



NATIONAL ENDOWMENT FOR THE HUMANITIES

# General Terms and Conditions for Awards to Organizations

(For grants and cooperative agreements issued January 1, 2022, or later)

(Updated March 15, 2023)

## I. Applicability and Authorization

The *General Terms and Conditions for Awards to Organizations* apply to grants and cooperative agreements that the National Endowment for the Humanities (NEH) issues to private nonprofit organizations, institutions of higher education, and state, local, and federally recognized Indian tribal governments. These terms and conditions apply not only to the prime recipient, but also flow down to any subawards and subrecipients unless specified otherwise in regulation or the terms and conditions of the specific NEH award.

NEH awards are subject to the National Foundation on the Arts and the Humanities Act of 1965 (Public Law 89-209, as amended; [20 U.S.C. § 956, et seq.](#)), [2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#), the *General Terms and Conditions for Awards to Organizations*, and the specific terms and conditions in the Notice of Action. Should there be any inconsistency between the specific terms and conditions of an award and the *General Terms and Conditions for Awards to Organizations*, the specific terms and conditions will govern.

Note: General Operating Support Grants to State and Jurisdictional Humanities Councils are subject to the [General Terms and Conditions for General Support Grants to State and Jurisdictional Humanities Councils](#).

**In accepting an award, the recipient assumes the legal responsibility of administering the award in accordance with the requirements set out in these *General Terms and Conditions* and of maintaining documentation of all actions and expenditures affecting the award, subject to audit. Failure to comply with these requirements could result in suspension or termination of the award.**

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## II. Glossary of Terms and Definitions

See [2 CFR 200, Subpart A](#) for a comprehensive list of definitions.

<b>Award</b>	A grant or cooperative agreement.
<b>Cash contributions</b>	The recipient's cash outlay for budgeted project activities, including the outlay of money contributed to the recipient by third parties.
<b>Contract</b>	A legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a federal award. Additional information on subrecipient and contractor determinations is available at <a href="#">2 CFR § 200.331</a> . See also the definition of subaward in this section.
<b>Debarment</b>	The ineligibility of an individual or an entity to receive assistance or benefits from the federal government, either indefinitely or for a specified period of time, based on legal proceedings taken pursuant to regulations contained at <a href="#">2 CFR Parts 180</a> – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) and <a href="#">3369</a> – NEH Nonprocurement Debarment and Suspension.
<b>eGMS Reach</b>	NEH's online electronic grant management system, located at <a href="https://securegrants.neh.gov/egms-reach/Login.aspx">https://securegrants.neh.gov/egms-reach/Login.aspx</a> .
<b>Equipment</b>	Tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.
<b>Federal Assistance Listing</b>	A number assigned to all federal award programs, projects, services, and activities that provide assistance or benefits to the American public. It is used for tracking purposes and by recipients, subrecipients, and auditors to identify the sources of federal awards covered by a single audit. NEH provides the relevant Federal Assistance Listing number to recipients in the Notice of Action under "Federal Award Information."
<b>Indirect costs</b>	Costs that are incurred for common or joint objectives and therefore cannot be readily identified with a specific project or activity of an organization, including depreciation on buildings, equipment, and capital improvement; operations and maintenance expenses; accounting and legal services; and salaries of executive officers.
<b>In-kind contributions</b>	The value of non-cash contributions provided by <b>third parties</b> . In-kind contributions may be in the form of charges for real property and equipment or the value of goods and services directly benefiting and specifically identifiable to the funded project.
<b>Key personnel</b>	The project director and institutional grant administrator, as well as other individuals critical to the project.

<b>Notice of Action</b>	The official, legally binding document notifying the recipient of an issuance of a federal award. It contains all terms and conditions, the federal funding level, and provides the supporting documentation for recording the obligation of federal funds in the agency's accounting system.
<b>Pass-through entity</b>	A non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.
<b>Period of performance</b>	The span of time during which the recipient may incur new obligations to carry out the work under the NEH award. The period of performance must begin on the first day of the month and end on the last day of the month.
<b>Program income</b>	Gross income earned by the recipient or a subrecipient that is directly generated by NEH-funded activities or earned as a result of the NEH award. It includes, but is not limited to, income from fees for services performed and from the sale of items produced under an award; usage or rental fees for equipment or property acquired under an award; admission fees; broadcast or distribution rights; and license fees and royalties on patents and copyrights.
<b>Project costs</b>	The total costs needed to complete the project approved by NEH at the time of award or through subsequent amendments. This includes both federal funds and cost share or matching contributed by the recipient or third parties.
<b>Recipient</b>	A non-federal entity that receives a federal award directly from a federal awarding agency.
<b>State</b>	Any of the states of the United States and the District of Columbia, including the following jurisdictions, unless otherwise indicated: the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.
<b>Subaward</b>	An award provided by a pass-through entity to a subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Refer to <a href="#">2 CFR § 200.331</a> subrecipient and contractor determinations for additional guidance.
<b>Subrecipient</b>	A subrecipient is a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. This does not include individuals who are beneficiaries of federal programs.
<b>Suspension</b>	The temporary withdrawal of federal assistance and the withdrawal of the recipient's authority to incur expenditures against award funds, pending corrective action or a decision to terminate the award.  The suspension of an individual or organization causes that party to be ineligible to receive any assistance and benefits from the federal government

	pending completion of an investigation and legal proceedings, per <a href="#">2 CFR Parts 180</a> and <a href="#">3369</a> . Such actions may lead to debarment of the recipient.
<b>Travel costs</b>	Expenses for transportation, lodging, subsistence, and related items incurred by those who are on official business attributable to work under an award.
<b>Unrecovered indirect costs</b>	The difference between the indirect costs charged to the federal award and the amount that could be charged to the federal award under the non-federal entity's approved negotiated indirect cost rate.

### III. Roles and Responsibilities

As a federal agency issuing grants and cooperative agreements (awards), NEH is responsible to Congress and the U.S. taxpayer for carrying out its mission cost-effectively and in compliance with applicable requirements set forth in legislation, regulation, and policy. NEH seeks to ensure integrity and accountability in award issuance and administration by relying on a system of checks and balances, separating responsibilities within its own staff, and establishing a similar set of expectations for recipients. NEH roles and responsibilities are as follows.

#### A. NEH roles and responsibilities

##### 1. Office of Grant Management

The Office of Grant Management is responsible for overseeing compliance with the administrative requirements, cost principles, audit requirements, and other non-programmatic aspects of the award. Responsibilities include:

- evaluating applications for administrative content and compliance with statutes, regulations, and the Notice of Funding Opportunity;
- negotiating awards;
- providing technical assistance to applicants and recipients, including interpreting federal award administration policies and provisions;
- monitoring post-award compliance, including reviewing financial reports and conducting site visits; and
- closing out awards.

OGM is the only office authorized to:

- issue Notices of Action, obligating federal funds;
- review and respond to requests for prior approval;
- amend funding levels, periods of performance, terms and conditions of award; and
- issue a revised Notices of Action.

##### 2. Program Office

NEH program officers are responsible for the programmatic aspects of applications and awards. Responsibilities include:

- developing programs to meet NEH's mission;
- facilitating the review and recommendation of applications;



- providing programmatic technical assistance; and
- post-award monitoring of project performance, including site visits and reviewing progress reports.

### **3. Office of Accounting**

NEH Office of Accounting (OAC) responsibilities include:

- collecting and confirming information submitted via the SF-3881 Automated Clearing House (ACH) form; and
- reviewing payment requests and issuing payments to recipients.

Information on requesting payment is located under [Payment Requests and Financial Reporting Requirements](#).

### **4. Office of Inspector General**

NEH Office of Inspector General (OIG) responsibilities include:

- conducting audits and investigations;
- reviewing legislation;
- recommending policies to promote efficiency and effectiveness; and
- preventing and detecting fraud, waste, and abuse in the operations of the agency.

[Learn more about the Office of Inspector General](#).

## **B. Recipient roles and responsibilities**

Recipient responsibilities include:

- conducting project activities under the NEH award;
- adhering to the terms and conditions of the award; and
- informing NEH of significant programmatic, administrative, or financial problems.

The recipients must designate different individuals to serve in the following roles.

### **1. Institutional grant administrator**

This individual has authority to act on the organization's behalf in matters related to the administration of NEH awards. Responsibilities include:

- accountability for the appropriate use of funds and the performance of the NEH-supported project or activities as specified in the approved application and in compliance with [2 CFR Part 200](#) and the terms and conditions of the award;
- certifying the accuracy and completeness of all reports (Programmatic Performance Reports, Federal Financial Reports, and other award specific reports, as applicable), prior to submission;
- submitting Federal Financial Report(s);
- submitting timely prior approval requests through eGMS Reach in accordance with [Article VII](#); and
- notifying NEH about allegations of research misconduct when they involve NEH-funded research (or an application for NEH funding) and the recipient's inquiry into the

allegation determines that there is sufficient evidence to proceed to an investigation in accordance with the [NEH Research Misconduct Policy](#) (see [Article XIV](#)).

## **2. Project director**

This individual is responsible for the programmatic aspects of the award and for day-to-day management of the project and is encouraged to maintain contact with the NEH program officer with respect to the programmatic aspects of the project. The project director works closely with the institutional grant administrator to:

- ensure compliance with federal and organizational requirements;
- create and maintain necessary documentation, including performance and administrative reports and justifications; and
- acknowledge NEH support in publications, announcements, news programs, and other media.

If the project director is not an employee of the recipient organization, there must be a formal written agreement that specifies an official relationship between the parties, even if the relationship does not involve a salary or other form of remuneration.

Because the project director's involvement is critical to the project's success, the replacement of the project director or co-director or a substantial reduction in their level of effort requires prior written approval from NEH. The institutional grant administrator must promptly request project director changes to NEH by submitting a participant change request and résumé via [eGMS Reach](#). **The project director cannot also serve as the institutional grant administrator.**

## **C. eGMS Reach**

[eGMS Reach](#) is the online grant management system recipients use to conduct all award management activities, including making prior approval and extension requests, submitting reports, and communicating with NEH staff. [Learn how to access eGMS Reach](#).

## **D. Liability**

NEH cannot assume liability for accidents, illnesses, or claims arising out of any work supported by an award or for unauthorized use of patented or copyrighted materials. The recipient is advised to take necessary steps to insure or protect itself, its employees, and its property.

## **E. Fiscal agents**

The recipient assumes all programmatic, financial, and legal responsibilities associated with the award. The recipient must make substantive contributions to the success of the project; it may not function solely as a fiscal agent or sponsor. An organization that functions solely as a fiscal agent or fiscal sponsor is not eligible for an award or a subaward.

## **F. Overlapping costs/duplication of benefits**

Per [2 CFR § 200.403\(f\)](#), NEH does not permit two or more applications for federal funding and/or approved federal award budgets that seek support for overlapping costs. The recipient must avoid a duplication of federal assistance. The recipient may not obtain financial assistance from multiple sources for the same purpose that exceeds its total financial need.

## **G. Subrecipient monitoring requirements**

Per [2 CFR § 25.300](#), the recipient may only issue subawards of federal funds to organizations that have obtained a Unique Entity Identifier (UEI) and provided it to the recipient. Each subrecipient must obtain a UEI from the [System for Award Management \(SAM\)](#), but is not required to complete registration. Pass-through entities are responsible for improper payments to ineligible subrecipients.

The recipient must monitor its subrecipients to ensure they:

- use subawards for authorized purposes;
- comply with federal statutes, legislative requirements, regulations, and the terms and conditions of the subaward;
- achieve performance goals as defined in the subaward agreement; and
- track, appropriately use, and report program income generated by the subaward.

See [2 CFR § 200.332](#) for information that the recipient must include in each subaward agreement.

The recipient must request approval from the Office of Grant Management prior to issuing subawards not included in the original application.

## **H. Acknowledgment of support and disclaimer**

Unless otherwise specified in the terms and conditions of an award, all materials publicizing or resulting from award activities must contain an acknowledgment of NEH support. The acknowledgment must include the following statement: "Any views, findings, conclusions, or recommendations expressed in this (publication) (program) (exhibition) (website) do not necessarily represent those of the National Endowment for the Humanities."

Consult [Acknowledgment and Publicity Requirements for NEH Awards](#) and [Publicizing Your Project](#) for guidance on credits and promotion.

## **I. Additional acknowledgement of support for renovation or construction awards**

If the project includes renovation or construction activities, the building or site should prominently display a plaque or other permanent sign acknowledging NEH's support. If NEH's award contributed to a broader fundraising campaign, the recipient must include NEH in any published list of donors to that campaign related to the NEH-supported project.

When appropriate, the recipient should include the term "humanities" in the names of galleries, classrooms, library rooms, and other named spaces that the recipient built or renovated with award funds. The recipient should consult with its NEH program officer about how to acknowledge NEH in a name or title.

NEH encourages the recipient to find additional ways to acknowledge NEH's support and bring the award to the public's attention.

## IV. National Policy Requirements

The recipient must execute projects, productions, workshops, and programs in accordance with the following laws, where applicable.

### A. System for Award Management

Per [2 CFR Part 25](#), the recipient must maintain [System for Award Management \(SAM\)](#) registration with current information when they have an active federal award or an application under consideration by a federal agency. The recipient must review and update its information at least annually after initial registration, and more frequently if required by changes in information.

Effective March 27, 2023, the banking information the recipient provides to SAM must match the banking information the recipient provides to NEH on the Automated Clearing House Vendor/Miscellaneous Payment Enrollment Form (SF-3881). Mismatches of ACH banking information between NEH records and SAM.gov will result in NEH rejecting the form.

Per [2 CFR § 25.300](#), recipients may only issue subawards with federal funds to organizations that have obtained and provided to the recipient a UEI. Subrecipients must obtain a UEI from the [System for Award Management \(SAM\)](#), but are not required to complete registration. Pass-through entities are responsible for improper payments to ineligible subrecipients.

### B. Debarment and suspension

Federal agencies and recipients are prohibited from doing business with any organization or person (as a recipient, subrecipient, contractor, or key employee) who has been debarred or suspended by any federal department or agency.

The *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension* (Nonprocurement) contained in [2 CFR Parts 180](#) and [3369](#) apply to this award. The recipient must comply, and must require subrecipients, contractors, fellows, and seminar participants, to comply with the requirements in Subpart C of these regulations.

The recipient must ensure subrecipient and contractor compliance by checking the [Exclusions](#) area within the Performance Information functional area of [SAM.gov](#) and including a term or condition in the subaward or contract that requires compliance with [2 CFR 200 Subpart C](#). The recipient must require the inclusion of a similar term or condition in any subsequent lower-tier covered transaction as defined in [13 CFR § 400.109](#).

See [2 CFR §§ 200.214](#), [.339](#), and [.340-.343](#).

### C. Lobbying activities

The Byrd Anti-Lobbying Amendment ([31 U.S.C. § 1352](#)) prohibits recipients from using appropriated funds to pay any person for influencing or attempting to influence any officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress with respect to the award, extension, continuation, renewal, amendment, or modification of any of these instruments. While non-federal funds may be used for such activities, they may not be included in the project budget, and must be disclosed to the awarding federal agency (NEH). NEH implemented these requirements in [45 CFR Part 1168](#). See [2 CFR § 200.450](#) for additional information regarding the lobbying prohibitions and types

of activities, such as legislative liaison activities and professional and technical services, that are not subject to this prohibition.

[18 U.S.C. § 1913](#) states: “No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section [1352\(a\) of title 31](#).”

## **D. Political and social advocacy**

The recipient may not use NEH funds to:

- promote a particular political, religious, or ideological point of view;
- advocate for a particular program of social or political action; or
- support specific public policies or legislation.

## **E. Obscene and libelous content**

NEH-funded projects reach broad public audiences and must not include material that is obscene, libelous, offensive, or defamatory (including hate speech, personal attacks, or material constituting harassment). The recipient must monitor all project content, including user-generated content, comments, blog posts, links, and other social media to ensure it does not include obscene or libelous content.

## **F. Code of Ethics for Projects Related to Native Americans**

The recipient must ensure that researchers and scholars working on NEH-funded projects related to Native Americans, Aleut, Eskimo, or Native Hawaiian peoples adhere to provisions protecting the rights of native communities and peoples as detailed in the [Code of Ethics for Projects Related to Native Americans](#).

## **G. Employment of professional performers**

Recipients that employ professional performers and related or supporting personnel under an award (including but not limited to scriptwriters, actors, extras, musicians, stage hands, scenery designers, technicians, electricians, and cinematographers) are subject to the labor standards set forth in [29 CFR Part 505](#), "Labor Standards on Projects or Productions Assisted by Awards from the National Endowments for the Arts and Humanities." Recipients must provide written assurance that:

- these employees will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined in accordance with [29 CFR § 505.3](#) to be the prevailing minimum compensation for persons employed to perform similar activities (for example, union or guild rates), and to perform similar activities (for example, union or guild rates); and
- no part of any project or production that is financed in whole or in part under an award will be performed or engaged in under working conditions that are unsanitary, hazardous, or dangerous to the health and safety of the employee engaged in such project or production.

These regulations apply to faculty and staff employed by educational institutions only if such employees are hired primarily to engage in or to assist in performance activities. Faculty or staff hired primarily to teach are excluded even though their teaching activities may include performing or assisting in a performance.

NEH will not release award funds until it has received signed assurances from the recipient.

## **H. Title VI of the Civil Rights Act of 1964**

Title VI, as amended, provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance ([42 U.S.C. § 2000\(d\), et seq.](#)). Title VI also extends protection to persons with limited English proficiency. NEH has issued policy guidance for recipients and subrecipients on "[Title VI Prohibition Against National Origin Discrimination As It Affects Persons With Limited English Proficiency.](#)"

## **I. Title IX of the Education Amendments of 1972**

Title IX provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subject to discrimination under any education program or activity receiving federal financial assistance ([20 U.S.C. § 1681, et seq.](#)).

## **J. Section 504 of the Rehabilitation Act of 1973**

Section 504 provides that no otherwise qualified individual with a disability in the United States shall, solely by reason of their disability, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance ([29 U.S.C. § 794](#)).

## **K. The Age Discrimination Act of 1975**

The Act provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance ([42 U.S.C. § 6101, et seq.](#)).

## **L. Drug-free workplace requirements**

The recipient must maintain a drug-free workplace in accordance with the Drug-Free Workplace Act of 1988, [41 U.S.C. 701](#). The recipient must comply with the drug-free workplace requirements contained at [2 CFR Part 182](#) and the NEH regulations at [2 CFR Part 3373](#), "[Governmentwide Requirements for Drug-Free Workplace \(Financial Assistance\).](#)"



## **M. The Americans with Disabilities Act of 1990 (ADA)**

ADA prohibits discrimination on the basis of disability in employment (Title I), state and local government services (Title II), places of public accommodation and commercial facilities (Title III) ([42 U.S.C. § 12101, et seq.](#)).

## **N. Prohibition on certain telecommunications and video surveillance services or equipment**

Consistent with [2 CFR § 200.216](#), the recipient and its subrecipients are prohibited from obligating or expending funds to procure, enter, extend, or renew a contract to procure equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in [Public Law 115-232](#), Section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

## **O. Activities outside the United States**

Prior to undertaking activities outside the United States, the recipient must ensure that all project staff secure the necessary passports, visas, or other required documents for entry into foreign countries. The recipient must also obtain the appropriate licenses, permits, or approvals and must notify NEH if a permit is denied or revoked after an award has been issued, or if an unforeseen circumstance, such as a natural disaster or political turmoil, prevents or threatens to prevent the recipient from carrying out project activities. NEH will consider these situations on a case-by-case basis to determine whether the award should be suspended or if a revised work plan is feasible.

The recipient is responsible for arranging liability and medical insurance for staff and foreign workers engaged in project activities.

NEH does not assume responsibility for recipient compliance with the laws and regulations of the country in which work is to be conducted.

NEH encourages the recipient to register with the State Department's [Smart Traveler Enrollment Program \(STEP\)](#). STEP registrants receive the most current information and travel alerts from the U.S. embassy in the country in which they are traveling, and registration makes it easier for the embassy to contact travelers in an emergency. In addition, the recipient may find travel advisories and warnings on the [State Department's website](#), by telephone at 888-407-4747 from within the United States, or, from overseas, 202-501-4444. For specific questions regarding an emergency involving an American citizen overseas, the recipient should contact the nearest U.S. embassy or consulate or the [U.S. Department of State, Office of Overseas Citizens Services](#), at 888-407-4747 (or from overseas +1 202-501-4444).

## **P. U.S. Constitution Day education programs**

The recipient must comply with [Public Law 108-447, Div. J, Title I, Section 111\(b\)](#) ([36 U.S.C. 106](#)), which requires educational institutions receiving federal funds in a federal fiscal year to hold an educational program on the United States Constitution on September 17 during that year for the students served by the educational institution. Review [recommended resources for commemorating Constitution Day](#).

## **Q. Executive Order 13798 (“Promoting Free Speech and Religious Liberty”)**

[Executive Order 13798](#), Office of the Attorney General, “Federal Law Protections for Religious Liberty” (October 6, 2017), and Office of Management and Budget, [Memorandum M-20-09](#), “Guidance Regarding Federal Grants and Executive Order 13798” (January 16, 2020). States and other public recipients must not condition subawards in a manner that would disadvantage applicants based on their religious character.

## **R. Prohibition on providing federal funds to ACORN and its subsidiaries**

In accordance with [Public Law 111-88 Section 427](#), none of the funds made available under an NEH award may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

## **S. National policy requirements specific to construction, renovation, and ground-disturbance**

Recipients whose projects include direct funds for alterations and renovations, construction, or ground disturbing activities must also adhere to the following requirements.

### **1. Davis-Bacon Act and related labor requirements**

Construction or renovation projects funded, in whole or in part, by federal funds, are subject in their entirety to the Davis-Bacon Act as amended ([40 U.S.C. § 3141, et seq.](#)). The recipient must furnish assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on NEH-supported construction projects will be paid wages at rates that are not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor.

Additional information is available by contacting the U.S. Department of Labor, Wage and Hour Division, Division of Contract Standards and Operations, 200 Constitution Avenue, NW, Washington DC 20210, or from the [Davis-Bacon and Related Acts home page](#).

### **2. Build America, Buy America**

Pursuant to the Build America, Buy America Act ([Pub. L. 117-58 § 70901, et seq.](#)), beginning May 14, 2022, NEH may not obligate funds for a project involving, construction, renovation, facility infrastructure (such as the [Infrastructure and Capacity Building Challenge Grants](#) or the [Sustaining Cultural Heritage Collections](#) programs) unless all of the iron, steel, manufactured products, and construction materials that the project uses are produced in the United States.

The requirements of this article must be included in all subawards, contracts, and purchase orders for work or products under this award.

### **3. Executive Order 11246 (“Equal Employment Opportunity”)**

[Executive Order 11246](#), as implemented by Department of Labor regulations at [41 CFR Part 60](#), prohibits discrimination in employment decisions on federally assisted construction projects on the basis of race, color, religion, sex, or national origin.



#### **4. The Architectural Barriers Act of 1968 ([42 U.S.C. § 4151, et seq.](#))**

The [Architectural Barriers Act of 1968](#), as amended, the Federal Property Management Regulations 101-19.6 ([41 CFR § 101-19.6](#)), and the Uniform Federal Accessibility Standards issued by the General Services Administration ([41 CFR § 101-19.6, Appendix A](#)) includes enforceable design standards for making facilities designed, built, altered, or leased with federal funds, accessible to, and usable by, the physically disabled.

In addition, Titles II and III of the Americans with Disabilities Act (ADA; [P.L. 101-336, as amended by P.L. 110-325](#)), include includes enforceable accessibility standards, called the [2010 Standards for Accessible Design](#) (2010 Standards), which establish minimum criteria for accessibility in design and construction. [Learn more about ADA and Architectural Barriers Act accessibility requirements.](#)

#### **5. Section 106 of the National Historic Preservation Act of 1966 ([54 U.S.C. § 300101, et seq.](#))**

NEH-funded projects involving construction, renovation, repair, rehabilitation, or ground or visual disturbances must comply with Section 106 of the National Historic Preservation Act of 1966, [54 U.S.C. § 306108](#), and its implementing regulations, [36 CFR Part 800](#). Section 106 requires NEH to consider the effects of projects offered or awarded NEH funding on historic properties and, when applicable, to provide the Advisory Council on Historic Preservation an opportunity to comment on such projects.

The recipient cannot begin the NEH-supported project involving construction, renovation, repair, rehabilitation, or ground or visual disturbance, and NEH cannot release any federal funds, until NEH concludes its Section 106 and related National Environmental Policy Act (NEPA) ([42 USC 4321, et seq.](#)) review and provides written notification of compliance to the recipient.

However, the recipient may use matching funds for approved non-construction preparatory activities, such as architectural and engineering designs, permitting, and licenses, and may also undertake work related to the environmental and historic preservation reviews prior to NEH completing its review. Review NEH's [Section 106](#).

#### **6. National Environmental Policy Act of 1969 (NEPA, [42 U.S.C. § 4321, et seq.](#))**

The recipient must assist NEH with identifying the impact this award may have on the quality of the human environment; complying with NEPA and related laws; and preparation of environmental assessments or other required environmental documentation, if required.

The recipient cannot begin the NEH-supported project involving construction, renovation, repair, rehabilitation, or ground or visual disturbance, and NEH cannot release any federal funds, until NEH concludes its reviews and provides written notification of compliance to the recipient.

However, the recipient may use matching funds for approved non-construction preparatory activities, such as architectural and engineering designs, permitting, and licenses, and may also undertake work related to the environmental and historic preservation reviews prior to NEH completing its review. Review NEH's [NEPA guidance](#).

## **7. Native American Graves Protection and Repatriation Act of 1990 ([25 U.S.C. § 3001, et seq.](#), and [43 CFR Part 10](#))**

The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA) provides protection of Native American graves and items, that is, human remains, funerary objects, and sacred objects. NAGPRA applies to any organization that controls or possesses Native American human remains and associated funerary objects and that receives federal funding, even for a purpose unrelated to the Act. [Learn more about NAGPRA.](#)

## **8. Other relevant requirements**

Projects involving construction or major alteration or renovation may also be subject to the following laws:

- National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 ([42 U.S.C. § 4001, et seq.](#)), which require flood insurance, when available, for NEH-funded construction or acquisition in flood-prone areas
- Executive Orders [11988](#), [11990](#), and [12898](#)
- Coastal Barriers Resource Act ([16 U.S.C. § 3501, et seq.](#)) concerning preservation of barrier resources
- Wild and Scenic Rivers Act of 1968 ([16 U.S.C. § 1271, et seq.](#))
- Safe Drinking Water Act ([42 U.S.C. § 300f, et seq.](#)) protecting underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source
- Applicable provisions of the Clean Air Act ([42 U.S.C. § 7401, et seq.](#)) and Clean Water Act ([33 U.S.C. § 1251, et seq.](#)), as implemented by [Executive Order 11738](#) (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to federal contracts, grants, or loans”)

# **V. Payment, Interest, and Refunds**

## **A. Payment**

NEH awards are typically funded on an advance basis, unless otherwise specified in the award. NEH issues payments via electronic funds transfer. The recipient must limit advance payments to the minimum amounts needed and time payment requests as close as is administratively feasible to the actual disbursements for direct costs and the proportionate share of any allowable indirect costs. Even though an award is funded on an advance payment method, the recipient must only draw on an as needed basis. The recipient should disburse funds no later than three to five business days after receipt. When possible, the recipient should consolidate payment requests to cover the anticipated immediate cash needs for all its NEH awards.

Unless otherwise stated in the specific terms and conditions of the award, the recipient should refer to [Payment Requests and Financial Reporting Requirements](#) for an explanation of payment procedures.

To the extent available, the recipient must disburse funds from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

The recipient must deposit federal funds in an insured, interest-bearing account unless one of the following conditions pertains:

- the recipient receives less than \$120,000 in federal awards per year;
- the most reasonably available interest-bearing account would not earn more than \$500 per year on the federal cash balance; or
- placing the money in such an account would entail bank service charges in excess of the interest earned.

## **B. Repayment of funds to NEH**

The recipient must promptly return disallowed costs, undisbursed funds, and erroneous payments to NEH. The only exception to the requirement for prompt repayment is when the funds involved will be disbursed by the recipient within thirty calendar days.

Refer to [Payment Requests and Financial Reporting Requirements](#) for instructions on how to repay NEH.

## **C. Interest earned on advanced payments and return of excess interest**

Per [2 CFR § 200.305\(9\)](#), the recipient may retain up to \$500 per year in interest earned on advanced payments for administrative expenses. Interest earned in excess of \$500 a year must be remitted to the Department of Health and Human Services annually.

Make returns payable to the Department of Health and Human Services and include the following information:

- an explanation stating that the refund is for interest;
- the name of the awarding agency; and
- the federal award identification number(s) for which the interest was earned.

The recipient should remit interest through either Automated Clearing House (ACH) network or a FEDWIRE Funds Service payment. For ACH or FEDWIRE returns, follow the guidance at [2 CFR § 200.305\(b\)\(11\)](#).

If the recipient does not have access to ACH or FEDWIRE, make payment by check and mail it to the HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231. Allow 4-6 weeks for processing of payments by check.

# **VI. Project Costs**

## **A. Allowable costs**

The allowability, allocability, and reasonableness of costs under an NEH award must be determined in accordance with [2 CFR 200 Subpart E – Cost Principles](#) and the terms and conditions of the award.

## **B. Pre-award costs**

Per [2 CFR § 200.308\(e\)\(1\)](#), NEH waives the prior approval requirement to incur pre-award costs for a period of 90-calendar days before the period of performance start date listed on the Notice of Action. The recipient may incur obligations and expenditures during this period if such costs are necessary to conduct the project and would be allowable under the award without NEH prior approval. The recipient must request prior approval for pre-award costs for periods exceeding 90 calendar days before the period of performance start date.

The recipient incurs pre-award expenditures at its own risk; the authority to approve such costs does not impose an obligation on NEH for reimbursement in the event an award is not made or is made for an amount that is less than the recipient anticipated. For other activities that require prior approval before the period of performance start date, the institutional grant administrator must submit prior approval requests from the Office of Grant Management via the Change Requests tab in eGMS Reach. Reference [Article VII](#) for additional guidance.

## **C. Cost sharing**

The recipient must share the costs of project expenses at the level indicated in the approved project budget, as set forth in [2 CFR § 200.306](#). NEH does not recognize unrecovered indirect costs as an allowable source of required cost share.

## **D. Procurement standards**

The recipient is subject to the procurement standards set forth in 2 CFR [§§ 200.317–327](#).

Per [2 CFR § 200.1](#), the micro-purchase threshold set by [48 CFR Subpart 2.1](#) is \$10,000 for procurements under grants and cooperative agreements.

The simplified acquisition threshold is \$250,000, as established in the [Federal Acquisition Regulations](#).

In addition to other provisions required by NEH or the recipient, all contracts made by the recipient under the federal award must contain the provisions in [Appendix II to 2 CFR Part 200](#), as applicable.

These standards do not relieve the recipient of the responsibilities arising under its contracts. The recipient is the responsible authority, without recourse to NEH, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. Matters concerning the violation of a statute are to be referred to the federal, state, or local authority that has proper jurisdiction.

## **E. Equipment**

The recipient must receive prior approval from the Office of Grant Management to purchase equipment not included in the approved project budget and must document that the purchase is necessary to carry out project activities.

In addition, the recipient must report equipment purchased with NEH funds on the Tangible Personal Property Report (SF-428) within 120 calendar days of the end date of the period of performance.

See [2 CFR §§ 200.313](#) and [.439](#).

See the [Build America, Buy America term](#) (which supersedes [2 CFR § 200.322](#) ([85 FR 49506, Aug. 13, 2020](#))).

## F. Supplies

Title to supplies belongs to the recipient upon acquisition. If there are unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the project and the supplies are not needed for other federally funded projects or programs, the recipient may retain the supplies for use on non-federally funded activities or sell them. In either case, the recipient must compensate the federal government for its share.

See [2 CFR §§ 200.314](#) and [.453](#).

## G. Travel costs

Travel costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days. Travel costs must be consistent with those normally allowed in like circumstances in the recipient's non-federally funded activities and must be in accordance with the recipient's written travel reimbursement policies. **Arrangements made on a non-refundable basis are at the risk of the recipient if the services must be cancelled for any reason.**

Airfare costs in excess of the customary standard commercial airfare (coach or equivalent), federal government contract airfare (where authorized and available), or the lowest commercial discount airfare are unallowable except when such accommodations would:

- require circuitous routing;
- require travel during unreasonable hours;
- excessively prolong travel;
- result in additional costs that would offset the transportation savings; or
- offer accommodations not reasonably adequate for the traveler's medical needs.

Air travel that is paid in whole or in part with NEH funds must be undertaken on U.S. flag air carriers, unless one or more of the situations described under foreign travel, below, apply.

See [2 CFR § 200.475](#).

### 1. Foreign travel

Foreign travel is any travel outside the United States and its jurisdictions.

Unless specifically mentioned otherwise, NEH's approval of a project budget includes approval of all foreign travel contained therein. Foreign travel that is not included in the approved budget requires NEH prior approval.

In accordance with the Fly America Act ([49 U.S.C. § 40118](#)), all air transportation of persons or property that is paid in whole or in part with NEH funds must be performed on a U.S. flag air carrier. Regulations regarding the Fly America Act are available at [41 CFR §§ 301-10.131 - .143](#).

In the following circumstances, the use of a foreign air carrier would be permissible:

- When a U.S. air carrier is not available.
- When using a U.S. carrier service would extend the travel time by 24 hours or more.
- When a U.S. carrier does not offer a nonstop or direct flight between origin and destination, and using a U.S. carrier:
  - Increases the number of aircraft changes outside the United States by two or more;
  - Extends travel time by six hours or more; or
  - Requires a connecting time of four hours or more at an overseas interchange point.
- When the flight time from origin to destination is less than three hours and using a U.S. flag carrier doubles the flight time.
- When there is an applicable [Open Skies Agreement](#) in effect that meets the requirements of the Fly America Act. A foreign flag carrier may be used if an air transportation agreement exists between the U.S. and a foreign government. Recipients must check with the foreign flag carrier to ensure it is covered by the Open Skies Agreement.

Lower cost, convenience, or traveler preference are NOT acceptable reasons for using a foreign air carrier. Crossing the U.S. border to use a foreign airline to avoid being subject to Fly America Act is not permitted.

### **Documenting exceptions**

To document a Fly America exception or waiver, including under an Open Sky Agreement, the recipient must retain the following information:

1. A completed and signed internal agency Fly America exception form.
2. A detailed travel itinerary from a travel agent or online travel service (i.e., Sanditz, Travelocity, Orbitz, or Expedia).
3. The search results performed at the time of booking from an online travel service that document all available flights and the existence of the Fly America exception identified on the Fly America exception form, if applicable.

## **2. Hotel and motel fire safety**

The recipient must hold federally funded meetings and conferences in properties that comply with the [Hotel and Motel Fire Safety Act of 1990 \(Pub L. 101-391\)](#). Consult the U.S. Fire Administration's [National Master List](#) for a list of fire code compliant hotels.

## **H. Food and alcohol**

The recipient must obtain prior approval from NEH to expend federal funds on food, beverages, and snacks at meetings, conferences, workshops, and outreach events, unless such costs are authorized by OGM in the approved work plan and budget. For programs including Indian tribes, children, and the elderly, OGM will consider the allowability of such costs on a case-by-case basis, per [2 CFR § 200.432](#). Food costs associated with entertainment are unallowable, per [2 CFR § 200.438](#).

If project participants receive incidental food items and/or meals at no charge during meetings, conferences, training, or other events they attend while on travel, the recipient must reduce the per diem it charges to the award for that travel accordingly.

Per [2 CFR § 200.423](#), the recipient may not charge alcoholic beverages to the award.

## I. Dependent care

### 1. Dependent care for participants of NEH-funded conferences

Per [2 CFR § 200.432](#), the recipient may not use federal funds to provide dependent care resources at conferences (including meetings, retreats, seminars, symposia, workshops, or events whose primary purpose is the dissemination of technical information) but may use federal funds to identify and publicize locally available dependent care resources. **The recipient may not use NEH funds to pay for dependent care or travel costs related to dependent care for participants of NEH-funded conferences** (including meetings, retreats, seminars, symposia, workshops, or events whose primary purpose is the dissemination of technical information). NEH encourages recipients to consider offering dependent care services at conferences to facilitate the broadest possible participation, but NEH funds cannot support the costs of such services.

OGM may make exceptions for programs that include Indian tribes, children, and the elderly on a case-by-case basis.

### 2. Dependent care for recipient employees in travel status

Per [2 CFR § 200.475\(c\)\(1\)](#), the recipient may use federal funds to pay for **temporary dependent care** (above and beyond regular dependent care) for **employees of the recipient** who are in travel status, provided:

- the costs result directly from the individual's NEH-funded travel;
- the costs are consistent with the recipient's documented travel policy for all official travel; and
- the costs are only during the travel period.

## J. Indirect costs

The recipient must treat costs consistently as either direct or indirect costs to avoid double charging the award. Indirect costs are computed by applying a federally negotiated indirect cost rate to a distribution base (usually the modified total direct costs of the project) or the application of a de minimis rate.

Prior to award, NEH will accept a recipient's valid negotiated and provisional indirect cost rates in accordance with [2 CFR § 200.414\(c\)](#). A valid agreement is a provisional, predetermined, fixed, or final rate which has been authorized by a cognizant agency and the effective period has not expired. NEH will not include indirect costs on an award in which a negotiated or provisional indirect cost is not in effect at the time of award. **NEH will also accept the de minimis rate.**

NEH does not reimburse indirect costs under the following types of awards:

- construction
- endowments
- awards to:
  - individuals
  - federal institutions



- state humanities councils for general operating support

### **1. Appropriate rate type**

The Office of Grant Management reviews negotiated indirect cost rate(s) to ensure the recipient applies the most appropriate rate. Many institutions negotiate multiple rates—for example, “research,” “instruction,” and “other sponsored activities.” An institution’s “research” rate is not the appropriate rate for inclusion in NEH project budgets, except in rare cases, since it is reserved for projects involving scientific research, not scholarly inquiry of the type most often supported by NEH.

### **2. Negotiated rates**

Except as provided in [2 CFR § 200.414\(c\)\(1\)](#), NEH will use the negotiated rates in effect at the time of the initial award throughout the entire period of performance. Award levels will not be adjusted in future years as a result of changes in negotiated rates. “Negotiated rates” include final, fixed, and predetermined rates and exclude provisional rates. If negotiated or provisional rate agreements do not extend through the life of the NEH award at the time of the initial award, then the final, fixed, or predetermined negotiated rate for the last year of the NEH award will be extended through the end of the period of performance.

### **3. Provisional rate**

Except as provided in [2 CFR § 200.414](#), when a recipient does not have a negotiated rate with the federal government at the time of an award, the provisional rate used must be adjusted once a rate is negotiated and approved by the cognizant agency for indirect costs. NEH does not anticipate an increase in the award to cover additional costs resulting from the negotiation of an indirect cost rate greater than the rate proposed in the budget; however, the negotiation of a lower rate may result in a reduction of the award.

### **4. De minimis rate**

A recipient without a current negotiated (including provisional) rate, except for organizations defined in [Appendix VII to 2 CFR Part 200\(D\)\(1\)\(b\)](#), may elect to charge a de minimis rate of 10 percent of modified total direct costs which may be used indefinitely. If chosen, this methodology must be used consistently for all federal awards until such a time when the recipient chooses to negotiate for a rate, which the entity may do so at any time.

## **VII. Project Changes: Prior Approval Requirements**

Per [2 CFR § 200.308](#), the recipient must report deviations from the budget, project scope, or objective, and request prior approval from NEH for budgetary and programmatic revisions.

The recipient must request prior approvals from NEH for the following programmatic or budgetary reasons:

- change in the scope or the objective of the project (even if there is no associated budget revision requiring prior written approval);
- change in the project director, institutional grant administrator, or any key person specified in the Notice of Action;



- the approved project director or co-director disengaging from the project for more than three months or reducing their time devoted to the project by 25% or more;
- including costs that require prior approval in accordance with [2 CFR § 200.407](#);
- transferring funds budgeted for participant support costs to other categories of expense, as defined in [2 CFR § 200.1](#);
- subawarding, transferring, or contracting out any work under a NEH award, including fixed amount subawards as described in [2 CFR § 200.333](#), unless described in the application and funded in the approved award, (this provision does not apply to the acquisition of supplies, material, or general support services);
- changes in the approved required cost sharing or matching provided by the recipient;
- requesting supplemental NEH funds to complete the project;
- an extension of the period of performance for more than a 12-month period ([Article VII](#));
- incurring project costs more than 90 days prior to the period of performance start date ([Article VI](#));
- cumulative changes that exceed the lesser of 25% of total project costs or \$150,000;
- adding costs not included in the approved budget (including equipment); or
- adding costs specifically disallowed by the by the Notice of Funding Opportunity or the terms and conditions of the award.

The institutional grant administrator must submit prior approval requests through the Change Requests tab in eGMS Reach. The Office of Grant Management will review the request and notify the recipient within 30 calendar days whether it has been approved. If the revision is still under consideration at the end of 30 calendar days, NEH will inform the recipient in writing of the date by which it may expect a decision.

NEH has waived prior approval requirements for items noted in [2 CFR § 200.308\(e\)](#):

- 90-day pre-award costs; and
- up to a 12-month extension to the period of performance.

## **A. No-cost extensions to the period of performance**

### **1. First no-cost extension**

If the recipient requires additional time to complete the original scope of the project, NEH delegates to the recipient the authority to approve a one-time extension of the end date of the period of performance established in the initial award. NEH will not award additional funds, and the extension cannot exceed 12 months.

The institutional grant administrator must notify the Office of Grant Management of the new expiration date using the Change Requests tab in eGMS Reach between 90 and 30 calendar days before the end of the original period of performance. The notification must include a justification for the extension. **The recipient may not exercise its authority to extend an award merely for expending the unobligated or unliquidated balance of award funds.**

**NEH does not delegate authority to the recipient to approve a one-time extension for awards with a matching requirement that has not been met without prior approval from the Office of Grant Management.**

## **2. Subsequent no-cost extensions**

If the recipient wishes to extend an award for more than a 12-month period or determines that subsequent extensions are necessary, the institutional grant administrator must submit a prior approval request to the Office of Grant Management through the Change Requests tab in eGMS Reach between 90 and 30 calendar days prior to the end of the period of performance. The request must include a detailed justification for the extension, an estimate of the unexpended award funds, and a detailed work plan for activities that will be undertaken during the requested extension.

## **B. Changes in key personnel**

The replacement of the project director (or co-director), or other key personnel identified in the Notice of Action, or a substantial reduction in those individuals' level of effort, (for example, an unanticipated absence for more than three months or a 25% reduction in the time devoted to the project), requires prior written approval from the Office of Grant Management.

The institutional grant administrator must submit requests for approval of changes in key personnel through the Change Requests tab in eGMS Reach. The request must include a justification, related timing of the change, budget revisions resulting from the proposed change, and evidence of the qualifications for replacement personnel (such as a résumé).

At its discretion, NEH may suspend award activities until the recipient has identified, and NEH has approved, a qualified project director or other key personnel. See [Article XIII](#).

## **C. Change in institutional grant administrator**

The replacement of the institutional grant administrator requires prior written approval from the Office of Grant Management. The proposed replacement must have authority to act on the organization's behalf in matters related to the administration of the award. Send requests through the Change Requests tab in eGMS Reach.

## **D. Changes in project scope**

The recipient must carry out the project consistent with the scope approved by NEH. The scope of a project encompasses the purpose for which the award is undertaken, its subject matter, the treatment of the subject matter, the historical time frame of the project, the volume of material that will be studied/treated, and the products that are expected to result from award activities. The recipient may not make changes to the scope of the project without written approval from the Office of Grant Management.

The institutional grant administrator must submit requests for a change in the scope of an award to the Office of Grant Management through the Change Requests tab in eGMS Reach. The request must include a justification for and the related timing of the change, as well as budget revisions resulting from the proposed change.

# **VIII. Reporting Requirements**

Per [2 CFR §§ 200.328](#) and [.329](#), the recipient must submit financial and performance reports no less than annually. The reporting schedule is available in the Forms and Reports tab in eGMS Reach.

The recipient must submit reports electronically via eGMS Reach, unless otherwise instructed. Due dates for the required financial and performance reports are in the “Report Schedule” under the Forms and Reports tab in eGMS Reach. Failure to submit required reports may result in NEH pursuing an enforcement action such as payment restrictions, suspension or termination of the award, suspension of action on pending applications and awards, and a report to the OMB designated performance and integrity system, the [Federal Awardee Performance and Integrity Information System \(FAPIS\)](#).

The recipient must submit a final performance report and a final [Federal Financial Report, SF-425](#) (FFR) to the Office of Grant Management within 120 days of the period of performance end date. The FFR must be completed in eGMS Reach (the recipient may not upload a completed PDF). All information must be accurate, complete, and consistent with the recipient’s accounting records.

In some cases, the recipient may need to revise or amend a previously submitted FFR. When the revision results in a balance due to NEH, the recipient must submit a revised FFR when the overcharge is discovered, no matter how much time has lapsed since the original due date of the report. See [OMB Circular A-129](#) and [2 CFR §§ 200.345](#) and [.346](#) for requirements regarding unreturned amounts that become delinquent debts. The recipient may submit revised reports representing additional expenditures to NEH within the 120-day time frame with an explanation for the revision. The explanation should indicate why the revision is necessary and describe what action the recipient has taken to preclude similar situations in the future. If an adjustment is to be made, NEH will advise the recipient.

## **IX. Award Closeout**

Upon receipt of all final reports by stated due dates, NEH will proceed with closeout. Regardless of compliance with reporting requirements, NEH will commence closeout with information available 120 days after the period of performance end date.

Closeout of an award does not cancel requirements for property accountability, record retention, or financial accountability. Following closeout, the recipient remains obligated to return funds due as a result of later refunds, corrections, or other transactions. The federal government may recover funds based on the results of an audit.

Per [2 CFR § 200.344\(i\)](#), federal agencies must close out an award within one year of the period of performance end date. Failure to submit final reports within 120 days after the period of performance end date may result in delayed payments, suspension of action on pending applications and awards, and a report to the OMB designated performance and integrity system, the [Federal Awardee Performance and Integrity Information System \(FAPIS\)](#).

### **A. Program income**

The recipient may deduct costs incidental to the generation of program income from gross income to determine net program income, provided these costs have not been charged to the federal award. The federal (NEH) share of program income is determined by the percentage of total project costs that are supported by NEH. See [2 CFR § 200.307](#).

#### **1. Income earned during the period of performance**

Per [2 CFR § 200.307\(e\)](#), NEH will specify one of the following approaches for the disposition of program income directly generated by or earned as a result of the NEH award:

- addition (default method if not defined in the award-specific terms and conditions): the recipient may add program income to the existing project cost to cover allowable project costs;
- cost sharing or matching: the recipient may use program income to meet the cost sharing or matching requirement of the NEH award; or
- deduction: the recipient must use program income to finance the federal share of the project costs, which would result in an equivalent reduction in the amount of the NEH award.

The award specific terms and conditions will specify the method for disposition of program income. If the specific terms and conditions do not specify a method, the recipient must use the addition method.

## **2. Income earned after the period of performance**

In accordance with [2 CFR § 200.307\(f\)](#), when NEH funding amounts to \$50,000 or more and total program income earned after the period of performance exceeds \$50,000, NEH reserves the right to make a claim to or restrict the use of the federal share of income earned during the seven years following the period of performance.

Even if NEH does not specifically require the submission of program income reports after the period of performance, the recipient must submit a report as soon as the cumulative program income earned during the seven years after the period of performance exceeds \$50,000.

In reporting program income earned after the period of performance, the recipient must indicate the amount and sources of the gross income and the percentage of funding provided to the project by NEH. The federal share of program income will be determined by (1) deducting the first \$50,000 in gross income from total gross income, (2) deducting 5% of the balance of gross income to cover possible recipient costs, and (3) multiplying the balance of gross income by half the percentage of funding provided to the project by NEH. For example, if an NEH award of \$250,000 covered 60% of a project's total costs and the project earned \$200,000 in program income during the seven-year reporting period, the federal share of that income would be \$42,750 (\$200,000 minus \$50,000 minus 5% x 30%). Once the federal share of income equals the amount of funding provided by NEH, NEH's claim to additional income will be reduced by half.

If the recipient must return program income to NEH, it should email the Office of Accounting at [accounting@neh.gov](mailto:accounting@neh.gov) to make arrangements.

## **B. FFATA**

As required by the [Federal Funding Accountability and Transparency Act of 2006](#) (FFATA), (Pub. L. 109–282), as amended by section 6202 of [Public Law 110–252](#), the recipient must report information for each subaward of \$30,000 or more in federal funds and executive total compensation as outlined in [Appendix A to 2 CFR Part 170](#). FFATA reporting requirements apply for the duration of the period of performance.

The recipient must report all subawards meeting the threshold at [Federal Funding Accountability and Transparency Act Subaward Reporting System](#) (FSRS). Reports are due at the end of the month following the month in which the recipient awards any subaward greater than or equal to \$30,000.

# **X. Audits and Record Retention**

## **A. Financial management standards**

The recipient's financial management systems must meet the requirements set forth in [2 CFR § 200.302](#).

The recipient must ensure that all award funds are obligated during the period of performance and all obligations are drawn down and are paid (liquidated) no later than 120 calendar days after the period of performance end date (the liquidation period).

## **B. Audit requirements**

The recipient and its subrecipients shall have audits conducted that meet the requirements of the Single Audit Act Amendments of 1996 ([31 U.S.C. §§ 7501-7507](#)) as implemented by [2 CFR Part 200, Subpart F](#). Recipients and subrecipients expending more than \$750,000 in federal funds from all sources during their fiscal year are subject to the Single Audit, also known as a Subpart F audit.

The single audit includes the entity's financial statements and federal awards. Federal awards included in the required "schedule of expenditure of federal awards" are identified by their Federal Assistance Listing number.

## **C. Record retention**

The recipient must retain financial records, supporting documentation, statistical records, and all other records pertinent to the NEH award for three years from the date of submission of the final FFR. When the conditions of an award require program income to be reported, the recipient must retain pertinent records for three years from the date of submission of the last required income report. The recipient must retain records for real property and equipment acquired with NEH funds for three years after final disposition.

See [2 CFR § 200.334](#) for additional record retention requirements.

# **XI. Rights**

## **A. Title to equipment and real property**

Conditional title to equipment and real property acquired with NEH funds belongs to the recipient or subrecipient. See [2 CFR § 200.313](#) for additional information regarding the title, use, management requirements, and disposition of equipment purchased with NEH funds. See [2 CFR § 200.311](#) for additional information regarding the title, use, management requirements, and disposition of real property purchased with NEH funds.

See [Administration of NEH Challenge Infrastructure and Capacity Building Grants \(for awards with prefix CHA issued on or after February 1, 2022\)](#) for information regarding federal interest in real property purchased, constructed, or improved with NEH funds.

## **B. Intangible property**

Title to intangible property acquired under the award belongs to the recipient or subrecipient. The recipient must use that property for the originally authorized purpose and may not encumber the property without NEH's approval. NEH reserves the right to determine the disposition of the intangible property when it is no longer needed for the originally authorized purpose.

Consistent with [2 CFR § 200.315\(b\)](#), the recipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under the award. NEH reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

# **XII. Data Collection and Dissemination**

## **A. Data collection**

The recipient is responsible for data collection activities performed under a grant. NEH support of the project does not constitute approval of the survey design, questionnaire content, or data collection procedures. The recipient must not represent to respondents that such data are being collected for, or in association with, NEH or any other government agency without the specific written approval of the data collection plan or device by NEH. This requirement is not intended to preclude mention of NEH support of the project in response to an inquiry or the acknowledgment of such support in any publication of this data.

As required by Coordination of Geographic Information and Related Spatial Data ([OMB Circular A-16](#) and [Executive Order 12906](#)), recipients whose projects include the development, acquisition, preservation, or enhancement of geospatial data, products, or services, must conduct a due diligence search of the [Data.gov list of datasets](#) to determine whether the needed geospatial-related data, products, or services already exist. If not, the recipient must produce the proposed geospatial data, products, or services in compliance with applicable [Federal Geographic Data Committee](#) guidance.

The federal government has the right to obtain, reproduce, publish, or otherwise use data first produced under an award and authorize others to do so for government purposes.

## **B. Dissemination of project results**

The recipient should publish or otherwise make publicly available the results of work conducted under an award. Unless otherwise specified in the award documents, the recipient must forward two copies of any published material resulting from award activities to the appropriate NEH program officer as soon as it becomes available. This material should be labeled with the identifying NEH federal award identification number (FAIN).

Publication and distribution agreements must include provisions giving the government a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use the material for federal purposes and requiring the acknowledgment of NEH support. The publication shall also include the disclaimer contained in [Article III](#) of these *General Terms and Conditions for Awards*.



# XIII. Suspension, Termination, and Appeal

## A. Suspension and termination

Awards may be suspended or terminated in whole or in part:

- by NEH, if a recipient materially fails to comply with the terms and conditions of an award;
- by NEH, if an award no longer effectuates the agency's needs and priorities;
- by NEH, in accordance with the [NEH Research Misconduct Policy](#);
- by NEH, when it determines that the recipient or a subrecipient is in violation of the requirement in paragraph (g) of Section 106 of the Trafficking Victims Protection Act of 2000 (TVPA) as amended ([22 U.S.C. § 7104\(g\)](#)). Termination may occur as described in [2 CFR Part 175](#);
- by NEH, with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion of the project to be terminated; or
- by the recipient, upon sending to NEH written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion of the project to be terminated. However, if NEH determines that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, it may terminate the award in its entirety either unilaterally or with the consent of the recipient; or
- by NEH, when it has other reasonable cause.

Normally, NEH will only take this action after notifying the recipient of the deficiency and giving them sufficient time to correct it, but this does not preclude immediate suspension or termination when such action is required to protect the interests of the federal government.

In the event that NEH suspends an award and the recipient does not take corrective action within 90 days of the effective date, NEH may issue a notice of termination. No costs that are incurred during the suspension period or after the effective date of termination will be allowable, except those that are specifically authorized by the suspension or termination notice or those that, in the opinion of NEH, could not have been reasonably avoided ([2 CFR § 200.472](#)).

Within 30 calendar days of the termination date, the recipient must provide to NEH a summary of progress achieved under the award, an itemized accounting of charges incurred against award funds and cost sharing prior to the effective date of the termination, and a separate accounting and justification for any costs that may have been incurred after this date.

## B. Termination appeal procedures

A recipient who has received a notice of termination may request NEH's review of the termination action. The institutional grant administrator must submit the request through eGMS Reach no later than 30 calendar days after the date of the termination notice and should address it to the Senior Deputy Chairman, National Endowment for the Humanities.

The request for review must contain a full statement of the recipient's position and the pertinent facts and reasons that support such a position. The Office of Grant Management will promptly acknowledge the request and forward it to the NEH Senior Deputy Chairman, who will consult with the program office, the Office of Grant Management, and the Office of General Counsel. Pending the resolution of the review, the notice of termination will remain in effect.

The Office of Grant Management will send the recipient a Notice of Action with the Senior Deputy Chairman's final administrative decision through eGMS Reach. The final administrative decision cannot be appealed.

## **XIV. Reporting Misconduct, Fraud, Waste, and Abuse**

### **A. Research misconduct**

In accordance with the [NEH Research Misconduct Policy](#), NEH will take appropriate action against individuals or organizations if it determines that misconduct has occurred in proposing, performing, or reviewing research or in reporting results from research activities funded by the agency. NEH may also take interim action during an investigation.

Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results.

The recipient is responsible for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with its own institution.

NEH may proceed with its own inquiry or investigation into research misconduct at any time. However, in most cases, the NEH Office of Inspector General will refer an allegation to the recipient and will rely on them to make the initial response. NEH may elect not to defer to the recipient in circumstances such as, but are not limited to:

- the agency determines that the recipient is not prepared to handle the allegation in a manner consistent with this policy;
- agency involvement is needed to protect the public interest; or
- the allegation involves an entity of sufficiently small size that it cannot reasonably conduct the investigation itself.

If the allegation meets the definition of research misconduct and is first made to the recipient, the recipient must notify NEH if their inquiry determines that there is sufficient evidence to proceed to an investigation.

At any time during an inquiry or investigation, the recipient must immediately notify the NEH Office of Inspector General if:

- NEH resources or interests are threatened;
- public health or safety is at risk;
- research activities should be suspended;
- there is reasonable indication of possible violations of civil or criminal law;



- federal action is required to protect the interests of those involved in the investigation;
- the recipient believes the inquiry or investigation may be made public prematurely and that appropriate steps need be taken to safeguard evidence and protect the rights of those involved; or
- the research community or public should be informed.

NEH will make a finding of misconduct and act on such a finding only after careful inquiry and investigation by a recipient, another federal agency, or NEH. In the event of a finding of research misconduct, NEH will determine what administrative actions are appropriate.

Administrative actions available include, but are not limited to, appropriate steps to correct the research record; letters of reprimand; the imposition of special certification or assurance requirements to ensure compliance with applicable regulations or terms of an award; suspension or termination of an active award; or suspension and debarment in accordance with applicable NEH and governmentwide rules on suspension and debarment ([Article XIII](#)). NEH will make suspensions and debarments publicly available through [SAM.gov](#). If the NEH Office of Inspector General believes that criminal or civil fraud violations may have occurred, it will promptly notify the Department of Justice.

Possible misconduct in activities funded by NEH should be reported to NEH Office of the Inspector General. See [Mandatory Disclosures: Fraud, Waste, and Abuse](#).

## **B. Mandatory disclosures: fraud, waste, and abuse**

Per [2 CFR § 200.113](#), the recipient and its subrecipients must disclose, in a timely manner, in writing to NEH or the pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. For recipients receiving more than \$10,000,000 in federal funds from active grants, cooperative agreements, and procurement contracts, must report certain civil, criminal, or administrative proceedings to the [Federal Awardee Performance and Integrity Information System \(FAPIIS\)](#), in accordance with [Appendix XII to 2 CFR Part 200](#). Failure to make required disclosures can result in any of the noncompliance remedies described in [2 CFR § 200.339](#).

Disclosures must be sent in writing to the NEH Office of Inspector General.

Office of Inspector General  
National Endowment for the Humanities  
400 7th Street, SW  
Washington, DC 20506  
[oig@neh.gov](mailto:oig@neh.gov)  
1 (877) 786-7598  
[OIG Hotline Form](#)