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NATIONAL ENDOWMENT FOR THE HUMANITIES

WASHINGTON, D.C. 20506



May 5, 1981

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MEMORANDUM

To : Chairmen and Executive Directors, State Programs
From : Donald Gibson, *DG* Director, Division of State Programs
Subject : Insert for Procedures Manual

I am pleased to send you a copy of the "Plan for Compliance with the NEH Authorizing Legislation for State Humanities Councils Operating as State Agencies." I apologize for the awkward title, but it does have the charm of being reasonably self explanatory. As you recall, the Endowment's 1980 Authorizing Legislation requires a different plan of compliance in those instances where a state government elects to designate the existing council as a state agency. It should be inserted in your Procedures Manual as the last document in the section on "Legislation."

We have received several inquiries regarding the shift to new procedures for matching of gifts, as authorized in the 1980 legislation. Alas, the appropriation legislation for the current year (Fiscal Year 1981) restricts us to the procedures currently used by NEH. We anticipate that new procedures will be implemented this fall. We will send you revised guidance prior to that time.

We intend to update the Procedures Manual on a regular basis. I hope you will offer us suggestions for improvements and changes.

Enclosure

DG:eka

PLAN FOR COMPLIANCE WITH THE NEH AUTHORIZING
LEGISLATION BY STATE HUMANITIES COUNCILS
OPERATING AS STATE AGENCIES

Under the 1980 amendments to the NEH authorizing legislation (P.L. 96-496), a State wishing to designate the state humanities council as a State agency must submit to NEH for approval a plan for compliance with several requirements of the statute. In addition, the State must submit an application for funds (which is separate from the plan outlined in this document) according to guidance provided by the Endowment.

In order to be eligible to submit an application for funding for Fiscal Year 1982 (beginning on October 1, 1981), the plan outlined here must be submitted to NEH for approval, no later than September 1, 1981. In all future years, each state council will be required to submit a report no later than March 1 informing the Endowment of any changes in the plan on file or notifying the Endowment that the existing plan remains fully in effect.

- (1) The plan must be one which "designates or provides for the establishment of a State agency. . . as the sole agency for the administration of the State plan" (Section 7(f)(2)(A)(i))

The statute requires that the State designate the existing humanities council as the recipient of NEH funds. (Section 7(f)(2)(A); see also, S. REP. NO. 96-557, 96th Cong., 2d Sess. 6 (1980)) A statement making this designation, signed by the appropriate officer of state government, should be included in the plan.

- (2) The plan must provide "that the chief executive of the state will appoint new members to the state humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive has appointed all of the members of such council" (Section 7(f)(2)(A)(ii))

The private humanities councils have been subject since 1976 to several requirements in the statute regarding the membership of the councils, including "a membership policy which is designed to assure broad public representation," "a nomination process which assures opportunities for nomination to membership from various groups within the state. . . and from a variety of segments of the population of such State, including individuals who by reason of

their achievement, scholarship, or creativity in the humanities are especially qualified to serve," and "a membership rotation process which assures the regular rotation of the membership and officers" of each committee.

The plan submitted by the state should review the existing membership policies of the present humanities council and explain the anticipated schedule of appointments by the governor. Because of the express requirement of the Congress that the state agencies conduct public humanities programs exclusively (see below), a continuation of the policy of a broadly representative council membership seems desirable and should be discussed in this plan. The procedures by which the chief executive will make his or her appointments should be described.

- (3) The plan must provide "from state funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum state grant, or 25 per centum of the total amount of Federal financial assistance received by such state under this subsection, whichever is greater, for the fiscal year involved" (Section 7(f)(2)(A)(iii))

The Endowment will inform states of the exact dollar amount required for a particular fiscal year. The plan should include the expected date of the state appropriation of funds needed to meet this requirement, if those funds have not already been appropriated. The Endowment will consider a humanities council subject to all requirements of Section 7(f)(2)(A), as a state agency, at such time as the following three requirements have been completed: (1) submission by the state of the plan for the state agency (the subject of this document) and NEH approval; (2) submission by the state of an application for funds (according to guidance provided separately) and NEH approval; and (3) appropriation by the state of the necessary funds. The application in (2) cannot be submitted prior to submission of the plan in (1), but the appropriation may occur at any time. Until all three requirements are complete, the NEH will continue to treat the existing council as a private committee under the provisions of Section 7(f)(2)(B).

- (4) The plan must provide "that funds paid to the state under this subsection will be expended solely on programs approved by the state agency which carry out the objectives of Subsection (c) and which are designed to bring the humanities to the public" (Section 7(f)(2)(A)(iv))

The Senate has elaborated on the requirement that the programs "bring the humanities to the public," by noting that the programs should "make the humanities accessible, useful, and meaningful to as

broad a public as possible." (S. REP. 96-557, p. 7) The plan should thus provide a statement of the proposed guidelines for grant-making by the state council to show that they are so designed. A statement of the overall goals and objectives of the state agency consistent with this requirement, would be appropriate and useful in helping the NEH Chairman review the plan.

This subsection also limits programs to those "approved by the state agency." The intent of Congress is that the existing humanities council continue to be "the central, policy-making organ of a state humanities agency rather than merely an advisory adjunct." (S. REP. 96-557, p. 7). Therefore, the plan should explain the procedures to be used by the new state agency in determining policy and approving grant awards.

The plan should also certify that NEH funds will be used solely to carry out the objectives listed in Section 7(c) of the statute.

- (5) The plan must provide "assurances that state funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph" (Section 7(f)(2)(A)(v))

Congress has provided guidance concerning the nature of these newly appropriated funds:

These monies must come from newly appropriated state funds. The Committee wishes to make clear its intent on this point. It would strongly discourage the transfer of funds previously appropriated to other State programs, such as those in the arts, in order to initiate such a humanities council. The Committee must underscore its desire to have strong separate State programs in the arts and in the humanities. This is regarded as vital to the continued growth and vigor of both areas. (S. REP. 96-557, p. 7)

Although the funds need not have been appropriated by the time this plan is submitted (as discussed above in (3)), the plan should provide assurances, as required by the statute. A statement signed by an appropriate official of government certifying that the funds are newly-appropriated should be submitted as soon as the funds are actually appropriated, if the funds have not been appropriated when this plan is submitted.

- (6) The plan must provide "that the state agency will make such reports, in such form and containing such information, as the Chairman may require" (Section 7(f)(2)(A)(vi))

The plan should include a statement from an appropriate official of government certifying that the state will comply.