

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES**45 CFR Part 1180****Institute of Museum Services: General Operating Support, Conservation Project Support, Museum Assessment Program, Conservation Assessment Program**

AGENCY: Institute of Museum Services, NFAH.

ACTION: Final rule.

SUMMARY: The Institute of Museum Services amends regulations relating to its General Operating Support, Conservation Project Support grant programs, the Museum Assessment Program and the Conservation Assessment Program. The regulations as amended implement the Museum Services Act. The amendments make technical and other changes in the eligibility conditions, use of funds, amount of awards, reporting requirements and remove unneeded provisions.

EFFECTIVE DATE: December 13, 1995.

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SUPPLEMENTARY INFORMATION:
General Background

The Museum Services Act ("the Act") which is Title II of the Arts, Humanities and Cultural Affairs Act of 1976, was enacted on October 8, 1976 and amended in 1980, 1982, 1984, 1985, 1988, 1990, 1991, 1993 and 1994). The purpose of the Act is stated in section 202 as follows:

It is the purpose of the Museum Services Act to encourage and assist museums in their educational role in conjunction with formal systems of elementary, secondary, and post secondary education and with programs of non-formal education for all age groups: to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museums Services Board and Director.

The Act provides that the National Museum Services Board shall consist of fifteen members appointed for fixed terms by the President with the advice and consent of the Senate. The Chairman of the Board is designated by

the President from the appointed members. Members are broadly representative of various museum disciplines, including those relating to science, history, technology, art, zoos, and botanical gardens; of the curatorial, educational, and cultural resources of the United States; and of the general public. The Board has the responsibility for establishing the general policies of the Institute. The Director is authorized, subject to the policy direction of the Board, to make grants under the Act to museums.

IMS is an independent agency placed in the National Foundation on the Arts and the Humanities (National Foundation). Pub. L. 101-512, Nov. 5, 1990. The Act lists a number of illustrative activities for which grants may be made, including assisting museums to improve their operations and conservation.

The Need for the Amendment

The amendments to the regulations are intended to make the programs more responsive to the needs of applicants by increasing the maximum amount of conservation awards, by distributing general operating awards more broadly among high quality museums and by assisting in program evaluation.

Proposed Amendments and Public Comment

A notice of proposed rulemaking was published March 6, 1995, 60 Federal Register, 12186-12188. The preamble to the notice of proposed rulemaking contained an amendment-by-amendment analysis explaining the purpose of each amendment. The discussion is not repeated here. Public comment was invited on the proposed amendments to determine the necessity and appropriateness of the proposed changes.

General Operating Support

The Institute received 260 comments regarding § 1180.5 which would establish eligibility criteria for the General Operating Support program making museums that have not received two consecutive GOS awards eligible to apply and making museums that have received two consecutive GOS awards ineligible to apply in the immediately succeeding cycle. This criteria will be effective beginning with the 1996 competition. Therefore, the deadline for the fiscal year 2000 competition would be the first deadline for which this criteria would affect an institution's eligibility to compete for a General Operating Support award.

Of the commenters, 222 favored the proposed rule. Those who supported the

change expressed the belief that many deserving, worthy museums compete for GOS awards without success. These commenters see broadening the distribution to make awards to more museums a highly desirable outcome of such a change. Supporters said this change would prevent museums from becoming dependent on the award. Some supporters believe, also, that the current status allows the "rich to get richer" and that receiving the award creates a perpetuating cycle of future awards. Some supporters said this change would help small museums. Others said it is a better way to broaden distribution of GOS funds than further reducing the amount of award.

Commenters opposing the change, said that it was inconsistent with the main role of GOS to reward and recognize the highest quality museums.

The Institute agrees that the issue of recognizing the high quality of museum operations is important. However, the Institute believes that many very high quality museums currently compete and do not receive awards. The Institute believes the broader distribution resulting from implementing the proposed criteria will not negatively affect recognition of high quality museums. The Institute further believes the change will encourage museums in aspiring to higher levels of operation in order to attain the award, as they will perceive that chances for receiving the award are greater.

Some commenters who opposed this change believe it is detrimental to small museums. The Institute believes the procedures established for the General Operating Support program ensure an equitable representation of small museums in the awards. The Institute does not anticipate that small museums will be negatively affected by this change. The Institute believes the change is equitable for museums of all sizes and types and applies equally to every institution.

Some commenters stated that this change is premature in relation to the other recent changes in GOS that reduce the maximum amount of the award and change to a two-year grant period. The Institute has received positive reaction to the previous changes in the grant period and the amount of the award. The Institute believes that this change reinforces the efforts by the Institute to broaden the distribution of these funds as was intended with the previous changes, and, therefore, is an appropriate action.

Conservation Project Support

The institute received five comments regarding § 1180.20, which would