



Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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November 8, 2019

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Economic Development, Public Buildings, and Emergency Management
FROM: Staff, Subcommittee on Economic Development, Public Buildings, and Emergency Management
RE: Hearing on “Review of Smithsonian Institution Current Facilities and Future Space Needs”

PURPOSE

The Subcommittee on Economic Development, Public Buildings, and Emergency Management will meet on Wednesday, November 13, 2019, at 2:00 p.m. in 2167 Rayburn House Office Building to hold a hearing titled, “Review of Smithsonian Institution Current Facilities and Future Space Needs.” At the hearing, Members will receive testimony from the Secretary of the Smithsonian Institution.

BACKGROUND

The Smithsonian Institution:

The Smithsonian Institution is the world’s largest museum and research complex, with 19 museums and galleries, numerous research centers, libraries, archives, and the National Zoological Park. Created by an Act of Congress in 1846 to carry out the trust included in James Smithson’s will, it has been engaged for 172 years in the “increase and diffusion of knowledge.”¹ The Smithsonian Institution is a unique instrumentality of the Federal government, as it is funded by both Federal and private sources and employs Federal and non-federal (or “trust”) staff.

The Smithsonian is the steward of over 155 million objects in the national collection, reflecting the cultural, artistic, and scientific heritage of the United States. Last year, the Smithsonian attracted over

¹ <https://www.si.edu/about/mission>.

28 million visitors to its museums, galleries, and zoological park.² According to the Smithsonian, the Institution owns and leases 680 separate buildings, comprising approximately 13.8 million square feet of space.

The Smithsonian is governed by a Board of Regents, consisting of the Chief Justice of the U.S. Supreme Court, the Vice President, six members of Congress, and nine private citizens. In June 2019, the Smithsonian’s Board of Regents voted to move its headquarters from the historic Smithsonian Castle in Washington, D.C. to a 632,000 square foot property located at 600 Maryland Avenue, Southwest.³

Deferred maintenance of the Smithsonian’s highly-populated facilities, particularly its museums, has been an ongoing challenge. On September 18, 2019, Smithsonian Secretary Lonnie Bunch III and Inspector General Cathy Helm testified before the Committee on House Administration and spoke at length about the Smithsonian’s \$937 million maintenance backlog.⁴ A 2016 Inspector General report that found the institution has not reduced the backlog because it is spending less than recommended on maintenance.⁵ According to Inspector General Helm’s testimony at the September 18, 2019, hearing, the Smithsonian has been spending around 1% on maintenance annually, below the 2-4% range recommended for maintenance by the National Research Council.⁶

Smithsonian Funding:

A significant portion of the Smithsonian’s operations are funded by annual congressional appropriations. Federal appropriations are also provided for the construction or repair and restoration of its facilities. The table below summarizes the Federal appropriations for FY2017-FY2020.⁷

Account	FY2017 Enacted	FY2018 Enacted	FY2019 Enacted	FY2020 Request
Salaries and Expenses	\$729,444,000	\$731,444,000	\$739,994,000	\$759,345,000
Facilities Capital	\$133,903,000	\$311,903,000	\$303,503,000	\$219,000,000
Total	\$863,347,000	\$1,043,347,000	\$1,043,497,000	\$978,345,000

For FY2019, Congress appropriated \$303.5 million for Smithsonian facilities.⁸ For FY2020, the House Committee on Appropriations recommended \$219 million for the Facilities Capital account, \$84.5 million below the enacted level of the previous year.⁹ This is the same amount requested in Smithsonian’s FY2020 budget request.¹⁰ A significant portion of this proposed funding would be for

² <https://www.si.edu/about>.

³ <https://www.bisnow.com/washington-dc/news/office/smithsonian-to-acquire-southwest-dc-building-for-new-headquarters-99402>.

⁴ *Oversight of the Smithsonian Institution*, Hearing before the Committee on House Administration, 116th Congress, September 18, 2019.

⁵ Smithsonian Institution Office of the Inspector General, *Semiannual Report to the Congress*, March 31, 2016.

⁶ See supra note 4.

⁷ See Smithsonian Institution FY 2020 Budget Justification to Congress, pg. 7, March 2019; see also Smithsonian Institution FY 2019 Budget Justification to Congress, pg. 7, February 2018.

⁸ P.L. 116-6.

⁹ H. Rept. 116-100.

¹⁰ See supra note 7.

the multi-year, multi-phase renovation of the National Air and Space Museum (NASM). In the conference report for the FY2019 continuing appropriations resolution, conferees expressed support for the Smithsonian’s Latino and Women’s History initiatives and urged an expanded presence of these initiatives at the Smithsonian.¹¹ This support was also expressed in the explanatory statements for the FY 2017¹² and FY2018¹³ Consolidated Appropriations Acts.

In addition to support provided by Federal appropriations, the Smithsonian Institution has access to a trust fund which currently has a market value of \$1.6 billion, according to the Smithsonian’s estimation.¹⁴ Trust funds are used to leverage the Smithsonian’s research capacity through partnerships with federal agencies, universities, non-Governmental organizations, industry, and other private organizations, both national and international. Trust funds are also used to renovate and modernize exhibits throughout the Institution.

The Institution’s trust funds are comprised of 1) general trust funds with limited or no restrictions on their use, 2) funds restricted by the donor or sponsor, and 3) Government grants and contracts. General trust funds are generated from investment income; payout from unrestricted endowments; net proceeds from museum shops, catalogues, and food service concessions; sales of Smithsonian books, records, and other products based on designs and objects in the collections; theater/planetarium operations at the NASM; licensing fees from the Smithsonian Channel and student travel programs; rental of exhibitions of the Smithsonian Institution Traveling Exhibition Service; membership programs (including subscriptions to Smithsonian and Air and Space magazines); the sale of posters, exhibition brochures, catalogues, and other publications; and admission fees.¹⁵ The table below summarizes the sources of trust operating funds.¹⁶

Fund	FY2017 Actuals	FY2018 Estimates	FY2019 Estimates
General	\$97,900,000	\$89,500,000	\$76,100,000
Donor/Sponsor-Designated	\$247,700,000	\$247,300,000	\$263,700,000
Government Grants and Contracts	\$113,700,900	\$117,500,000	\$116,900,000
Total Available for Operations	\$459,300,000	\$454,300,000	\$456,700,000

Acquisition Authority:

The Smithsonian Institution’s authority to acquire property is generally vested in its Board of Regents through statutory language on individual facilities. For example, the Smithsonian’s Board of Regents is authorized to “invest in, reinvest in, or purchase any property for the benefit of the National Portrait Gallery.”¹⁷ The John F. Kennedy Center for the Performing Arts is a bureau of the Smithsonian Institution. Consequently, the Smithsonian’s Board of Regents is authorized “to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the

¹¹ H. Rept. 116-9, pg. 754-755, February 13, 2019.

¹² P.L. 115-31, pg. 1137-1138, 2018.

¹³ P.L. 115-141, Division G, pg. 1188, 2018.

¹⁴ Smithsonian FY2020 Budget Review Presentation, March 2019.

¹⁵ See supra note 7 at pg. 235.

¹⁶ Id.

¹⁷ 20 U.S.C. 75(d).

moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit” of the Kennedy Center.¹⁸

Leasing Authority:

The Smithsonian Institution is one of 25 Federal agencies that asserts it has its own leasing authority. The Smithsonian is not required to submit real property data to the Federal Real Property Council (FRPC)¹⁹ or comply with OMB’s freeze the footprint directives. According to the Smithsonian, the Institution currently holds approximately 40 leases totaling 1.4 million square feet. This includes facilities for collection storage, general storage, office space, museum and specialty buildings, research buildings and laboratories, and retail facilities.²⁰ The annualized base rent for these leases totals \$45,138,771, with \$11,963,210 in additional costs.²¹

The Smithsonian’s authorization to lease space has been included in annual appropriations bills, including:

- Pub. L. No. 116-6, 133 Stat. 253-54:
 - For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease agreements of no more than 30 years, and protection of buildings, facilities, and approaches;
- Pub. L. No. 115-31, 131 Stat. 489:
 - For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease agreements of no more than 30 years, and protection of buildings, facilities, and approaches;
- Pub. L. No. 114-113, 129 Stat. 2570:
 - For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease agreements of no more than 30 years, and protection of buildings, facilities, and approaches;

¹⁸ 20 U.S.C. 76(k).

¹⁹ *Independent Leasing Authorities: Increasing Oversight and Reducing Costs of Space Leased by Federal Agencies*; Hearing before the Subcommittee on Economic Development, Public Buildings, And Emergency Management; July 16, 2016.

²⁰ Smithsonian Institution Leased Space Presentation, pg. 3, April 2019.

²¹ Id.

- Pub. L. No. 113-235, 128 Stat. 2439:
 - For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease agreements of no more than 30 years, and protection of buildings, facilities, and approaches;

According to the Smithsonian Institution, the following statute confers some real estate independence from the General Services Administration (GSA):

*All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to (a) any building located in any foreign country; (b) any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, air field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative; (c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity, (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and (d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.*²²

In 2016, the Subcommittee held a hearing titled “Independent Leasing Authorities: Increasing Oversight and Reducing Costs of Space Leased by Federal Agencies.”²³ The hearing examined a GAO study of how agencies independent of GSA were exercising that independent leasing authority, i.e. were they getting good deals for the taxpayer by reducing their costs and space footprint and were they acting within their legal authority.

The GAO witness reported that “a high percentage of the entities' lease files lacked evidence for analyzing and documenting the budget effects of the lease. This is important because Federal entities must comply with the recording statute requires Federal agencies to record the full amount of their contractual liabilities, including leases, against funds available when the contract is executed. Violations of the recording statute can also result in Anti-Deficiency Act violations if lease obligations exceed available budget authority for the value of the entire lease term at the time the lease is executed.”²⁴

Regarding space utilization rates, the GAO witness said “all of the eight entities we reviewed leased more office space per employee than GSA's recommended target of 150 square feet per employee.

²² 40 U.S.C. 301, Sec. 2 Transfer of Office Building Management Functions

²³ See supra note 19.

²⁴ Id. at pg. 5.

Twenty-eight of the thirty selected office leases we analyzed exceeded the GSA recommended target on average by a factor of two. Many of these leases had vacant office spaces, which can inflate the per person space allocation.”²⁵

Congressman Barletta said the following: “I understand the Smithsonian is currently reviewing its leasing authority. As Chairman of the subcommittee, it seems the answer should be a simple one: work with GSA to meet your leasing needs. When do you expect to have a decision on how the Smithsonian plans to proceed with its leases?” To which the Smithsonian witness replied: “Let me back up and just say that as we have entered into leases, we have done so in good faith, and we think we have very good grounds for doing so. The issue was raised in the last few months about whether we had the budget authority to do so or not, and there was some lack of clarity. We are working with OMB right now in addressing those issues, and we will keep the committee apprised of our results there.”²⁶

The Smithsonian’s Board of Regents vets and approve all leases by the Smithsonian with a net present value of \$5 million or more.²⁷

Current Major Infrastructure Projects:

In 2016, the Smithsonian unveiled a new master plan for the South Mall campus. The plan includes renovations to the Castle and Arts and Industries Building, new Mall-facing entrances to the National Museum of African Art and the Arthur M. Sackler Gallery, improved visibility and access from the Freer Gallery of Art to the Hirshhorn Museum and Sculpture Garden.²⁸

The National Air and Space Museum is currently under renovation - the first major overhaul of the facility since it opened in 1976.²⁹ The renovation will address the building envelope and terraces, improve energy efficiency, upgrade the structure’s blast and seismic resistance, modernize the building’s mechanical engineering and plumbing systems, and improve functionality of spaces affected by the systems renewal. Phasing plans have approximately half of the museum under renovation while the remaining half will remain open to visitors. To safeguard artifacts during construction, most have been moved to a new collection’s storage facility at the museum’s Steven F. Udvar-Hazy Center in Chantilly, VA. Funding for the renovation consists of \$650 million in Federal appropriations for building revitalization and \$250 million in trust funds for new exhibits.³⁰ The project is expected to be completed in 2024.³¹

Increased collections storage capacity has been a priority for the Smithsonian in recent years. The Smithsonian is currently crafting the Suitland Collections Center Master Plan, which will assess collections space needs across the Smithsonian for the next 40 years. This plan will facilitate reductions to leased space, collections growth, relief of overcrowding, and relocation of collections from deficient or vulnerable locations. The plan will be submitted for review by the National Capital Planning Commission during FY2020.³² The Smithsonian is also in the design stage for the final

²⁵ Id.

²⁶ Id. at pg. 12-13

²⁷ Id. at pg. 10.

²⁸ Smithsonian Outlook, *Projects and Planning Update*, Fall 2019.

²⁹ Smithsonian Press Release, *Major Renovation Underway at National Air and Space Museum*, January 30, 2019.

³⁰ See supra note 28 at pg. 2.

³¹ Id.

³² Id. at pg. 6.

phase of the Suitland Museum Support Center building, Pod 6, which is expected to be completed in 2025.³³

New Museum Bills:

Two bills have been referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management during the 116th Congress to establish new museums at the Smithsonian: H.R. 1980 and H.R. 2420.

H.R. 1980, *the Smithsonian Women's History Museum Act*, authorizes the Smithsonian Institution to plan, construct, and operate a museum dedicated to women's history. The bill currently has 293 cosponsors. The bill establishes a 50-50 cost share between the Federal government and non-Federal sources. The Congressional Budget Office (CBO) estimates that implementing H.R. 1980 would cost \$190 million over the next decade: \$83 million for construction and \$107 million for staffing, planning, creating exhibits and educational programs, and operating the museum.³⁴

H.R. 2420, *the National Museum of the American Latino Act*, establishes the National Museum of the American Latino in the Smithsonian Institution to (1) illuminate Latino contributions to the story of the United States; (2) provide for the collection, study, research, publication, and establishment of exhibitions and programs related to Latino life, art, history, and culture; and (3) provide for collaboration with Smithsonian Institution museums and research centers and other museums and educational institutions in the United States and abroad. The bill establishes a Board of Trustees for the museum to make recommendations to the Board of Regents concerning the location, planning, design, and construction of the Museum. The bill establishes a 50-50 cost share between the Federal government and non-Federal sources.

Smithsonian and Sustainable Construction:

Smithsonian facilities design standards require the integration of sustainability and energy efficiency in the design, construction, operations and maintenance of all Smithsonian building projects.³⁵ Effective strategies implemented at the Smithsonian include decreased consumption of electricity, steam, and natural gas; decreased petroleum use in vehicles and equipment; and green power purchasing.³⁶ The National Museum of African American History and Culture (NMAAHC) was awarded a Gold certification by the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) program.

Smithsonian staff have assessed the vulnerability of its major facilities in D.C., Maryland, New York, and Florida to the impacts of flooding and sea level rise as a part of the Institution's ongoing climate change adaptation planning. This enables the Smithsonian to prioritize projects and incorporate resilience principles into its master plans and projects. This work has informed master plans for the National Museum of American History and the National Museum of the American Indian and led to the decision to relocate the rare book collection at the National Air and Space Museum to the less vulnerable Udvar-Hazy Center in Chantilly, VA.³⁷

³³ Id. at pg. 4.

³⁴ Congressional Budget Office, Cost Estimate for H.R. 1980, October 7, 2019. Available here: <https://www.cbo.gov/publication/55701>.

³⁵ *Smithsonian Institution Facilities Design Standards*, Section IV, January 2012.

³⁶ Smithsonian Institution, *Roadmap for the Development of a Climate Change Adaptation Plan*, pg. 3, September 2013.

³⁷ See supra note 28 at pg. 7.

Since the 102nd Congress, the following construction and space acquisition authorization bills related to the Smithsonian Institution were referred to the Committee on Transportation and Infrastructure:

115th Congress (2017-2018):

- H.R.4009 — Smithsonian National Zoological Park Central Parking Facility Authorization Act. Became Public Law No: 115-178.

114th Congress (2015-2016):

- H.R.3702 — Smithsonian Collections Space Authorization Act

111th Congress (2009-2010):

- H.R.5717 — Smithsonian Conservation Biology Institute Enhancement Act: H. Rept. 111-612, Part 1; H. Rept. 111-612, Part 2
- H.R.608 — Smithsonian Institution Facilities Authorization Act of 2009. H. Rept. 111-53
- H.R.3224 — To authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct a vehicle maintenance building at the vehicle maintenance branch of the Smithsonian Institution located in Suitland, Maryland, and for other purposes. H. Rept. 111-276, Part 1; H. Rept. 111-276, Part 2

110th Congress (2007-2008):

- H.R.6541 — To authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct laboratory space to accommodate the Smithsonian Tropical Research Institute's terrestrial research program in Gamboa, Panama
- H.R.6542 — To authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct laboratory and support space to accommodate the Mathias Laboratory at the Smithsonian Environmental Research Center in Edgewater, Maryland.
- H.R.6627 — Smithsonian Institution Facilities Authorization Act of 2008 H. Rept. 110-842, Part 1; H. Rept. 110-842, Part 2
- H.R.5492 — To authorize the Board of Regents of the Smithsonian Institution to construct a greenhouse facility at its museum support facility in Suitland, Maryland, and for other purposes. H. Rept. 110-545

108th Congress (2003-2004):

- H.R.2195 — Smithsonian Facilities Authorization Act. Became Public Law No: 108-72.
- H.R.5105 — To authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona. Became Public Law No: 108-331.

106th Congress (1999-2000):

- H.R.4729 — To authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip laboratory, administrative, and support space to house base operations for the Smithsonian Astrophysical Observatory Submillimeter Array located on Mauna Kea at Hilo, Hawaii.

104th Congress (1995-1996):

- H.R.3933 —To authorize construction of the Smithsonian Institution National Air and Space Museum Dulles Center at Washington Dulles International Airport, and for other purposes

103rd Congress (1993-1994):

- H.R.848 — To continue the authorization of appropriations for the East Court of the National Museum of Natural History.
- H.R.855 —District of Columbia Land Use Notification Act of 1993.
- H.R.2677 —To authorize the Board of Regents of the Smithsonian Institution to plan, design, and construct the West Court of the National Museum of Natural History building. H.Rept 103-231 Part 1; Became Public Law No: 103-151.

102nd Congress (1991-1992):

- H.R.2757 —To authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and for other purposes.: H.Rept 102-456 Part 1, H. Rept.102-456, Part I.
- H.R.2758 —To authorize the Board of Regents of the Smithsonian Institution to acquire an administrative service center, and for other purposes. Ordered to be Reported.

WITNESS LIST

Mr. Lonnie G. Bunch, III
Secretary
The Smithsonian Institution