



## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **Institute of Museum and Library Services**

#### **45 CFR Part 1180**

#### **RIN 3137-AA21**

### **Technical Amendments to Reflect the Authorizing Legislation of the Institute of Museum and Library Services**

**AGENCY:** Institute of Museum and Library Services (IMLS), NFAH.

**ACTION:** Technical amendment; final rule.

**SUMMARY:** The Institute of Museum and Library amends its grants regulations by removing outdated regulations and making certain technical amendments to reflect Congress' reauthorization of the Institute of Museum and Library Services under the Museum and Library Services Act of 2010, as further amended by the Presidential Appointment Efficiency and Streamlining Act of 2011. The amendments also reorganize certain regulations to provide greater clarity for agency applicants and grantees.

**DATES:** Effective [insert date of publication in the FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Nancy E. Weiss, General Counsel, Institute of Museum and Library Services, 1800 M Street, N.W., Suite 900, Washington, DC 20036. E-mail: [nweiss@imls.gov](mailto:nweiss@imls.gov). Telephone: (202) 653-4640. Facsimile: (202) 653-4610.

## **SUPPLEMENTARY INFORMATION:**

### **I. Technical Amendments and Removal of the Institute's Outdated Regulations**

IMLS amends 45 CFR Part 1180 to remove outdated regulations and make minor technical amendments to reflect Congress' reauthorization of the Institute of Museum and Library Services with the Museum and Library Services Act of 2010, Public Law 111-340 (December 22, 2010), as further amended by the Presidential Appointment Efficiency and Streamlining Act of 2011, Public Law 112-166 (August 10, 2012). These revisions are meant to fulfill the Institute's responsibility to its eligible grant applicants by ensuring that all regulations, policies, and procedures are up-to-date. The regulations being removed include regulations relating to programs and requirements no longer in existence at the Institute as a result of both agency practice and the Museum and Library Services Act of 2010, Public Law 111-340 (December 22, 2010), as further amended by the Presidential Appointment Efficiency and Streamlining Act of 2011, Public Law 112-166 (August 10, 2012). In the interests of economy of administration, and because all of the regulations to be removed are outdated and the technical amendments are minor, they are included in one rulemaking vehicle. Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. There is good cause for making this action final without prior proposal and opportunity for comment because the rule contains minor technical amendments that provide agency applicants and grantees with greater clarity and additional flexibility.

## II. Matters of Regulatory Procedure

### Regulatory Planning and Review (E.O. 12866)

Under Executive Order 12866, the Institute must determine whether the regulatory action is “significant” and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a “significant regulatory action” as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The rule removes a number of outdated regulations and makes technical amendments to reflect Congress’ reauthorization of the Institute of Museum and Library Services under the Museum and Library Services Act of 2010, Public Law 111-340 (December 22, 2010), as further amended by the Presidential Appointment Efficiency and Streamlining Act of 2011, Public Law 112-166 (August 10, 2012). As such, it does not impose a compliance burden on the economy generally or on any person or entity. Accordingly, this rule is not a “significant regulatory action” from an economic standpoint, and it does

not otherwise create any inconsistencies or budgetary impacts to any other agency or Federal Program.

#### Regulatory Flexibility Act

Because this rule removes outdated regulations and make certain technical amendments, the Institute has determined in Regulatory Flexibility Act (5 U.S.C. 601 et seq.) review that this rule will not have a significant economic impact on a substantial number of small entities because it simply makes technical amendments and removes outdated regulations.

#### Paperwork Reduction Act

This rule is exempt from the requirements of the Paperwork Reduction Act, since it removes existing outdated regulations and makes only technical amendments to reflect Congress' reauthorization of the Institute of Museum and Library Services under the Museum and Library Services Act of 2010, Public Law 111-340 (December 22, 2010), as further amended by the Presidential Appointment Efficiency and Streamlining Act of 2011, Public Law 112-166 (August 10, 2012). An OMB form 83-1 is not required.

#### Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, or by the private sector, of \$100 million or more as adjusted for inflation) in any one year.

#### Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million or more.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. No rights, property or compensation has been, or will be, taken. A takings implication assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, this rule does not have federalism implications that warrant the preparation of a federalism assessment.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Institute has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Consultation with Indian tribes (E.O. 13175)

In accordance with Executive Order 13175, the Institute has evaluated this rule and determined that it has no potential negative effects on federally recognized Indian tribes.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 45 CFR Part 1180

Administrative practice and procedure, Government Contracts, Grant programs-education, Grant programs-Indians, Cooperative agreements, Federal aid programs, Grants administration, Libraries, Museums, Nonprofit Organizations, Colleges and universities, and Report and recordkeeping requirements

For the reasons stated in the preamble and under the authority of 20 U.S.C. 9101 et seq., the Institute of Museum and Library Services amends 45 CFR Part 1180 as follows:

**PART 1180 – GRANTS REGULATIONS**

1. The authority citation for part 1180 continues to read as follows:

Authority: 20 U.S.C. Section 9101 et seq.

2. In § 1180.2, add the following sentence to the beginning of paragraph (b) introductory text:

**§ 1180.2 Definition of a museum.**

\* \* \* \* \*

(b) The term “museum” in paragraph (a) of this section includes museums that have tangible and digital collections. \* \* \*

\* \* \* \* \*

3. In § 1180.3, revise the definition of “Board” to read as follows:

**§ 1180.3 Other definitions.**

\* \* \* \* \*

*Board* means the National Museum and Library Services Board established by The Museum and Library Services Act of 2003, Pub. L. 108-81 (20 U.S.C. 9105a), as amended.

\* \* \* \* \*

4. In §1180.37, revise paragraph (a) to read as follows:

**§ 1180.37 Rejection for technical deficiency—appeal; reconsideration; waiver.**

(a) An applicant whose application is rejected because of technical deficiency may appeal such rejection in writing to the Director within 10 business days of electronic or postmarked notice of rejection, whichever is earlier.

\* \* \* \* \*

5. Revise § 1180.55 to read as follows:

**§ 1180.55 Subgrants.**

(a) A grantee may not make a subgrant unless expressly authorized by the Institute. In the event the Institute authorizes a subgrant, the grantee shall:

(1) Ensure that the subgrant includes any clauses required by Federal law as well as any program-related conditions imposed by the Institute;

(2) Ensure that the subgrantee is aware of the applicable legal and program requirements; and

(3) Monitor the activities of the subgrantee as necessary to ensure compliance with Federal law and program requirements.

(b) A grantee may contract for supplies, equipment, and services, subject to applicable law, including but not limited to applicable Office of Management and Budget (OMB) Circulars and government-wide regulations.

**Subpart D [Removed]**

6. Subpart D, consisting of § 1180.70, is removed.

Dated: June 5, 2013

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Nancy E. Weiss,

General Counsel, Institute of Museum and Library Services

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