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# Smithsonian Institution: Background, Issues for Congress, and Selected Legislation

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# Summary

The Smithsonian Institution (SI) is a complex of museum, education, research, and revenue-generating entities primarily located in the Washington, DC, region, with additional facilities and activities across the United States and world. It reportedly employs in 2020 approximately 6,400 staff, supplemented by approximately 6,900 volunteers who work onsite at various SI facilities, and a number of digital volunteers who support Smithsonian activities online. In FY2019, the Smithsonian's museums and zoo, which are open to the public largely without admission fees, were visited 23.3 million times, while its websites were accessed 154 million times.

Congress created SI in 1846, after it agreed to accept the bequest of James Smithson, an English scientist who left the bulk of his estate to the United States of America to found at Washington an establishment bearing his name. Governmental but organizationally separate and distinct from the legislative, executive, or judicial branches of the U.S. government, SI is overseen by a Board of Regents (Regents), composed of the Chief Justice, Vice President, Members of the House and Senate, and private citizens. The Regents are authorized by Congress to carry out a number of activities, and oversee certain SI entities established or authorized by Congress. Congress provides to SI an annual appropriation—in FY2020, this was approximately $1.047 billion—and provides oversight of SI activities. In addition to carrying out authorities granted by Congress, it appears that SI acts pursuant to its role as trustee of the Smithson and other bequests and gifts to create additional entities to further SI missions.

This report provides an overview of SI organization and leadership roles, and entities created by Congress as well as those created by SI. It also provides analysis and background information on consideration of the development of new SI museums, a proposed collaboration between the Smithsonian and the Victoria and Albert Museum in London, and selected Smithsonian related legislation introduced in the 116th Congress (2019-2020).

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# Introduction and Background

By statute, "the President, the Vice President, the Chief Justice, and the heads of executive departments are constituted an establishment by the name of the Smithsonian Institution for the increase and diffusion of knowledge among men."[1] Congress created the Smithsonian Institution (SI) in 1846, 10 years after it agreed to accept the bequest of James Smithson, an English scientist who lived much of his life in continental Europe. Smithson, who died in 1829, left the bulk of his estate to the United States of America to found at Washington the establishment that bears his name.[2] Today, SI is a complex of museum, education, research, and revenue-generating entities primarily located in the Washington, DC, region, with additional facilities and activities across the United States and world that reportedly employs in 2020 approximately 6,400 staff,[3] supplemented by approximately 6,900 volunteers who work onsite at various SI Facilities, and a number of digital volunteers who support SI activities online.[4] In FY2019, SI's museums and zoo, which are open to the public largely without admission fees,[5] were visited 23.3 million times,[6] while its websites were accessed 154 million times.[7]

As a government "establishment" (as applied to SI, the term appears to originate from Smithson's will) or "trust instrumentality of the United States" (the term sometimes used by SI[8] or government entities attempting to characterize its functions),[9] the Smithsonian occupies a unique position. Governmental, but organizationally separate and distinct from the legislative, executive, or judicial branches of the national government, SI is overseen by a board composed of representatives of each branch. SI oversees a number of entities created by Congress, as well as a number of entities SI established pursuant to its authorities to accept and dispose of gifts, bequests, or money provided to SI or one of its components; seek grants; and raise funds. In addition to any explicit statutory authority that may exist, any of the current activities of SI arguably might support "the increase and diffusion of knowledge," as stated in law and the Smithson bequest. In some instances, it appears that with one exception,[10] these entities are funded from trust resources, appropriated funds, or both.

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[1] 9 Stat. 102, codified as amended at 20 U.S.C. §41. In current practice, SI typically identifies its mission as "the increase and diffusion of knowledge," at http://www.si.edu/About/Mission.

[2] A detailed history of the Smithson bequest and congressional deliberation regarding its acceptance, as well as creation of SI, can be found in Paul H. Oehser, *The Smithsonian Institution*, 2nd ed. (Boulder, CO: Westview Press, 1983), pp. 1-17; and Smithsonian Institution Archives, "General History," at http://siarchives.si.edu/history/general-history.

[3] "People and Operations," at https://www.si.edu/dashboard/people-operations#employees.

[4] "People and Operations," at https://www.si.edu/dashboard/people-operations#volunteers. SI's volunteer website notes a spike in the number of online volunteers since the beginning of the COVID-19 pandemic.

[5] One SI museum, Cooper Hewitt, Smithsonian Design Museum in New York, charges an admission fee. In the Washington, DC, area-based SI museums and the National Zoo, no admission is charged, but some special exhibits or other components of a museum's experience may require a fee.

[6] "Public Engagement," at https://www.si.edu/dashboard/public-engagement.

[7] "Virtual Smithsonian," at https://www.si.edu/dashboard/virtual-smithsonian. SI does not characterize how its data are collected, or whether they represent estimated or actual visits to SI museums and websites.

[8] See "Legal History," at http://siarchives.si.edu/history/legal-history; and "Frequently Asked Questions," at http://www.si.edu/OHR/faq.

[9] See U.S. Congress, Senate Joint Committee on Printing, *Official Congressional Directory, 113th Congress*, 113th Cong., 1st sess., 2013, S.Pub. 113-12 (Washington: GPO, 2013), p. 835; and Robert I. Cusick, *The Kennedy Center for the Performing Arts*, United States Office of Government Ethics, DO-09-030, November 10, 2009.

[10] Smithsonian Enterprises (SE) was reportedly formed in 1999 by the Regents to consolidate and bring professional management to SI commercial activities. SE reportedly works with SI museum directors, the SI Secretary and others

SI receives an annual appropriation—in FY2020, this was approximately $1.047 billion[11]—but executes no direct government program or policy beyond the regulation of its buildings and property of the United States that have been assigned to it. Since FY2001, appropriations have comprised approximately 66% of SI's annual expenditures from year to year;[12] some museums' activities are funded by a greater proportion of appropriated funds.[13] Some of these expenditures include the employment of staff who are considered federal employees. At the same time, SI has separate funding streams from proceeds received through grants, gifts, bequests, commercial revenue-generating activities, and investments, which SI refers to as "trust funds." Those resources build and maintain its collections or fund its activities, including employment of nonfederal, "trust employees." In its most recent budget request for FY2021, SI reported that an estimated $401.7 million in trust funds was available for operational expenses in FY2020.[14] In addition to annual budget submissions to Congress, SI files an accounting of resources as a tax-exempt educational organization under Section 501(c)(3) of the Internal Revenue Code.

SI is overseen by a Board of Regents (Regents), who are authorized by Congress to carry out a number of activities and oversee certain entities authorized by Congress. In addition to carrying out those authorities, it appears that SI acts pursuant to its role as trustee of the Smithson and other bequests and gifts to create additional entities to further SI missions. **Table 1** provides a summary of entities established pursuant to the authority granted by Congress and that of SI.

**Table 1. Smithsonian Institution Entities**

| Established by Congress | | Established by SI |
|---|---|---|
| National Gallery of Art | 20 U.S.C. §74 | Anacostia Community Museum |
| National Portrait Gallery | 20 U.S.C. §75b | Archives of American Art |
| Smithsonian Gallery of Art | 20 U.S.C. §76b | Arthur M. Sackler Gallery |
| John F. Kennedy Center for the Performing Arts | 20 U.S.C. §76h | Cooper Hewitt Smithsonian Design Museum |
| Joseph H. Hirshhorn Museum and Sculpture Garden | 20 U.S.C. §76aa | Freer Gallery of Art |
| Smithsonian Tropical Research Institute[a] | 20 U.S.C. §79b | Smithsonian Environmental Research Center |
| National Air and Space Museum | 20 U.S.C. §77a | Smithsonian Astrophysical Observatory |
| National Armed Forces Museum Advisory Board | 20 U.S.C. §80 | Smithsonian Conservation Biology Institute |

"to deliver profitable products and services that further the Smithsonian's mission." Retail, media, consumer products, corporate shared services, and human resources are identified as functions of SE in the SI organization chart. It appears that SE receives no appropriated funding. See "Smithsonian Enterprises," at https://www.linkedin.com/company/smithsonian-enterprises.

[11] This excludes specific appropriations to SI entities with budget authority separate from SI in FY2020, including approximately $168.4 million for operation of the National Gallery of Art; $41.3 million for the John F. Kennedy Center for the Performing Arts; and $12 million for the Woodrow Wilson International Center for Scholars.

[12] Between FY2001 and FY2020, appropriations accounted for 65.51% of SI's operational funding, according to SI budget requests for those years. In the past five years, FY2016-FY2020, appropriations accounted for 67.97% of operational funding.

[13] For example, according to SI budget requests for various years, since FY1989, 87.1% of the National Museum of the American Indian's (NMAI) operational expenses have come from appropriated funds. Since FY2005, 84.2% of the National Museum of African American History and Culture (NMAAHC) have come from appropriated funds.

[14] SI FY2021 budget request, at https://www.si.edu/sites/default/files/about/fy2021-budgetrequestcongress.pdf, p. 271.

| Established by Congress | | Established by SI |
|---|---|---|
| Woodrow Wilson International Center for Scholars | 20 U.S.C. §80f | Smithsonian Marine Station at Fort Pierce |
| Commission for Museum of African Art | 20 U.S.C. §80n | Museum Conservation Institute |
| National Museum of the American Indian | 20 U.S.C. §80q | Smithsonian Asian Pacific American Center |
| National Museum of African American History and Culture Council | 20 U.S.C. §80r | Smithsonian Center for Folklife and Cultural Heritage |
| National Zoological Park | 20 U.S.C. §81 | Smithsonian Latino Center |
| | | Smithsonian Enterprises |

**Source:** United States Code, Smithsonian Institution.

a. SI was authorized by Congress to oversee the forerunner of the Smithsonian Tropical Research Institute, Barro Colorado Island, Panama in 1946. SI had participated on its own initiative in research consortia and activity in the area as early as 1910. "Smithsonian Tropical Research Institute," at http://siarchives.si.edu/history/smithsonian-tropical-research-institute.

# SI Leadership

The activities of SI are overseen by the Regents of the Smithsonian Institution.[15] Day-to-day operations of SI and some related entities are overseen by the Secretary and staff. Some individual SI entities also have boards of overseers as well as independent professional leadership and staff. With some exceptions,[16] the Regents have broad authority to oversee and amend their activities.

## Board of Regents

The Regents are composed of the Vice President, Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other citizen Regents, other than Members of Congress. Two citizen Regents must reside in the city of Washington, DC. The remaining seven must reside in a state, and no more than one citizen Regent may come from any state.

Although under the law any Regent may be elected as chancellor, the group is traditionally led by the Chief Justice, who serves as chancellor, or presiding officer. The law also specifies the election of a three-Regent executive committee.[17] In practice, two citizen Regents serve as chair and vice-chair of the board and, along with a third citizen Regent, comprise the executive committee.[18]

[15] 20 U.S.C. §42. As an entity, the Regents of the Smithsonian Institution are identified in statute in that manner only in 20 U.S.C. §46. In most other statutory language, it is identified as the "Board of Regents," or "Board." Throughout this report, it is referred to as the "Regents."

[16] The Regents may modify membership of leadership entities within SI, except for the following: the Board of Regents, National Gallery of Art (NGA), John F. Kennedy Center for the Performing Arts (Kennedy Center), and Woodrow Wilson International Center for Scholars (WWICS), 20 U.S.C. §42. It appears that while identified as SI entities, NGA, the Kennedy Center, and WWICS operate pursuant to their statutory authorities in a manner seemingly independent of SI.

[17] 20 U.S.C. §44.

[18] A list of the Regents is available at https://www.si.edu/regents/members.

Regents who are Senators are appointed by the Vice President for the duration of their current term of office. Regents who are Members of the House of Representatives are appointed by the Speaker for a term of two years. Congressional appointments are renewable. Citizen Regents are appointed to six-year terms by joint resolution of Congress.[19]

## Secretary

The Secretary of the Smithsonian Institution is appointed by the Regents and is responsible for SI buildings and property, and keeping a record of the proceedings of the Regents. The Secretary is also the librarian and the keeper of museums, and is authorized to employ staff to assist with these duties.[20] Lonnie G. Bunch III began service as the 14th Secretary of the Smithsonian in June 2019.[21]

In modern practice, the Secretary oversees a complex organization currently organized into four broad areas including the following:

- Administration,
- Education,
- Museums and Culture, and
- Science and Research.[22]

# Smithsonian Issues

The operations of the Smithsonian may be of interest to Congress from a number of perspectives. Some current and potential activities are subject to legislative consideration, including whether to authorize the creation of a museum and related administrative arrangements in SI or elsewhere; whether to authorize a commission to study the arguments for and against the creation of a new museum and to identify potential resources to support its development; or how to determine the level of appropriations and nonfederal funds necessary to support these efforts. Other concerns may be subject to ongoing congressional oversight.

## New Museum Development

Legislation to create or consider the potential creation of three new Smithsonian museums is pending in the 116th Congress (2019-2020). These include proposals to create a national women's history museum, a national museum of the American Latino, and a commission to consider the creation of an Asian Pacific American history and culture museum. Details of these proposals are provided below in "Selected Legislation, 116th Congress (2019-2020)."

The questions that Congress might consider regarding museum development range from broad considerations to practical, detailed operational concerns. Some are likely to apply to any museum project, whereas others might be specific to a particular proposal or the context of Smithsonian operations. The nature of the questions is that some lend themselves to exploration of how Congress might consider museum development efforts as representations of specific

[19] 20 U.S.C. §43.

[20] 20 U.S.C. §46.

[21] "Lonnie G. Bunch III, Secretary of the Smithsonian Institution," at https://www.si.edu/about/bios/lonnie-g-bunch-iii.

[22] Based on SI's organizational chart published in its FY2021 budget request, at https://www.si.edu/sites/default/files/about/fy2021-budgetrequestcongress.pdf, p. 269.

social, cultural, or policy ideals and aspirations, while others might necessitate consideration of readily available data and other information to address technical, practical, institutional, or policy concerns. As with many of the questions Congress considers, the topics do not lend themselves to neat, mutually exclusive categorization. With regard to museum development and Smithsonian operations, questions Congress could consider might include concerns in the following areas:

- broad considerations,
- the role and availability of private entities to support museum proposals and development,
- the Smithsonian's capacity to address new and ongoing institutional challenges, and
- potential costs of new museums.

## Broad Considerations

Whether posed explicitly or implicitly, any proposal for a new museum arguably must provide answers in two areas of broad, general inquiry. The first provides an opportunity to consider why a new museum might be created. A number of groups and individuals with interests in creating new museums have provided input in this area.[23] The second addresses matters Congress might consider in an effort to inform its deliberative, legislative, and oversight efforts:

- What is the nature of museums in the contemporary context?
- To what extent, if any, are current museum proposals similar or different from Smithsonian museums established in the 19th and early 20th centuries?
- What are the potential policy, fiscal, and physical consequences of modern museum design, subject matter, and exhibition?
- What is the role of future and current museums, in the Smithsonian or elsewhere, in addressing and advancing American stories and accomplishments from multiple perspectives, including those that have arguably been less well represented in the past?
- Are current efforts of the Smithsonian to address those concerns within existing institutional arrangements sufficient or insufficient from the perspective of Congress, the Smithsonian, stakeholders, and others?[24]
- How might new museums address shortfalls in representing the diversity of American voices and perspectives?
- How might Congress guide and oversee these efforts?

[23] See, for example, National Women's History Museum, https://womenshistory.org; Friends of the American Latino Museum, https://americanlatinomuseum.org/; The Irish American Museum of Washington, DC, http://www.irishamericanmuseumdc.org/; Sarah Cascone, "'It Is Time for Our Struggles to Be Recognized': Lawmakers Push for a National Museum of Asian Pacific American History and Culture," August 7, 2019, https://news.artnet.com/art-world/national-asian-american-museum-proposal-1618897.

[24] See Smithsonian Latino Center, "The Molina Family Latino Gallery," at https://latino.si.edu/latino-center; Smithsonian Asian Pacific American Center, "A museum without walls," at https://smithsonianapa.org/; and Smithsonian American Women's History Initiative, "Because of Her Story," at https://womenshistory.si.edu/.

## Role and Availability of Private Entities

Based on the development of the most recent Smithsonian museums, the National Museum of African American History and Culture (NMAAHC) and the National Museum of the American Indian (NMAI), initial proposals for museums typically grow from the initial and sustained efforts of private individuals or groups. For example, in 1896, George Gustav Heye, a private collector, began collecting Native American items. In 1916, he founded a museum of the American Indian in New York to house his collections.[25] The remaining elements of the Heye collection are retained by the Smithsonian and displayed in part at NMAI's Washington, DC, museum and the George Gustav Heye Center of the National Museum of the American Indian in New York.[26] In 1915, African American Civil War veterans began efforts to memorialize on the National Mall the military contributions of African Americans. A national memorial association convened to create a permanent memorial and construct a building depicting African American contributions in all walks of life.[27] While that goal was not realized, the efforts and stories of the group were eventually included in NMAAHC.

Based on the development of these museums, and current proposals for American Latino and women's museums, it would appear that a series of events in museum development frequently occurs, including many or all of the following steps:

- initial, nonlegislative efforts raising the idea of a museum,[28]
- initial legislative proposals for a museum study commission,
- enactment of legislation to create a commission or commissions,
- initial legislative proposals to create a museum,
- enactment of legislation to create a museum,
- site consultation,
- site selection,
- museum building planning, design, and construction funding,
- groundbreaking, and
- museum opening.

Substantial periods of time can elapse between events; from the time George Heye began his collection until NMAI opened its doors, 108 years had passed. Similarly, NMAAHC opened 101 years after the first efforts of the African American Civil War veterans to establish and build a monument or museum. In both cases, consideration of new museums restarted only when engaged, well-organized private citizens and entities expressed sustained interest and concern to

[25] "George Gustav Heye Starts Indian Collection," Smithsonian Archives, https://siris-sihistory.si.edu/ipac20/ipac.jsp?session=15I98U121B484.945&profile=sicall&source=~!sichronology&view=subscriptionsummary&uri=full=3100001~!2202~!1&ri=1&aspect=Keyword&menu=search&ipp=20&spp=20&staffonly=&term=National+Museum+of+the+American+Indian&index=.SW&uindex=&aspect=Keyword&menu=search&ri=1&limitbox_1=LO01+=+sch.

[26] Congress authorized three facilities for NMAI: a museum on the National Mall in Washington, DC; a space in the Old United States Custom House at One Bowling Green, New York, NY, to house the George Gustav Heye Center of the National Museum of the American Indian; and a museum support facility in Suitland, MD, to conserve and store NMAI collections.

[27] Lonnie G. Bunch III, *A Fool's Errand: Creating the National Museum of African American History and Culture in the Age of Bush, Obama, and Trump* (Washington, DC: Smithsonian Books, 2019), p. 5.

[28] Including the establishment of a private American Indian museum in the case of NMAI.

public officials. With that in mind, Congress might consider the following questions regarding private entities and their efforts to support the development of a new museum:

- What is the commitment and capacity of advocates for various museums to work independently and effectively in support of museum establishment?
- How might those groups successfully partner with the Smithsonian?
- How robust are private museum entities' plans to raise funds, awareness, and provide other support through various periods of the museum development process, and to what extent can those entities engage over a potentially extended period of time?
- What might Congress do to assess the viability of private proposals and their proponents?

A timeline showing when NMAI, NMAAHC, the proposed women's and Latino American museums and proposed Asian Pacific museum commission completed various steps in the process of museum development is provided in **Table 2**. The historical account of the development of existing museums is not intended to be predictive of the timing of the development of any future museums.

**Table 2. Time Between Selected Events in the Development of Smithsonian Institution Museums and Proposed Museums**

| Entity, Event | NMAI | | NMAAHC | | Women's Museum | | Latino Museum | | Asian Pacific Commission | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Year | Years Total | Year | Years Total | Year | Years Total | Year | Years Total | Year | Years Total |
| First Nonlegislative Efforts | 1896 | | 1915 | | 1995 | | 1994 | | 1997 | |
| Private Museum | 1916 | 20 | N/A | | N/A | | N/A | | N/A | |
| Legislative Proposals, Commission | N/A | | 1916 | 1 | 1998 | 3 | 2003 | 9 | 2015 | 19 |
| Enacted Study/Commission | N/A | | 1929 | 14 | 2014 | 19 | 2008 | 14 | N/A | |
| Second Commission Enacted | N/A | | 2001 | 86 | N/A | | N/A | | N/A | |
| Commission Report Issued | N/A | | 2003 | 88 | 2016 | 21 | 2011 | 17 | N/A | |
| Legislative Proposals, Museum Creation | 1911 | 15 | 1916 | 1 | 2003 | 8 | 2011 | 17 | 2015 | 19 |
| Enacted Museum Creation | 1989 | 93 | 2003 | 88 | N/A | | N/A | | N/A | |
| Site Selection | 1989 | 93 | 2004 | 89 | N/A | | N/A | | N/A | |
| Groundbreaking | 1999 | 103 | 2012 | 97 | N/A | | N/A | | N/A | |
| Opening | 2004 | 108 | 2016 | 101 | N/A | Pending, 25 | N/A | Pending, 26 | N/A | Pending, 23 |

**Sources:** NMAI: P.L. 101-185; H.R. 16313, S. 3953, 62nd Congress; National Museum of the American Indian, https://siarchives.si.edu/history/national-museum-american-indian; and "George Gustav Heye Starts Indian

Collection," Smithsonian Archives, https://siris-sihistory.si.edu/ipac20/ipac.jsp?session=15198U121B484.945&profile=sicall&source=~!sichronology&view=subscriptionsummary&uri=full=3100001~!2202~!1&ri=1&aspect=Keyword&menu=search&ipp=20&spp=20&staffonly=&term=National+Museum+of+the+American+Indian&index=.SW&uindex=&aspect=Keyword&menu=search&ri=1&limitbox_1=LO01+=+sch. No legislation proposing the creation of a commission to consider creation of NMAI was introduced.

NMAAHC: P.L. 107-106; P.L. 108-184; Pub. Res. No. 107, March 4, 1929; H.R. 18721, 64th Congress; National Museum of African American History and Culture: Plan For Action Presidential Commission, *The Time Has Come: Report to the President and to the Congress*, Washington, DC, April 2, 2003, p. 1; and Lonnie G. Bunch III, *A Fool's Errand: Creating the National Museum of African American History and Culture in the Age of Bush, Obama, and Trump* (Washington, DC: Smithsonian Books, 2019). Legislation to create a commission to consider and build an African American museum was passed by Congress in 1929. That effort did not result in the creation of a museum. Legislation establishing a study commission was passed in 2001.

Proposed women's museum: P.L. 113-291; H.R. 4722, 105th Congress; S. 1741, 108th Congress; H.R. 1980, 116th Congress; Commission to Study the Potential Creation of a National Women's History Museum, *The American Museum of Women's History: Congressional Commission Report to the President of the United States and Congress*, Washington, DC, November 16, 2016, p. 8, amwh.us/report/wp-content/uploads/2016/11/AWMH_11_07_16_Digital.pdf; and Karen Staser, "From the Crypt to the Capitol Rotunda: The Creation of NWHM, National Women's History Museum," Washington, DC, https://www.womenshistory.org/crypt-capitol-rotunda.

Proposed Latino museum: P.L. 110-229; H.R. 3292, 108th Congress; H.R. 3459, 112th Congress; H.R. 2420, 116th Congress; Friends of the National Museum of the American Latino website, https://americanlatinomuseum.org/presente/; Smithsonian Institution Task Force on Latino Issues, *Willful Neglect: The Smithsonian Institution and U.S. Latinos*, Washington, DC, May 1994, p. 2, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjQ9e6LoYzqAhXomXIEHes1COkQFjAAegQIBhAB&url=https%3A%2F%2Fsiarchives.si.edu%2Fsites%2Fdefault%2Ffiles%2Fforum-pdfs%2FWillful_Neglect_The_Smithsonian_Institution%2520and_US_Latinos.pdf&usg=AOvVaw1K3giGvaY2sNebXtW9beU6.

Proposed Asian Pacific museum commission: H.R. 4307, H.R. 4308, 114th Congress; H.R. 4132, 116th Congress; Smithsonian Institution, "Smithsonian Asian Pacific American Center," media fact sheet, January 1, 2018, at https://www.si.edu/newsdesk/factsheets/smithsonian-asian-pacific-american-center.

## Smithsonian Capacity Questions

Consideration of the establishment of new Smithsonian museums necessarily raises questions about capacity; some elements of capacity might focus on a number of Smithsonian operational and physical plant issues, from several perspectives. These include matters surrounding Smithsonian engagement of new museum development in the context of competing priorities, the challenges of museum siting, and meeting the short and long-term costs associated with new museums.

In the past three years, Smithsonian leaders have at times taken an arguably discouraging approach to the creation of new museums. Citing the need to address "crucial maintenance and revitalization of existing facilities," in 2017 testimony before the Committee on House Administration, former SI Secretary David J. Skorton arguably focused Smithsonian priorities away from consideration of the creation of new SI museums.[29] More recently, Dr. Skorton's successor, Dr. Bunch, in 2019 testimony before the Senate Committee on Rules and Administration, emphasized the need to continue reducing a substantial backlog of maintenance issues in SI facilities, and stated that "a new museum would need funds for both the creation and

[29] Statement of Dr. David J. Skorton, Secretary of the Smithsonian Institution, "The Smithsonian Institution's Priorities," before the Committee on House Administration, U.S. House of Representatives, March 28, 2017, at https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=105769. The Committee on House Administration has legislative jurisdiction over most Smithsonian operations and activities.

long-term operations of the facilities, the care and preservation of our collections, and the on-going success of the museum."[30] In testimony before the Committee on House Administration in 2020, Dr. Bunch who served as founding director of NMAAHC before being chosen as Secretary, stated:

> Any new museum must meet the expectations the public has for a national museum. This means an appropriate size, programming, and collections. We must contemplate the needs of housing staff and collections for a museum and determine if those needs can be met on site. There must also be a suitable location for a new museum. These buildings are powerful symbols of how we, as a nation, value the contributions of the people they represent.[31]

The potential need for the Smithsonian to oversee the development of as many as three new national museums could necessitate congressional assessment of a new museum's fundraising efforts, siting, design, construction, operational plans or costs, and the potential implications those actions might have on ongoing SI operations and facilities. Of broader potential oversight concern is the extent to which the Smithsonian Institution has the capacity to integrate new museums into its portfolio, and consideration of the Smithsonian's capacity and commitment to new museums considered in the context of its other, ongoing organizational commitments.

In light of these concerns, Congress might consider the following questions:

- What is the Smithsonian's position on new museums? How might that position evolve in light of SI leadership priorities, competing demands on staff and resources, or congressional direction?
- What is the capacity of SI to balance the following:
  - The long-term maintenance backlog across the Smithsonian's facilities?[32]
  - The development and funding of its new headquarters building?[33]

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[30] Written Statement of Lonnie G. Bunch III, Secretary of the Smithsonian Institution before the U.S. Senate Committee on Rules and Administration, November 14, 2019, at https://www.rules.senate.gov/download/mr-lonnie-bunch-testimony. The Senate Committee on Rules and Administration has legislative jurisdiction over most Smithsonian operations and activities.

[31] Written Statement of Lonnie G. Bunch III, Secretary of the Smithsonian Institution, "Oversight of the Smithsonian Institution: Opportunities for Growth by Honoring Latino Americans and Asian Pacific Americans," before the Committee on House Administration, U.S. House of Representatives, February 5, 2020, at http://docs.house.gov/meetings/HA/HA00/20200205/110437/HHRG-116-HA00-Wstate-BunchL-20200205-U1.pdf.

[32] Written Statement of Lonnie G. Bunch III, Secretary of the Smithsonian Institution, "Review of Smithsonian Institution Current Facilities and Future Space Needs," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure, U.S. House of Representatives, November 13, 2019, at https://transportation.house.gov/download/bunch-testimony; and Smithsonian Institution, Office of Inspector General, *Deferred Maintenance: The Smithsonian Generally Followed Leading Management Practices, but Reducing Its Backlog Remains a Challenge*, Report Number OIG-A-16-06, Washington, DC, March 30, 2016, https://www.si.edu/Content/OIG/Audits/2016/OIG_A_16_06.pdf. The House Committee on Transportation and Infrastructure has legislative jurisdiction over "the facilities of the Smithsonian Institution, including all new and proposed facilities; [and] facilities of the John F. Kennedy Center for the Performing Arts," at https://transportation.house.gov/subcommittees/economic-development-public-buildings-and-emergency-management-116th-congress.

[33] John Banister, "Smithsonian To Acquire Southwest D.C. Building For New Headquarters," *Bisnow*, June 12, 2019, https://www.bisnow.com/washington-dc/news/office/smithsonian-to-acquire-southwest-dc-building-for-new-headquarters-99402; and Daniel J. Sernovitz, "Smithsonian reveals more details on new headquarters," *Washington Business Journal*, November 14, 2019, https://www.bizjournals.com/washington/news/2019/11/14/smithsonian-reveals-more-details-on-new.html.

In report language accompanying FY2020 appropriations for SI, the House Committee on Appropriations stated that H.R. 3052, as reported to the House, did "not include bill language proposed in the budget request to allow the

  - Collection storage, digitization and protection?[34]
  - The development of new collections storage facilities?[35]
  - The vitality and currency of existing museums and exhibits as SI might also address the challenges of establishing new museums?
- How might new museums affect current arrangements between and among existing museums?
- How might the Smithsonian identify senior leaders to oversee the development of new museums if they are created?
- What plans might Congress want SI to consider to ensure that established and newer museums avoid competing for collections, exhibits, staff, or other resources?

## Museum Location[36]

Many groups interested in establishing a new Smithsonian or other museum typically desire a location on or near the National Mall,[37] but placing museums or memorials within that space is restricted by available land, laws, and existing land-use planning and policies. Pursuant to a number of authorities granted by Congress, various federal agencies, including the National Capital Planning Commission (NCPC), U.S. Commission on Fine Arts (CFA), National Park Service (NPS), and General Services Administration (GSA), have worked to create a comprehensive framework for the management, development, and preservation of the National Mall and other areas of the District of Columbia under federal control, as well as related approval processes, including for siting museums.[38] Some decisions on where to site future Smithsonian

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Smithsonian Institution to expend Federal funds appropriated for lease or rent payments as payments to the Smithsonian Institution general trust funds (non-federal funding account) that can be used for expenses associated with the purchase of a building by the non-federal Smithsonian Institution Trust." See U.S. Congress, House Committee on Appropriations, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2020*, report to accompany H.R. 3052, 116th Cong., 1st sess., June 3, 2019, p. 125, at https://www.congress.gov/116/crpt/hrpt100/CRPT-116hrpt100.pdf.

In the Senate, the Committee on Appropriations included language to authorize SI's acquisition of a new headquarters building "with the understanding that no Federal funds will be used to purchase, retrofit, or renovate the building." See U.S. Congress, Senate Committee on Appropriations, *Department of the Interior, Environment, and Related Agencies Appropriations Bill, 2020*, report to accompany S. 2580, 116th Cong., September 26, 2019, p. 124, at https://www.congress.gov/116/crpt/srpt123/CRPT-116srpt123.pdf.

[34] Testimony of Cathy L. Helm, Inspector General, Smithsonian Institution, Before The United States House Of Representatives Committee On House Administration, September 18, 2019, at docs.house.gov/meetings/HA/HA00/20190918/109929/HHRG-116-HA00-Wstate-HelmC-20190918-U1.pdf; and Smithsonian Institution, Office of Inspector General, *Collections Management: Progress Made with Initiatives to Improve Inadequate Storage and Undertake Digitization, but Key Challenges Remain*, Report Number A-13-11, Washington, DC, September 14, 2015, https://www.si.edu/Content/OIG/Audits/2015/A-13-11.pdf.

[35] Smithsonian Institution, *Securing the Future for Smithsonian Collections*, Smithsonian Collections Space Framework Plan, February 2015, https://www.si.edu/Content/Pdf/About/2015-Collections-Space-Framework-Plan.pdf.

[36] Jacob Straus, Specialist on the Congress at CRS, is a co-author of this section, and is available for discussion of museum and commemorative works siting matters.

[37] See, for example, Friends of the American Latino Museum, https://americanlatinomuseum.org/; Mikaela Lefrak, "The Smithsonian Might Build A Women's History Museum On The Mall," *dcist*, February 12, 2020, https://dcist.com/story/20/02/12/the-smithsonian-might-build-a-womens-history-museum-on-the-mall/; and Associated Press, "Asian Americans push for Smithsonian gallery of their own," *NBC News*, May 20, 2019, https://www.nbcnews.com/news/asian-america/asian-americans-push-smithsonian-gallery-their-own-n1007741.

[38] Agencies with planning and approval authority for museums in Washington, DC, depending on location, ownership

museums may be guided in part by these plans and processes.[39] On the other hand, recently authorized SI museums have either been exempted from some planning requirements,[40] or were located on land outside the jurisdiction of some planning entities.[41]

When establishing the sites for the NMAI mall museum and NMAAHC, Congress took different approaches. For NMAI, Congress designated a specific site that was previously set aside for a future Smithsonian project.[42] For NMAAHC, Congress authorized a commission to study potential site locations (among other items) and to report back on potential locations.[43] Following the commission's report, the authorizing legislation provided the Regents with four site locations from which to choose.[44] For potential Smithsonian museums, either approach might be used. In two recent cases, Congress has established commissions to recommend site location (among other items) for two potential museums: the Commission to Study the Potential Creation of a National Museum of the American Latino,[45] and the Commission to Study the Potential Creation of a National Women's History Museum.[46]

Designating a site by statute could exclude the expertise of agencies with planning and approval responsibilities to maintain a consistent approach to the development of the federally controlled monumental spaces of the District of Columbia. By statutorily designating a site location, Congress might inadvertently disregard past work done by planning and approval entities.

As an alternative to statutorily designating a site, Congress could create a process to locate museums within the District of Columbia. A formalized process could remove Congress from initial siting decisions and instead allow the agencies charged with approving plans for new buildings on federal land to use their expertise to guide the site selection and building design process. Following their recommendations and approvals, Congress could then approve a site location.[47]

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of the proposed site, congressional instruction, and other factors, may include the:

National Capital Planning Commission (NCPC), pursuant to one or more of the following authorities: 40 U.S.C. §8701; 40 U.S.C. §8722; and the National Environmental Policy Act (NEPA), 42 U.S.C. §4371. With regard to NEPA implementation, NCPC and the Smithsonian work pursuant to a memorandum of agreement adopted in December, 2018, see https://www.ncpc.gov/docs/MOA_NCPC_Smithsonian_NEPA_December2018.pdf.

U.S. Commission on Fine Arts, pursuant to one or more of the following authorities: 40 U.S.C. §8701; 40 U.S.C. §9101; Executive Order (EO) 1259, October 25, 1910; and EO 1862, November 28, 1913.

National Park Service (NPS), and General Services Administration (GSA) pursuant to the Commemorative Works Act (CWA), which authorizes siting of museums in some areas of Washington, DC subject to the authority of the federal government, and prohibits museums in others. For the areas of Washington, DC and planning approval circumstances subject to the requirements of the CWA, see 40 U.S.C. §8902. Further discussion and analysis of Memorials and the CWA are available in CRS Report R41658, *Commemorative Works in the District of Columbia: Background and Practice*, by Jacob R. Straus; and CRS Report R43241, *Monuments and Memorials in the District of Columbia: Analysis and Options for Proposed Exemptions to the Commemorative Works Act*, by Jacob R. Straus.

[39] Congress required the Regents to consult with NCPC and CFA as NMAAHC was developed, 20 U.S.C. §80r-6(D)(i) and (ii).

[40] E.g., NMAAHC was exempted from the requirements of CWA.

[41] E.g., NMAI and the United States Holocaust Memorial Museum were built on parcels outside the jurisdiction of NPS and GSA.

[42] Reservation of site for SI: P.L. 94-74, August 8, 1975, 89 Stat. 407; use of site for NMAI, 20 U.S.C. §80q-5(a).

[43] P.L. 107-106, 115 Stat. 1009, December 28, 2001.

[44] 20 U.S.C. §80r-6(a)(1)(B).

[45] P.L. 110-229, §333, 122 Stat. 784, May 8, 2008.

[46] P.L. 113-291, §3056, 128 Stat. 3810, December 19, 2014.

[47] Creating a site selection process might mirror the current process used to select sites for memorials in the District of

On the other hand, providing for a process for museum siting could remove control of museum siting from Congress. If, for example, Congress were to cede control over the site selection process and vote only to approve or disapprove a recommended site, individual Members who might otherwise be influential in the congressional debate over a site location might have their influence diminished, and might have to work outside of Congress to influence the selection of recommended sites.

In addition to the challenges of siting potential museums, in previous testimony before Congress, Secretary Bunch noted that if the Smithsonian is required to construct new museums, climate-related considerations, including the management of flood risk,[48] "will be a crucial part of any site selection and planning."[49]

## Potential Costs of New Museums

If national American Latino, Asian Pacific American history and culture, or women's history museums are created by Congress, and they are funded in the same manner as other SI museums,[50] they could represent a significant demand for appropriated and nonappropriated resources to establish new museum facilities, and enduring increases in annual appropriations provided for SI operations. While the precise funding requirements of future museums cannot be predicted authoritatively, potential guidance on costs may be drawn from the costs of building facilities and operational expenditures of NMAI and NMAAHC.

### New Museum Facilities

The planning, design, construction, and exhibit development of a new museum facility, or renovation of existing structures, appears to be a years-long process of fundraising, designing facilities to fit the chosen site, and remediating any challenges of the site, building design, and

Columbia, as authorized in 40 U.S.C. §8904, 8905, and 8908. A similar set of guidelines could be created for the siting of future museums, thus allowing urban planners to make recommendations to Congress on where a museum might be located.

[48] According to some observers, the risk of urban flooding in the United States is increasing for a variety of reasons. See National Academies of Sciences, Engineering, and Medicine, *Framing the Challenge of Urban Flooding in the United States* (Washington, DC: The National Academies Press, 2019), https://doi.org/10.17226/25381; and University of Maryland, Center for Disaster Resilience and Texas A&M University, Galveston Campus, Center for Texas, *The Growing Threat of Urban Flooding: A National Challenge*, (College Park, MD: A. James Clark School of Engineering, 2018), https://cdr.umd.edu/sites/cdr.umd.edu/files/resource_documents/COMPRESSEDurban-flooding-report-online-compressed-0319.pdf. In Washington, DC, parts of the National Mall and adjacent areas are designated by planning and flood management entities as areas of potentially significant risk for flooding and damage to facilities in the event of flooding. See, generally, National Capital Planning Commission, "Flooding & Resilience," https://www.ncpc.gov/topics/flooding/; *Flood Risk Management Planning Resources for Washington, DC*, Washington, DC, January 2018, https://www.ncpc.gov/docs/Flood_Risk_Management_Planning_Resources_January_2018.pdf; and Greeley and Hansen, LLC, *Federal Triangle Stormwater Drainage Study*, DC Water, Washington, DC, July 2011, https://www.ncpc.gov/docs/Federal_Triangle_Stormwater_Drainage_Study_Jul2011.pdf.

[49] Written Statement of Lonnie G. Bunch III, Secretary of the Smithsonian Institution, "Review of Smithsonian Institution Current Facilities and Future Space Needs," Subcommittee on Economic Development, Public Buildings, and Emergency Management, Committee on Transportation and Infrastructure U.S. House of Representatives, November 13, 2019, at https://transportation.house.gov/download/bunch-testimony, unnumbered pages.

[50] P.L. 108-184, establishing NMAAHC, provided an authorization of such sums as necessary for the construction of the museum and committed to meet the expenses of construction. The act authorized such sums as necessary for museum operations beginning in FY2005. In the 116th Congress, H.R. 1980, the Smithsonian Women's History Museum Act, and H.R. 2420 would authorize similar provisions for construction and operations expenses from FY2021.

other, expected or unexpected challenges. When fully realized, construction projects may exceed original budget estimates. **Table 3** provides the original estimates for building NMAI and NMAAHC facilities in nominal, and constant, 2020 dollars. In constant dollars, the final stated cost of NMAI facilities was approximately 43% higher than originally estimated; stated NMAAHC costs were approximately 38% higher.[51]

**Table 3. Initial Construction Estimates and Final Costs, National Museum of the American Indian, and National Museum of African American History and Culture**

Nominal and Constant, 2020 Dollars, Millions

| Entity | Initial Estimate Nominal$ | | Final Cost Nominal$ | | Initial Estimate Constant$ | Final Cost Constant$ | % Difference |
|---|---|---|---|---|---|---|---|
| | Year | Cost | Year | Cost | | | |
| NMAI | 1990 | $106 | 2004 | $219 | $208 | $297 | 43% |
| NMAAHC | 2003 | $300 | 2016 | $540 | $418 | $577 | 38% |

**Sources:** Smithsonian Institution, *Budget Justifications for Fiscal Year 1991*, Washington, DC, February 1990, p. 289; Lynette Clemetson, "Bush Authorizes a Black History Museum," *The New York Times*, December 17, 2003, p. A34; Smithsonian Institution, National Museum of the American Indian, "National Museum of the American Indian Architecture Fact Sheet," press release, July 2014, at http://nmai.si.edu/sites/1/files/pdf/press_releases/NMAI-Architecture-Release-2014.pdf; Smithsonian Institution, "National Museum of African American History and Culture: Design and Construction," media fact sheet, September 1, 2016, https://www.si.edu/newsdesk/factsheets/design-and-construction; Lonnie G. Bunch III, *A Fool's Errand: Creating the National Museum of African American History and Culture in the Age of Bush, Obama, and Trump* (Washington, DC: Smithsonian Books, 2019), p. 49; and CRS calculations. Numbers rounded to nearest million.

Museum facilities can vary in size, location, and scope, which can make comparing projects, or estimating future costs challenging. Presenting cost information per square foot of a proposed museum or museum exhibition might be of assistance to Congress when considering potential cost estimates for new Smithsonian museums.[52] Estimated costs per square foot for NMAI and NMAAHC, in nominal, and constant, 2020 dollars are provided in **Table 4**.

[51] Smithsonian museum construction costs may be compared to other publicly authorized museum and cultural facilities built in the Washington, DC area since 1980. An initial estimate for renovating existing space to house the United States Holocaust Museum in 1983 was approximately $30 million nominal, $74 million in constant, 2020 dollars. The museum opened in 1993, and the cost of a new, purpose-built facility, exhibit design, and installation totaled $168 million nominal, $298 million in constant 2020 dollars, a difference of 303%. The United States Capitol Visitor Center's (CVC) initial estimate in 1999 was $265 million nominal, $408 million in constant, 2020 dollars. When the CVC opened in 2007, its final cost was estimated at $621 million nominal, $956 million in constant, 2020 dollars, a difference of 134%. See Barbara Hand, "Washington Holocaust Memorial Closer to Reality," *Hartford Courant*, March 13, 1983, p. A7; US Holocaust Memorial Museum, "Frequently Asked Questions," at https://www.ushmm.org/collections/ask-a-research-question/frequently-asked-questions#6; US Holocaust Memorial Museum, "Frequently Asked Questions," at https://www.ushmm.org/collections/ask-a-research-question/frequently-asked-questions#7; CRS Report R42397, *The Capitol Visitor Center: History, Development, and Funding*, by Ida A. Brudnick; and CRS calculations.

[52] Smithsonian Institution, *The Costs and Funding of Exhibitions*, Office of Policy and Analysis, August 2002, https://www.si.edu/Content/opanda/docs/Rpts2002/02.08.CostsFundingExhibitions.Final.pdf; and Department of the Interior, *Museum Cost Estimates*, Interior Museum Program, 2013, https://edit.doi.gov/museum/policy/upload/DOI-Museum-Cost-Estimates-2013.pdf.

**Table 4. Initial Construction Estimates and Final Costs per Square Foot, National Museum of the American Indian, and National Museum of African American History and Culture**

Nominal and Constant, 2020 Dollars

| Entity | Building Size Square Feet | Initial Estimate Nominal$ | | Final Cost Nominal$ | | Initial Estimate Constant$ | Final Cost Constant$ |
|---|---|---|---|---|---|---|---|
| | | Year | $/SF | Year | $/SF | $/SF | $/SF |
| NMAI | 250,000 | 1990 | $424 | 2004 | $876 | $832 | $1,189 |
| NMAAHC | 400,000 | 2003 | $750 | 2016 | $1,350 | $1,045 | $1,442 |

**Sources:** CRS calculations based on data reported in Smithsonian Institution, *Budget Justifications for Fiscal Year 1991*, Washington, DC, February 1990, p. 289; Lynette Clemetson, "Bush Authorizes a Black History Museum," *The New York Times*, December 17, 2003, p. A34; Smithsonian Institution, National Museum of the American Indian, "National Museum of the American Indian Architecture Fact Sheet," press release, July 2014, at http://nmai.si.edu/sites/1/files/pdf/press_releases/NMAI-Architecture-Release-2014.pdf; Smithsonian Institution, "National Museum of African American History and Culture: Design and Construction," media fact sheet, September 1, 2016, https://www.si.edu/newsdesk/factsheets/design-and-construction; and Lonnie G. Bunch III, *A Fool's Errand: Creating the National Museum of African American History and Culture in the Age of Bush, Obama, and Trump* (Washington, DC: Smithsonian Books, 2019), p. 49. "$/SF" denotes cost per square foot.

In congressional testimony about the costs of potential new museums, Secretary Bunch stated that "[g]iven expected construction cost increases and the challenges of the preferred sites, a comparable new museum will likely exceed the costs of building the National Museum of African American History and Culture."[53] Construction on NMAAHC was completed in 2016, and cost approximately $577 million in constant, 2020 dollars.

The range of potential estimated costs of construction of a new Smithsonian museum provided in **Table 5** is based on the results of analysis of the final stated costs of construction for NMAAHC, and differences between initial cost estimates and stated final costs for NMAI (43%) and NMAAHC (38%), provided in constant 2020 dollars. The center point of the range of potential initial cost estimates is based on the average difference between initial estimates and final costs of NMAI and NMAAHC (40.5%). The table provides potential estimates in increments of 5% and 10% above and below the average difference. This model is one of many potential methods of estimating potential museum construction costs. Models based on different initial estimates, or cost data based on plans that vary from the planning assumptions and cost estimates for NMAAHC, or other criteria, could result in different estimates of costs.

**Table 5. Potential Estimated Costs of Construction, for New Smithsonian Museums**

Based on NMAAHC Construction Costs

| NMAAHC Construction Cost 2020 Constant$ | Potential Difference | Potential Estimate New Museum $Million | Potential $/SF |
|---|---|---|---|
| $577 Million | 30% | $750 | $1,875 |
| $1,442/SF | 35% | $779 | $1,948 |

[53] Written Statement of Lonnie G. Bunch III, Secretary of the Smithsonian Institution, "Oversight of the Smithsonian Institution: Opportunities for Growth by Honoring Latino Americans and Asian Pacific Americans," before the Committee on House Administration, U.S. House of Representatives, February 5, 2020, at http://docs.house.gov/meetings/HA/HA00/20200205/110437/HHRG-116-HA00-Wstate-BunchL-20200205-U1.pdf.

| NMAAHC Construction Cost 2020 Constant$ | Potential Difference | Potential Estimate New Museum $Million | Potential $/SF |
|---|---|---|---|
| Approximately | 40% | $808 | $2,020 |
| 400,000 Sq. Ft. | 45% | $837 | $2,093 |
| | 50% | $866 | $2,165 |

**Sources:** CRS calculations based on data reported in Smithsonian Institution, *Budget Justifications for Fiscal Year 1991*, Washington, DC, February 1990, p. 289; Lynette Clemetson, "Bush Authorizes a Black History Museum," *The New York Times*, December 17, 2003, p. A34; Smithsonian Institution, National Museum of the American Indian, "National Museum of the American Indian Architecture Fact Sheet," press release, July 2014, at http://nmai.si.edu/sites/1/files/pdf/press_releases/NMAI-Architecture-Release-2014.pdf; Smithsonian Institution, "National Museum of African American History and Culture: Design and Construction," media fact sheet, September 1, 2016, https://www.si.edu/newsdesk/factsheets/design-and-construction; and Lonnie G. Bunch III, *A Fool's Errand: Creating the National Museum of African American History and Culture in the Age of Bush, Obama, and Trump* (Washington, DC: Smithsonian Books, 2019), p. 49. "$/SF" denotes cost per square foot.

**Notes:** The range of potential estimated costs of construction of a potential new Smithsonian museum provided here are based on the results of analysis of the final stated costs of construction for NMAAHC, and differences between initial cost estimates and stated final costs for NMAI (43%) and NMAAHC (38%), provided in constant, 2020 dollars. The center point of the range of potential initial cost estimates is based on the average difference between initial estimates and final costs of NMAI and NMAAHC (40.5%). The table provides potential estimates in increments of 5% and 10% above and below the average difference. This cost estimating model is but one of many potential methods of estimating potential museum construction costs. Models based on different initial estimates, or cost data based on plans that vary from the planning assumptions and cost estimates for NMAAHC, or other criteria could result in different estimates of costs. See "New Museum Facilities."

## Ongoing Operational Costs

In congressional testimony, Secretary Bunch stated that:

> It's also important to note that the costs do not end with construction. The annual operation costs of a museum alone are significant, but the true costs are spread throughout the Institution. Many functions of the Smithsonian are centralized, such as maintenance, security, and general counsel to name a few. We must also consider our intellectual capacity. We cannot let additional museums detract from our ability to appropriately staff and support the work of all of our museums, galleries, and central support units.[54]

**Figure 1** provides the annual appropriations for the first 15 years the NMAI and the NMAAHC were in operation, as well as appropriations for the federal component of museum planning, design, construction, and exhibit development,[55] in constant, 2020 dollars. Overall costs of any potential museums could vary according to the scope of a new museum's mandate, including any federal share in construction or operating costs; size and siting of a new museum facility; whether a new museum is fit into existing structures or requires new facilities to be built; fundraising; and SI accounting for support costs, among other factors.

[54] Written Statement of Lonnie G. Bunch III, Secretary of the Smithsonian Institution, "Oversight of the Smithsonian Institution: Opportunities for Growth by Honoring Latino Americans and Asian Pacific Americans," before the Committee on House Administration, U.S. House of Representatives, February 5, 2020, at http://docs.house.gov/meetings/HA/HA00/20200205/110437/HHRG-116-HA00-Wstate-BunchL-20200205-U1.pdf.

[55] NMAI construction costs are based on the costs of three facilities, including a museum on the National Mall, for which Congress agreed to fund 2/3 of costs, $138.49 million in April 2020 dollars; a second museum in New York, for which Congress agreed to fund 1/3 of the costs, $16.33 million in April 2020 dollars; and a museum service center in Suitland, Maryland to house NMAI collections, for which Congress appears to have provided the bulk of funds, $86.31 million in April 2020 dollars.

**Table 6. Smithsonian Institution National Museums of the American Indian (NMAI) and African American History and Culture (NMAAHC): Appropriations for Construction and Operational Costs for the First 15 Years of Operations**

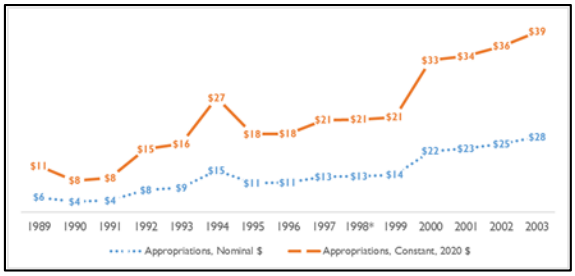
| NMAI | Amount | NMAAHC | Amount |
|---|---|---|---|
| FY1989-FY2003 Operations | $325.38 | FY2006-FY2020 Operations | $357.82 |
| Appropriations, Museum Planning, Design, Construction, Exhibits | $241.13 | Appropriations, Museum Planning, Design, Construction, Exhibits | $288.43 |
| Appropriations, First 15 Years | $566.51 | Appropriations First 15 Years | $646.25 |

**Source:** Enacted appropriations data taken from Smithsonian Institution annual budget requests, various years; and Smithsonian Institution, "National Museum of African American History and Culture: Design and Construction," media fact sheet, September 1, 2016, https://www.si.edu/newsdesk/factsheets/design-and-construction, CRS calculations.

**Notes:** Data provided in millions of constant, April 2020 dollars. NMAI construction costs are based on the costs of three facilities, including a museum on the National Mall, for which Congress agreed to appropriate two-thirds of costs, $138.49 million in April 2020 dollars; a second museum in New York, for which Congress agreed to appropriate one-third of the costs, $16.33 million in April 2020 dollars; and a museum service center in Suitland, MD, to house NMAI collections, for which Congress appears to have provided the bulk of funds, $86.31 million in April 2020 dollars. NMAAHC constructions costs are based on its National Mall museum building. Costs provided here exclude the expenses of study commissions prior to the establishment of NMAAHC, and any additional appropriations necessary to increase the capacity of internal SI leadership, governance, oversight, or support entities related to the establishment of the new museums.

**Figure 1. National Museum of the American Indian Appropriations**

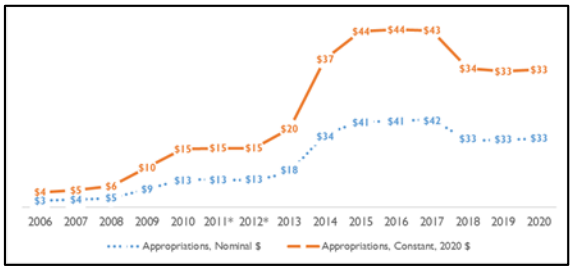
(FY1989-FY2003)




**Source:** Smithsonian Institution annual budget requests, various years, and CRS calculations.

**Notes:** Visualizes annual appropriations for the operations of NMAI, but not construction costs. "*" denotes years for which estimated appropriations were used. Data provided in millions of nominal and constant, April 2020 dollars.

**Figure 2. National Museum of African American History and Culture Appropriations**
(FY2006-FY2020)




**Source:** Smithsonian Institution annual budget requests, various years; and Smithsonian Institution, "National Museum of African American History and Culture: Design and Construction," media fact sheet, September 1, 2016, https://www.si.edu/newsdesk/factsheets/design-and-construction, CRS calculations.

**Notes:** Visualizes annual appropriations for the operations of NMAAHC, but not construction costs. "*" denotes years for which estimated appropriations were used. Data provided in millions of nominal and constant, April 2020 dollars.

## Proposed Smithsonian Museum or Collaborative Exhibition in London

In 2014, Boris Johnson, then-mayor of London,[56] announced plans to establish a large cultural area in Queen Elizabeth Olympic Park, a part of East London that had been cleared and used to support the 2012 Summer Olympic Games. In January 2015, the Regents authorized SI to work with the London Legacy Development Corporation (LLDC) to develop terms for an agreement for Smithsonian exhibit space in the cultural complex.[57]

In June 2016, SI and the Victoria and Albert Museum (V&A) announced an agreement to develop "a jointly organized permanent gallery space as a key part of V&A East" in the cultural complex. In public statements, then SI Secretary David J. Skorton was quoted as saying:

> This would not be a "Smithsonian outpost in London".... It would be a collaboration with the V&A, giving both of us opportunities to engage with diverse audiences in innovative ways. What we learn through this collaboration will enable us to better tell our stories not only in London, but in the United States and around the world.[58]

In January 2020, Secretary Bunch informed the Regents that the "Smithsonian will not have a permanent presence in London," and instead would "refocus its involvement to better align with the Secretary's strategic priorities of education, diversity and inclusion, and museum leadership development." Dr. Bunch stated that SI will co-curate a gallery exhibit with V&A that is scheduled to open in 2023, and run for two years. In addition, SI will work with LLDC to expand

[56] Mr. Johnson currently serves as a Member of Parliament of the United Kingdom representing the Uxbridge and South Ruislip constituency and as Prime Minister, First Lord of the Treasury and Minister for the Civil Service. In addition, he is Leader of the United Kingdom's Conservative Party.

[57] Smithsonian Institution, "Minutes of the January 26, 2015, Meeting of the Board of Regents," at http://www.si.edu/Content/Governance/pdf/2015_1_26_Web.pdf. See also, Li Zhou, "The Smithsonian May Go for the Gold, Opening a Venue at London's Olympic Grounds," at http://www.smithsonianmag.com/smithsonian-institution/smithsonian-institution-may-go-gold-venue-london-olympic-grounds-180954029/#IH5UkCEcRHowoXlJ.99.

[58] Secretary Skorton's comments were published in identical form in Smithsonian Institution, "Smithsonian Intends To Create Permanent Exhibition Space in London With the Victoria and Albert Museum," press release, June 13, 2016, http://newsdesk.si.edu/releases/smithsonian-intends-create-permanent-exhibition-space-london-victoria-and-albert-museum; and Foundation for Future London, "Smithsonian teams up with V&A," press release, June 14, 2016.

the Shared Training and Employment Program (STEP), a cultural exchange program for young adults in East London and Washington, DC.[59] No explanation of the costs of the V&A collaboration or the STEP program, or the source of those resources, was identified.

It appears that SI has in the past initiated programs and activities without congressional authorization. SI has its own money beyond appropriations, perceives a duty as trustee of the Smithson bequest and other legacies and gifts, and executes a general charge to work toward the increase and diffusion of knowledge. In some of those instances, SI later came to Congress asking for appropriations, perhaps when it assessed that the program was to become a permanent component of the institution. That strategy has been applied in establishing the Smithsonian Observatory[60] and the Anacostia Museum,[61] among other ventures.

One potential issue in the case of an SI museum or exhibition in London arguably may be that the same rationales and authorities SI appears to have relied on when establishing programs on its own authority as trustees of the Smithson bequest may not necessarily apply to the establishment of a museum or other display space beyond the United States.

In the past, SI appears to have been able to explain to Congress's satisfaction why it needs public funding for domestic facilities beyond Washington, DC, despite Smithson's will and statute stating that the United States establish an institution in Washington, DC. Congress has authorized SI to oversee activities in at least one country, Panama,[62] and it carries out activities in another, Belize,[63] apparently with at least after-the-fact approval from Congress, as demonstrated by annual appropriations for work conducted in part in that country by the Smithsonian Tropical Research Institute. Both locations support researchers conducting activities that cannot be carried

[59] Quotes, Smithsonian Institution, *Draft Minutes of the January 27, 2020, Meeting of the Board Of Regents*, Washington, DC, January 27, 2020, p. 8, https://www.si.edu/sites/default/files/unit/regents/approved_board_minutes_january_2020.pdf. Other sources stated that SI's participation in the STEP program would also be in collaboration with the Foundation for Future London, https://futurelondonfoundation.org/, the Mayor of London, https://www.london.gov.uk/about-us/mayor-london, and LLDC, https://www.queenelizabetholympicpark.co.uk/our-story. See Nancy Kenney, "Instead of permanent space, Smithsonian will co-curate gallery at V&A East for two years," *The Art Newspaper*, January 27, 2020, https://www.theartnewspaper.com/news/smithsonian-plans-to-co-curate-gallery-with-v-and-a-east-for-two-years. For information on SI participation in the STEP program, see Smithsonian Institution, "Smithsonian Confirms Plans for Collaboration in East London," press release, January 27, 2020, https://www.si.edu/newsdesk/releases/smithsonian-confirms-plans-collaboration-east-london; and Jon King, "Beckton woman hails 'once-in-a-lifetime' experience after Smithsonian museums internship," *Newham Recorder*, July 17, 2019, https://www.newhamrecorder.co.uk/news/education/chess-charles-smithsonian-experience-1-6163742.

[60] The Smithsonian Astrophysical Laboratory was established in 1890 by SI Secretary Samuel P. Langley in what is now part of the National Mall near SI's first building. SI subsequently received an appropriation of $10,000 for maintenance of the laboratory in 1891. "Smithsonian Astrophysical Observatory," at http://siarchives.si.edu/history/smithsonian-astrophysical-observatory; and Sundry Civil expenses appropriations Chapter 542, March 3, 1981, 26 Stat. 948; SI Astrophysical Laboratory appropriation appears at 26 Stat. 963.

[61] What is now known as Anacostia Community Museum opened in 1967, and was conceived by SI Secretary S. Dillon Ripley as "'an experimental store-front museum' in a Washington, DC, neighborhood…." According to SI, "the museum relied largely on special grants for support until 1970, when it became a line item in the SI's federal budget." "Anacostia Community Museum," at http://siarchives.si.edu/history/anacostia-community-museum.

[62] SI was authorized by Congress to oversee Barro Colorado Island, Panama, a forerunner of the Smithsonian Tropical Research Institute, in 1946. Prior to that, SI had participated on its own initiative in research consortia and activity in the area as early as 1910. "Smithsonian Tropical Research Institute," at http://siarchives.si.edu/history/smithsonian-tropical-research-institute.

[63] SI reports that in October 2009 the Smithsonian Marine Station at Fort Pierce, Florida "assumed logistical and administrative management of the Caribbean Coral Reef Ecosystems Program based at the Carrie Bow Cay Field Station on the Meso-American Barrier Reef in Belize…." "Smithsonian Marine Station at Fort Pierce," at http://siarchives.si.edu/history/smithsonian-marine-station-fort-pierce.

out in Washington, DC, and the need to go where research can be conducted would seem to provide a rationale that also applies to domestic research facilities beyond the Washington, DC, region.

SI's current activities beyond the Washington, DC, region, with the exception of the New York-based Cooper Hewitt Smithsonian Design Museum and George Gustav Heye Center of NMAI, arguably support the increase of knowledge, if not its immediate diffusion, since none of the research locations appear to have a museum or other substantial public display component.[64] Any museum or other display mechanism for SI collections appears to support the diffusion of knowledge goal, but that piece of the SI mission has always occurred (or at least originated, in the case of SI's Internet presence and television efforts) in the United States. It is unclear how the London venture, which appears intended to provide a temporary outpost for the display of SI collections, might fit with reasons to open other SI-affiliated activities outside the United States, or the intentions of Smithson's bequest, or Congress.

Based on past practice, it appears that SI arguably could proceed to establish its collaborative exhibit with V&A in London and maintain it without congressional approval, as long as it used trust resources, and no appropriated funds. At the same time, Congress might consider whether the London initiative is in keeping with Smithson's intentions to establish SI in Washington. If the program is to become a permanent component of Smithsonian activities, it is unclear how SI might justify future appropriations requests, either to fund overseas activities, or the possibility of increased requests to cover U.S.-based activities when trust funds might be redirected to overseas knowledge diffusion activities. These potential concerns likely will be considered in light of the terms of the Smithson bequest, SI's congressional establishment, and a variety of domestic concerns that have featured in SI budget requests, including resources for extensive renovation of SI facilities.[65]

If Congress were interested in pursuing questions related to the establishment of an SI museum or other display opportunity in London or elsewhere outside the United States, it might seek the assistance of practitioners with detailed knowledge of trust administration, the extent to which a U.S. government entity might embark on overseas initiatives without the prior approval of Congress, and whether or how SI might be an exception to routine practices in those areas.

# Selected Legislation, 116th Congress (2019-2020)

In each Congress, numerous measures that could potentially affect Smithsonian operations are typically introduced. This summary provides discussion of proposed legislation in the 116th Congress to create new museums or programming within the Smithsonian.[66]

[64] The Smithsonian Marine Station at Fort Pierce, Florida appears to support a small aquatic display at the nearby St. Lucie County Aquarium; see https://naturalhistory.si.edu/research/smithsonian-marine-station.

[65] Examples of renovation activities met in part with appropriated funds include ongoing renovations of the National Air and Space Museum (NASM), and proposed renovations of the Smithsonian Institution Building (Castle). See SI's FY2021 budget request, at https://www.si.edu/sites/default/files/about/fy2021-budgetrequestcongress.pdf, p. 7, for more detail.

[66] This section excludes discussion of measures that consider SI appropriations, joint resolutions to appoint citizen Regents (e.g., S.J.Res. 66), assignment of a congressional gold medal to the Smithsonian for display and research (e.g., S. 2463, S. 1093), general government initiatives that include the Smithsonian among other government entities (e.g. H.R. 2403 or S. 2287), and other proposals.

## H.R. 1980—Smithsonian Women's History Museum Act

On March 28, 2019, Representative Carolyn Maloney of New York introduced H.R. 1980, the Smithsonian Women's History Museum Act.

The bill establishes in the Smithsonian Institution a comprehensive women's history museum, to be named by the Regents. H.R. 1980 would establish a council, charged with making recommendations to the Regents on the planning, design, and construction of the museum, and other duties. The Regents would be required to designate a site for the museum, with priority given to a site that is on or near the National Mall.

H.R. 1980 was on March 29, 2019 referred to the Committee on House Administration, and in addition, to the Committees on Natural Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. Representative Maloney filed a motion to place H.R. 1980 on the Consensus Calendar on September 11, 2019. The Committee on House Administration marked up H.R. 1980 and reported the measure, with an amendment by unanimous consent, on November 12, 2019. The Committees on Natural Resources, and Transportation and Infrastructure were discharged on November 13, 2019, and H.R. 1980 was placed on the Union Calendar. The House considered H.R. 1980 under suspension of the rules on February 11, 2020. H.R. 1980 was passed as amended by a vote of 374-37.

H.R. 1980 was received in the Senate on February 12, 2020, read twice, and referred to the Committee on Rules and Administration. No further action has been taken as of the date of this report.

## S. 959—Smithsonian American Women's History Museum Act

On March 28, 2019, Senator Susan Collins of Maine introduced S. 959, the Smithsonian Women's History Museum Act. The bill is a companion measure to H.R. 1980, and would authorize provisions substantially similar to that measure.

S. 959 was read twice and referred to the Committee on Rules and Administration on the day it was introduced. No further action has been taken as of the date of this report.

## H.R. 2420—National Museum of the American Latino Act

On April 30, 2019, Representative Jose E. Serrano of New York introduced H.R. 2420, the National Museum of the American Latino Act.

H.R. 2420 would establish a national museum of the American Latino in the Smithsonian. The purposes of the museum would be to illuminate Latino contributions to the story of the United States; provide for the collection, study, research, publication, and establishment of exhibitions and programs related to Latino life, art, history, and culture; and provide for collaboration between SI and other museums and educational institutions to promote the study and appreciation of Latino life, art, history, culture, and its impact on society in the United States. The bill would establish a board for the museum to advise and assist the Regents on matters related to the administration and preservation of the museum. A director of the museum would be authorized to manage the museum and carry out educational and liaison programs in support of its goals. The Regents would be authorized to designate a site for the museum and to design and construct it.

The bill would require the Director of the Institute of Museum and Library Services to execute grant programs and a scholarship program, including a grant program to promote the understanding of the Latin American diaspora in the United States.

H.R. 2420 was referred on April 30, 2019 to the Committee on House Administration, and in addition, to the Committees on Natural Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. It was subsequently referred to the Subcommittee on Economic Development, Public Buildings, and Emergency Management by the Committee on Transportation and Infrastructure on May 1, 2019, and the Subcommittee on National Parks, Forests, and Public Lands of the Committee on Natural Resources on May 8, 2019. The Subcommittee on National Parks, Forests, and Public Lands held a hearing on H.R. 2420 on October 17, 2019. No further action has been taken as of the date of this report.

## S. 1267—National Museum of the American Latino Act

On May 10, 2019, Senator Robert Menendez of New Jersey introduced S. 1267, the National Museum of the American Latino Act. The bill is a companion measure to H.R. 2420, and would authorize provisions substantially similar to that measure.

S. 1267 was read twice and referred to the Committee on Rules and Administration on the day it was introduced. No further action has been taken as of the date of this report.

## H.R. 4132—Commission to Study the Potential Creation of a National Museum of Asian Pacific American History and Culture Act

On July 30, 2019, Representative Grace Meng of New York introduced H.R. 4132, the Commission to Study the Potential Creation of a National Museum of Asian Pacific American History and Culture Act. The bill would establish a commission to study the potential creation of a national museum of Asian Pacific American history and culture, and would require the commission to

- report recommendations for a plan of action for the establishment and maintenance of a national museum of Asian Pacific American history and culture in the District of Columbia;
- develop a fundraising plan to support the establishment, operation, and maintenance of the museum through public contributions;
- obtain an independent review of the fundraising plan, with an analysis of the resources necessary to fund the construction of the museum and its operations and maintenance in perpetuity without reliance on federal funds; and
- submit a legislative plan of action to establish and construct the museum.

The commission would be authorized to convene a national conference relating to the proposed museum.

H.R. 4132 was referred on July 30, 2019, to the Committee on Natural Resources, and in addition, to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. On August 21, 2019, the Committee on Natural Resources referred the

measure to the Subcommittee on National Parks, Forests, and Public Lands. No further action has been taken as of the date of this report.

## H.R. 5946—National Jazz Preservation, Education, and Promulgation Act of 2020

On February 21, 2020, Representative Sheila Jackson Lee of Texas introduced H.R. 5946 , the National Jazz Preservation, Education, and Promulgation Act of 2020. The bill would establish national jazz preservation and appreciation programs, to be carried out by the Smithsonian's National Museum of American History (NMAH), to preserve knowledge and promote education about jazz, and to further the appreciation of jazz music.

SI would be required to record interviews with leading jazz artists; acquire, preserve, and interpret, and share jazz artifacts; continue to recognize Jazz Appreciation Month;[67] and encourage and engage in capacity building with community-based and regional organizations with the potential to establish jazz archival collections.

H.R. 5946 would require SI to establish a series of jazz performances at Smithsonian affiliates to provide broad geographic access to jazz and support public appreciation for the diversity of jazz music.[68]

H.R. 5946 was referred on February 21, 2020, to the Committee on House Administration, and in addition, to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken as of the date of this report.

## H.R. 7161—COVID-19 Memorial Quilt Act of 2020

On June 11, 2020, Representative Andre Carson of Indiana introduced H.R. 7161, to direct the Smithsonian Institution and the American Folklife Center at the Library of Congress to jointly carry out the COVID-19 Pandemic Memorial Quilt Project to honor and remember Americans who have lost their lives to the COVID-19 pandemic, and for other purposes.

According to Representative Carson's introductory remarks in the House, the bill would create a congressional advisory panel to submit plans to the Smithsonian Institution and the American Folklife Center at the Library of Congress for the development of a memorial quilt that "honors and celebrates the lives of those we have lost to the COVID-19 pandemic." When complete, this memorial quilt would be displayed on the United State Capitol Grounds with a subsequent display on the National Mall and other locations.[69]

H.R. 7161 was referred on June 11, 2020, to the Committee on House Administration, and in addition, to the Committee on Education and Labor, for a period to be subsequently determined

[67] April, see NMAH, https://americanhistory.si.edu/smithsonian-jazz/jazz-appreciation-month.

[68] Apparently unrelated to Smithsonian operations, the bill amends the Elementary and Secondary Education Act of 1965 to allow the use of certain funds for programs to promote jazz education, potentially including a jazz artists in the schools program, the development and distribution of educational and teacher training materials about jazz, and an ambassadors of jazz outreach program.

[69] Representative Andre Carson, "Introduction of the Covid-19 Memorial Quilt Act of 2020," Extensions of Remarks, *Congressional Record*, daily edition, vol. 166, part 108 (June 11, 2020), pp. E532-E553, https://www.congress.gov/116/crec/2020/06/11/CREC-2020-06-11-pt1-PgE532-5.pdf.

by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. No further action has been taken as of the date of this report.

**Table 7. Terms and Acronyms Used in This Report**

| Term, Acronym | Entity |
|---|---|
| CFA | Commission on Fine Arts |
| CWA | Commemorative Works Act |
| EO | Executive Order |
| GSA | General Services Administration |
| Kennedy Center | John F. Kennedy Center for the Performing Arts |
| LLDC | London Legacy Development Center |
| NASM | National Air and Space Museum |
| NCPC | National Capital Planning Commission |
| NEPA | National Environmental Policy Act |
| NGA | National Gallery of Art |
| NMAAHC | National Museum of African American History and Culture |
| NMAH | National Museum of American History |
| NMAI | National Museum of the American Indian |
| NPS | National Park Service |
| Regents | Board of Regents of the Smithsonian Institution |
| Secretary | Secretary of the Smithsonian Institution |
| SI or Smithsonian | Smithsonian Institution |
| STEP | Shared Training and Employment Program |
| V&A | Victoria and Albert Museum |
| WWICS | Woodrow Wilson International Center for Scholars |

**Source:** CRS

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