



Smithsonian
Institution

SMITHSONIAN DIRECTIVE 306

January 11, 2006

REPORTING REQUIREMENTS FOR LIVE MUSICAL PERFORMANCES

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Purpose	This directive explains the policy and procedures for Smithsonian units reporting live public musical performances and associated payment information to the Office of Contracting (OCon). These policies and procedures are consistent with the Smithsonian's licensing agreements with performing rights organizations such as the American Society of Composers, Authors, and Publishers (ASCAP) and Broadcast Music, Inc. (BMI).
Background	By law, and with a few exceptions, owners of copyrighted musical compositions are entitled to receive licensing fees (i.e., royalties) when their music is performed publicly. The performing rights organizations collect and distribute these fees to the copyright owners of musical compositions.
Policy	Smithsonian Institution museums, research centers, and offices (units) that sponsor live public musical performances must report such performances to OCon. Units that sponsor such performances must also pay the licensing fees applicable for such performances from available trust fund allocations.

Exceptions

Licensing fees must be paid for ALL live public performances, except under the following circumstances.

There is no need to report public performances of music to ASCAP or BMI (via OCon) if:

- a Smithsonian unit has obtained a license to use the music from the copyright owner or the copyright owner's authorized representative;
- the music, including the arrangement, was created before 1923 or is otherwise in the public domain and not protected by copyright;
- a Smithsonian unit commissioned the music for the performance;
- no performers are paid and there is no admission charge; or
- no performers are paid but there is an admission charge and the copyright owner (or the copyright owner's authorized representative) has not sent notice objecting to the performance at least seven days before the performance

Smithsonian units should contact OCon with any questions about the type of live public musical performances that are subject to these reporting requirements.

Roles and Responsibilities

Quarterly reports of live performances sponsored by Smithsonian units must be submitted to OCon by the fifth business day following the calendar quarter during which the performances occur, according to the following procedures.

Before the end of each calendar quarter, OCon issues a memo to all Smithsonian administrative officers to remind them of the quarterly reporting requirement. Attached to the memo are copies of the forms that units must use to report performance information. Each report form includes the current fee schedule to be used by units when calculating the applicable licensing fees that must be paid to ASCAP and BMI.

**Roles and
Responsibilities**
(continued)

When the forms are completed, they must be signed by the unit authorizing officer, or designee, and submitted to OCon under a cover memo that includes the following information:

- Name of the unit submitting the report
- Date of each performance
- Name of artist, attraction, or musical group
- Location of each performance
- Seating capacity for each performance
- Gross revenue from ticket sales (if any)
- Fund source to which any licensing fees will be charged (trust funds only)

OCon receives the unit reports, works with the unit contacts to ensure accuracy of fee calculations, and forwards a consolidated report to the Office of the Comptroller (OC) for payment, along with a list of the appropriate unit accounting codes and amounts to be paid by each unit. OC then issues payments to the appropriate performing rights organizations, according to accounts payable processing schedules.

CANCELLATION:
INQUIRIES:
RETENTION:

SD 306, April 2, 2003
Office of Contracting (OCon)
Indefinite. Subject to review for currency 24 months from date of issue