 (for the July 31, 2013 meeting) and August 12 (for the August 14, 2013 meeting). Please follow the procedures at "Advance Registration for the Public Meetings."

*Comment date:* Comments must be in writing and must be submitted by September 6, 2013.

**Public Meetings for Fact-Finding**

Dates of public meetings:  
—Wednesday, July 31, 2013, 8:30 a.m.–12:30 p.m.