

APPROPRIATION LANGUAGE AND CITATIONS

The Act of August 10, 1846, 9 Stat. 102-106, 20 U.S.C. §§ 41-70, established the Smithsonian Institution “for the increase and diffusion of knowledge,” and provided the organizational structure for the Institution’s administration. The mission of the Smithsonian Institution has remained unchanged throughout its 160-year history, although additional authority for many of the Institution’s programs and operations has been enacted over the years. Those statutes, along with the Smithsonian charter, are cited below as the authority for the Smithsonian Institution FY 2006 appropriation language, except where specific authorizing language has been included in the wording of the appropriation itself.

Appropriation: Salaries and Expenses

1. For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history;

20 U.S.C. §§ 50, 53a, 69, 75b(b), 76bb(c), 77a, 78, 80a(a), 80m, 80q-1(b)(1),(3) provide that (1) “...all objects of art and of foreign and curious research, and all objects of natural history, plants, and geological and mineralogical specimens...shall be so arranged and classified...as best to facilitate the examination and study of them...” (2) “Appropriations are authorized for...the making of solar observations at high altitudes...” (3) “The Secretary of the Smithsonian Institution is hereby authorized...to continue independently or in cooperation anthropological researches among the American Indians and the natives of lands under the jurisdiction or protection of the United States...” (4) “The Gallery [National Portrait Gallery] shall function as a free public museum for the exhibition and study of portraiture and statuary depicting men and women who have made significant contributions to the history, development, and culture of the people of the United States and of the artists who created such portraiture and statuary.” (5) “The Joseph H. Hirshhorn Museum and Sculpture Garden...shall be used for the storage, exhibition, and study of works of art...” (6) “The national air and space museum shall...provide educational material for the historical study of aviation and space flight.” (7) “The Secretary of the Smithsonian Institution is authorized to cooperate with any State, educational institution, or scientific organization in the United States for continuing paleontological investigations...” (8) “It shall be equipped with a study center

for scholarly research into the meaning of war, its effect on civilization, and the role of the armed forces..." (9) "...the Board may...conduct programs of research and education (in the Museum of African Art)..."(10) The purposes of the National Museum [of the American Indian] are to (1) advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life...(3) provide for Native American research and study programs.

2. development, preservation, and documentation of the National Collections;

20 U.S.C. §§ 50, 50a, 59, 69, 75e, 76c, 76cc(a), 77a, 80a, 80m, 80q-1(b)(2), 81 provide that (1) "...all objects of art and of foreign and curious research, and all objects of natural history, plants, and geological and mineralogical specimens...shall be delivered to such persons as may be authorized by the Board of Regents to receive them, and shall be so arranged and classified...as best to facilitate the examination and study of them..." (2) "The Smithsonian Institution is authorized to include in its estimates of appropriations such sums as may be needful for the preservation and maintenance of the John Gellatly art collection." (3) "All collections of rocks, minerals, soils, fossils, and objects of natural history, archaeology, and ethnology...when no longer needed for investigations in progress shall be deposited in the National Museum." (4) "The Secretary of the Smithsonian Institution is hereby authorized...to continue independently or in cooperation...the excavation and preservation of archaeological remains." (5) "...the Board may - (1) purchase, accept, borrow, or otherwise acquire portraiture, statuary, and other items for preservation, exhibition, or study." (6) "...the Regents are authorized...to acquire (by purchase or otherwise) and sell contemporary works of art or copies thereof..." (7) "There is established in the Smithsonian Institution a Board of Trustees...which shall have the sole authority (i) to purchase or otherwise acquire...works of art for the Joseph H. Hirshhorn Museum and Sculpture Garden..." (8) "The national air and space museum shall...collect, preserve, and display aeronautical and space flight equipment of historical interest and significance..." (9) "...the Smithsonian Institution shall collect, preserve, and exhibit military objects of historical interest and significance." (10) "...the Board may purchase, accept, borrow or otherwise

acquire additional works of art or any other real or personal property for the Museum (of African Art); preserve, maintain, restore...or otherwise hold any property of whatsoever nature acquired..." (11) "The purposes of the National Museum [of the American Indian] are to...(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest..." (12) "The National Zoological Park is placed under the direction of the Regents of the Smithsonian Institution, who are authorized to transfer to it any living specimens, whether of animals or plants, in their charge, to accept gifts for the park...to make exchanges of specimens..."

3. presentation of public exhibits and performances;

20 U.S.C. §§ 75b(b), 76c(b), 76bb(c), 77a, 80a(a), 80m(a), 80q-1(b) provide that (1) "The Gallery [National Portrait Gallery] shall function as a free public museum for the exhibition and study of portraiture and statuary..." (2) "In order to encourage the development of contemporary art and to effect the widest distribution and cultivation in matters of such art, the Regents are authorized to...conduct exhibitions..." (3) "The Joseph H. Hirshhorn Museum and Sculpture Garden...shall be used for the storage, exhibition, and study of works of art..." (4) "The national air and space museum shall...collect, preserve, and display aeronautical and space flight equipment of historical interest and significance..." (5) "...the Smithsonian Institution shall collect, preserve, and exhibit military objects of historical interest and significance." (6) "...the Board may...display...any property of whatsoever nature acquired (for the Museum of African Art)..." (7) "The purposes of the National Museum [of the American Indian] are to...(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest..."

4. collection, preparation, dissemination, and exchange of information and publications;

20 U.S.C. § 53a provides that "Appropriations are authorized for the...preparation of manuscripts, drawings, and illustrations for publication."

5. conduct of education, training, and museum assistance programs;

20 U.S.C. § 65a provides "The Director of the National Museum under the direction of the Secretary of the Smithsonian Institution shall - (1) cooperate with museums and their professional organizations in a continuing study of museum problems and opportunities, both in the United States and abroad;... (2) prepare and distribute significant museum publications; (3) perform research on, and otherwise contribute to, the development of museum techniques...."

20 U.S.C. § 77a provides that "The national air and space museum shall...provide educational material for the historical study of aviation and space flight."

20 U.S.C. § 79a provides that "The purpose of setting aside such an area [Barro Colorado Island] is to preserve and conserve its natural features...thus providing a place where duly qualified students can make observations and scientific investigations for increase of knowledge, under such conditions and regulations as may be prescribed by the Smithsonian Institution."

20 U.S.C. § 79e provides that "There are authorized to be appropriated annually...such sums as are necessary for the administration of [the Canal Zone Biological Area] for the maintenance of laboratory or other facilities..."

The Panama Canal Treaty and ancillary agreements vest in the Smithsonian Tropical Research Institute responsibility to serve as custodian of the Barro Colorado Nature Monument. The Panama Canal Act of 1979, Public Law 96-70, as amended, implements the provisions of the Panama Canal Treaty.

20 U.S.C. § 80m(a) provides that "...the Board [of Regents] may... (3) conduct programs of research and education (in the Museum of African Art)...."

6. maintenance, alteration, operation, lease (for terms not to exceed 30 years), and protection of buildings, facilities, and approaches;

20 U.S.C. §§ 53a, 76g, 76ee, 79b, 80m, 81 provide that respectively, (1) "Appropriations are authorized for the maintenance of the Astrophysical Observatory and...for repairs and alterations of buildings and grounds occupied by the

Smithsonian Institution in the District of Columbia and elsewhere..." (2) "There are authorized to be appropriated annually such sums as may be necessary to maintain and administer the Gallery [National Portrait Gallery]..." (3) "There is authorized to be appropriated...such additional sums as may be necessary for the maintenance and operation of such [Hirshhorn] [M]useum and [S]culpture [G]arden." (4) "The Smithsonian Institution shall...be responsible for the construction and maintenance of laboratory and other facilities on the area provided for the use of students authorized to carry on studies within the confines of the area..." (5) "...the Board may...preserve, maintain...any property of whatsoever nature acquired (for the Museum of African Art)..." (6) "The National Zoological Park is placed under the direction of the Regents of the Smithsonian Institution, who are authorized...to administer and improve the said Zoological Park for the advancement of science and the instruction and recreation of the people." Public Law 101-512 making appropriations for the Department of the Interior and Related Agencies for the fiscal year 1991 extended the maximum term for leases from ten years to thirty years.

7. not to exceed \$ _____ for services as authorized by 5 U.S.C. 3109;

5 U.S.C. § 3109 provides that "When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services."

8. up to 5 replacement passenger vehicles;

31 U.S.C. § 1343 provides that "(b) An appropriation may be expended to buy or lease passenger motor vehicles only-- (1) for the use of--...or, (2) as specifically provided by law."

9. purchase, rental, repair, and cleaning of uniforms for employees,

5 U.S.C. § 5901 provides that "(a) There is authorized to be appropriated annually to each agency of the Government of the United States,...on a showing of necessity or desirability, such sums as may be necessary to carry out this subchapter. The head of the agency concerned...shall-- (1) furnish to each of these employees a uniform at a cost not to exceed \$400 a

year...or (2) pay to each of these employees a allowance for a uniform not to exceed \$400 a year...”

40 U.S.C. § 193t provides that “The special police provided for in section 193n of this title [Smithsonian Institution]...may be furnished, without charge, with uniforms and such other equipment as may be necessary for the proper performance of their duties...”

10. \$ _____, of which not to exceed \$ _____ for the instrumentation program, collections acquisition, exhibition reinstallation, the National Museum of African American History and Culture, and the repatriation of skeletal remains program shall remain available until expended; and of which \$ _____ for the reopening of the Patent Office Building and for fellowships and scholarly awards shall remain available until September 30, 2007,

Wording added by the Congress in Public Law 100-446 making appropriations for the Department of the Interior and related agencies for the fiscal year 1989 to permit the Institution to establish no-year funding within the Salaries and Expenses account for the development of major scientific instrumentation. Public Law 101-512, making appropriations for the Department of the Interior and Related Agencies for the fiscal year 1991, allowed no-year funding to be used for purchases for museum collections; the design, production, and reinstallation of museum exhibitions; and the repatriation of skeletal remains. Public Law 108-447 making appropriations for the Department of the Interior and Related Agencies for fiscal year 2005 allowed no-year funding for the National Museum of African American History and Culture. Public Law 108-108 making appropriations for the Department of the Interior and Related Agencies for fiscal year 2004 established two-year funding for fellowships and scholarly research awards. Wording added by the Congress in Public Law 109-54 making appropriations for the Department of Interior, environment, and related agencies for fiscal year 2006 to expand 2-year funding authority to include funds necessary to reopen the Patent Office Building to the public after a multi-year renovation.

31 U.S.C. § 1301(c) provides “An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation ... (2) expressly

provides that it is available after the fiscal year covered by the law in which it appears.”

11. and including such funds as may be necessary to support American overseas research centers and a total of \$ _____ for the Council of American Overseas Research Centers:

Wording added by the Congress in Public Law 99-190 making appropriations for the Department of Interior and Related Agencies in 1986. Public Law 100-446 making appropriations for the Department of the Interior and Related Agencies for the fiscal year 1989 modified reference to add specific dollar sum to be provided to the Council of American Overseas Research Centers.

12. Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations:

31 U.S.C. § 3324 provides that “(b) An advance of public money may be made only if it is authorized by-- (1) a specific appropriation or other law...”

13. Provided further, That the Smithsonian Institution may expend Federal appropriations designated in this Act for lease or rent payments for long term and swing space, as rent payable to the Smithsonian Institution, and such rent payments may be deposited into the general trust funds of the Institution to the extent that federally supported activities are housed in the 900 H Street, N.W. building in the District of Columbia: Provided further, That this use of Federal appropriations shall not be construed as debt service, a Federal guarantee of, a transfer of risk to, or an obligation of, the Federal Government: Provided further, That no appropriated funds may be used to service debt which is incurred to finance the costs of acquiring the 900 H Street building or of planning, designing, and constructing improvements to such building.

Wording added by the Congress in Department of the Interior and Related Agencies Appropriations Act, 2000, as enacted by section 1000(a)(3), Division B of the Consolidated Appropriations Act, 2000 (Public Law 106-113, approved November 29, 1999).

Appropriation: Facilities Capital

1. For necessary expenses of repair, revitalization, and alteration of facilities owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623),

Act of August 22, 1949 (63 Stat. 623), 20 U.S.C. § 53a, provides that "Appropriations are authorized...for repairs and alterations of buildings and grounds occupied by the Smithsonian Institution in the District of Columbia and elsewhere..."

20 U.S.C. § 81 provides that "The National Zoological Park is placed under the direction of the Regents of the Smithsonian Institution, who are authorized...to administer and improve the said Zoological Park for the advancement of science and the instruction and recreation of the people."

Department of the Interior and Related Agencies Appropriations Act, 2004, (Public Law 108-108) established the Facilities Capital appropriation. The appropriation includes activities formerly financed through the Repair, Restoration and Alteration of Facilities appropriation and the Construction appropriation.

2. and for construction,

20 U.S.C. § 53a provides that "Appropriations are authorized...for repairs and alterations of buildings and grounds occupied by the Smithsonian Institution in the District of Columbia and elsewhere..."

3. including necessary personnel,

Wording added by Congress in Department of Interior and Related Agencies Appropriations Act, 2003, (Public Law 108-7) for clarification.

4. \$ _____ to remain available until expended,

31 U.S.C. § 1301 provides "An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation ... (2) expressly

provides that it is available after the fiscal year covered by the law in which it appears.”

5. of which not to exceed \$ _____ is for services as authorized by 5 U.S.C. 3109:

5 U.S.C. § 3109 provides that “When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services.”

6. Provided, That contracts awarded for environmental systems, protection systems, and repair or restoration of facilities of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price:

Wording added in fiscal year 1984 to allow for negotiations with the most competent firms for restoration and renovation work where it can be certified that such work must be performed to meet the special needs of historic structures, the protection of collections, or public safety.